
BUENOS AIRES – Public Safety Working Group
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[CARLOS ALVAREZ]: Good afternoon, everyone. We're going to get started with the session, if you can please take your seats. This is the Public Safety Working Group session. We're going to have live streaming. It's going to be both in English and Spanish. I'm going to be the remote participation manager. I'm going to be bringing the questions that we receive from remote participants. This is the Public Safety Working Group representatives. Bobby?

BOBBY FLAIM: Thank you. My name is Bobby Flaim. I work for the Federal Bureau of Investigation in the United States. I'll let the other panel members introduce themselves, but the purpose of this session is to introduce the new Public Safety Working Group that is a part of the GAC. This is a GAC working group called the Public Safety Working Group and it will consist of government officials, a lot of them who are already GAC members. But it will include law enforcement, consumer protection, and other public safety government officials.

I know in the United States we have the Federal Drug Administration. We also have Center for Disease Control. We have child exploitation agencies. We are trying to start off very small, but we are trying to address issues that we have addressed in the past. A lot of times, through law enforcement, both civil and criminal.

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So we're looking to address all the things that are going on in the GAC that affect government and public safety. One of the reasons for this is the GAC, as you know, has expanded its role. It's working on a lot of different topics. We have IANA now. The new gTLDs took a lot of bandwidth in the past and there's lots of other issues that the GAC is being required to respond to or have the expertise or provide guidance or wants to give guidance. So this is a very specific group that's dealing with public safety on the DNS and how it works strictly within ICANN.

We're trying to keep it very small and very focused. We don't want to solve all the world's problems, just how they affect public safety within the government.

We have a little presentation. Before we get into that, I'll let my other panelists introduce themselves, and then we have a little presentation and then it's an open forum for us to discuss and answer any of your questions.

LAUREEN KAPIN:

My name is Lauren Kapin and I practice consumer protection law at the Federal Trade Commission and the Federal Trade Commission is the national agency in the United States that has a broad mandate to protect consumers from unfair or deceptive trade practices. So we do everything from trying to protect consumers from getting unwanted calls from marketers at night to dealing with identify theft, mortgage scams, deceptive ads, various and sundry rip-offs. In the ICANN world, we're particularly focused on the ways that consumers might be at an

increased risk or at risk for confusion or harm in connection with new generic top-level domains, among other issues.

[DICK]:

My name is [Dick] [inaudible]. I'm from the European Cybercrime Centre at EUROPOL which is based in the Netherlands. My responsibilities there, I look after the Internet governance portfolio for the 28 member states of the EU – law enforcement cybercrime unit, basically. We're more focused on the prevention disruption of cybercrime rather than the prosecution, and that's our involvement with the ICANN and this type of environment is to make it harder for the criminals to do what they do.

BOBBY FLAIM:

Okay. We have just a very short presentation for you on just some of the general principles, what we're calling Terms of Reference, on what we aspire as the Public Safety Working Group.

Again, what I mentioned earlier is we're dedicated to public safety issues as they relate to ICANN and the DNS. This is not meant to be a cybersecurity forum that addresses all cybersecurity. It's not meant to address other issues that are not pertinent to ICANN. This will be strictly per what the GAC's remit is, providing that information to the GAC so that they may or may not pass it to the Board of Directors as they have their bylaws currently.

So like we said, we are looking to see what the impacts of what is going on at ICANN. A lot of different things are going on currently. You

have the continuation of the introduction of new gTLDs, Generic Top Level Domains. We've already been involved with that.

Consumer protection groups have provided the safeguards, so that is something that's already been done. There's a lot of comments on things that are happening right now. For instance, the proxy-privacy accreditation process, the WHOIS specification. So these are all very pertinent issues to how we operate as public safety officials.

And like I said earlier as well, we're hoping to become a resource for the GAC because the bandwidth of the GAC is increasing. There's more members. They're providing more outreach. And there's also a lot more topics that require a lot more expertise, a lot more resources.

