ICANN75 | AGM – ccNSO: Governance Session
Wednesday, September 21, 2022 – 15:00 to 16:00 KUL

CLAUDIA RUIZ:	Hello and welcome to the ccNSO governance session. my name is Claudia Ruiz and I along with Kimberly Carlson are your remote participation managers for this session.
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	Virtual participants may access the interpretation via the Zoom toolbar.
	With that, I will now hand the floor over to Sean Copeland. Thank you.

SEAN COPELAND: Thank you, Claudia. My name is Sean Copeland and I'm a recovering fintech developer. It's been 5126 days since I last integrated a bank.

Today, David McAuley and I will be presenting to you, and Alejandra will have a question for you towards the end to reflect.

To my right is Segun who's now taken over as the vice chair officially, so I'd like you to welcome him.

For the ccNSO members that are in the room or online, Monday, September 19th at about 5:12 AM local time, Kimberly sent out an email for the [meta poll.] That's where to look. 5:12 AM the 19th. Next slide, please.

I'm missing a slide. That's okay. So today's agenda is going to be the SOI update from David. Then I'll be talking about the conflict of interest, and then we'll talk about the GRC upcoming events. So I'll hand it over to you, David.

DAVID MCAULEY: Thank you, Sean. Hello, ccNSO colleauges and visitors, both here in the room in Kuala Lumpur and also online. We are going to talk about doing an update to the rules of the ccNSO first. I will be speaking about that. Next slide, please.

As you may recall, we very recently went through an exercise of updating the ccNSO rules. It was our first update after they had been initially adopted and a long period of time had passed and there was a good reason to update them.

So you might ask why are we coming back so quickly with another update for the ccNSO rules. And the answer really lies in the fact that the ICANN Bylaws, Bylaw 10 with respect to the ccNSO and the annexes that apply to the ccNSO, have been updated and they have been updated to take account of the fact that IDN ccTLD managers can now become part of the ccNSO.

And I apologize, I forgot to introduce myself. David McAuley is my name. I'm employed my Verisign and I participate in the ccNSO by virtue of our management of the .cc country code top-level domain. Next slide, please.

This slide brings up just chance to remember what is the governance hierarchy with respect to the ccNSO. And top to bottom, this is the order of precedence of those things that decide how the ccNSO is to be governed.

At the top of this list, of course, is the ICANN Bylaws, Article 10 and the annexes that deal with the ccNSO. That is the authoritative governance provision.

Underneath that are the internally adopted rules of the ccNSO that as I just mentioned, we update and we adopted and update from time to time.

And then below that are the operating procedures that are developed by the Guidelines Review Committee and then adopted by Council and members. And those are third in line of precedence.

So in the event, obviously, of any inconsistency between any two of these or among all three, the Bylaws take first order of precedence, followed by the rules and then followed by the guidelines. Next slide please.

The major changes to the Bylaws as a consequence of welcoming IDN ccTLDs into the ccNSO membership fold are the adoption of the concepts of representative and emissary. These terms have been adopted pursuant to the change that we're moving from one vote per ccTLD to one vote per territory. And territory, we're talking about country or dependencies as listed in the ISO 3166 database.

But two new concepts are representative. A representative of a ccTLD manager is that person, organization or entity that is authorized to deal with the ccNSO on an authoritative basis. And so if a ccTLD manager does not appoint a specific representative under the new Bylaws, the administrative contact for that ccTLD as listed on the IANA database is in fact then the representative.

The next concept is the emissary. The representative will be the emissary of the ccTLD manager for purposes of voting. And an emissary is an entity that gets one vote, one single vote in any matter that calls for voting.

Now, if it happens that there is more than one ccTLD manager in a territory, those ccTLD managers in that territory need to, amongst themselves, come up with a designated emissary. Because again, it's one vote per territory that we're pursuing. So that person that they choose will be the emissary that casts the vote in any voting procedure.

