
ICANN85 Mumbai | CF – Joint Session: CPH and CSG
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NIKKI SCHULER

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JOHN MCELWAINE

Good morning, everybody here in the room, and good afternoon or good evening to the folks joining us online. I'm John McElwaine. I'm the IPC president, and as I think many of you know that the CSG rotates chairs. And so, I've been, rotated into the CSG chair. It's my first time, so bear with me, but I look forward to this great meeting. I think we can move on to the agenda.

So yeah, we've come up with three topics, the first being DNS abuse mitigation PDP to kind of talk about that and get both sides views on how that's going and maybe how it can go into the future. Then

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we're going to talk a little bit about the UDRP review, its timing, whether it should be deferred, et cetera, and then statements of interest. I think that was the un-implementation of it, but we have a busy agenda, and I'm going to go ahead and move on to the DNS abuse mitigation PDP. And I'm going to kick that off to Mason Cole. Mason, over to you.

MASON COLE

Thank you, John. Good morning, everybody. Mason Cole, chair of the BC. I just have a couple of brief introductory issues, and then I'm going to hand the floor off. But on the issue of abuse, of course, abuse is a primary issue for the CSG. We're always looking for good faith work that will help mitigate the abuse that those we represent and their customers experience. And we came to ICANN with the intention of working on the current PDP and then forecasting where additional work could be done.

We were disappointed in the projected timeline that ICANN presented the other day that said the PDP might extend into 2027 or beyond, which would be concerning to us. But since then, we're glad to say that we've had some good discussions on tightening that timeline, including good faith cooperation with the contracted party house. And we've been working with Brian Cimboric and some others on alternative approaches and potential solutions, which is certainly much appreciated. So, if I may, let me pass the floor to Brian for some notes on this. Brian?

BRIAN CIMBOLIC

Sure. Thanks, Mason. Hi, everyone. Brian Cimbolic with PIR. I'm one of the registry reps for the PDP. So, bearing that in mind, not speaking for the entirety of the CPH, but really in my capacity as one of the registry reps. So, I think there was a collective, if I can presume, but the read of the room, there was a sort of collective or a lot of the people in that room, I think, were equally surprised by the timeline that was put forward.

You know, you look back to the to the GNSO DNS abuse small team. You look back to so much of what the whole community has been talking about as far as we want these to be narrowly tailored PDPs so with the intention that we can move relatively quickly on. And so, the charter actually, I think, does a pretty nice job of keeping that narrowly tailored focus. So that's where it felt like there was a disconnect that the same sort of like business as usual approach was where with sort of broader PDPs was then overlaid onto this narrowly tailored PDP and the timeline was the same. So, it feels like it was just sort of a process thing that fell apart.

I do think, as Mason pointed out, that there is a potential path forward that could really bring that timeline dramatically down. And it kind of rhymes with the DNS abuse amendments to the Registrar Accreditation Agreement and the Registry Agreement. And what that could look like, and there already is some proposed straw man language that's being considered by the PDP, is

basically a requirement that mirrors what's already in the RAA regarding acting on malicious names.

So currently the Registrar is under 3.18.2. have to stop or otherwise disrupt DNS abuse that's maliciously registered. So, it carves out compromise and so that's the status quo. So having an obligation that sort of mirrors that, it's maybe an elegant solution that kind of brings us forward in a timely manner. So, some version of something in which registrars are required to promptly conduct a reasonable associated domain check to look for other related DNS abuse.

That's really it feels like the core of the whole PDP is should registrars have to do associated domain checks when they identify DNS abuse? And there's sort of the presumptive yes in that, in the charter. And so, it feels as though if we can replicate that approach where you have a simple, but still enforceable and I'll get to that part in a moment, a simple but enforceable requirement that we can then move forward a lot quicker. And so, let's get to the enforceability.

The DNS abuse amendments, again, they use words like prompt and reasonable. So, we knew that when we were going into that, if we were saying a binary, if less than X number of hours acceptable, if more than X numbers of hours unacceptable that that is just, it's a recipe for disaster, and it's a way to make sure that that process dragged on forever. I think that we would have a similar result here.

So, what we did with the DNS abuse amendment was that ICANN contractual compliance put out an advisory that didn't set forth what the specific hard rule was, not specific hours, not specific actions. But it had a number of illustrative scenarios in which there was a particular DNS abuse handling by a registry or a registrar and said this was a reasonable application of the requirements. This was an unreasonable application of the requirements.

And with enough scenarios like that, with enough different business models, it gives ICANN compliance a real reasonable place to start the enforcement of an associated domain check requirement. So that's kind of the idea is that you mirror the sort of structure of the abuse amendments with a very simple, but meaningful obligation and then clarity around enforcement via something like an advisory.

ROGER CARNEY

Well, thanks, Brian. That was a really helpful introduction on the concept, and I think the CSG is behind the concept. We're certainly happy to see a shortened timeline for the PDP. The faster we can get a solution into the mix I think the better off that the businesses and organizations that we represent are going to be. And I hope this actually can be a model for what we're doing going forward on further DNS abuse work. So, thanks for your good faith help on this. John, back to you.