So we are hoping within each of our own GAC contingencies, if you will, that we as public safety officials, whether it be civil, criminal law enforcement, consumer protection and many others that we can provide that assistance, that advice, and that bandwidth that they may not necessarily have.

Again, who is going to – who we hope at the beginning can comprise or compose our Public Safety Working Group. Again, consumer protection, civil criminal law enforcement, and other citizens or other agencies that are responsible for protecting its citizens. I mentioned a few others that we have in the United States, but other governments, other countries, may have others.

Like I said, we're focusing strictly on government agencies and what they do and how they have the remit to protect their citizens or

enforce certain laws. That's where we're going at this point. We're trying to start off very focused, small, and [not] pertinent.

Policies and procedures that implicate the safety of the public in connection with the use of their Internet. Again, this is for the DNS and what ICANN does and what they have the remit for. So, registry agreements, registrar agreements, contract compliance, public comments on what ICANN is doing, where ICANN or other organizations or advisory groups within ICANN may seek advice or may have questions. We're hoping that that is something that we can do.

This just gives you a little sampling of some of the things as of right now at this meeting that might be of very particular interest. So the WHOIS – there's approximately 15, which is a lot, tracks on many different things regarding the WHOIS. You have the Expert Working Group on the WHOIS, which is trying to decide if there will be a future WHOIS and what form it would take. You have the WHOIS specification which they're requiring public comments on by the beginning of the July, and that goes directly to the Registrar Accreditation Agreement, the 2013 Accreditation Agreement.

You also have proxy-privacy accreditation again open for public comment which goes directly to the Registrar Accreditation Agreement. How will we work with contract compliance outside of WHOIS? How will the implementation of new gTLDs?

Like we said earlier, in April of 2013 in Beijing, civil and criminal law enforcement through the GAC issued six safeguards and also category

one and category two safeguards. That still hasn't been fully implemented. That's something that we're currently working on.

We also have internationalized domain names. There's been a few issues with that insofar as the WHOIS and also string confusion. How will that impact investigations or consumer trust, consumer confusion? Those issues.

Like I said, this is just a sampling of right now. It's a snapshot of today. That doesn't mean that this will be the only thing that we would be working on, but just to give you a for instance, just examples, on what we are looking at right now.

Again, this is a continuation. We also want to work – tomorrow what we're planning on doing is going out to the different constituencies, organizations, to talk to them. Use this PowerPoint presentation to talk about some of the more specific issues that we hope to work with the other constituencies.

We also want to work with the private sector as well. There's a lot of people here that represent operational security and other organizations that are in support of the Internet, the safety and security of the Internet, so on and so forth. So those are the things that we're hoping on working with as well, and those particular organizations.

We know SSAC comes out with a lot of advisory opinions. We know the Addressing Supporting Organization, which is the Regional Internet Registries, are here. So even that's kind of outside the remit of ICANN

because they're IP addresses. How can we work with them in this environment, too? That's what we're hoping to do as well.

That is the end of the formal presentation. We just wanted to give you a flavor of what we are hoping to accomplish. I know that looking throughout the room, I see a lot of people that we have worked with in the past, both within the GAC and governments, operational security, registrars, registries, intellectual property, a lot of ICANN staff, contractual compliance, Maguy of course number one. We've worked with a lot of you in the past.

This also comes from a request from even ICANN. We've been participating in one form or another. We meaning various forms of law enforcement and consumer protection groups for the past ten years. And a lot of times people have come to us and they're like, "Well, who do we go to? Do we go to the GAC? Do we go to you?" We've had law enforcement days in the past, and the past few meetings they've been Public Safety Working Group meetings.

The CEO Fadi Chehadé actually came to us in Singapore, not this year, last year of February 2013 and said, "How can we institutionalize what you have been doing, and how do we get that as part of the whole ICANN ecosystem to ensure that your interest, your voice, is heard?" This is been the solution. This is what we have come up with to do that.