ICANN|75
KUALA LUMPUR

If they do not appoint an emissary, then the emissary will, by default, be the representative from that ccTLD manager in that territory, which is longest standing member of the ccNSO. Next slide, please.

So this is simply an update of what we're doing with the new rules. If there's any questions, we'll take them now. Or online. Whichever. Next slide, please.,

I want to mention the timeline. So we have raised this before. We brought it to the ccNSO membership before. We did this at ICANN 74. Council actually adopted the amended rules to take into account these bylaw changes in August. Joke sent them around to membership earlier this month.

And I just want to note for your consideration, and I hope that this gets promulgated by you to your colleagues in the ccNSO, that the vote on these new amended rules will open on October 4th and be open for two weeks until October the 18th. Next slide, please.

This vote is, like any vote, subject to the quorum requirements of the new rules that we just amended shortly ago. And what that means is we need 33% of the members to vote this time to meet quorum. And I'll have to apologize with respect to this slide. I made a mistake here. It's not two members per region, it's three members per region. So I want to note that—apologies for that—but we need to reach quorum in order to pass these. When the quorum is met, then 66% of those who vote would have to vote in favor of changing the rules. Next slide, please.

So that really wraps up the discussion about amending the rules. I'll just pause for a second to see if there are any questions about this. And I don't see any hands. Okay, that's good.

So we're going to move now to the subject of statements of interests and conflicts of interest. Statements of Interest will be for ccNSO members who participate in working groups and conflict of interest procedures will be for Council. And conflict will be something that Sean will handle. Next slide, please.

The need for something like this became apparent a couple of years ago, and the Guidelines Review Committee was tasked with looking at this. And within that committee, we decided to come up with a subgroup on this that's been working at this. And we introduced our thought process to the community at ICANN 73. We went back and did some work as a consequence of the feedback that we got. ICANN 74, we did more of that. As a consequence of both of those sessions, we have come up with a way forward. And that's what we're presenting here. And we'll be seeking some feedback via polling on this. So look forward to that. Next slide, please.

So let's just talk about the statement of interest part for a minute. And it's pretty simple. Many of you may know—or some of you I'm sure know—that I participate not only in ccNSO but I participate in the GNSO through the Registries Stakeholder Group. And I participate in two IRP process working groups that also use the statement of interest process. And through all of that work, I've found that I've become quite comfortable. I think it's really a good mechanism, works very simply.

Let me begin by saying about statement of interest that this does not apply to ccNSO members simply by virtue of being members of ccNSO. This will apply to ccNSO members if they get involved in working groups. And that's where a statement of interest would be required under the procedure that we're talking about.

What a statement of interests amounts to is, as the slide indicates, first a revelation of one's interest. Typically, that would be who employs you. I mentioned at the beginning I'm employed by Verisign. That would be something I would disclose in a statement of interest.

What constituencies do you participate in? That's the nature of it. What are the things that need to be revealed relative to the DNS and the ICANN community, including numbering, etc., that would be of interest to others to know what your background is as you participate in the working group. That's all that is.

The second bullet says submit an update. The obligation is on the individual to provide a written statement of interest and to update it. Now, the update would typically be annually or when a change occurs. New employment, new financial interest in something that's going on relative to the ICANN ecosystem, all of those kinds of things.

And the last two bullets, one talks about accuracy. Accuracy is the burden of the person submitting the statement of interest and mandatory. The mandatory nature of it is, again, as I mentioned, to participate in a working group. So we're going to get to a polling. Next slide, please.

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Our polling question is, do you support, with respect to the SOI that I just spoke about, do you support this proposed procedure, this proposed approach to handling transparency for people in working groups? And I will get ready. Let's put the polling question up. And then I will also …

Let's give it about another 10-15 seconds. Kim, can you show the results? So that's very good news for us. Thank you very much for your votes. So the next slide, we're moving on to conflict of interest and I will turn this back to Sean.

