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ICANN86 Seville | PF – GNSO: NCSG Policy Committee Work Session (2 of 2)  
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ANDREA GLANDON

Hello and welcome to the NCSG Policy Committee Session 2 of 2. Please note that this session is being recorded and is governed by the ICANN Expected Standards of Behavior, the ICANN Community Anti-Harassment Policy, and the ICANN Community Participant Code of Conduct Concerning Statements of Interest.

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RAFIK DAMAK

Thanks, Andrea. And thanks to everyone who will make it for this last meeting of the day, and hope that more will join us. This is the second session for the NCSG Policy Committee, and I think for this one, we will cover more about the Council discussion, since there is the Council public meeting on Wednesday and other session.

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Okay, so, yeah, to confirm that we will focus mostly and maybe in the Council discussion, and we have several topics here to cover. So, yeah, I'll leave that over to you, Farzaneh.

FARZANEH BADIEI

Hello, everybody. So, we have this AI and DNS abuse session that is competing with us, but we are going to be more interesting. I'm just going to tell you a little bit about what the plan is for the Council, this meeting, what they are discussing, and a little bit about the DNS abuse mitigation working group, and what the progress is there, and what is being discussed during this meeting, and the next issues. Also I'm going to go through the Council agenda to have a conversation with you and keep you updated on what's going on in the Council in terms of different issues. If we can go to the next slide.

Okay, so, we have a Council vote, which I'm going to discuss what's going on there at the SPIRT. And then we have a Council discussion that is going to celebrate our accomplishments since we accomplish stuff. And then we are going to have a Council discussion on IGO-NGO Curative Rights IRT Update. I knew about this issue a little bit, but I haven't had the time to completely grasp it. If there is somebody in this room that thinks they know something about it, then that would be good. If not, then I'm just going to try and see if I can update you, because also the Council agenda is a little bit vague about what's going to be discussed.

And then there's going to be another Council discussion about ICANN Bylaws Amendments. This is about the CSC and IANA. It was very technical. Of course, we care about technical issues, but we don't really see much of human rights or access or anything like that, or governance or accountability issue in this amendment. But of course, if anybody wants to raise an issue, that would be great.

And Council discussion on work prioritization pilot, which actually Tapani can cover for us. And so that one is that Council wants to come up with a prioritization mechanism on how to choose a policy topic and prioritize policy topics to address. And if we come up with a mechanism that is not good and we can be out, then none of the issues that we want policy on is going to happen, because they are going to just drive us out. So, let's go ahead to the next slide.

Oh, yes. That is very sad. Unfortunately, we had two members of the community who passed away, Arinola Akinyemi, from a member of the Business Constituency. We honor her contributions to the ICANN community. And then there was Alan Barrett. Alan was a longtime internet technical expert and brought connectivity and governance insights to many aspects of ICANN community, but also in Africa. Alan, unfortunately, passed away as well, so we have the motion for their commemoration, their resolution for commemoration. Next slide.

Okay. So basically, this issue of SPIRT is -- I wish Kathy was here. So this is a very important matter related to the new gTLD application, like the launch. So I don't know if you know what

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SPIRT is. SPIRT, they came up with SPIRT. It's kind of an implementation group that wants to try to prevent the staff and others while they are doing the new gTLD application round to come up with new processes and make new policy. So they are there for that kind of accountability.

And one of the problems that we faced a few weeks ago was that we were not -- so basically, they came up with a mechanism, SPIRT came up with a mechanism to refer issues to itself. Now, I am framing this in a way that I perceive it. Maybe others have other opinions, but this is how I saw it was happening. And we shouldn't have SPIRT refer issues to itself. Of course, the Council has the mandate to see if there is an issue that is policy, it should not be discussed, it should not be changed, like a decision should not be made in SPIRT about that. A policy issue has to be discussed with the community in PDP.

So SPIRT came up with this kind of process, how they are going to refer issues to themselves and then we found that problematic and we said, no, you should not refer issues to yourself, it should always come to the Council. And if we see fit, we will pass it on to you to discuss it. But again, you cannot make a decision and even the Council cannot make policy decisions. So, if we see that SPIRT is like they are sending us a solution that is a policy change, then we are not going to accept it. So, we have that final also approval as well.

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So, we kind of like, we try to fix this issue and the registry had one issue that they wanted to sort out in SPIRT. So, they raised this issue that the draft-based registry agreement for next round originally required all registry operators to use only EPP extensions registered with IANA. So, it was a standard and they wanted the registries to have a standard approach in EPP adoption. But then, they saw that there were like problems with having limiting them to just having EPP that was approved and registered by IANA.

So, a few years ago, they changed the contract. This had on its own had some problems. I got, we also didn't get to make any comment on this, I can't remember. But they changed the contract and they don't have to in the registry operator agreement, they don't have to use the EPP that are registered in IANA.

So, the request from the registry is to change the contract and that requirement to align it with the contract that we have now, which means that they are not required that to use only EPP extensions registered in IANA. If anybody has any idea what sort of implications this could have in terms of not using the registered extension. I kept like asking people and technical people, but I think we need a little bit of background. But also, we can't do anything about it, it's a done deal.

So, registries have this issue, they want an updated contract, right? And updated requirement that aligns with the current contract. So, they raised this issue at SPIRT, and we argued at the Council that this is not the SPIRT job. We are going to decide, the Council is

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going to decide whether to raise this and then SPIRT might be able to come up with like this solution, which is like very like administrative. So, now there's a motion by the registries is that to request the Council to refer this misalignment to the SPIRT and ICANN org to identify a path forward.

So, in our conversations, we need to make sure that we are not making a policy change, we are not asking the SPIRT to come up with new policy. And we need to make sure that whatever solution they come up with, they show it to us before they actually implement. I mean, I know it's a little bit of a micromanaging at the moment, but issues should not -- it's needed, because we don't want SPIRT to come up with policy, and we don't want ICANN staff to come up with policy. Anyway, I hope I explained this. Yeah, go ahead, Yao.