There was talk about having a separate constituency outside the GAC. [inaudible], "No, we're government, we need to be part of that and

recognize that fact and provide the advice or whatever comments that we have through the GAC.”

This is, we’re hoping, going to be a very good solution to ensure that, number one, the GAC is providing timely advice and good advice concerning public safety issues and also that it’s kind of a two-way street if there’s other issues that they may want to come to us that they haven’t thought of. We can provide that advice – research, if you will – on the very focused and limited areas that pertain to ICANN.

I think that was it. I’ll leave it to Lauren and Dick to certainly add or facilitate questions or fill in the gaps that I may have left.

LAUREEN KAPIN:

So, really, a big focus of this meeting for us is to hear from you about questions you may have about public safety concerns you may have, about concerns that your constituencies may have about public safety issues. We realize that there are always a variety of views, that not everyone is going to agree, but we certainly think the best place to start is at least with some listening. Hence, our icons here.

This is the time for us to listen to you, and then we’re happy to respond. We’ll open up the floor.

BOBBY FLAIM:

Before we have any questions, I just also wanted to let you know that we do have a GAC chairperson. Alice Munyua from the African Union. I was going to say commission; I apologize. The African Union. She is

our official chairperson. She's our spokesperson. Unfortunately, I think she's on her way. She had another meeting, so her apologies. But just to also let you know she is our official chairperson at the GAC and is our voice in the GAC.

LAUREEN KAPIN: No one's curious about anything? Steve, thank you, thank you. Special commendations to the person who raises their hand first.

BOBBY FLAIM: I think they have one back there that they can circulate.

STEVE METALITZ: Thank you. I'm Steve Metalitz. I'm here representing the Coalition for Online Accountability and I'm the Vice President of the Intellectual Property Constituency within ICANN.

It's a comment first, which is I'm very glad to see this group form. I think the folks on the dais, and particularly I'll single out Bobby. You've really made a big contribution over the years to raising these issues within ICANN and making sure that there is a law enforcement perspective brought to bear. But I think making it a little more formal, which is what you're doing here is probably a very positive step and I think it's going to be an important resource for many of us throughout the ICANN community.

I guess I had a practical question. Who's the best point of contact as issues arise or we want to try get a law enforcement perspective or get

something on your radar if you will. What would be the best way to do that?

My second question is one I know persistent issue has been what's the best way to get a law enforcement perspective into working groups? I'm speaking within the GNSO context here. What's the best way to get a law enforcement perspective into working groups where we're maybe spending a lot of time on some of these issues that you've mentioned. We're trying to take law enforcement concerns into account. We know that it may be difficult for a law enforcement representative to devote the sustained time and effort to participate fully, but are there other ways that you guys have thought of or that we can maybe figure out to be able to get a law enforcement perspective into the working group policy development process? Thank you.

LAUREEN KAPIN:

So those are good, practical questions and we are still evolving our mechanics. I'm hoping that we're eventually going to be having a webpage within the GAC where our approved terms of reference will be posted, and I certainly could envision a dedicated e-mail. But on a practical level, you are always welcome to reach out directly to Bobby or I. Unfortunately, we're going to be losing Dick, but there will be a contingent of folks that you can reach out to. That I think is the pragmatic, practical way to do things in the short term.

The working group question is a tougher issue, and something that we've been grappling with as we've worked on ICANN issues. Because

as you point out, for government folks who do this and then all their other jobs in their professional life, the bandwidth is limited. What I think would be more realistic is to be able to have pinpointed interventions at key points in time. So if there are pivotal issues that you can identify and brief us on, then that's something we would be happy to assess and evaluate and then discuss what should the position be that's going to promote the public safely doing business or communicating on the Internet? Then we can have some sort of communication to express our views. That's a more realistic type of participation for folks who are involved in government work.

UNIDENTIFIED MALE: Michele?

