CLAUDIA RUIZ:

Good morning, good afternoon, and good evening to everyone. Welcome to the At-Large Consolidated Policy Working Group call on Wednesday, the 10th of February, 2021, at 19:00 UTC.

A friendly reminder that we will not be doing the roll call today to save time, but I would, however, like to note the apologizes that we have received from Carolos Raul Gutierrez, Justine Chew, Roberto Gaetano, and Priyatosh Jana.

We have Spanish and French interpretation on the call today. Our Spanish interpreters are David and Claudia, and our French interpreters are Aurelie and Camila.

Another friendly reminder that we do have RTT transcribing on the call. I will put a link in the chat for everyone to follow. Before taking the floor, please state your name for the recording purposes and also so the interpreters can identify you on the other language channels. And please keep your microphones muted when not speaking to prevent any background noise.

Thank you very much. With this, I turn the call over to you, Olivier.

OLIVIER CREPIN-LEBLOND:

Thank you very much, Claudia. Welcome, everyone, to this week's Consolidated Policy Working Group call, possibly one where we might not have to say whether we are cats or not. For those people that have seen this in the news yesterday and the fact that, in At-Large, we like herding cats, I thought this felt entirely appropriate for today's call.

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

Anyway, let's get going. We've got tons of things happening today, a little bit of the ordinary. First, we'll have Jonathan Zuck taking us through another round of At-Large priorities for 2021, focusing on the CPWG charter and the At-Large consensus on DNS abuse. After that, we'll have the visit of ICANN President and CEO, Göran Marby, with whom we'll have a discussion focusing specifically on the ALAC statement on the operational design phase (ODP), which is available from the agenda. You'll be able to link to it. The At-Large community commented about this earlier this year. So this is all part of a dialogue with Mr. Marby, which is great to see. After that, we'll have work group updates with Hadia Elminiawi and Alan Greenberg on the EPDP and with Justine Chew on the Subsequent Procedures—I'm not sure Justine will be with us, but we'll see—and then, of course, immediately after this, the public comment updates, with three statements currently being worked on.

Now, at this moment in time, I guess I have to ask whether there are any amendments to the agenda. Any additions that we would like to have?

I am not seeing any up, so the agenda is adopted as it currently is displayed on the screen. We can therefore, with a sigh of relief, move to the action items from our last call, the 3rd of January, with all action items being completed, apart from the first one listed, which is for Evin Erdogdu to work with Alan Greenberg and the CPWG Co-Chairs to invite a rep from the Business Constituency and the ICANN Government Engagement Team to speak about the European Union NIS2 proposal.

Now, this is actually due in late, I think, March—the deadline for this process. So, because we've already got a full call today, we felt it was more appropriate to move it to next week's call. But all the other points are there.

Alan Greenberg, you have the floor.

ALAN GREENBERG: Thank you. I can't speak to inviting government engagement people, but the rest of it has been completed.

OLIVIER CREPIN-LEBLOND: Oh, perfect. Fantastic. Thank you for this, Alan. I guess the GET team is on standby, so they'll be able to join us for that. So that's for next week.

Not seeing any hands up, we can therefore move swiftly on and I can hand the baton over to Jonathan Zuck with the At-Large priorities for 2021.

JONATHAN ZUCK: Thanks, Olivier. One of the things that has pushed itself to the front of the line is the notion of an At-Large framework on DNS abuse to be our document that stands out next to ICANN's work and the DNS abuse framework that was signed by a number of folks among the Contracted Party House. So the "DNS abuse framework" is an individual thing. We started the conversation last week, and it has continued onto the CPWG mailing list.

Are you able to, Claudia, bring up those slides from last week?

If you recall, we're basically looking at two fundamental questions. One is what we imagine the responsibility the contracted parties to be with respect to different forms of cybercrime. DNS abuse has become a term of art inside of ICANN. There's different feelings about how broad this responsibility should be. ICANN takes a view of keeping it fairly limited, and many of the contracted parties feel the same. Some, such as Verisign, have begun pilot projects—for example, an opioid abuse project with the FDA—as a high-end trusted notifier, if you will. The DNS abuse framework is proposed by the signatories and also includes issues such as opioid content and child pornography among their efforts. Then, if you look at the BC and IPC, you're looking at a definition that includes trademark and copyright infringement. And then the Beijing communique from the GAC is perhaps the broadest or all. Or if we even look at the Budapest Convention, as Hadia has suggested, which Is basically all attempts to defraud via e-mail or websites, that would fall into this.