YAO AMEVI SOSSOU

This is Yao, for the record. Am I, can you hear me? Okay, can't hear much. Yeah, I think I really agree with you. At this stage, you said we can't do anything about it. So, the point I want to make is that, yeah, what we can do is just to propose a path that to refer to this mismatch to the SubPro. And so that we also have to maybe align. Well, because SPIRT's, yeah, sorry. So, SPIRT is designed to handle the issue, right?

So, after the AGPs are conducted, is approved, so may require a new gTLD program to support the process. But then, maybe to the SubPro final report, you might try to find a way for them to propose

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a predictability framework so that in what we propose to them in terms of handling this issue, a sort of predictability framework so they can identify the mechanism. I'm just writing about it. So, a mechanism to resolve the issue. So, we predict potentially when such issue arise and then how they could handle such issues so that we find, I think, appropriate solution to that.

FARZANEH BADIEI

So, I think that they have this system of issues that -- so ICANN staff, while like they're implementing the new gTLD guideline, they have three forms of issues that they log these issues to this database that is actually provided as public for SPIRT to have a look. And so, the priority now, like there is one issue that, so if it's just like an editorial error or something like that, they just like put it there and then they just make the change.

And then, there is a second one that I think it's more of a technical issue, but I don't want to spread misinformation. I don't quite know what the second one is. But the third one is very important and that's what we care about. That's when there is a policy issue. There is a request that is creating new policy or changing the applicant guideline. Go ahead.

JUAN MANUEL ROJAS

Thank you, Farzi. This is Juan for the record. Yeah, just to add what Farzi was saying, this is an alert raised for one of the members of the SPIRT because as Farzi said, this is misaligned. But in this case,

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he's talking about the productivity framework, right? Is that the standard process? According to the SPIRT charter, and in this alert, any potential issues need to be considered case by case. And in this case, we are talking about any prohibition on private resolutions in new gTLD contention sets.

So if you think about that part of the topic says, private resolution is like contradictory, right? Because it shouldn't be private. It should be open and transparent for everyone to want to discuss. But I know the Council meeting is on Wednesday? Yeah. And SPIRT is for standing and productivity in presentation review team. And we have a meeting on Thursday in SPIRT. So if you want maybe to understand a little bit more deeply what is happening in this issue, you can join to that meeting that is Thursday. I don't remember the time, but it's in Thursday.

So I think that that's easiest to everyone to know what is being discussed and what it's applying for SPIRT discussion. And of course, there is no doing policy, but it's just reviewing the process of implementation that we are coming from the New gTLD program in the new round. So that's it I want to add at this point. Thank you.

FARZANEH BADIEI

By the way, all this time, Juan was our representative. Fantastic. Thank you, Juan. You should have just taken over. Okay. So, this motion, I just want to tell you about the votes that we are going to do. We are going to vote yes on this, because we see that this is like

a technical issue. It has been practiced. It's not new policy. And we will refer it back to the SPIRT to decide on the path.

We also want to emphasize that SPIRT members individually cannot raise issues with SPIRT. They need to go to their stakeholder, and their stakeholder should decide, okay, so yes, we want this issue to be resolved. They come to the Council. Then the Council decides whether we think that it's appropriate for SPIRT to get involved with that issue. And there were some suggestions on a few processes and stuff that which we didn't agree with.

Also, like they said that, like we need to have like urgent, oh my God, this community is obsessed with urgent requests. So, they wanted to have like an urgent process that would like give us like seven days. And if we don't object, so if we are silent, like the issue would just automatically go to like a decision has been made. And we said no, three days, like for urgent ones. So, the fun part was, so we said no. We said it's not consensual, it's not consensual if you're silent. And this no objection doesn't work. And I don't know if we have to argue on, over that again or not. I hope not. We have made the case that for every issue, tell us, if it's urgent, we will look at it. And we will make a decision. We can use mailing lists.

Because if we don't do that, and if it's by no objection, this has happened to us before, that decisions are made without us even noticing. And we just missed the deadline. And we are busy people, like everybody else. So, that's one thing. Let's go to the next slide. Oh, okay.

So, I wish, I wish Manju was here. If anybody knows about this SCCI and PDP and GGP manual, that would be great. But I can, I can talk to you about DNS abuse PDP 1. It's sad a little bit, and we have also like people here who have been following the issue. Oh, these are the celebrating, oh, past that. I didn't know we figured out DNS abuse and stuff. So, basically, the Council wants to say we are making progress on these issues.

SCCI criteria and indicators, this is like standing committee for continuous improvement, finalized criteria and indicators for GNSO continuous improvement. And then, also, the GGP manual amendments. And for the DNS abuse PDP 1, as you know, we have this PDP on associated domain check that we are making progress on like making policy to obligate registrars to do associated domain check when they receive actual evidence on DNS abuse.

TAPANI TARVAINEN

Just a minor note that I heard that SSAC is going to have a lightning talk on the subject of an associated domain checks in a privacy preserving way on Thursday. I have no idea what that's about, but it's something I want to hear.

FARZANEH BADIEI

Well, that's great, because we have been raising that question. We actually, Edmun raises that, the data protection and the privacy issues that could happen in associated domain check. And we have consistently been talking about this since the beginning that this

could single out people. It could lead to profiling. But since we are not the technical community, maybe if they hear it from them, maybe there can be some, and it would be really good to have a better understanding of like how technically this can risk privacy.

And Yao has a lot of experience, technical experience, I would say, in doing DNS abuse mitigation and in the rights respecting way. So they should invite Yao. But that was a really good call Tapani. Actually, we have a meeting with SSAC tomorrow. Oh, no. So that conflicts with another meeting, but we are going to talk about Human Rights Impact Assessment.

And maybe we can make an example of this session that they have on doing privacy preserving ADC and say that one of the things that, this is like a step towards doing rights respecting mitigation mechanism, and also like you can do Human Rights Impact Assessment, you can map out all the human rights issues, including data protection and privacy, and then address those issues. So this is how HRIA is going to help them as well.

Okay, so that's great. By the way, for the counselors, this meeting is compulsory unless you have another obligation that you have to go to. Like Yao is the liaison with Sai, so and that was like conflicting. But anybody else who is a counselor and is not here, they should be. Don't go to the AI session, talking about you, Benjamin.