MICHELE NEYLON: Thanks. Michele Neylon, dirty, filthy registrar. First off, I think most of us are happy that you've finally found some kind of home, because [inaudible] Bobby was one of those things that we just kind of see at ICANN meetings wandering around looking a little bit lost.

On a more serious note, I also like the fact that your focus is on public safety. And I think that framing it in that regard is a much more positive thing.

However, I am still a bit concerned about the list of entities that you've got on your initial slide deck. You're missing one very big and very important one, and you know what I'm going to say. I'll just say it so

that we can just get it out there. Where is the data privacy? Where are the data privacy commissioners?

You can't say to us that you're working on public safety if you don't square that off. There has to be balance there. If you guys are going to be the interface between law enforcement consumer protection, you also need to make sure that you are bringing the data privacy people to the table. Otherwise, this exercise is going to go nowhere. Thanks.

[DICK]:

I'll answer that one, Michele. In Europe, we do have the data commissioners involved in our working groups. We have a European chapter and it even goes down into a U.K. chapter where we have ten agencies, organizations, already discussing this Public Safety Working Group. We've already had three meetings.

The data commissioners are involved in that as are many other parts of the community. We're acutely aware that we need to engage with everyone. So everyone will be engaged.

Now, we have to have the balance between a core membership and a [inaudible] periphery memberships as well. My thought behind it is that when we deal with a subject that we need particular expertise on, then we'll call those expertise in and help us a bit like the working groups do. So they're definitely involved, especially in Europe, that they are already understanding this. They support it.

So I hear what you're saying, Michele. We definitely have that. It's just we haven't got it on the slide, but we'll make sure it's on the slide by

tomorrow if we can because you're not the only one that's going to ask that.

LAUREEN KAPIN:

I'd just ask to respond. I see we also have another question, yay! The Federal Trade Commission in the United States has a privacy mandate. In fact, among our divisions of enforcement and financial practices and advertising practices, another one of our litigating divisions and enforcement divisions is our division of Privacy and Identity Protection. And anyone who's had the opportunity to take a little tour of the FTC's website, we'll see there is a great deal of information devoted to privacy and dealing with education in protecting people against having their identities stolen. We also do a good deal of enforcement litigation against entities that don't protect their information and don't behave responsibly with consumers' personally identifiable information

So to that extent, you already have, at least from the US perspective, folks who are engaged in privacy in both a law enforcement and consumer protection mandate.

BOBBY FLAIM:

One of the other things – we'll go to Amy after this. Amy has a question. But one of the other things that we're hoping to do with this, with this creation of this Public Safety Working Group, is if you build it, they will come.

A lot of times, even within law enforcement, even though we had law enforcement days and invite people, they still don't know the place of public safety officials. So what we really are hoping to do by having this constructed, it will also encourage other government agencies with a public safety remit, including privacy, to actually join us and participate effectively.

[DICK]:

I've just got to mention two. First thing is our chair has just walked in. I didn't want to embarrass you. It's Alice, if you don't know her. I don't know why you're not sat up here.

The second this is we have gone a long way ourselves from when we first started engaging with the community. We used to have closed sessions on a Monday and the community didn't like that because they thought we were doing something underhand, which it wasn't. We're just trying to build up the capacity of our own people to make them understand how ICANN works.

We have listened and listened to the community and we no longer have any closed sessions and we're going out to the community and being part of the community and hoping to engage like everyone else does

So we have come a long way, and for law enforcement officers especially is a big step for us because I have to persuade my bosses, what do you actually do in that week at ICANN? I can honestly say I haven't got a clue. No. But it's difficult to explain. For us, this is a

massive move what we're doing. We haven't thought about it lightly and we're still growing into it, so any advice, anything you can suggest that we can do to help everyone in the community, that's what we're looking for. That's what today's about, and that's what tomorrow is about when we go down into the different parts of the community to have that more detailed discussion. We're here to listen and to understand and see how we can move forward.