JOHN MCELWAINE

Okay, so let me pause here and see if anybody wants to comment, get in a queue, have any concerns, support. I know. Going once, not seeing anything. All right. Well, looks like we have at least alignment on getting the PDP on abuse.

First one kicked off and working quickly and thanks, Brian, for sharing that information on it. All right. Again, not seeing anybody raising their hand to stop me, I'll move on in the agenda. All right, can we go to the next slide? No, all right, okay, so the next topic was the UDRP review timing and next steps – oh, Thomas, did you have something on the last one?

THOMAS RICKERT

Just to make sure I just wrote in the chat, you asked whether there's support for the approach, and I very much like it.

JOHN MCELWAINE

Yeah, okay, thanks. All right. So, yeah, next on the agenda is the UDRP review.

MASON COLE

You got a hand for Volker.

JOHN MCELWAINE

Volker. No?

VOLKER GREIMANN

Maybe just a short note. I mean, we currently have a registrar proposal on the table, but I'm sure that that will probably not be all that is needed to fight associated domain abuse. I think this is something for the entire infrastructure and community to have a look at, to see what they can do to assist this.

If we only look at this from the registrar-by-registrar approach, and everybody does their own thing trying to run faster than the other registrars, then we will not have a solution. We'll just have a piecemeal approach that will change nothing. I think we need to be running faster than the bear or even standing up to the bear if we want to approach this.

So, essentially, associated domains need to be checked across the industry and the entire infrastructure. And therefore, it's essential that also the ccTLDs are there, that the registries do their part, and that associated domains are found, not just within one registrar ecosystem, but within the entire domain name ecosystem. Thank you.

JOHN MCELWAINE

Thank you for that. Jen, over to you.

JENNIFER CHUNG

Thanks, John. Jen for the record. Thanks, Volker, and thanks, Brian, and thanks for all the interesting straw people proposals. I think that's actually a good first step. I think after the four sessions that we had, there was quite a lot of discussion about the timeline

and about the proposed text. I think that shows a willingness for the PDP participants to really look towards an effective solution for the, I guess, Charter Question 1.

Volker does remind us of all the other parts that we need to consider, including compliance, including human rights impact assessment and all of that. So, this PDP will be also doing that, fear not. Thanks.

JOHN MCELWAINE

Anybody else want to comment? Margie?

MARGIE MILAM

Hi, Margie Milam with the IPC. Following up with Volker's comment, will there also be a proposal from the registries, straw man related to similar checks?

BRIAN CIMBOLIC

So, if I just jump in as one of the registry reps. So, I think no is the answer. So, the associated domain check, it relies on the fact that the registrars are their customers, that they are ultimately closer to the registrar. They are able to check customer accounts in retail scenarios.

And this is an instinct I see too, coordination with ccTLDs, we can't create binding policy on ccTLDs. The charter scope right now is for associated domain checks for registrars. And I think that one thing that we need to do within this process, if we want to ensure that it

moves timely is staying on track and staying in scope and not trying to add new parameters to the PDP.

MARGIE MILAM

And if I could follow up on that, what is the intention once there is an associated domain check? So, how does it feed into an actual obligation to do something about it? Is that part of the charter? And what is the thinking on the contracted party side?

If I could just note that that's one of the beauties of the way I read the contract, at least, is that once -- so the idea of an associated domain check is that you look for associated DNS abuse. So particularly campaigns. You think of in the US, E-ZPass toll road scams. And so, you'll see E-ZPass login secure com1.tld. And so, you find that one and if that one's reported and you look in the account and then you see E-ZPass scam login secure, whatever it is, two through 50, then those are clearly likely to be associated domains engaged in phishing.

And so, that, the sort of elegance of this is that that then triggers the existing obligation in 3.18.2. So, upon confirmation of the other DNS abuse, the registrar would be obligated to stop or otherwise disrupt the DNS abuse associated for all those domains. If I could follow up on that, but usually in the DNS abuse notice situation, the requester is providing the evidence.

So, in the case of the associated domain checks, will the registrar have the evidence or are they going to expect the registrant or the

requester to be able to supply that because they don't have the visibility that the registrar has? And that's kind of the piece that I want to make sure is covered somehow in this solution.

BRIAN CIMBOLIC

I realize I'm talking a lot and want to make sure my registrar colleagues are able to chime in, but short of that, I can give a straw man of an answer. Is there another? Is there a hand? Okay. I think that the intention of the associated domain check is that it requires the registrar to investigate. And so, I don't then think that it would be required.

So, using the playbook that the current RAA would kick in, the associated domain check, I think would ultimately require that the registrar look at those other domains and to the extent there's evidence of abuse. Then if there's sufficient evidence of abuse, I forget what the actual word is, in actionable evidence of abuse in that investigation they would be obligated to take action on all of those.

MARGIE MILAM

Thank you that sounds like a good solution if the wording you know addresses that. So, thank you.

JOHN MCELWAINE

Ashley, over to you.

ASHLEY HEINEMAN

Thank you. Ashley with the registrar stakeholder group and just to give Brian's voice a rest or just to support what he's saying since you may want that, but yeah, I'm not on the EPDP itself, but that is our understanding as well based on what the charter says and our conversations today is that if there is indication of a malicious use of a domain, then we are then obligated, per this PDP, to do an associated domain check.