And then for the SSAD I give you a good, I think, update on, like where we are at this morning. We have to be very cautious that, so

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that they don't celebrate too much. You know, SSAD, giving people's private personal data to law enforcement is not an accomplishment. But coming up with an accountable human rights respecting mechanism that can do that might be an accomplishment. And then also another thing that -- yeah, Yao, go ahead.

YAO AMEVI SOSSOU

Just a question. Which aspect are they celebrating then? Have you raised the concern? I don't know.

FARZANEH BADIEI

I think what they are celebrating is just the mere fact that they started this group, this supplemental review team. And I want to tell you something about the urgent request, because I think that I updated you on a couple of points. So, urgent requests were like a type of request that in urgent circumstances, law enforcement or anybody else can go and request the domain name register and private sensitive data from the registrar. But they can also like use SSAD and RDRS, which is a triage system, and the RDRS sends that request to the registrar to decide.

So urgent request has three criteria. And in our public comments in December, we said that these criteria should be, like we need to provide more clarity on what they mean, because one of them is threat to offline and online critical infrastructure. And one thing is that sometimes the law enforcement can, like there's a protest in

some government building. They can go and they can say, hey, this is critical infrastructure, and there is a protest happening. Give us the organizer of this protest domain name information that includes their mailing address.

And that has happened. I mean, not necessarily with the domain name, but that has happened that the urgent request was abused in order to get access. And I keep making this example. And this example that I want to give you, this is happening to rich, like multi-billion dollar companies. They're not just like some registrars hanging around and like making decisions.

So basically, their system for authentication of law enforcement got hacked. The hackers hacked it. They submitted urgent request to have access to the user data, and they got it. We are talking about Microsoft here. Also, like a couple of others, Discord, I think, was there, too. So it's not a hypothetical. The problem is that they now have this urgent request in the policy.

So the way that we want to make it a little bit more accountable is to provide more clarity as to, like when it's like critical infrastructure online and offline, what that really means. And like make some kind of like additional recommendations on the definitions. Because as a supplemental team review, we are not setting new policy. We are only interpreting and modifying the existing policies. So we cannot change the criteria, but we could provide more clarity. And maybe talk about like the risks.

So for DNS abuse, I just want to warn you that these people are doing things very fast. Because we are swimming in DNS abuse, and the internet is dying. And so they're already talking about doing the second PDP on API access. And that means API access, they just want to obscure bulk registration. They have a problem with bulk registration of domain names. So they call it API access. So, they want to talk about that. I didn't see it on the agenda this meeting. But that's going to come up, and we have been saying that we don't want parallel PDPs. We are stretching, even now, we have SSAD, we have ADC, and we also have all the new gTLD stuff. So we are just not going to do anything about the API PDP, hopefully, until January. Okay. Let's go to the next slide.

So, this is the IGO-INGO Curative Rights IRT update. For those who have not heard us complaining about how these IGO and INGOs want to just reserve domain names and assert their rights in dubious ways.

For the past 20 years, basically, IGO and INGOs, they convinced ICANN to come up with a different, a separate process for them in order to bring disputes about their domain name to a separate a dispute resolution provider, and I think it must be WIPO. They have monopoly over everything. So, so now they, so they came up with this curative, INGO, IGO Curative Rights, PDP, and they came up with a policy. They had the Red Cross. I don't know if you were here a few years ago. We had an issue with Red Cross because Red Cross wanted to reserve every domain name possible so that it doesn't get abused by being registered. And we pushed back on that, but

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unfortunately this policy was there, and we couldn't do anything, but we did submit a statement.

I'm just telling you what our position is on this kind of favoritism for IGO and INGO, and that it has implications for the registrants, and freedom of speech. You want to criticize Red Cross, especially. So, if you want to for example, go and register Red Cross, irredcross.watch if you want to look at Iranian Red Cross, and you want to criticize Iranian Red Cross with your domain, you cannot register it. They reserved it, and so we lost that battle. I'm just giving you this kind of what, like how we have been dealing with this kind of IGO, INGO. Go ahead, Kat.

KATHY KLEIMAN

No, I was just going to offer, Red Cross really spends way too much money and wastes a lot of it, dot org. Yes. Absolutely. And we actually warned the Red Cross years ago, and then they came back again and tried to have it reissued, Red Cross and Olympics, so thank you for all your work on that. Kathy Kleiman, for anybody who doesn't know. No, this is, keeps coming up.

FARZANEH BADIEI

Yeah, so, so this is in the implementation phase, and I was not able to monitor this issue as much as I wanted, so I'm going to be very unclear when I'm telling you what this issue is about. The IRT is discussing the implementation of this dispute resolution mechanism that they want to provide for these IGO and INGOs, but

there is a dispute on the interpretation of the policy. I think my impression is that the dispute is, they want to be able to have recourse to go to two processes in parallel to be able to submit their dispute in this process, and then go and submit their dispute in another parallel process.

And to be honest, like the Council agenda is not very clear on what exactly the issue is, but it keeps being brought up. So, if anybody knows a little bit more about this, just let me know. If not, I'm going to do a little bit of search, and I'm going to get back to you on that. Yeah, but this is important because we can't just give them whatever they want, especially at this stage of implementation. And I actually raised that with Damien, and I thought that they sorted out the issue, but they keep bringing it back up. Also I don't know if we have a rep on that. I don't think so. Like, if you want to follow this issue, let me know.

Okay, so this one is the ICANN bylaws amendment, CSC and IANA function review. It's a technical thing. ICANN approved this fundamental bylaws amendment. It's identical to the version posted for public comment. We have the opportunity to approve or reject it, and then IANA naming function, ICANN Board approved it, and the amendment matches the proposed version from public comment. And so, these are technical issues that it didn't look like at the time that it would create problems for that we should be worried about. But it would have been nice if we were, like if

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somebody from CSC could have updated us on this. But generally, we can't just vote yes on this one.

Okay, next slide. Okay, go ahead, Tapani.

TAPANI TARVAINEN

Okay, this is Tapani for the record. Reading this prioritization pilot document, it seems they have kind of missed the point I made about the gameability of the things, because this basically brings back all the gaming issues and unpredictability issues that voting systems generally have.