AMY SANSBURY:

Amy Sansbury, Drug Enforcement Administration. Just to piggyback off the question regarding the data. I think the data is slowly going to trickle through. For the Drug Enforcement Administration – and I can't speak for the whole agency, but for my unit – we deal with the pharmaceutical websites. I can say that between 2013 and 2015 we have researched 2,800 websites. So the data is coming through and I think eventually that issue will be taken care of, if everyone will just give it input.

DENISE MICHEL:

Hi, Denise Michel, ICANN staff. I actually have a two-part question/observation. I think it's wonderful that you're elevating I guess the umbrella and the visibility and hopefully the activity of this group

One of the things that I valued in the previous meetings and the previous iteration of this group was the strong orientation towards subject matter experts and practical solutions and proposals. So I'm curious as to your plans for how you keep that activity and marry in

perhaps the more broader long-term policy questions that I can imagine will be brought to you with revolution. That's part one.

Second part is with so many important issues on the horizon and activities, I think the ICANN community would really benefit and the world would really benefit from more subject matter experts involved in the issues and activities relating to privacy and consumer protection and other.

I'm wondering about your interest in being involved in working groups and working parties. I'm also wondering how you relate to the GAC and if as a now formal working group of the GAC, do you anticipate the GAC referring issues to the working group or soliciting the working groups' opinions on things like the new gTLD assessment and reviews, or the privacy-proxy PDP, other things like that and how that relationship will be structured with the GAC?

Finally, just a quite note. We actually have had government representatives in the past as participants in working groups and working parties. The IDN Cross Functional Working Group comes to mind several years ago. We had several government representatives who were subject matter experts in their language and domain names. They added great value to this working group and it's one of the reasons ICANN was successful in launching the IDN ccTLD initiative. They served not as GAC representatives or government representatives, but they served as subject matter experts, added a lot of value.

So I think there are some creative ways of giving ICANN's working groups the benefit of the subject matter experts you have in your group without confusing the role of the GAC and GAC representatives. Thanks.

[DICK]:

I'll answer the second part of it. I am actually a member of the Privacy Proxy Working Group, the first one after my colleague, [inaudible], was in the original WHOIS one many, many years ago.

As Laureen and Bobby's point, it's very difficult for a law enforcement officer to be part of that working group because it's very, very time-consuming and it's hard to explain why we were doing it.

And especially as a law enforcement officer in that group there's only certain – a very small part of that that actually effects law enforcement, but you have to listen to the whole thing. It's very difficult to get involved in that because there's a lot of discussion that isn't really involves us.

So I think it was good to be involved it, but I think we may have to be a bit smarter how we do that in the future. Maybe the working group comes to us and says, "This is the bit we would like your input on."

What you've got to remember is that we are an advisory group to the GAC. That is it. We advise the GAC on public safety issues and the GAC can come to us and ask us, "Can we have your advice? It's a two-way thing." That doesn't mean the community can't ask the GAC or ask Alice to ask us what it is our view is or come to us personally.

We're not here to – it's the GAC who we give our advice to. That's our official lines of communication is to the GAC and the GAC to ask us.

But you're absolutely right. We do need to be more involved and have a view on it. The actual mechanics on how we do that, that's one of the discussions we're having this week of exactly how we're going to open those avenues up because what we do not want to do – we have to get good group. We cannot deal with 30 issues. We need to prioritize what it is that we have to deal with and concentrate on that.

On the list we've shown here, the reason we've highlighted those is because those are issues that we've been dealing with for the last five, six years and they still haven't been dealt with. So why do something new when we haven't even finished what we started? We have to start somewhere.

The first question I can't remember what that was now, so I'm going to go look for someone else.

LAUREEN KAPIN:

I actually wrote them all down. So I think we answered, touched on your fourth question, but let me go back to the first three. I think your first one was talking about balancing policy with practicality which is a great question and I think absolutely is something that all of the ICANN world struggles with.

