BARCELONA – Joint Meeting: GAC and the ccNSO
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UNIDENTIFIED SPEAKER:	Good afternoon. ICANN63. October 23rd. Joint meeting GAC and ccNSO.
MANAL ISMAIL, GAC CHAIR:	Welcome back, everyone. If you can please start taking your seats. We will be starting the session immediately. Thank you.
	So, thank you everyone. We are starting our bilateral meeting with the ccNSO that we regularly have at every meeting, so please, if you can take your seats; we only have 45 minutes, and we have a few things on the agenda. So, Katrina, I will hand it over to you to introduce ccNSO colleagues and get us started with the agenda. Thank you.
KATRINA SATAKI:	Thank you very much, Manal. Good afternoon, ladies and gentlemen. Dear governments, it's always a pleasure to be here in your room. Today we have a very packed agenda and a very short period allocated to cover everything that we have to say. But before we start, I really would like to thank my colleague Peter Vergote and your colleague, Par, who helped shape this session.
	We tried to pick interesting topics for our discussions; will we start with the GDPR study and then we will talk briefly about priorities. It's

all understanding that maybe you will not be ready to share your priorities this meeting, but we hope that you will do that in Kobe. So that's why we will share our priorities for the next year and our vision of some things that need to be done in a global level for ICANN. And at the end we will talk a little bit more about the GNSO's policy-development progress about Work Track 1 to Work Track 5.

And with that, I will give the floor to Peter Vergote, who is the general manager of one of the regional organizations, namely CENTR, That's the regional organization for European ccTLD's and he will share with you a study that was done by a center where they surveyed European ccTLDs to find out how they are implementing GDPR.

That was one of the requests we received in Panama from you so we tried to accumulate your interests and all your requests. Just a reminder, if you have something that you would like to discuss with ccTLDs with the ccNSO then please talk to your colleague, Per, and my colleague, Peter, and they will be happy to serve your needs. Peter, please; the floor is yours.

PETER VERGOTE: Thank you very much, Katrina. Good afternoon everyone. My name is Peter, I am the general manager of CENTR. I think most of you in the room are familiar with CENTR. For those of you who are not, the important thing you need to know is that we publish an ICANN report on the Friday following every ICANN meeting. We also have reports on RIPE and IETF. So we are a source of information of what's happening in our industry.

And in addition to that, we also provide a platform to our members to exchange information and allow them to benchmark. And an example of that role that we have that I want to present here today, to frame this properly -- next slide, please -- I think it's really important to point out that on the 25th of May the ccTLD world did not change dramatically.

Yes, ccTLDs used the due date for the implementation of GDPR requirements as a really good timeline and pointer to review their internal practices. There has been some tweaking on the WHOIS. There has been much more tweaking on the internal processes, reviewing and deletions., access of data subjects, et cetera. So for this presentation, I'm only focusing on the part of the survey where we looked into WHOIS practice and GDPR.

But again, very importantly, it's not dramatically different from what you would have seen a couple of years ago. Some of the ccTLDs, I think, will be represented here by legal counsel. Peter is a good example of that. Ten years ago, the WHOIS did not show more than what was strictly necessary. So we've seen that trend for the last couple of decades, and what you're seeing here now is a picture taken around June this year, so following implementation. As you see on the list of respondents, we have not just your key members,

there are also ccTLDs from outside Europe that contribute to it. All the information is available online, I will show you. The details later in this presentation will be shared as well, so no need to take down the details. Next slide, please. So what we are going to cover in the

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session is what is publicly available, what mechanisms are available to get access to the information that is not publicly available, average response time, and the differentiation between private individuals and companies.

Next slide. So this is the highest level over-all statistic. Important to note that there is the distinction that we make in the survey as well between individuals and legal entities. Next slide. So if we look at one of the most important aspects of that table, it is the registrant contact data. And what this slide shows is that -- Next slide -- there's quite a discrepancy between the information that is collected by the ccTLD, which are the gray bars, and the information that is published, that's the blue bars. In some areas or in some groups within ICANN, I think there is quite a bit of confusion on the amount of data that is still collected. So the data is still there; that's important to notice. It's just not published through the typical WHOIS protocol.