First of all, it's rather complicated, lots of different numbers. It's difficult to see how they impact, but most important that this is effectively one of actually two of both, that everybody makes the prioritization, then the staff calculates the sum of results and gives them out. Even though they say that it's not supposed to be decisive or the purpose is not to come up with a result for the pilot, then, of course, that's the way it works. It will have, at the very least, a biasing effect on the decision. When you come up with the numbers and come up with a singular number and put them in order, then it very strongly biases people that this is what people think, and trying to say that that's not the intent does not really work.

Now, there is adjustments in the step seven, but they say that adjustments should be limited and transparent, so this means that we vote once, staff calculates the results, then we, after discussion,

have one opportunity to change them, and this effectively leaves all the classical gaming opportunities in voting systems in place, so that if you want to have your desired priorities there, you have to do strategic voting, as it were, figure out what are the numbers, guessing what the other guys are doing, and the result can be whatever.

So this is basically no better than the original, even though this is one extra step of the adjustments. When they say that the objective is not to negotiate a preferred ranking, well, what is it then, and what will the effect be, anyway?

Because everybody will have their preferred ranking, and they will try to whittle the numbers to get their preferred ranking. And this makes it possible and apart, you can't quite see. It's very unintuitive to see what kind of results come out of it. And since you are doing it in a way that you just first put in numbers without knowing others, and then the staff calculates them, I'm not sure why they want to do it this way, except maybe that's the easiest way for them to do it.

So my proposal, which I'm not sure if you have read in the Council list, and somehow that was, the whole point was that there is no hard cut-off point, but that these numbers can be adjusted even just when you see that the math doesn't work the way you think it does, because people do not understand the math. It's very complicated how they actually end up. So the ability to play with

the numbers until you see how they affect the outcome was a key point, and they have completely dropped it here.

So actually, this five, how many criteria here? This thing is less important in that sense, but it does make it more complicated, more difficult to understand what happens. So I'm not sure what to propose here. I think I might try to suggest that let's do it the way I should propose originally. So leave this scoring scheme here, but make it so that you can adjust it for as long as you want, instead of having staff calculate it once.

It's simply a simple spreadsheet to give you these results. Put the spreadsheet on Google Docs or whatever and have people play with it, so we can see how the numbers affect the outcome, because you don't really understand the numbers. The mathematics is too complicated. But if you can play with it in a spreadsheet, then you can see, hey, how come putting that kind of number has that kind of result on the outcome? Because it's really, it takes a hardcore mathematician to figure it out otherwise.

KATHY KLEIMAN

A question to my counselors. Do you understand this? I mean, have you been working -- Tapani, is there kind of an action plan that you want? I actually have two questions. Action plan that you want the counselors to do. It sounds like you're looking for some feedback. My question for you is how transparent? Numbers don't tell you who's underneath something. So if the registries and the registrars

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and the commercial guys want to push forward something that we don't have the bandwidth to do.

You want to be able to see that it's the registries, the registrars, and commercial stakeholder group, and that every single one of the noncommercial stakeholder group counselors has voted against it because we can't handle that priority. If it's all invisible in the numbers, it just looks like the majority wins. And you don't know who's underneath it. But I don't understand the system very well. But where's the transparency so that we can see who's saying perhaps again and again and again, I can't handle this?

TAPANI TARVAINEN

Yeah, they did leave one, the other key part of my proposal, which was that the vote should be public so that we can still see who voted how. So that part is still there, and that helps a lot. But it still doesn't solve a problem that they can play with the numbers.

KATHY KLEIMAN

Okay. So is that something our counselors should be asking for, is that the votes be public and easily accessible, like with a link, that they be published right next to the numbers so that you see who voted for it and who voted against it. If it's not part of the plan, then nobody's going to do it. But then they'll just give numbers.

TAPANI TARVAINEN

Yeah, that is part of the plan. And that's why I specifically made two points in the plan. At first, the vote should be public so that

everybody can see how everybody else put their numbers in. And that remains here. That's half a victory at the beginning. But the second one I wanted is that this leaves the numbers game in place, that it's hard to figure out what the numbers you put in affecting the outcome.

KATHY KLEIMAN

So I'm a lawyer. I don't work with numbers. No, that's an old joke. But that the votes have to be public is different than they have to be published and accessible next to the numbers. So not buried someplace else, publicly, in perpetuity, so that you know who's next to that. But in terms of numbers, what would you like our Councilors to do for the numbers to help you with where you're trying to go on that?

TAPANI TARVAINEN

Well, what I wanted to do is that instead of entering the numbers once and counting your outcome, then you have to guess what to put in, how it affects. You have it in basically a spreadsheet where you can play with them. And when somebody else does them, you can see how it affects it and keep on playing with them so that you can see how your numbers put in at the totals.

KATHY KLEIMAN

To my Councilor, does this make sense to you? Because it sounds like you're changing a vote to me.

FARZANEH BADIEI

No, Rafik has a comment, but I will get back to you on that.

RAFIK DAMAK

Thanks. Rafik speaking. Tapani, let me clarify things. You are not supporting having any kind of ranking?

TAPANI TARVAINEN

Not the kind of one-off ranking that this is. We can come up with a ranking scheme in the end, but if you do it as a single one-off or two-off vote, then it's almost problematic.

RAFIK DAMAK

So, just here to make my comment. I think the usual issue here, it's not new, it happened also in other groups. The idea is we use numbers, we will make things more objective. But the question is how you are making up those numbers. What's the basis and the whole process at the end, how we are generating those numbers. So, I get that it should not be done at one or two steps, but things that we keep inputting to have a better idea, like what are the priorities. So, I think the part that maybe needs to be clarified is how people will change their input. The basic idea is they have some discussion and based on that discussion they can update their input.

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TAPANI TARVAINEN

That they can also base it on when they're putting the numbers and see how they add up, so that they get an understanding of how these numbers affect the final outcome. Because that's what usually is often missing.

RAFIK DAMAK

But there's more here maybe to finish. I think the issue is not necessarily the number. We can try, as you say, to avoid some gaming. But one of the issues here is more, let's say psychology, is that when you start having numbers, it kind of ensures people. So, it can influence people to some extent how they should input. So, I think we are kind of back to square one here. What we are trying to achieve is to prioritize. So, we have a list of topic issues and we want to prioritize. What prioritization means is at the end is some ranking. You see, this is the first, this is the second, and so on. There is an order. You cannot have two things on the same level.