And then if that reveals any additional abuse, then our existing contractual obligations require us to then take action. So, it all lines up nicely.

JOHN MCELWAINE

I'm going to hop in and maybe ask a question too, because I think the E-ZPass scam is an interesting one. So, say that the E-ZPass login one, Margie submits evidence that there's a phishing email identifying that and then you do the associated domain check and you find that there's E-ZPass 2, 3, 4, et cetera, but you don't have evidence, you know, an email showing phishing using that domain. Would it stop or would that be sufficient enough to probably then move on and have those suspended for abuse or action for abuse? Thanks.

OWEN SMIGELSKI

Hi, John. Thanks for the question, Owen Smigelski for the record. I'm going to answer because I was battling this back when that

came out. It really, as any good lawyer would say, it depends because it really depends upon the facts and the situations.

When I saw those coming in, it was coming across not just one registrar, but multiple registrars that were doing that. So obviously, a registrar could only act if it's on their end. And again, it would depend upon what you see, what is in the account? What is the age of the account? How much? A number of things, is there other abuse and could there be legitimate purposes?

At least speaking for Namecheap, we probably would have suspended those just because we've got an abuse complaint. There's 20 domain names that have a similar pattern that are probably not being used for anything valid. Otherwise, it was from a brand-new account or something like that, but again, this is just speculation on that and that's how we would approach it. But I certainly think that that could be a good target because again, you know, those scenarios I laid out there, you know, there's no real legitimate.

The concern you have with this is collateral damage. And if it is a legitimate account and something in there and you could have one domain out of 100 that gets suspended in an account, that may or may not be indicative of whether or not it is being used for abuse otherwise. And you don't want to shut down a legitimate customer.

JOHN MCELWAINE

All right. I'm going to go slow because last time I sped up and we had a bunch of comments. It was a really good decision. So, anybody else want to discuss DNS abuse mitigation PDP-1? All right. I'm going to move on to the -- David, over to you.

DAVID HUGHES

I don't know if we want to discuss this, but just the timing of the relationship between PDP-1 and 2, I don't know if that's something that some of us are concerned about.

BETH BACON

What is the concern?

DAVID HUGHES

Well, the concern is that there seem to be some people who are saying like, oh, no, we got to make sure that the PDP-1 is on its way and that we have enough resources dedicated to it before we start getting serious about PDP-2.

And if these are all urgent matters, that is concerning, that we're not going to get to the next one and we'll be here in a year talking about kicking off PDP-2.

JOHN MCELWAINE

Ashley, over to you.

ASHLEY HEINEMAN

Thank you, Ashley with GoDaddy and the Registrar's Stakeholder Group. I just wanted to note that as also a counselor representing the registrars, that we've been talking about this in council in terms of like how best to proceed. And I think there is general agreement, while it hasn't been ultimately decided, but the feeling of the room is that we should indeed start thinking about the charter so that it is constructed in a thoughtful, meaningful way and we'll go from there. But I think we just started this PDP-1.

And I think it's going to be really, really helpful if we can get to a point where we know it's going to be a success before we launch the second one because I think that, even just psychologically, I think it's going to be really, really important that we get to that milestone before we complicate things and potentially send ourselves down a more negative path. And I think we're doing things really well now. Let's continue to do that. Let's continue to prep for PDP-2, but I think it's way too premature to talk about launching it.

OWEN SMIGELSKI

Owen Smigelski, just following up with what Ashley said is, you know, we want to be successful in this. We don't want to put the cart before the horse. And if we start rushing too much, one of the things we really wanted to try and make sure with these PDPs is that they were consecutive PDPs and not concurrent just because of the amount of bandwidth and hours.

You know, some people might have endless hours to dedicate to these types of things. Other groups, other individuals may not. And so, we want to make sure that we have the proper people there at all time with enough bandwidth in order to do this. So, like I just said, we can start some of the preparatory stuff. I mean, they put April 2027 as a deadline. If we happen to finish in three months, then why not start the next one ahead of time? That's just I'm throwing that out as a hypothetical. I don't know if that could happen, but I don't think I need to wait for a fixed date in case this does get done and wrapped up in the proper way there. So, thanks.

JOHN MCELWAINE

Volker?

VOLKER GREIMANN

Yeah, just to put a little point behind what Owen was saying, we're all volunteers. In many cases, it's going to be the same people that are working on PDP-2 that are currently working on PDP-1. So, unless we develop some technology to clone ourselves, we should be very careful of what we are proposing because if we are promising too much, we might under-deliver in the end. Thank you.

JOHN MCELWAINE

Michele, to you.

MICHELE NEYLON

So, I've got a choice of microphones here, which is a very dangerous thing. Morning, everybody. It's Michele. I'm slightly hungover, so excuse me if I'm less coherent than normal. I think, you know, if you look at Volker, you can see he's a shadow of his former self and we're only just starting one PDP, okay?

No, I mean, jokes aside, the reality is that for the vast majority of registrars, most of us do not have a huge legal team or a huge policy team dedicated to this space. So, it's not a facetious comment to say, it's going to be practically the same people. There might be a minor change of faces so you'd swap you know a large German for a large Irish guy or you might throw in the skinny little French lad. But I mean there's only a small number of us who are actively engaged in this space.