SEAN COPELAND: Thanks so much, David. And thanks so much for your support on the SOI. The quote on there is from Gifford Pinochet from the Teddy Roosevelt administration. He was a conservationist and actually an early supporter—I guess you would call it an ally—of women in the 1920s.

For those of you that don't know, Theodore Roosevelt was president in a Republican Party. So kind of a bit of a conflict change over a century or so. Next slide.

2005, I'm sitting in a boardroom in a bank, and with my two partners, I'm with a bank owner, and his assistant. One of my partners has gone through our bona fides, which is basically saying this is our qualifications. I've gone through the technical aspects of financial processing with the bank, and what we would expect to happen. And my third partner is working on—we'll call it closing the deal.

Something that I paid attention to not so much, because I've heard it 1000 times—it's like sitting here in the room, people watching their videos or doing their email. All of a sudden, Charlie reaches into his breast pocket and pulls out an envelope that obviously has cash in it, and he puts it on the table, slides it across, pulls back.

Now, he keeps talking, he's still doing the pitch with the bank. The bank owner reaches across, pulls the envelope, puts it in his breast pocket. I can tell you at that moment in time, I am stunned, shocked, and I really don't know what to do, to be honest. This goes against every single thing that I believe in. And now I'm paying real attention to what's going on here, what Charlie is saying.

Charlie finishes in about five minutes. It felt like about an hour. The bank manager starts talking. Very apparent that the deal is happening. Coordinating going for dinner. Lots of stress. We get up, we head back downstairs, we get into our cab to go back to our hotel.

I'm very tense. I know my other partner is very tense. He's not going to say anything unless I do. I'm going to wait till we get back to the hotel room. So it's a long ride. It's a long elevator ride too. Get into the room. And so I turn around to Charlie. And I ask him, "What is this all about?" I'm curious. It's not a poll question. But I'm curious. At this moment in time, how many of you people online or in the room are thinking that something bad is going on here? Just out of curiosity, raise your hands.

Okay. So I go to Charlie, ask him a question. And he puts up his hands like this to me. And he goes, "This is actually okay. It's actually legal,

what I did. And I'll tell you why. Don't get mad." I'm already mad, by the way.

And he explained to me that where the company was domiciled, it actually is okay, if you're conducting business in certain countries, other countries, that if that country's norm is what I might call bribery, it is okay for you to do that, as long as you report it to your government, where you are.

So the reason I talk about that—and by the way, he apologized for the fact that he had not disclosed this to us earlier. I put this on this part of the slide that you're looking at, because that's a heavy reveal. It's a lot more. It probably should have been done beforehand, as opposed to after the fact.

But there's a lesson here, especially for councilors, and for people that are thinking of being councilors in the future. Disclose, disclose, disclose. In this situation, it was a happy ending. But it makes it a whole lot easier to go into a situation knowing what is going on with everyone around you.

So again, if you're looking at this, and you're looking at the SOI earlier, you'll see that it's reveal plus declaration in brackets. I want you to consider or think about a form closer to what the Board members themselves would fill in. Or if you're involved in a public company, and you have to go through an exchange vetting process, it's going to be a little deeper than the SOI. It's going to be your responsibility to update it and to keep it accurate. And it will be mandatory. With community support, of course.

But it's also important, in terms of transparency, to consider that if you feel that another person is in conflict, reach out to them first and actually see. Sometimes it's just miscommunication that is going on, or communication out of sync. Next slide.

Okay, back in The Hague, we presented to you guys a graph. And I recognize that that was probably a difficult graph to understand. And this caused a lot of discussion within the subgroup. And in fact, it went out of the subgroup. And happily so, I will. Alyssa brought it to CIRA. And CIRA actually had a conversation about this topic. And it was concerning if knowledgeable people were in the room, were part of Council, how would we actually deal with those people? Do we shut them out arbitrarily? Do we let them participate? So on and so forth. And that allowed us, I believe, to come to a better understanding of what recuse looks like. So Alyssa, thank you so much for that.