TAPANI TARVAINEN

We should have an order. Yes, ranking at the end result, but not as the means of coming up with the results.

RAFIK DAMAK

But at the end, it's because here we are trying to manage resource, to manage attention, to manage funding, etc. And so, we want to protest. You see, this is the first topic that maybe we put our resources, and then this is the second. We can have things in the parallel if we have enough bandwidth. At the end, what I'm trying

to say here, I get that we are trying to fix this issue. Yeah, we should be careful about this idea. There is number that's mean objective. It's not correct. But what I would like that we also focus is not just to prioritize and make a list.

The GNSO Council has to spend more on this. Something we started with PDP 3.0 and before. Is that the project management, meaning like we need to identify the resources, how much we can allocate, what is needed in terms of funding. And that's where I believe really we should put more effort. We can come up with some process to prioritize.

Unfortunately, it's not the first attempt here. I shared about that pilot project. They are using for the whole ICANN based on the strategy. And they try to see what are the high priority. Like, should we work more in this review, recommendation, implementation, and so on. And also, they are using this kind of you put some ranking, but they play like which is kind of more important or some metrics.

But I want to say, I don't think there is one solution, but just more than focusing on that, also to really think about the resource allocation, because that impacted us a lot in terms of that. Even if you prioritize, you make a list, still we're not sure how much resources on our side we can put on the same part. But yeah, that's all what I want to share.

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FARZANEH BADIEI

Peter, you're next. Go ahead.

TAIWO PETER AKINREMI

Can you hear me? Yeah, thank you so much. Part of what I wanted to say, Rafik has already touched on that. It's just for me to clarify why this document is HOP, is for the Council to actually look at it and see the proposed criteria, whether it's in line with what we are discussing and what we want to achieve, because we are adopting an hybrid model for us to be able to ensure that Council able to prioritize their work.

So, this is subject for our feedback for us to look at on the agenda for us to discuss and have a candid conversation, so whether the criteria actually works or won't work. And that is what I want us to look at, rather than looking at it and say, this is subjected to gaming or whatever, is for us to give our feedback on this before the staff go ahead to try to come up with a system for us to first test whether this will work or not.

Another thing I would like to add is the first impute to this, or the first model that we're considering, or the first phase in this model, is for the Council to really establish whether the Council have the proper resources. It takes all of that in, whether these are aligned or these are not aligned. So, I just want us to be careful in the way we approach this. Like Rafik said, there's no one way on how to do this, but can we live with what we currently have, or can we suggest a better way?

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And that's why the leadership actually discuss more on this, and looking at the proposed method that Tapani proposed and say, okay, this should be continuous. It should ensure Council have the conversations to be able to reach consensus on this. But if there's any things that we see in that document that does not align, then we can flag it during the Council meeting and then propose a way forward on how. Like I hear from Tapani that this should have, it should lead to more conversation rather than a hard call numbers or process. Let's have that clarification on that. Thank you.

FARZANEH BADIEI

Thank you, Peter. I had the impression that Tapani said, you are not happy with what happened.

TAPANI TARVAINEN

Yes, I'm not happy. There are two points that I wanted. I'm not trying to come up with a total solution. That's trying to fix two obvious problems. The first is the transparency issue here that everybody should know how others voted. And the second is that this cut of doing it once and having then counting the results, does result in the gaming opportunities and unintuitive results and whatever.

And so otherwise, I don't have a strong opinion of this otherwise, whether this five-way scoring yourself or what works. I can't live with that. I'm not sure how it would work. But this doing it once, having stuff calculate the results, and it's not quite clear from this

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if they are supposed to publish exactly what kind of numbers we put in.

So those two things, most important that we know exactly what kind of numbers whoever put there. And second, that it should really not be a cut of one, one of priority that you can keep adjusting them until you're happy with your results. After you see what the others do, so you can see how your numbers affect the outcome. That was the key point here. So that this actually would be a discussion tool rather than decision-making tool. That was the point.

FARZANEH BADIEI

Yao, go ahead.

YAO AMEVI SOSSOU

Yes, thank you very much. I think during your explanation, I was really a bit confused about what we are trying to achieve here. But now I get it a bit. But my point is, the prioritization mechanism actually, the end game for the old GNSO Council, and then I ricochet for NCUC, what's going to be the mapping mechanism of the prioritization. Is it just numbers we are putting, and also who is doing the ranking for those priorities? And then how it's going to be impacting us, so that we don't get backfired, stuff like that?

So I think if I can propose something, I think criteria should be not only measuring the urgency, the workload or operational dependency as well. So those need to be taken into account, so

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that not only also focusing on the sometimes financial part of it, and not considering other aspects of it as well. It will be backfiring somehow. I just wanted to add that.

FARZANEH BADIEI

Yeah, great. Thank you. This is a thrilling topic. So I would like to go to the next section. But I see Peter's hand is up. Peter, please go ahead, but maybe briefly, because people are really thrilled in this.

TAIWO PETER AKINREMI

Yes, I'm going to be brief. Just wanted to say that what you also said was actually detailed in the document. I want the counselor actually to take a look at it, because the evaluation criteria itself is defined on what those means on the complexity, on the demand and deliverable, and the relevance call is also attached to that. I want us to look at that and see how this works, because if you don't understand how it works, then there will be an assumptions whether there is no transparency or there will be a game in the system.

I guess our request should be, this should be transparent in terms of the people that are voting and should be also subject to conversation, not that the score is going to be the final. No, something is a tool for the counselor to actually discuss to agree on whether this really matter. But the first things I want us to look at,

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do we agree with the definitions of the criteria? Because every other thing is going to rely on that. Thanks.

FARZANEH BADIEI

Great. Thank you. And also, just to tell you my personal opinion, I don't think we needed a prioritization tool. I think this is all. Oh, go ahead.

TAPANI TARVAINEN

Just a quick point. Should I put my consent to mailing Council list along with my little brief notion of what my objections are here in advance before the meeting?