If I had to generalize, I would say that folks involved in public safety are going to be more heavily weighted towards practicality, practical solutions. Because at the end of the day, we are interested in

protecting the public. So we're going to protect the public often through investigations into unlawful behavior, through enforcement actions against unlawful behavior and through practical plain language advice to the public on how to avoid becoming a victim.

Now, there's lots of policy involved in all of those questions and that could be debated about where you put your resources, where are your priorities? But at the end of the day, as folks involved in public safety, we have to get our jobs done which is to protect the public. So I would say we're always going to be very concerned with practical solutions.

As to your observation that this group would benefit and ICANN would benefit as a whole from more subject matter experts, of course I agree with that. To a certain extent, we're recruiting and so if we have folks that are involved in government agencies with expertise that touch on how to protect the public and nitty-gritty technical expertise that would be important as we weigh what WHOIS should look like, who should be protected by privacy-proxy services – these are just two examples. Nitty-gritty things. Those are things we would welcome subject matter experts on.

As anyone in the legal profession knows, if you are getting involved in a messy estate planning, you don't want to go to a family lawyer. You want to get the best trusts and estates lawyer. No one is an expert at everything. We all would benefit from people who have particular expertise.

Your third question is how do we relate to the GAC. As Bobby has emphasized, we are a working group within the GAC. We work through

our GAC representatives in our individual countries and we have a chairperson. We will be working hand in hand with the GAC to highlight issues that we think are important, to have communicated to us issues the GAC thinks are important and needs some more guidance and information on.

We definitely see it as a symbiotic relationship. We'll be partners and we'll be supporting each other.

BOBBY FLAIM:

The other thing that we have is now that we have the Public Safety Working Group, we're hoping that it will be easier for other government officials and agencies to participate.

One of the things that we did here is we work with the Organization of American States and we actually had them provide funding so a lot of their members can come. We already had a session today and I think we have about between 10 and 15 representatives who are actually here in the room. We have Panama. I apologize if I'm leaving anyone off. We have Panama, Colombia, Ecuador, Belize, Chile, Argentina of course – Ezekiel and [Adrienne] who are here. We have Trinidad & Tobago, Jamaica, and representatives of Interpol as well and Europol.

So we're looking with this formalization that we will get more participation and have more of those experts and have more bandwidth. Because when you talk about all these working groups, and there's a call every week, it just can't happen.

And to refer Laureen’s comment earlier, if there’s ways that we can pinpoint advice at certain junctures, that would be good. For instance, with the WHOIS specification and the proxy-privacy, we’ve worked on that within the GAC to provide as the public comment, so to speak, after that working group. I just want to add that.

RICK LANE:

Hi, Rick Lane with 21st Century Fox. First of all, thank you for putting together this session. I think it’s a great start. It’s always important to have these dialogues. I also want to say it’s always great to work with the Federal Trade Commission, because they combine both privacy issues as well as consumer protection and they’ve done a great job on both.

One of our concerns is that as we look at the issues of privacy online going forward with the rollout of the new gTLDs, the issue of an accurate WHOIS becomes even more important to protect consumer privacy. Because how else will law enforcement and others know what’s behind the curtain, so to speak, if they can’t find out who is registering the domains that is collecting consumer data?

That’s why I think as we look at the privacy-proxy issue, I think it’s critical that we ensure that those entities that are collecting consumer data and using it have an accurate WHOIS. We’re able to find out – and law enforcement is able to find out – who those folks are, so they’re not collecting data on consumers and then sharing it for malicious purposes.

We at 21st Century Fox look forward to working with you and others in the room and the consumer groups and the privacy advocates out there to ensure that as we do these privacy proxies it doesn't become an anti-privacy proxy.

LAUREEN KAPIN:

I really appreciate that comment because I think sometimes privacy can be a loaded term, but really privacy is an expansive term. There's many different aspects of privacy, and from a consumer protection standpoint, a really vital part of consumer protection is knowing who you do business with.