Now, it's better for you that this is done well and properly and thoroughly rather than rushing to a mess. I mean, we've all seen how well ICANN executes things. I mean, can we at least agree on that? Thanks.

JOHN MCELWAINE

Okay, so we're at about time in terms of third way through. Anybody else want to discuss the PDP?

BETH BACON

Just to be respectful of our online folks, I just wanted to call folks' attention to Keith's good comment in the chat. If you want to take a look, it was very thorough.

JOHN MCELWAINE

All right, not seeing anybody hopping in, maybe now we can move on to the UDRP. Great. I'm going to quickly jump into this before somebody else brings up the PDP on abuse.

So, the CSG was talking about next steps with respect to the UDRP review and this is, I'm really more speaking now from the IDC. But our position and channeling what I think has been something I know I've heard from Jeff Neuman before, if it ain't broke, don't fix it, the UDRP has worked well for 25 years, has been very, very effective. And I don't think particularly controversial, though we do recognize that a review has been mandated.

We've also heard just recently in this discussion, there's an awful lot of important work in flight right now, and people are busy. So right now, the IPC would be in favor of a postponement of the UDRP review if it was going to be tackled particularly like we did with respect to phase one looking at the new gTLD RPMs. I think a number of us in this room on both sides have PTSD from that work stream.

If a review does proceed, we think it ought to be tightly scoped. We have a great expert report put together by ICA and by WIPO that identifies issues that could be adjusted. I haven't kind of like looked into the policy rules of all this, but some of the adjustments that this group identified are more things that you would do during implementation.

In other words, it's not changing policy, it's just adjusting the implementation of that original UDRP policy. I think they did come up with a few issues that could be tightly scoped in a PDP, but ultimately, we think the community is busy, that it's been working well. It does need to be reviewed, but if it is, it ought to be very tightly scoped. So that's where we're kind of coming down on it. And I believe that Jeff Neuman has his hand up. So, Jeff, over to you.

JEFFREY NEUMAN

Yeah, thanks and good morning, everyone. Since my name was taken or used, no. So, first, I think I should say there is no registry or registrar position on this yet. So, I think we've started discussing it, but no official position. I can give you my own view or some of the discussions we have had is that the registries and registrars both believe that the UDRP is very important to all of us, that it does protect us and we all recognize that.

So, none of us, at least in discussions to date, have said anything or want any kind of major restructuring of the UDRP at all. That's never been our focus and probably would be against our interests. So, I think we definitely agree with the IPC on the fact that, you know, don't fix the things that ain't broke. But there are certainly issues that have come up in that expert report that are worth looking at.

And since this is the only policy that ICANN has that's never been reviewed, and it'll be 30 years in 2028, that this is something that

should be reviewed, that the expert report has come up with issues that really should be addressed. And I understand that the community is busy, but this set of this PDP, I believe personally, would not involve the same people that would be in the DNS abuse PDP or any of the PDPs that are going on.

Plus, I think it would be a bunch of experts like panelists that don't even show up necessarily to ICANN meetings. So, I think at least personally, I completely agree with you that it has to be narrowly scoped, that it really should just focus on issues that we really can resolve, like we're doing with the PDP on DNS abuse.

So, I think on that, we all share a common view, but some of us believe that the review should happen as soon as possible, because I think it doesn't make sense to go 30 years without doing any kind of review. But that's not a registry registrar position or registry position at all that's not it, that's more personal, thanks.

JOHN MCELWAINE

Thanks, Jeff. Michele, over to you.

MICHELE NEYLON

Hi; Michele. Actually, it's what Jeff was saying there, but that's because my brain's not really working just yet. While the people who may have much more skin in the game may not necessarily be the same people who would be actively involved in DNS abuse PDPs, some of us do also care about policies that have a direct and tangible impact on our registrants, our clients, the people who

actually pay my bloody bills. So, to say simply that registrars aren't going to engage on this is not something that I would agree with at all.

Sure. I might not be an expert in the UDRP, wouldn't claim to be, don't want to be, but if you end up in a situation where the UDRP or any form of ADR is changed in such a way to remove the rights of my clients and to make their lives more difficult, I will care about that. So, I would want to be involved in some way, or I would hope that other registrars would be involved.

So, I would be supportive of you looking at pausing this for now, putting it aside and coming back to it when there is sufficient time to deal with it. As you said at the outset, if it ain't broke, don't fix it. And there's plenty of other things that I'm sure we all care about deeply that we see as being much more urgent at this time. Thanks.

JOHN MCELWAINE

Thanks for that. Owen, over to you.

OWEN SMIGELSKI

Thanks, John. Owen Smigelski. I want to agree with me and Michele and others have said, and Jeff, you know, if it ain't broke, don't fix it. Actually, I feel kind of strongly about the UDRP. It's what inspired me to become a lawyer, believe it or not. Catch me over drinks and I'll explain that story to you sometime if you want. But again, it's something that does provide a very good basis for,

you know, getting out of liability for registrars when it comes to trademark infringement.