Next slide. The other important point here is to notice that there's quite a difference between the information that is published about individuals and the information that is published for legal entities. Next slide. They receive from 10 to 50%.

Next slide. The 74%, for instance, that I showed you, it might look a bit surprising. So only 74% of registries are collecting the registrant's information. Well, not quite. You see here in this table what we mean by that. The 74% is an average taken from these specific categories. So registrant contact -- I think there is, in total, about 43 data points

collected in the standard WHOIS format. The data fields described in the relevant FC.

There's 43 of them and they're divided within a couple of categories. And so, zooming in on the registrant contact you see, for instance, 100% of the registries collect the registrant's organizations name. I'm sorry, the registrant's name. In that table, it gets quite a bit of detail on what's collected and published, both for individuals and legal entities. That table is available in our stats. DotCentral.org website has a specific tab, publish WHOIS,

Next slide. So, what do we do with the information that we collect? Well, what do members do with the information that they collect; how do they provide access to it? About 90% of the ccTLDs that responded to this survey confirmed that they do provide access to non-public WHOIS data. Those that do not provide that is because they typically still have public, available WHOIS information, such as Denmark and Finland.

Next slide. So of those 90%, how do they provide that access? And I think this is where there's a bit of surprise. It's still quite manual. The 75% that does that by responding to individual requests or e-mail. There is no gated access. There is no tiered-access protocol. It is a request that comes in by e-mail and then are processed. I will go into a bit more detail on who does that. Only a small percentage of the ccTLDs are using Web form or even direct database access.

Next slide, please. So, in those cases, the 75% that does provide manual access, who do they provide it to? The largest share there are

parties identified in a court order, law enforcement; it's around 90%. IP holders and other stakeholders, roughly 40%. Registrars -- that is obviously registrars asking about identification other than their own registrants. And then an intriguing category, anyone with a legitimate interest. So, zooming in on that one. Next slide. Who has legitimate interest, and who defines and verifies that? Four members responding to the survey indicate that it's self declared, but frankly even that one basically fits in the next category, judged by the legal department. Because even the self declarations get verified by the in-house legal department. Some are judged by customer service, or assessed by a third party.

Next slide, please. So if you respond to those individual requests by e-mail, by those that claim to have a legitimate interest, or law enforcement, or have a court order, how quickly do you respond to that? 60, 70% responds within three working days. About 30, 35% responds within one working day. And within a week, 85% of the requests are responded to by European ccTLDs.

Next slide, please. I think this is the last one, let me check. How to differentiate between private individuals and organizations? About half of the CENTR members allow registrants to self select. And then you see that there's quite a large green chunk in the donut chart that identifies other ways of verification. It is a sort of self select, too, because what they do is they have to fill in an enterprise registration number, VAT number, or anything that they can only have if they are a corporate entity. And I think that's it. Again, for more information, there's a survey report available that zooms in more detail. And the

table that I showed you earlier is available on our stats website. Thank you. Next slide. Thank you.

KATRINA SATAKI: Thank you very much, Peter. Are there any questions?

MANAL ISMAIL GAC CHAIR: Yes, Belgium, please.

BELGIUM: Thank you very much. Thank you, Chair. I have a question on page 13, if you can come back to that. You mentioned assessed by third party. Do you have an example, Peter, of a case?

PETER VERGOTE: Sylvina, I'll have to look into that. There is one member that responded to it, but I cannot come up with the example that they gave there. But I will get back you to on that. I'm getting advice from legal counsel on my right saying that it is external legal counsel that does the assessment.

KATRINA SATAKI: Thank you. Iran?