FARZANEH BADIEI

Absolutely. You're in charge of that topic and I agree with every single thing. I really want to talk about DNS abuse and associated domain check. I want to give you updates, and I'm so happy Michaela is here too. We can like talk about what we have been doing in that group, what the issues are. And I don't have pretty slides for that, but I think this is a very important PDP.

We also have a Human Rights Impact Assessment session on Wednesday that we are going to talk about DNS abuse. So, Michaela, can I put you on the spot to tell us what's going on there? And Michaela has been leading our work there and it's been great. We are doing great effective work because of you. Thank you.

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MICHAELA SHAPIRO

Thank you, Farzi. It's a group effort. So, it's been a really great -- Michaela for the record, it's been a great collaboration across NCSG, NCC, NPOC. I'm trying to think, Farzi, timing wise, like what would be the most helpful, would high level be the easiest?

FARZANEH BADIEI

So, we have 20 minutes. And yeah, because I wanted to update you on this IRT thing but I think this is more important. Let's do that.

MICHAELA SHAPIRO

Yeah, maybe I can just go over a few of the kind of main things that we've been most concerned with and that we're still kind of trying to work through. So, as a reminder, I guess, of where we are in the process. There are 9 or 10 total charter questions we've gone through. And there's now strawman language for one through seven. Eight and nine are going to be deliberated this week. And those numbers mean nothing to you if you're not in the group, but even if you are, it is annoying to remember. So, I'll try to give a little bit of an explainer with each.

So, the first recommendation or the first charter question is about what is the kind of scope to, or what should trigger a domain check, right? So, our idea as NCSG is that it shouldn't just be any malicious or any domain that is a malicious, evidence-based malicious domain should not, that shouldn't be the threshold to get you to go to an ADC. There should be something like a contextual indicator. That being said, this is to quote Farzi from earlier, this might be a

battle that we may potentially lose. People seem to be quite keen to just jump straight into doing an ADC on just about anything when it's malicious.

But in good news, there are other questions that we can try to integrate some of our safeguards into. And so, that's the ones that are around kind of the scope of an ADC. So, what kind of data should you be looking at? What should you not be looking at? Should you be required to kind of solicit and generate more data? We are against that.

And most of the registrars tend to be on our side on this, which has actually been quite great. Unsurprisingly, some of the folks in other constituency groups are not totally in agreement with that, but we've tried to provide some language around, let's keep this narrow, let's keep the scope quite focused.

You know, we should be looking at things like, say, registrar on our account or kind of other active domains that are also used for similar types of abuse. So, that's kind of what we're trying to do to kind of mitigate the fact that they might still be doing this ADC on everything. That's malicious, but at least we have some other things to kind of tone it down a little bit.

Similarly, again, the scope of what is defined as a reasonable investigation, although we're trying to be careful to not call it a definition. We're trying to quote the charter and have it be, I think the question was very much about, oh gosh, I forget the exact

wording, but it wasn't a definition. It was asking for what constitutes, yeah, which is a very confusing framing.

That being said, because of that, we're trying to steer clear of calling it a definition because that opens up the Pandora's box. But what we can say is, okay, here's the kind of elements that constitute a reasonable investigation, which is a way to kind of get around the question of, well, we don't define a reasonable investigation and we keep saying that term over and over again. Anyone can say anything is reasonable.

So, that being said, that's what we're trying to do. And we'll see how that goes. We've been talking about it for a while, but it's been kind of mixed reception. But we're going to try to keep pushing for that this week.

And the other one that's a big one for us is around remedy. And that one is one that also similarly, a lot of folks don't want to see in this PDP because they would rather it be one PDP, like a broader community-wide discussion on, for example, if you get it wrong and you take down a domain, they don't want that to be in the scope of this PDP. And in some ways, I know, I know, in some ways I see a benefit in the sense of, instead of it becoming a fragmented session, so it would be remedy only for an ADC, right?

And so, and that's not necessarily what we would want. Sorry, associated domain check. Sorry about that. So, rather than it only being an access to remedy when it's a suspension related to an

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associated domain check, there's an opportunity to bring this up as something for more broadly for DNS abuse mitigation of all kinds.

But that being said, again, we might unfortunately lose on this one. We were trying to get language that it would talk about something like if you get it wrong, can you try to get it back? And what kind of remedy could you have in this scope? But yeah, sorry. And just one last thought on the other main topic for us is let's then push for remedy to be a priority topic for the Council after this PDP. If we can't win on getting it within this scope.

But I saw Kathy, you seemed very excited. I mean, that's really the main one. I mean, unfortunately, we got so much pushback on talking about remedy within the scope of this PDP that I'm not sure what else to say, but I don't know, Farzi, if there's anything I've missed on any of that. And I know I spoke quickly, sorry.

FARZANEH BADIEI

No, no, it was great. So basically, we've been facing pushback on remedy from the start of when we were doing the charter, we had to fight. As a Council member, I was involved and I had to fight to actually have the question of remedy in the charter. But I managed to do that. But now we are not really succeeding on like having it in scope. And people should be generally on our side for remedy or not. But they say that, oh, we want it to be done in a more holistic way. And I don't find that approach. I just think they want to take another 10 years to do any kind of remedy for the registry.

And remedy has been a prioritization for us. Even before we kept like going to GAC, talked about remedy. When we were prioritizing at the small team on DNS abuse, we talked about remedy. And this morning, I invited ICANN compliance to tell us about like a few of the remedy mechanisms that already exist so that we can see what the gaps are and what we should push for. And I think that that's our next step. And I agree with you. I don't think they are going to have remedy.

Another thing that I'm worried about is that, so safeguards, safeguards are really important. So you have safeguards and you have remedies. Safeguards is for like to reduce the risk of wrongful suspension, false positive. And also another thing that in the associated domain check can happen that we keep bringing up is that, it's kind of like profiling in a way. So they say that when one domain name is abusive, the registrar has to go to all the domains that belong to this registrant and check them and see if they are abusive or not.

And we have provided them with some scenarios and what sorts of political and legal risks that could create for the registrar. Like for example, if the registrar starts having the knowledge of there are some domain names that could be illegal in some jurisdiction but they are not human rights violating and actually in a way they provide human rights support but in that jurisdiction they want to violate human rights. We talk about productive health in these cases.