So, it's something that is very important to the registrars, but again, you know, in terms of bandwidth and what we have going on, you know, it's something that again, if you tinker it a little bit away, you don't know how it could happen, what could come out of it that way. And so, the concern is, we could break it by trying to fix it. And so, that's my biggest concern.

I certainly think the registrars would be interested in that because, as Michele said, it does impact our registrants. It also impacts us as well, too. So, it is an important thing, but only when the time is right and we have the necessary bandwidth and whatnot there. If there is a problem, something we could identify easier, that might be better, but I guess it would have to come out of review. Thanks.

JOHN MCELWAINE

Michele?

MICHELE NEYLON

Yeah, just very briefly. Thanks, McElwaine. Look, I mean, if there's a specific issue with the current UDRP that needs to be addressed, maybe there's a way to address that, if that's the situation. I don't know if it is. I'm looking to you guys to say, ah, we've got a massive problem. The world's on fire. But I'm getting the impression that it's not. I don't know. Maybe one of you could tell me otherwise. I don't know.

JOHN MCELWAINE

Jeff, want to answer that or?

JEFFREY NEUMAN

Yeah, yeah, again it shows that we haven't really discussed this or there's no position. Michele, there's an expert report out there that was done between WIPO and the Internet Commerce Association and there were a number of issues that actually the intellectual property attorneys and the registrants agreed on that there were some issues that could be narrowly scoped and addressed and in fact agreed upon.

And in fact, Zak's got his hand up. So, Zak is the member from the ICA that was primarily responsible with Brian from WIPO to put this together. So, I will shut up and let him go.

ZAK MUSCOVITCH

Thank you, Jeff. Yes, as you mentioned, I co-chaired an informal group of UDRP panelists, council, brand owners, trademark owners, registrants. It was a group of 18 people. There were 28 outside experts that were also consulted and we are all practitioners who've been involved in over 150,000 cases collectively since 1999.

There's been hundreds of millions of dollars spent on the UDRP. None of it by ICANN, mind you, by the parties concerned on legal fees and UDRP administrative procedures. And so, those practitioners deal with this on a daily basis. They've identified

collectively a whole bunch of areas where there's small C consensus.

As Jeff mentioned, the policy hasn't been reviewed since 1999 and even a policy that works as well as the UDRP does needs to be updated and have its rules and procedures adjusted over such a lengthy period of time. And so, I appreciate that there's other policy priorities, but to the people who work in this field on a day-to-day basis and invest hundreds of millions of dollars collectively, spend countless hours on it, it's not a matter of life and death, but it's something that ought to be gotten to sooner or later.

Now, the original mandate to review the EDRP was made in 2016. We still haven't gotten to it yet. In fact, the implementation of the phase one recommendations, as far as I know, are not yet complete, and we haven't begun phase two. And I take John McElwaine's observation that some people have PTSD from the first phase, as do I.

In fact, it was that aggravation and frustration that led to WIPO and the ICA getting together and to try to find a better solution than repeating that phase one in a phase two because we couldn't stomach the thought of having to go through what could be a five or six- or seven-year process considering trademark clearinghouse in URS only took four years, not yet implemented. UDRP is much more complex, it would take much more time and then several more years of implementation and a whole bunch of public comments along the way.

And so, I'm only 55, but I was hoping to retire at some point before phase two recommendations are implemented. The thing is, is that how do we avoid a phase two? One solution is just to defer it indefinitely, kick it down the road. Now, of course, that assumes that everyone's willing to do that and I doubt that's the case. I believe that there's other people in this community who would fight tooth and nail against deferring it indefinitely. So, I'm not sure that's even a genuine option to select, but it is an option to try for.

At the other end of the extreme are people who want to open up the UDRP, have a whole kitchen sink approach, make phase one look like a walk in the park, open up the UDRPs for massive reconstructive surgery, set aside all the progress that's been made in the case law, et cetera. There's people who'd like to do that.

What WIPO and the ICA collectively did, and we're from different opposite perspectives, trademark perspectives and from domain investor and registrant perspectives, but yet we realize that we don't want to have to go through that phase two again. So, are there any areas where we can all agree? We found that the practitioners, the brand owners, the domain investors, the council, the panelists found over 12 areas that they could immediately agree on. Another dozen areas where with a little more work, they could reach complete implementation agreement.

So, we are essentially providing the ICANN community with a leg up, a bit of an advantage rather than starting a phase two chartering process with no information, no sense of where there's

consensus. We've identified areas of very likely consensus. So, there is a middle ground between these two extremes. There's an approach where there can be a tightly focused PDP that identifies areas where there's very likely agreement. Areas where there's a little more works required to reach agreement.

And then there's areas that people can help themselves to happiness and debate and investigate and obtain evidence and have independent studies until hell freezes over. They can do that as well, but that should not stop the progress that's readily available for concerns where there's solutions presented now. Thank you.

JOHN MCELWAINE

Thanks for that, Zak. Beth, over to you.

BETH BACON

Thanks, Zak. This is Beth Bacon. It sounds like while there is not an active fire lit under anyone, because I think you said you guys are okay to defer as well from the CSG, for the time being, might I suggest we share the information in the report? I saw someone dropped it in the link in the chat, but that's something we could send around and everyone can do a little bit of homework. And perhaps we can just keep this on tap to reconvene once everyone has a little more time to think about it and see what we could do.