IRAN: Thank you for your presentation; thank you for your presence here. As usual, we are delighted to have a meeting with ccNSO. We have a

closed collaboration and our views are almost 100% similar, in particular with respect to the couple of domains and issues at the second level, or anything like that. With respect to the GDPR, you raised some questions and concerns. Have these questions or concerns been raised or reflected in the team? Or are we doing two parallel things? Because the team is doing something.

For instance, you referred to the difference or how to differentiate between a natural person and a legal person or legal entity. This is a point now under discussion. However, if I go to the legal point, even the legal person -- if it is represented by a natural person -- the situation is quite different. The definition is quite vague and not universally agreed about what the legal person is. It is up to interpretation. however, the aim of the GDPR was primarily to protect the data privacy of the natural person.

With respect to the legal entity or person, I'm not saying don't protect that, because today one colleague mentioned they also have elements, but we still don't know to what extent. This is under discussion; there are three points under discussion in the EPDP. One is this one, and the other one is geographic area and so on and so forth. People outside certain areas, whether we should apply the same thing because they have different rules, they have different jurisdictions, they have different laws.

And the third question is reasonable. What don't know whether it's reasonable. But I want to know whether some of this point is taken, or will be taken, or is being taken in the EPDP. Because we don't want to

have two parallel work, and so on and so forth. We would like to have a back and forth interactive situation. So that would be very helpful for the GAC to have an understanding of the position of the ccNSO in order that -- probably, we will always try to support everyone, including ccNSO if the point is of common interest as GAC. That's just a comment; I'm not criticizing, I'm not questioning, it's just a comment. I would appreciate if you would kindly shed some light on the issue that I raised. Thank you.

PETER VERGOTE: I'd be happy to.

MANAL ISMAIL GAC CHAIR: So, would you like to respond directly, or shall we take more questions?

PETER VERGOTE: No, I'm happy to. So, thank you for that question. First of all, it's important to realize, of course, that we are talking about ccTLDs. And that makes it slightly easier than discussing it in the context of a global EPDP effort. So typically, registries will have had the conversation with their local data-protection authorities to fine tune their policies and to get agreement or to even get advice on that. So, I think it's really important to make sure that the swiftness with which the GDPR has been interpreted and implemented by most ccTDLs cannot be compared with the complexity of what ICANN is facing on a global level.

That said, I'm obviously very happy to feed our findings into that process, and we have been contacted by the group to that respect. In answer to your specific question, a natural person that is representing a legal entity, and as such there is some confusion on whether their data should be protected or not, I invite you to look into the details of the table that I mentioned, and there you will see that not all the information from legal entities gets published, and so most of the ccTDLs would probably err on the side of caution and not publish private names of individuals. That would probably get us a bit too much into the details, but I'm sure that you'll find some of the answers as to interpreting that implementation in Europe in that survey.

But thanks for the question. If I can, one more point. The thank you on that slide mentions Peter, that is me, and Paulina. Paulina is our new CENTR colleague and she will be following the GAC. She has been following the GAC since the last meeting, she is in the back of the room there, so if you have any questions, reach out to her. She will properly introduce herself in the coming days. Thank you so much.

MANAL ISMAIL, GAC CHAIR: So I have Switzerland and then I have Spain.   Turkey, I'm sorry. Turkey. So, Switzerland?

SWITZERLAND: Thank you.   Jorge Cancio for the record.   And first of all, hello and good afternoon. Many thanks to CENTR for doing this very useful job and work. I think we can do a lot with it and from it. My question

would be as CENTR covers both EU and non EU countries, have you looked whether the data presents any difference? Thank you.

PETER VERGOTE: Thank you, Switzerland. Yes, we have. And if you go to the dashboard -- I don't know if the slide can be put back up, I think it's the 5th or 6th slide. Just go back. Yeah, sorry. One more. Yes that one. So, if you go to the URL, you have the opportunity to tick a box saying "EU results only" or "global results." And then you see that there is a bit of change there. But less than I would have expected, frankly. Thanks.