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So the knowledge of that domain name existing can create legal and political risk for the registrar. But they say that, well, that's out of our hands. And I'm like, no, when you're obligating an action to be taken contractually, then it's not out of your hands. And the solution for this, is very simple. The investigation has to be narrow. If there's one domain, so if it's, for example, a telegram, a domain name, abusive domain name that has like telegram-login, investigation should be narrow to see all the keywords that is similar to that domain name and not all the portfolio and the accounts that the registrant has. Go ahead.

MICHAELA SHAPIRO

Michaela, for the record. No, just to add as well to Farzi's points that we've gotten pushback when it comes to kind of having what we think are quite reasonable kind of data protection safeguards when it comes to the scope of the associated domain check and the pushback, the kind of response that they give to us is more or less that the pros outweigh the cons. It's not a compromised domain, so we don't have to worry quite as much. We're going to catch the bad guys, right? And so that's kind of the language that we keep running up against.

What I will say that has been positive is while we're not always aligned with all the folks in the room, there have been some really good questions that I've been asked. Like I'm kind of pleasantly surprised, for example, by some of the questions by coming from the GAC who want to be able to come back and give kind of a more

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educated response to the group, even if they're not always aligned with us. I do feel like the group is at least having some productive discussions. So I do want to say it's not all doom and gloom, but we're trying our best.

FARZANEH BADIEI

Yeah, we actually, so when we were talking about transparency, so we want transparency reporting. And it's nothing huge. It's industrial best practice. All these tech companies do it. But they said, no, it's costly. All the data protection and privacy they care about. But today there were some progress. And even the governments in the beginning, they were not sure about like transparency.

But today when we were talking about compliance, we said that registrar can report and maybe compliance can do like aggregate data on what sort of action was taken, how many domains were suspended, whether there were any false positives. So that we can actually have like a picture of what is happening and how this investigation technique has impact on people's access to domain name and their human rights. But there was some support in chat by a few people. And also like they have also done a Human Rights Impact Assessment. The staff has done a Human Rights Impact Assessment that we are going to discuss on Thursday, but we also have a separate session as I mentioned. Go ahead.

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KATHY KLEIMAN

So it sounds like incredible work. This is Kathy Kleiman. I've got a lot of basic questions which you don't have to answer, but I wanted to raise them because I don't know about other people in the room, I'm missing pieces of what's going on. So let me raise questions in order to get to maybe something that would be useful to you.

So the associated domain name check, my question is, I'm just going to list them all. Who does the takedown and how? So you're saying it's an evidence-based malicious finding. There's evidence-based malicious finding for one domain name. And my question is, can that be botnets? Because we know that botnets can be placed on the back of someone's webpages and they don't even know it's there.

So I had many times registrars reach out with certain types of misuse to the registrant who then goes to their webmaster and fixes it. You don't take it down, it's been taken over by someone else. So what is evidence-based malicious use? It should have to have some kind of intent of the person putting it up like a phishing site that looks like Bank of America with a zero instead of an F. I'll stop there, I have more.

FARZANEH BADIEI

That's a brilliant point. And every time we mentioned this, they said, oh, compromised domains are not in scope. And we mentioned that is not safeguard. That is not safeguard. You cannot tell me, you cannot ensure me that if you do associated domain check and there are compromised domain that are abusive and you

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don't take them down, you cannot just say, trust me. And Brian from PIR keeps repeating this every time we mention this. Yeah, go ahead.

MICHAELA SHAPIRO

Oh, I figured I'll turn it back to you. Michaela, for the record. No, just to say, I mean, again, not only do they keep responding, like the issue isn't just that, even if that were the case, that is the case that compromises out of scope, but that doesn't address the fundamental issue that Farzi also keeps bringing up, which is fantastic, that we don't have a clear definition of a maliciously registered domain. And that's a concern. And people just say, that's sufficient. And that's what we've been concerned with.

On your question, though, about who takes down the domain. So the other, whenever we bring this up, they're like, well, like an associated domain check doesn't necessarily mean that we're taking it down. They don't give us a guarantee of exactly what they do. And again, we're trusting, we just have to take on blind faith that they are going to not necessarily suspend the domain just while they do the ADC, but some might. And there's no kind of parameters. That's the whole point, is they don't want to discuss the parameters of what they do in an ADC.

KATHY KLEIMAN

But you're creating policy. This is policymaking. No, no, they can do whatever they want under their terms of service. I'm sorry,

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that's the way it works. But if they're going through policy, you have to have definitions. We have to know what this is. Second, you talked about safeguards to reduce the risk of wrongful suspension. How in the world do we know that something's been wrongfully suspended? Where's the reporting hotline? How does somebody let us know? If they tell the registrar, does the registrar care or do they process it back?

This doesn't sound like ICANN compliance is in the loop. So how would we ever know that somebody got wrongfully taken down or that 100 of their domain names got wrongfully taken down because they'll have no idea what to do when that happens other than report to their registrar who will say, I just took it down pursuant to ICANN policy.

FARZANEH BADIEI

That is a great question. This is why we keep talking about remedy and avenues and channels for submitting complaints. So it seems like that registrant can submit a complaint to ICANN in case of a wrongful suspension.

KATHY KLEIMAN

But they won't know to do it. It's like they don't know how to respond to a UDRP.

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FARZANEH BADIEI                      So that is what we want to fix in the next 10 years. So this is why we had a chat with ICANN compliance today.

KATHY KLEIMAN                      So there's a potential for mass takedown of domain names with no definition and no remedies.

FARZANEH BADIEI                      It has happened already. There is a case.

KATHY KLEIMAN                      Not pursuant to ICANN policy, though.

FARZANEH BADIEI                      No, but it's not a possibility. We are not talking about hypotheticals here. There has been mass takedown after ADC. So you are right. That's what I'm saying. And then for the safeguards, but because we keep getting these pushbacks, maybe we can talk about the remedy in a way that maybe something that it can point them to an already available process. We just tell them, let's just put this, let's send an email and say, we suspended this and you can make a complaint here to ICANN. It's available already.