JOHN MCELWAINE

Thanks for those comments, Beth. I don't see anybody else in the -
- yep, Jeff, over to you.

JEFFREY NEUMAN

Yeah. My last comment on this would be that ICANN won't allow us to make changes, even changes that we agree upon, without going through a PDP. So, as Zak said, there are a number of areas where everyone agrees and even everyone's close to agreeing on the implementation, but all of our hands are tied because it's a GNSO policy. Thanks.

JOHN MCELWAINE

Roger over to you.

ROGER CARNEY

Thanks, John. Yeah, and I guess I was going to the same direction as Jeff just did and maybe Zak can help on that is, I mean, a PDP is not the next step. I mean, is there an issues report? Has ICANN staff looked at this report and done any analysis on the report with the community or anything like that? Again, I don't think a PDP is the next step, but maybe it is. I don't know and I'm just asking. Thanks.

ZAK MUSCOVITCH

Yeah, so there was an issues report done a few years ago. It could be updated. It could always be updated and there could be another subsequent issues report as well. The way I look at it is that the issues have been identified. Any issues that have not yet been

identified, people can still identify. I doubt they exist because we went through an extremely intensive process to identify all issues by people who've been doing this for 25 years.

But I think that if you're looking for a creative solution about how to avoid a PDP, as we understand the term and to the extent it's even possible, as Jeff mentioned, there's a number of discrete recommendations that WIPO and I say jointly made through this process that are not earth-shaking policy changes, but very practical implementable changes to procedures and rules. And from that sense it's possible to consider them as implementations of a policy that's already been agreed upon in 1999. And so, that's something that you may all want to consider as well. Yeah, I'll leave it there. Thank you.

ROGER CARNEY

Just to respond to Zak, I know that, and maybe others in the room have more knowledge, ICANN does advisories and things, is this a spot that ICANN could put an advisory out to look at those pieces? I don't know, just a thought.

JOHN MCELWAINE

I'll hop in there. I think one thing that might make it a little bit more clear is let's say you the UDRP policy was to have a reasonable time to respond to a complaint, the rules that were then developed during implementation said you have 20 days. And if ICA and WIPO

and everybody the community said we should have 30, what is the process?

We ought not have to spin up a PDP to say that it's 30 days. So, Zak, am I kind of providing a good analogy there?

ZAK MUSCOVITCH

Yes. I mean, things from the procedure for regulating complainant withdrawals, the timing for supplemental filings, these are all rules-based considerations that can be considered policy broadly. But yeah, there's many discrete areas that immediate implementation is possible on if you consider an implementation. I also mentioned that immediately following the session, I believe it's 10:30, Brian Beckham and I will be speaking to the GAC who've asked for a briefing on where things stand with the UDRP review, if anyone cares to watch. Thank you.

JOHN MCELWAINE

Margie, over to you.

MARGIE MILAM

Thank you. This is Margie. I was going to say the same thing that Zak said. There's a lot of recommendations in there that are like advisories and it seems like it might be a useful exercise to go through them and say, you know, these are policy ones, these are not policy ones and see if we can break them up in a way that that makes it more manageable. And that action could be taken on the

ones, you know, that that kind of a thing, operational rules, adjustments, but not actual policy amendments.

JOHN MCELWAINE

Thanks. Louise, over to you.

LOUISE WONG

Hi, my name's Louise Wong. I'm from the Asian Domain Name Dispute Resolution Center. We're one of the UDRP providers and have been doing this since 2002. We were not part of the WIPO-ICA report, but we have read it quite thoroughly, and many of our panelists are the same panelists that have worked on the WIPO-ICA.

And I would support many of the things that Zak and some of the IPC members have said in the room, that they are not necessarily big policy changes, but more like small adjustments to the procedures for people who run the UDRP on a daily basis. Thank you.

JOHN MCELWAINE

Zak?

ZAK MUSCOVITCH

Thank you. I appreciate everyone's thoughtful comments on this, especially yours, Louise, as a provider that's accredited by ICANN to adjudicate UDRP disputes. I think that the direction that I see post having some potential is a bifurcated approach. There's clearly small C consensus amongst a widespread and diverse group

of UDRP participants for a significant number of procedural, less impactful rules-based revisions to the UDRP.

But I also don't want us to lose sight of the fact that there are larger issues as well. They're not all small issues. Some of them will require debate, investigation and be belabored, et cetera. But those can carry on contemporaneously or down the road, but they need not interfere with things that are easily achievable. Thank you.

JOHN MCELWAINE

Marie, over to you.

MARIE PATTULLO

Thanks, John. Marie from the BC. To bring us back to sort of the overall discussion, to me what's really important here is that if we start Looking at the UDRP, the great thing is we've actually got a solid basis from which to do it now. Because to me, it's vital with anything that we ask the people who know what they are talking about to tell us how it works in reality.