So the idea, of course, is a person that has knowledge or to adopt the terminology being used by the PDP3 group, it is subject matter expert. And this is just to allow for vocabulary across different groups. So if there's a subject—I'll say SME—within Council, they'll stay in the room, they'll be able to participate in the conversation. They're not going to vote. And that's not going to affect quorum. It sort of is a best of both worlds approach in that type of situation. Next slide.

So a couple years later, we're no longer traveling together when we do our trips. So I'm going off to another country to meet with the bank, and I arrive. I go by customs, get met by the owner of the bank, driven over to the bank. Another dog and pony show. But I'm kind of technical so

I'm more interested in what is going on in the facilities of the bank, it's a lot more important to me than [inaudible].

So I'm kind of putting pressure on to see their facilities. And a couple of [inaudible] people that are with the owner, their eyes are darting back and forth to each other. Owner is just going on with what he's saying.

I kind of start to put my foot down. And finally, they start to take me around their facility. It's offices. Nothing that you would not expect to see. I'm like, "You wanted to do processing with us. You told me that you have Visa access points and MasterCard access points, VAPs and MAPs. I want to see them. I want to see your servers."

More eye glances back and forth. Then one of them says okay. So down we go, back down to the entrance. We go outside. We go around the back. And I kid you not, I'm looking in the entrance of a parkade with dirt going down underground. What is this?

I of course am going to go down into the parkade. No lights, no cables, no servers, no hidden room, nothing. There's nothing there. I go back up and I look at the people that brought me down kind of quizzically. They say nothing.

I am here to determine that these people have equipment in their facility. Nothing there. Go back up. Bank owner's there. He's quite happy. He's got his car out there. We're going to be going for dinner. Quite happy about this.

Wondering what the heck's going on. We drive more into the town, arrive at a hotel with a restaurant and we proceed to have about a

three-hour dinner. Lots of questions back and forth on things that interests me, what I like, what I don't like, what he likes and doesn't like. Free flowing wine, so on and so forth.

I get pretty tired at this point. It's been a long day. I had flown in in the morning. And dinner wraps up. Go into the hotel part. At that time, it took a little bit longer to book into your hotel than it does now.

Bellhop comes and takes my bags off while I'm doing the paperwork. Comes back down to collect me, I suppose. Leads me to my room, opens the door. And it's pretty apparent that the room is not what any of us would expect when we walked into a room here in Kuala Lumpur or anywhere that you've been.

If this was a choose your own adventure story, out of curiosity, knowing that the room is not as you expect, would your walk into the room? Anybody?

Yeah, I did not. I turned around, marched actually back down to the front desk, and let them have a piece of my mind. And the situation was rectified rather quickly. What I didn't know at the time was that the hotel was actually owned by the bank.

What I didn't know at the time—though I suppose I should have. Remember, at the start of this. I said I walked by customs. I didn't go through customs, I walked by customs. Something was going on.

Obviously, I knew by the time that there were no servers, something was definitely going on. And the bank attempted to bribe in a significant way.

The reason I use that story for removal in a conflict of interest is by not acting on what was put in front of me, I essentially left the discussion. It's safe to say that we did not do the deal with the bank.

In terms of the Council, I don't expect that we're ever going to experience anything like that. [inaudible 29:00-29:14] In terms of our operations, then, if you feel that you're in that heavy of a conflict of interest—and you'll know. Your gut will tell you. Step out. Leave the room. Yeah, it might affect quorum for what's going on. It may mean that something's got to come back to the table. But do the right thing. Next slide.

So I will admit my wife, Crystal, keeps asking me why blue on this arrow. And I suppose I should say this to you guys. After you've gone through a conflict of interest type situation, whatever it is, if you remember back to The Hague when Chris and I were talking, it's a situation where there's emotions, there's feelings, there's anger, there's sadness, so on and so forth. Rejoining the group is a difficult thing to do. And it is incumbent on the person rejoining the group, as it is for the group themselves, to give those feelings space. It's really important for the cohesiveness of that group. Next slide.