Consumers have a right, as you put it, to know who's behind the curtain when they are providing their money, financial account information, and personally identifiable information to an entity they're transacting business with. That raises privacy issues through a consumer protection lens.

Now, there are all sorts of other privacy issues and there are data protection agencies certainly in the EU that have a variety of interests and policies and mandates that also exist in what I'll call the greater privacy ecosystem. But certainly we all need to keep in mind that privacy includes consumers and the public's right to know who they are doing business with.

One of the key mechanisms we have right now is the WHOIS system because that provides the information that the public can consult and that law enforcement and civil law enforcement agencies like the

Federal Trade Commission can consult when there's been abuse, when there's been criminal activity, when there's been data breaches or phishing or farming or all the other things that you and I, as folks who rely on the Internet, should be concerned about.

JOHN CRAIN:

John Crain, ICANN's Chief SSR Officer. I figured being as I was passing the microphone around, I may as well use it.

Obviously we've been working with you ladies and gentlemen for many years. I just wanted to say how glad I am to see this progress. Not only the formalization, but also to step away from what was always, at least by the community, to be termed as LEA or law enforcement towards public safety. I think this is a great move. I think it's very important.

The one question I have is over the years as we've discussed matters of public safety within ICANN, there's always been a tendency also to reach out into the private industry for expertise. So as you get questions from the GAC, I know you're working on mechanisms still, but are you thinking of mechanisms where you as a group will be able to also reach out to private industry to get expertise that you may not have?

UNIDENTIFIED MALE:

Yes, because we don't have the expertise ourselves, so we'll go out and reach out to whoever has that expertise to assist us to [have that position]. Absolutely right.

UNIDENTIFIED MALE: Just an aside. Now we are far more open and we're part of the community. If there are parties going on that [inaudible] because we've never been invited to any, ever. In eight years, I have dinner with Bobby every night and that is it, so I'm quite happy to look out and do something else.

UNIDENTIFIED MALE: I don't believe that's anything to do with the closed nature of the meetings.

UNIDENTIFIED MALE: Thanks.

KIRAN MALANCHURUVIL: Cops get called to my parties all the time. That's a different issue. My name is Kiran Malancharuvil. I'm the policy councilor at MarkMonitor.

I wonder if you've given any thought to establishing a position on the working group to help frame the legal issues under which law enforcement and public safety officers are operating under

I think that when we get into some of these issues, especially for example, the privacy-proxy issue, there ends up being a lot of emotional argumentation that ends up happening based on the positions of the individuals that are either representing a piece of their business or a piece of their advocacy.

And I think that, traditionally, the Intellectual Property Constituency of which I'm a member has taken up the torch of presenting legal arguments. If, for example, the privacy-proxy sphere the idea that it's well-established in international law that it's prohibited to disclose – or it's prohibited to not disclose, to conceal, the origins of goods and services, for example. That's a pretty well-established legal principle, yet nobody takes the IPC's word for it because we're just another lobbying group within the ICANN organization.

I wonder if having a voice through the GAC, through the Public Safety Working Group, that represents the legal issues somewhat impartially or at least attempting to do that in an impartial manner would be helpful insofar as it can make the position less emotional, take it out of emotion and into facts and law, and established principles that we don't have to debate here because they've been debated out in the world and have been implemented. That may make our job of balancing policy and practicality a lot easier from your perspective

I think that this organization would be a good place to have a seat that looks like that, so I was wondering if you had any thoughts about that or if you could maybe think about whether that would fit into your remit as you move forward with this organization and this working group.

LAUREEN KAPIN:

I think you raise an interesting question that I'm not sure we have framed in the way you're framing it. I think whenever you have issues that on some level are going to balance consumer protection or public

safety concerns against business models, basically – how people are conducting business and how they’re going to keep, stay in business, to their margins, keep being able to provide the services they provide with the profits that they want to, you’re going to get folks who are emotionally vested and that’s the reality.