And we've all seen a lot of PhD student type, extremely interesting academic literature, but if you've never actually taken a UDRP or defended a UDRP or provided a UDRP, you don't know what a UDRP does. So, no matter where we go, can we please at least look to this report as having people from the pro-camp, the anti-camp, the upside, downside, whatever camp, because these guys do know

what they're talking about and it will save a huge amount of time in the future. Thank you.

JOHN MCELWAINE

Okay. Anybody else want to discuss the EDRP next steps? Zak, is that an old hand? Oh, old hand. Beth, over to you.

BETH BACON

This is Beth. Just to say I appreciate everyone bringing this up, and it seems like an issue that we have a little more homework to do on the registry, registrar side, not to speak for registrars and we're happy to do that. So, if you guys have resources, Zak if you have things, you can always happy to send them to me, I can share them with the registries.

JOHN MCELWAINE

Yeah, I would point out that I think the link to the report has been dropped into the chat so that can be easily downloaded. All right, let's go ahead and move on to the statement of interest and Beth I'm going to turn it over to you to run that part of the meeting.

BETH BACON

Sure, thanks again. This is Beth Bacon. Really, this is just a follow-up to our Dublin session where we had noted that the registries were thinking about this. The Code of Conduct on SOIs had been published by ICANN, and there was some enforcement kind of guidance in the appendix. And registries were going to start to

think about how to kind of internalize that for ourselves and make a process.

So should someone raise their hand with a concern, we know how to handle that not only in the registries, but if it were a concern that a registry had a registrar or if we're in taking one from you know the ALAC, not to pick on them, but if they were to come and say, have a concern about a registry member, so we're just putting that together. We trying to follow up on that, let you guys know that we are working on it. Wondering if you were also thinking about these things internally.

Again, still I think the technical term is noodling on it in the registries to make sure that it's thorough and that we have some way to address these concerns should they be raised.

JOHN MCELWAINE

So, I'm going to go ahead and hop in and might generate some discussion and Bethany's question, back to you, because we haven't discussed the SOI implementation at the CSG level to my knowledge. And certainly, we haven't discussed it at the IPC level. What aspect of the statement of interest new rules ends up impacting stakeholder groups? I mean why are you all looking at it? Is it just to kind of get guidance out to members or is there some aspect of it that needs to be held or discussed at a higher level? Does that make sense?

BETH BACON

Sure, I think so. So, we don't have any issues or questions around the procedures or processes that are outlined in the code. No one has raised those in the registries. I'm sorry, this is Beth Bacon. We are simply saying, you know, and again, from a selfish point of view as chair, if someone comes to me and says, "Hey, I have a real question about John. Where does he work?" And either they aren't comfortable bringing it up in the meeting they're in or they haven't brought it to the working group chair as is outlined in the process.

Or if they say if there's a registry member and someone says to me, "I'm really concerned about Brian Cimboric. He seems shifty and who does he work for? It's unclear," I would like there to be a predictable, repeatable process so that it's not the first time every time. So really, it's just implementing what the code has already done. I think it's a fairly clear-cut process and it does push both the code itself and then the enforcement language, pushes the responsibility into the groups, the community. So, we're just trying to operationalize that and honestly make it so I don't have to make it up every time.

JOHN MCELWAINE

That is clear and we haven't really thought about it at that level, but it's something that we need to do. So, I don't know if Mason or Philippe have any comment. No? Philippe?

PHILIPPE FOUQUART

Thank you. Thank you, John. This is Philippe Fouquart. I'm just a PCP chair. In the same spirit I think we like the notion that sort of the obligation of means is put on the members. We're within the constituency, we're in a sort of specific situation since we essentially have members for whom the affiliation is quite obvious, my employer, for example. There's that specific, it's the same for the ISPs.

There's that specific situation of associations, both of ISPs, telcos, but that also have other interests where arguably it's more, let's say, less transparent. There's no moral judgment in that term, but you see what I mean? It's not as obvious for a new comer in the group that we may want to think about how that would be applied for them, but as you said we at this point tend to act in good faith and rely on it.

The challenge is very much for vested interests that would be relative to, how shall I say, picking up an example of the new round, for example, where it's not only a question of the customers of the member, but like a back-to-back contract and even a series of responsibilities that transpire into the inputs, if I hope I make myself clear. But I don't think we should try and boil the ocean in this. There's no solution for this. So that's why I'm coming back to my earlier comment, we act in good faith, rely on the people.

And I think there's always going to be a way to get around the provisions, so that's where we are at this point. I guess we need to

have a more thorough look at the language and see how that would be translated into our own constituency. Thank you.

BETH BACON

Maybe just a follow-up question. So, you're saying that you guys are going to think about it internally just because there's a little bit of gray area, or you're kind of going to deal with it as it comes? And also, if you don't have an answer to that --

PHILIPPE FOUQUART

Yes, thank you for that. What I'm saying is that sort of by nature, our constituency is such that with members for whom the affiliation is straightforward on one hand, it's not that much of an issue for the large bulk of our members.

There's one that specific area of the associations, I think, which if you consider the new SOI, well, the updated SOI in spirit, this may have an impact. That's what I'm getting at in terms of making sure that the vested interests are transparent to the membership.

I think that's for that part of the membership, of our own membership, where that would be relevant. Whereas for the main bulk of our members, it's not even useful because the respective interests of the members are very obvious. Am I clearer? I know it's late in the week, but it's late for me, but thank you.