MICHAELA SHAPIRO                      Michaela, for the record. No, and the other side too is, how do I put this diplomatically? We can also speak their language a bit more as well when it comes to remedy. When we say remedy, Ray, and we

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talk about registrants as the NCSG, yes, we're typically talking about, the whole point is that we're talking about non-commercial entities, largely nonprofits, NGOs, etc.

That being said, remedy could benefit. Also, there's a business case for remedy as well. If your business was suspended and taken down and you can't access your website, that's dollar signs that you've lost, right? So I think there might also be a need to make a case that unfortunately doesn't necessarily represent only our constituency group. Like there is a reason, like there's a business case here too. And I wonder if we need to integrate that more into some of our responses.

KATHY KLEIMAN

And talk to the Commercial Stakeholder Group because they don't want their guys taken down any more than we want ours, unless there's a real problem. So I think you've got something.

MICHAELA SHAPIRO

Sorry, we just keep going back and forth. Michaela, for the record. No, on that note, I think we've been largely in a lot of ways quite aligned with the registrars. I mean, I'm speaking not on everything, but of all the contracted parties side, the registrars have been pretty good allies. Surprisingly, it's been the registries, or maybe I shouldn't be surprised, but it has been the registries who have been pushing back more on our positions.

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FARZANEH BADIEI

Yeah, so the next steps for us is looking for unusual allies. And to see if we can do some sort of remedy and work on our remedy PDP, like potentially having a remedy PDP. And the other thing is that working on safeguards so that the investigation is narrow enough so that we reduce the chances of false positives. And the other thing is, of course, the Human Rights Impact Assessment that we are going to do. And another thing is data protection and privacy that we need to focus on. Edmun is working on that.

Okay, so any question on this? No? Okay, I found the issue that I was trying to cover at the Council. So basically, you remember the IGO, INGO issue that I was talking about. So basically, in January, there was a disagreement. So in January, the EPDP recommendation on specific curative rights for the IGOs were designed to resolve a longstanding barrier to IGO use of the UDRP or URS because of their inability to submit to court jurisdiction without compromising their legal immunities.

So that's what they have been complaining all along. The agreed solution was to provide registrants with an alternative to court proceedings, a new binding specialized arbitration mechanism that registrant can go to when a UDRP or URS proceeding is filed by an IGO.

So in January, the Council was asked to clarify the timing of this mechanism and whether the EPDP recommendations should be read as limiting its availability until after a UDRP or URS proceeding has been concluded. So this is the parallel process that I was

talking about. So the Council passed a resolution affirming that the intent of the recommendation was to allow the respondents in an IGO related proceeding to voluntarily leverage arbitration or alternative dispute resolution at any time once a proceeding has commenced, even prior to a final UDRP or URS decision. As I said, you can't have two dispute resolution mechanisms at the same time.

So we passed the resolution and we said that's okay, because it was a done deal. And I remember we did kind of seek clarification. But now Damien is back, our Council liaison, and he's telling us, since the passing of the resolution, IGO representatives within the IRT have voiced strong objections and they say that allowing access to the new specialized arbitration mechanism before a UDRP or URS determination oversteps the original policy scope. So this is more about the registrant rights actually. So the registrant has two available recourses. They can both go to the URS or UDRP and go to this specialized arbitration.

And the IGO representatives don't like this. Other members of the IRT believe this is a misreading of the intent of the EPDP and that the resolution could ultimately disadvantage respondents in these disputes. So, we are going to discuss this at the Council. We don't have a motion or a resolution to pass, but we need to look at it and see how it affects the registrant, how it makes the IGOs more powerful. And that's about it. We have another five minutes.

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KATHY KLEIMAN

Are we going to be able to touch that SPIRT or did I miss it?

FARZANEH BADIEI

Oh, you weren't here. We talked about spurt quite extensively. I went through the motion. So there's a motion that the registries, the Registry Stakeholder Group submitted an issue. So, I wanted to talk to you. I have raised this on the mailing list, but I wanted to put this on the record as well. The GAC has sent a letter to the Council and the Board and saying that we want accuracy of data for domain name registrant. And in a small team, there were like suggestions to reduce the time available to make sure that your data is accurate from 15 days to 10 days, I think. Oh, I'm sorry, from 30 days to 15 days.

KATHY KLEIMAN

I'm just saying no, because that would be a horrible idea.

FARZANEH BADIEI

Yeah, yeah, yeah. So I remember we were like talking about it, but the GAC has sent a letter to the Board CCing us, the Council, and is saying that, oh, it would be really good to look at the avenues of how we can do this. And also maybe there can be a bilateral contractual amendment that makes this change. Going over our head. It's incredible. So we are going to have a conversation with GAC.

And I told the Council that NCSG strongly opposes any kind of going over the multi-stakeholder, and circumventing the multi-

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stakeholder model, especially when it comes to these issues that have impact on people's access. Like some of these suggestions are, for example, not having the domain name in the zone, not having it activated until they have verified their data. So they kind of want to be proactive like that. And this is terrible for the people that we represent and advocate for. Yeah, go ahead.

KATHY KLEIMAN

Yeah, we call this the China rule. Because the year that China adopted a verification mechanism, basically you had to show up with your ID in order to renew your domain name in .cn, the Chinese country code. Somebody checked me. It was five or nine million domain names that disappeared because people couldn't do it.

So from a human rights perspective, this type of physical identification for speech, for communication, particularly non-communication, is crazy. In other areas, there's the concept of know your customer. But ultimately, every one of these people is using a credit card that's probably particularly traceable, but there are cyber people in the room who can tell me if I have that wrong.

But this idea of showing a physical ID before you register a domain name is chilling. Not to mention what happens to all that PII and creating just a security nightmare of its own. But we will lose a lot of speech on the internet and in domain names. To the extent that you know people who, you have domain names. Sorry, Michaela. Hold on just a second. I apologize. It's distract. If we have good examples of domain names, we might lose, that would be good.

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The more examples we can give would be useful. Sorry, back to you.

FARZANEH BADIEI

Yeah, great. Thank you, Kathy. We are at time now. But thank you so much. Oh my God, Peter's hand was up all this time. I'm sorry, Peter. We don't have time. Well, thank you so much for attending and come to our Human Rights Impact Assessment and follow the Council meetings.

**[END OF TRANSCRIPTION]**