So here you have, in a sense, the entirety of the conflict of interest for councilors that is composed on two pages that are part of a document you will have received today. Next slide.

So again, here's a nice little quote. 10% of conflict is due to a difference of opinion. 90% is due to wrong tone of voice. It's actually true. In the first instance, I was definitively in a wrong tone of voice situation. The

last example, that's probably the 10%. It's a real difference of opinion on how you do things: morally and ethically, or not at all.

Anyways, the picture there just for appearance. I look at it as it's a balancing act, and that's why I like that photograph. Next slide. Please. Any questions or comments from the floor or from online? Nada. Going once, going twice. Okay. Next slide.

Okay, so we have a question for you. We would like to know how you feel about a COI policy such as what's been presented to you in the documentation with the justification for it in the speech as opposed to me reading out to you, if you would support Council adopting such a thing for itself. Please vote away.

So I'm curious, for people that have put maybe, I don't know if you're online or offline. Would any of you like to speak to why maybe? I'm sorry, I can't see the chat. Going once, going twice. Okay. I'll take it under advisement that four of you are noncommittal, but the rest of you are happy about it. Feel free, by the way, to reach out to anybody in the GRC if you don't want to come to the floor, and give us the maybe. I would really like to hear it and understand why and give it voice. Okay, you guys? Any questions at this point? Nada. Okay, next slide.

So appreciate I always get this messed up. So because this is a taking the temperature of the room, it's not a vote for you guys for, Council, it's more for you guys to give your opinion to Council. I mean, you could go through a whole process to reject it. I would hope that you would not. I would hope that you would see this as a foundational part of good

governance, one of a couple, and that Council would be operating with this post haste, if you will. Next slide.

Upcoming work items of the GRC. Believe it or not, we still have a lot of stuff to do. As Katrina probably knows, it seems to be a little rabbit wheel that goes around and around. But it's enjoyable. I think that we have adopted work methods that are valuable, that improve the participation rate amazingly. And I would like to encourage for people to take Alyssa's example of taking things back to her TLD proper to discuss things that we bring up in the GRC. Next slide.

So we're going to be looking at the Council election procedure. Still looking at the nomination process for Board seat 11 and 12. And, of course, related to everything that we've been doing in terms of good governance is bringing confidentiality to the table and how that is going to impact, in perhaps profound ways, some of the procedures that we have in place.

We don't know yet until we create a test and we do it. If you're interested in doing that, I am sure that all of us would love to have you here participating. Any questions or comments at that point?

KIMBERLY CARLSON: We've got a hand raised; Stephen Deerhake.

SEAN COPELAND: Go ahead.

STEPHEN DEERHAKE: Thanks, Sean. I actually want to go back to the confidentiality agreement requirements for ccNSO councilors. We've got election cycle coming up on us pretty quick. I would assume that eventually it will get to the point where, at least in my head, if somebody is going to be a candidate down the road, because this election cycle is under current management, but election cycles under future management, I would think that probably, the introduction of the signature requirement on the COI would be a prerequisite agreement to do so—it'd be a prerequisite for a candidate to stand. This just occurred to me. I know. So I suggest we take this up within the GRC at some point soon.

SEAN COPELAND: We probably will. Definitely. Yeah, I have thought about that, and that's why I made reference to the Board rules. When we bring this in, it is going to change a little bit on the election procedure. And we're going to have to deal with it in terms of—[I want to have] the confidentiality first, because it's going to impact that flow definitively, because if we were to outright follow the process now, we're going to inadvertently cause the potential for confidentiality to be broken before it should be released, if that makes sense.

STEPHEN DEERHAKE: Yeah, it does. I just don't want to see us go down the same rabbit hole we've gone down with the Board procedure where the background check is done after the candidate has been elected and potentially might have to stand down to great embarrassment and so on and so forth.