MANAL ISMAIL, GAC CHAIR: Thank you, Peter. I have Turkey next.

TURKEY: Thank you Madame Chair. From Turkey for directors. Thank you very much for this presentation. I believe it will be very useful for us in terms of public policy making. My question is, I was wondering if the ccTLD registries act on a document and written policy while answering the access demands, or do they do it case by case? Thank you.

UNIDENTIFIED SPEAKER: Thank you. Good afternoon. I would say that a majority of the ccTLDs, at least to my knowledge, is not offering a bulk access to their database. There are some exceptions that grant bulk access for law enforcement, but I would think that a majority doesn't do it. And the reasoning behind it is that everything that comes out from GDPR is

about balance, balance between the rights of information gathering versus the right of protection of your personal information. So granting law enforcement an unconditional bulk access to your database might be creating an imbalance, especially if there is not much abuse of registrations in your TLD zone.

For instance, if I take the case for Dolby E, we have about 1.6 million names. So that's already a substantial database. We have a rather limited number of abusive cases, so if I would give an unconditional access which I cannot control because law enforcement could give or pass on the access codes to thousands of law officers in the field, that could make uncontrolled use of it. So that would create a very high imbalance, so that's why I think most of us for now are sticking to a case-by-case disclosure request. But also, to my knowledge, most of our ccTLD colleagues do not require an awful lot of administrative paperwork in order to disclose the information.

MANAL ISMAIL, GAC CHAIR: So any further questions or comments? Iran, please.

KAVOUSS ARASTEH: Thank you, Manal. In the activities that we are -- we means the EPDP team that we are carrying at this time. As I mentioned the other day, we have divided the work in four areas: ICANN purpose, registry purpose, registrar purpose, and third-party purpose. With respect to the ICANN purpose we are discussing and so on and so forth, then

some of these other elements are not there, and some of them are optional. That means they are not necessary to make available.

And then in the second column, they collected, published and then in both of them we don't have that statistic and perhaps we may take it, if it is necessary, but we will just leave it out ourselves. The data should be provided in various elements, so admin and technical registrant, and so on and so forth, and we put some of the data which are required as a sign or code by one and the other which is not required but optional at one in the two round brackets, and so on and so forth. But for the ICANN purpose, it has been more or less finished and now we go to the registrar purpose. Whatever comes may be changed. And some of these elements are not there.

We have decided, for instance, not to put extensions of telephone numbers and so on and so forth. And with respect to the e-mail, it is a point that you should watch what e-mail you put in, because some people may have several e-mails. So we should add that preferred e-mail, because you cannot send an e-mail which never been opened. Some people have e-mail but they never open it because of particular circumstances. So some of these are good as indications, but what you are discussing may be different. And by the way, thank you very much for that.

PETER VERGOTE: Thank you. I think you're touching on a very important point, and I think it's fundamental in relation between TLDs, especially ccTLDs, that appears from the government. And that's the difference between

what is needed to be available publicly and what is needed in our d-base to do our job in a proper way. And let me give you just one example: TLD registry operators are a single source of information. Law enforcement, IP lawyers, various other interest groups often depend on the information that we have in our database. We ourselves as registry operators are in need of certain data elements. For instance, we changed our commercial terms and conditions for our registrants. We often send them by e-mail to our customers.

Now, if we do not have the e-mail address for the customer in our database, we are at a loss. We cannot contact the registrant. We cannot disclose the information to law enforcement which they might need for a criminal investigation. So it's of utmost importance that registry operators keep on having those elements in their database.

Whether or not we have to publish them is a completely other question. We could perfectly live in a world where we do not publish e-mail addresses through WHOIS. If that's the price to keep the data element and the database, we certainly are willing to think about it. But it's absolutely critical that we as registry operators can keep all those elements in our database. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you. And there is one more request for the floor. Is it .NL?