So when you say you want to make sure that there’s a group that can provide an objective legal framework, I think certainly folks in a Public Safety Working Group can definitely inform about the legal frameworks that exist in their respective jurisdictions.

I doubt in many cases there’s going to be a one-size-fits-all answer. What I think you’re going to find is that there’s going to be somewhat of a tapestry that the EU privacy regime is going to be very different from the US privacy regime will be different from Latin America, etc. So I think there’s definitely value that the Public Safety Working Group could add.

I wouldn’t expect that we would be in the business of, for example, providing legal opinions or legal views because that would probably be inconsistent with what everyone’s law enforcement or public safety or consumer protection background agency would really be comfortable with.

At the FTC, for example, we rarely would grant what we call an advisory opinion. We deal with specific behavior and we have specific investigations and then we decide whether we are going to bring an action or not. Where we don’t really deal with is the what-ifs.

That’s not quite a direct answer to your whole question, but I think it gives you some perspectives on where we could add value and where we might not be in the best position to provide a definitive answer.

CARLOS ALVAREZ:

This is Carlos Alvarez, ICANN staff. I will read a comment from a remote participant. It’s Don Blumenthal, Chair of the Proxy Privacy Services Working Group. Don says, “I see the points about subject matter experts and operational focus. There is an important place for ongoing working group participation of some sort. Going back to a topic that is raised during our working group discussion may not be very effective.” Thank you, Don, and we wish you well.

LAUREEN KAPIN:

Just because we’re not hearing from you right now in the room doesn’t mean we’re not open to hearing from you face-to-face, one-on-one. So I want to encourage folks to come up to us, take our business cards, get our e-mail addresses because we’re happy to continue these conversations one-on-one, if not now this week, then certainly after things become less hectic and we all return to our respective homes.

In the meanwhile, we’d like to thank you for coming and spending your time with us and hearing us. Oh, and we have Maguy, yay! One more.

MAGUY SERAD: Thank you. This is Maguy Serad from Contractual Compliance. Congratulations! Amazing step forward.

I have a question regarding next step and also keeping the community informed of your activities. What is your next step? I know you said you're going to the stakeholders tomorrow to share the data information about who you are. Then what's after that? Then how will you be keeping all of us informed of the different activities or engaging with us if you need us?

BOBBY FLAIM: I think the next steps are we as a group are actually going to meet here to finalize our charter or terms of reference, as we're calling them, to see what we are going to do and not do, and ensure that the community understands what our remit is. So we're working on that.

This was just announced. The idea of a Public Safety Working Group was just announced, or formed, if you will, at the last ICANN meeting in Singapore. So this is the first time we are getting together officially.

So that is the purpose of reaching out to you as a public community and reaching out to ICANN staff and reaching out to the ICANN constituencies

What we're trying to do here now in Buenos Aires is to figure out what will be our remit and to, like I said earlier, keep it focused also based on a lot of the questions and input. That's number one, to finalize that, the terms of reference.

Number two, insofar as getting word out to the community, we're going to have to figure out what is going to be our formal process or how we will do that.

Again, we are part of the GAC, so it may be as part of the GAC communique and it may take some other additional form. We're not quite sure yet. But insofar as working with the GAC or any advice or any comments that we would have as a group, that would formally come through the GAC in a GAC communique. That is a definite.

Insofar as any type of other outreach or working with the community or updates, we would have to see how that goes. We're just still too new to actually figure that out.

BOBBY FLAIM:

All right. Any other questions? Okay. Well, thank you very, very much for attending this session. We hope we've been helpful in letting you know who we are. We look forward to working with you. Again, like Laureen said and Dick said, please come up to us. We are going to meet with everybody. We're hoping to capture everyone while we're here over the next couple of days. It'll be hectic as usual, but we greatly look forward to talking to all of you and meeting those of you who we haven't met already and discussing it further. So thank you very much again. And thank you to Carlos and ICANN staff for arranging.

[END OF TRANSCRIPTION]