SEAN COPELAND: I understand that. I am hoping that we don't arrive [at a police check] for everybody running for Council. But there's somewhere in the middle.

STEPHEN DEERHAKE: Right. Okay. Thanks.

SEAN COPELAND: Any other questions? Oh, Alejandra.

ALEJANDRA REYNOSO: Hi, thank you all. I'm sorry, I'm just a little bit of slow reaction. So I would like to go back a little bit on the conflict of interest. Just a comment, because we were hearing your exciting stories, and I want to clarify that even though we were talking about certain situations like bribery or similar things, that is nothing that happens really in the Council at all. And even though you clarify that, I want to say for example that we would never expect or think that, for example, Kim Davies would do so.

So I just wanted to make that clarification as in, speaking of conflict of interest, that's like the best example that we will all relate to, but it's more subtle, what happens in Council and what could entail a conflict of interest or not. So I just wanted to make that comment. Thank you.

SEAN COPELAND:	Totally fair. I do have Boardroom examples of conflict of interest. But there's that thing called confidentiality. I am under confidentiality. I could not give you a single example without breaking that. So there is a cause and effect. Okay, next slide. Any more questions or comments? Okay, next slide.
	So these are where we're going to need you guys to pay attention. As David said, the rules vote is coming up, October 4th to October 18th. We have Council elections. We are in the nomination phase right now. I know that there's a couple nominations and seconds in there. That's always exciting, to watch that type of process. And of course, the nominations will open for ICANN seat 11 on November 8th through 29th. And [inaudible] Alejandra.
ALEJANDRA REYNOSO:	Thank you. I will speak in Spanish. Thank you all. Thank you so much for this session. Can we please go to the next slide? I wanted to take this opportunity to say that in this ICANN meeting, for the very first time, we have interpretation services in Spanish, French, and English. And we would really like to know if you have used this service.
	So all of you, those in the room and online, if you're so kind to join Zoom and fill in the poll, that'd be very helpful to us. Because this is a pilot program. We are going to continue with this pilot for the next three ICANN meetings. We want to gather as much information as possible and see if this is beneficial or any benefit to our community to continue with this program. We believe it will.

ICANN|75
KUALA LUMPUR

So we want to have data to justify that. So please, if you help us now, with this poll, it will take just one minute. Probably, those of you in the room are not connected to Zoom, but I'm giving you a few seconds to join and fill in the poll.

I also want to thank our interpreters for their good work. They have been with us in most of our sessions. So thank you so much for your great work. I'm checking here that people send greetings and regards to you all. So with this, I will give the floor back to Sean.

SEAN COPELAND: Thank you so much, Alejandra. Maybe that was a bit of a trick question because some of you had to run over and get the interpreting devices. But I'm happy that you did it. In an earlier session today, the fragmentation session, it was interesting that somebody had gone up to the mic and wanted to address, and it was difficult for them to address in English. And it made it easier for them to address in their native tongue. We're in that part of the world where we have very low participation, at least during working groups. And hopefully, this type of process will ultimately lead to more people participating. So for me, I fully support it. Anyways, next slide, please.

Since I'm going to yield back about 15 minutes of your day to you, I would like to thank the members of the subgroup, David McCauley, who was the co-chair, Alejandra who participated, Tatiana, Nick, Alyssa who just stepped out, Stephen, Segun, Mirjana. Your input and the discussions have been lively and enjoyable. I fully appreciate them, even when it's 7:00 in the morning and I am still half asleep.

I would like to thank the staff at ICANN, Bart who I think is online somewhere, Kimberly, Joke, Claudia, the people behind the curtain that we don't see who I'm very sorry, I did try to catch your names on your name tags on the electronics. I apologize for that. But your assistance for this has been wonderful. I appreciate it very much. So with that, I give you back the rest of your day.

CLAUDIA RUIZ: Thank you very much. You may now stop the recording.

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