NETHERLANDS: Yes, thank you Mrs. Chair. It is Roelof Meijer from SIDN, the registry for .NL, the Dutch country code. Just in addition to Peter's answer to the

previous question, NL has been operating at WHOIS for quite a number of years now, and for the same number of years we have been granting law enforcement agencies bulk access, or you could call it probably limited bulk access, to WHOIS on the basis of our contract that has conditions on access and use of that data. And that contract, before we implemented it, got the approval from our data privacy authority.

So I think that for us this is a way that works pretty well. So it means that we don't have to look into every individual case. The law enforcement agency accepts the responsibility for the way they use the data, and on the conditions that we agreed upon, and the DPA is also happy.

MANAL ISMAIL, GAC CHAIR: So, European Commission, please.

EUROPEAN COMMISSION: Yes, thank you Manal, Georgios Tselentis, European Commission. I would like to add something to what Kavouss said. In the discussion we had, we also have a problem with a requirement of minimizing the data to abide to the purpose. And so, I would like to hear also from the ccTLDs their position there. I mean we heard in the PDP discussion that sometimes it is necessary to have several means, so to have a sort of extra information in case something goes wrong. If an e-mail address is compromised then how can you contact the interested party to notify for an abuse or other problems?

So there was a debate about redundancy versus minimization in a sense, and to what extent, if your purpose, for example, is to, as I said, to notify somebody, and you need extra information, but at the same time you have a requirement for minimizing this information according to GDPR, how do you do that? And I wanted to hear how is this all for the ccTLDs if you have any source. That would be very helpful.

PETER VERGOTE: It's an interesting question, and my immediate response would be time will tell, because GDPR is fairly recent, and a lot will be more concrete based on case law. So we struck the balance in saying we do not require a fax number any more from our registrants. But the fax number could be highly relevant for other countries, so the situation is probably different for each ccTLD individually, but we assume that the data elements that we currently still have in our database are necessary just for the reason that you mentioned. If, for instance, the e-mail address bounces then at least you have another means to contact the registrant.

Is this compliant with data minimization? I would be tempted to say yes, but I do not exclude that the DPA would say, "Well just store the e-mail address in your database, and when you see that it bounces, then contact the registrar and ask him for the other information. You do not necessarily need to have it all in your database." So I'm not excluding that this could be the outcome as well, but we will probably need case law to get a clearer picture on that. Thank you.

KATRINA SATAKI: Thank you very much. But again, it definitely might differ from country to country, from ccTLD to ccTLD, from one case to another case. Thank you. Let's move forward because we have 12 minutes left. So now I will briefly walk you through the list of our priorities for next year, and what we think about as high-level priorities that should be relevant to the entire ICANN. Something for you to think about for our next meeting in Kobe.

Next slide please. So first of all, it is of course our country code policy development process, our working group is currently working at trying to develop policy for the retirement of ccTLDs. And here I must issue another plead to you, dear governments. We still do not have a representative on this working group from your group.

We have been asking for that, and we're sure that this is something that would be of interest to the governments, because that deals with those cases when a country, for some reason, ceases to exist and we have to decide what to do with the ccTLD of that country, how do protect interests of the registrants who have registered domain names in that ccTLD, and so on.

All those issues that this working group is trying to identify and discuss. The chair of this working group is my colleague from the ccNSO Council, Stephen Deerhake from .AS. So if you're interested, please find him, talk to him. He will be more than happy to welcome you to this working group.

Next one. Yes, we would like to close the fast-track process which has been pretty successful. It was interesting, for me at least, to learn that under the fast-track process 58 ID and ccTLDs for 40 countries have been created and now are in use. So we want to close this fast-track policy and feed the learnings from the fast track into the IDN ccTLD over-all policy.