BETH BACON

No other hands on this? Perhaps AOB? Yeah, okay. Any other business?

JIM PRENDERGAST

Yeah, thanks, Beth. Jim Prendergast. John, this may sound weird coming from me because I know the answer I'm asking you to give, but the NCPH is in the midst of selecting a director for the ICANN board. Could you maybe give us an update on where you guys stand with that?

JOHN MCELWAINE

So, at the CSG level, we've interviewed the top four candidates after we put together a board seat 14 team from both NCSG and CSG to seek out candidates. They had, I think it was eight candidates or so. We decided to interview the top four. Did a little bit different approach this time and decided to open up those interviews to the entire membership of each of our constituencies. That way, they could get to know these candidates better and they didn't have an opportunity to ask questions, but we asked a number of questions, and they could listen to it. It was recorded. So, I think we had a really good level of participation.

Since that point, both the NCSG and CSG have selected their top candidates, maybe no surprise they didn't match up and so we're in the process of discussing that the CSG is in the process of discussing that with the NCSG to see if we can come to a you know

consensus candidate which is the way our rules strive to achieve.
And that is an update as of last night at the cocktail party.

BETH BACON

I don't see any other hands. Michele.

MICHELE NEYLON

Yeah, I mean, since there are no other hands, I thought I'd fill the void. Try not to be overly controversial here, but I'm just wondering what you guys were thinking with respect to the third meeting of this year, since several of us have severe doubts that the current geographic location of that meeting is likely to be viable.

And whether or not this is something that you've raised either with staff, board or anybody else, because in terms of planning both budgets and everything else, knowing where we need to be at various times throughout the year is not something that can be decided with a week's notice. I ended up paying a stupid amount of money for a very narrow little seat on a German plane to get here the other day. I'd rather not have to do that again. Thanks.

JOHN MCELWAINE

So obviously we haven't discussed it at the CSG level, but there's been a lot of discussion and I think we're pretty much aligned that we should be back in Dublin.

MICHELE NEYLON

Damn. I walked straight into that one, didn't I? I mean, jokes aside, you know, the issue I believe though is that because of the way that the ICANN circus has evolved, the number of physical locations that actually have the capacity to deal with the various different room sizes and configurations and everything else does mean that there is a limit in the number of locations.

But it's just something that I know that some people within ICANN org want to keep plowing ahead as if reality and their reality are two totally different things, but for those of us who actually look out the window and go, you know, the world's on fire and I don't think we're going to be able to go there and I can't imagine reality in which some people would be allowed to go there. It might be better to address this now rather than waiting until a couple of weeks beforehand. Thanks.

JOHN MCELWAINE

Marie?

MARIE PATTULLO

Thank you. Michele, your last point that we'll not be allowed to go there, I completely agree. And we saw this with the -- I mean, let's not over egg this pudding. The thing that everybody is worried about is the people who are dying and we know that that's the most important. We don't need to get involved in the trouble of people trying to get in and out of a region where people are dying. But coming back to what we can actually do something about, I don't

know how it works, but I don't know if as other meeting venues for next year have already been announced. I don't know if there's a deposit shift.

Becky maybe from your time on the board I don't know, but one thing I would put a plea out for, if at all possible, can it not only be a remote meeting, an online meeting because the value in us talking over coffee, John, you just mentioned the cocktail party where we did actually get some work done last night cannot be ever estimated. But Becky, do you know if there's a way to reject that? Thank you.

BECKY BURR

Sometimes, it depends on whether the venues are available. So, I can tell you that what happened when we switched to Dublin was that there was an availability and people moved mountains inside Ireland to make that happen. What is most complicated is whether the venue is available.

So, the one thing I would say is it's probably worthwhile making this point if the view is that a decision should be made sooner rather than later so there's a possibility of finding a physical venue. I would bring this up at the forum tomorrow. I think the board should hear that.

MICHELE NEYLON

It's Michele again and I think this is one of those rare moments where professionally Marie and I are more or less aligned. I mean,

jokes aside, I think it's something that we should try to raise. I mean, the value of in-person, the difference for me, just speaking on my own behalf, not on behalf of anybody else, I don't bother turning up for virtual-only events. They're just not worth it for me.

I don't get much value from them and my time is better used elsewhere. I come to events so that while Marie and I can be at each other's throats throughout the day, we can then go off and have a nice little drink in the evening afterwards and be best buddies. And maybe we might solve the world's problems or maybe we don't, but the in-person is really, really important.

And, you know, being able to stand together with other stakeholder groups, constituencies, and just say that we, the community, feel this is something that needs to be addressed, I think is really, really important. And again, as Marie says, it's not negating the realities of people dying. It's just a practical issue. Thanks.

BETH BACON

Thanks, Michele. I think we're about to get yelled at because we're at time, not to cut off a good discussion, but perhaps it's time to cut off a good discussion. So, I think we have to throw to any other last words before we -- all right, really appreciate the time, as always. Thank you all very much.

JOHN MCELWAINE

Thanks, Beth.

NIKKI SCHULER

We can end the recording. Thank you.

[END OF TRANSCRIPTION]