We're also working on some remaining guidelines to make sure that we are ready to exercise our rights as the decisional participants. We also will look closely at the recommendations from the Work Stream 2 and see how we can implement those recommendations in our processes and guidelines to make sure that we are accountable to our members, to our non-member ccTLDs, and how we can meet those diversity criteria, even though I think that we are really very, very diverse. Then, think how to engage the membership and beyond, and we're also getting ready -- actually now we have already started and we have already entered a seasonal review process.

Next slide please. So now more about the high-level priorities. In Panama we had this exercise -- I'm sure you did it, too -- the MMSI team tried to brainstorm participants from the ccNSO and other ccTLDs and we tried to identify those areas where we think that ICANN should concentrate on.

Next slide please. So there are three main points that we would like to stress here. So we believe that there is a need for continuous support to the stability and security of the Internet infrastructure. Then again,

for us as ccTLDs, linguistic diversity is really very important and we think it needs to be cherished and promoted in various levels.

And, of course, there's a need to ensure the financial stability of ICANN. This is something that our strategic and operational planning working group is doing every time when they review and comment on ICANN's budget, and strategic and operational plans. So they are really very active contributors to the process. So that's about our priorities. So I hope that in Kobe we will hear more about your views on those.

Next slide please. Now, a little bit more about views from ccTLDs around the world, about these discussions around Work Track 1 to 4. Actually, with respect to these subsequent rounds of new ccTLDs.

Next slide, please. First of all, as you probably heard several times, my colleague, Annebeth Lange, who is the co-chair on the Work Track 5 mentioned several times already. So there is an understanding that two-letter codes are equal to ccTLDs.

Next slide, please. There was a question what to do with two-character codes, so for example when there's one letter, one digit. The ccNSO Council and also regional organizations who responded to this public comment period, they submitted their views saying that while we believe that the use of two-character -- single-letter and single-digit combinations -- as gTLD strings might cause confusion.

Next slide, please. Here are some examples. For example, 1V and LV, they look confusingly similar. Same with 1T and LT, or S0 and SO.

Sorry, C0 and CO. So this might cause confusability and that is the main reason why we strongly believe that -- next slide, please -- this should not be allowed. But what to do with three-letter codes?

Next slide, please. There is no clear view. And again, I have to stress it again. We haven't voted on anything on the ccNSO. Those are just a, you know, sense of temperature of the room that comes from our discussions, discussions and meetings at regional organization.

So, what to do? One of the ways to deal with that would be -- next slide, please -- is that we do not allow registration of any existing combinations currently on ISO 3166 list. That's approximately 270 combinations, but there are more than 17,000 other combinations, other combinations with three-letter codes. Maybe those could be open to register. Then what to do with country or territory names?

Next slide, please. Again, many ccTLDs think that maybe those should not be allowed either. Some other things that we commented and proposed with respect to this Work Track 1 to 4 work -- next slide, please -- that's about IDN and gTLDs. So we believe that there are still some issues that need to be addressed, need to be discussed. It's like the use of single and two-character IDNs and, of course, in cases where we can talk about single or two-character IDNs. And then, again, the development and impact of IDN in variant management frameworks and how to make sure that all these things are addressed.

And the last point that was addressed in the ccNSO Council's statement -- next slide, please -- that's about confusing similarity. Now, under this fast-track process we learned a lot about similarity,

confusing similarity of the different strings. So we believe that this experience should be further used not only in this IDN and ccTLD overall policy that I already mentioned, but also be beneficial to be used for IDN gTLDs to make sure that equal criteria are used to identify that confusing similarity for Gs and for CCs.

So we believe that there is a need for a common approach, and during our discussion with the GNSO council yesterday, I think we have this understanding with our peers from the G world that, yeah, that would be really beneficial. And there's no need to invent the wheel. We can use the same approach, same experience, and work together.

So with that, thank you very much, that is all from the CC world. Again, if there are any issues you would like to discuss with ccTLDs in Kobe, please find Par and Peter, and they will be happy to discuss how to implement all your wishes, so thank you very much.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Katrina. And thanks to everyone. So, I invite our friends from ALAC to join the panel, please.

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