So this is less about defining DNS abuse because that can start to be a sticky wicket because of the words implied in DNS abuse, but it's really a question of what we consider to be the Contracted Party House's responsibility to take care of, one way or another. So that's the question that I'm going to ask, and we're going to have a little poll as a temperature-taking about this.

The reason for pressing forward to do a temperature-taking is that we've been invited by the Contracted Party House DNS Abuse Working Group to meet with them on the 16th of February. So I wanted to get

some sense of where we were and how felt about these issues before we went into the room with 30 of those Contracted Party House representatives to discuss these issues. You're all welcome to join the call if you'd like. I don't yet have the official invitation/the Zoom link, but it has been confirmed for 13:00 on the 16th, which is also when I'm moving. So that's exciting. Sorry; 15:00 UTC. 15:00 UTC on the 16th of February. I will forward the invite around to the CPWG once I've received it.

Holly, you have your hand up. Go ahead.

HOLLY RAICHE: I'm glad we're talking to the contracted parties, but are we going to have Compliance in on the conversation? Because I think there have been many significant bits and pieces of the issue that are very much in the Compliance bucket, and I know we've had some issues. So are we going to have a conversation with them as well? Thanks.

JONATHAN ZUCK: Well, this particular conversation was initiated by the Contracted Party House. They've formed their own work group on DNS abuse, and they are putting out invites to multiple stakeholders within the ICANN community to come talk to them. So, in theory, ICANN Contractual Compliance is one of the groups that they have invited to come speak with them. As you probably saw in my e-mail to Keith Drazek, I raised the ambiguity around the role of Contractual Compliance as one of the pain points for the At-Large community. So it's certainly something for us to discuss, but they're not going to be a part of this meeting because

this is just a meeting for us to come and air our views as they're trying to do their work.

So it's not as through this has become the ICANN working group on DNS abuse or anything like that, but this is their working group—the Contracted Party House working group—that they've put together, and they've simply invited us to one of their meetings. I hope that makes sense.

HOLLY RAICHE: Yeah, that's good. Thanks.

JONATHAN ZUCK: So whatever else we want to do and—try to have sessions, invite Contractual Compliance, write letters/advice; all the things we're doing—we're going to continue to do. This is simply an invitation to come speak to them directly.

The second piece—the second question, if you will … If you go to the next slide, please. This is just a refresher from last week. This is what ICANN's role should be in this. In other words, if we develop a framework, we might say that it's our belief that contracted parties should be responsible for X, but we may feel differently than they do or than ICANN currently does about what ICANN Org's responsibility should be in that range of things.

So, on the far left of this is the NCSG view that, for example, the community and ICANN Org should be involved in limiting such things as trusted notifier programs that they believe constitute shadow

regulations, that you're sidestepping the due process by allowing a copyright owner to come to a site and, once they've built some sort of trusted relationship, say, "This site is predominantly an infringement site," and then that could be sufficient to take that site down, for example. So that concerns the NCSG.

If we look at ICANN's current rhetoric, they want to continue to focus on their technical remit and say that all that ICANN's role should be directly is the enforcement of contracts with respect to infrastructure abuse, which is basically defined as phishing, pharming, and malware, and spam only so much as it's used as a malware delivery system. So that's where they believe their responsibility should end, and that's certainly where many in the Contracted Party House believe their responsibility should end.

The next level up would be some sort of a community framework. In other words, the ICANN community—this is separate from ICANN Org—might come up with a framework for something like a trusted notifier program, that this isn't something that should just be left to individual contracted parties to come up with on their own but that there ought to be some sort of a standard that gets delivered by the community and agreed to so there's at least some consensus thinking behind such a framework and some constituency across contracted parties.

The next level, if you will, of ICANN would be to manage such a program, to be involved in authorizing or—I guess "authorized" isn't the right word—indicating that someone is a trusted notifier, being part of

the program. Then, once ICANN has done that, they can be accepted as a trusted notifier across the Contracted Party House.

Finally, at the far other end is that contract enforcement should actually be involved in all of these broader aspects that we defined in the previous question and make them part of the enforcement of their contracts. It can definitely be inferred that they should play this role, given the current wording in the contracts, because it simply says that contracted parties will have an agreement with their customers, with registrants, that they won't engage in illegal conduct. So, given that that's the case and given that the mere presence of a contract like that or an agreement between the Contracted Party House and their customers, it's meaningless if no one is enforcing it and would suggest that ICANN might need to add enforcement to that rule to the contracts as they currently exist.

So those are the two questions, the two sides, the two axes, of what might eventually become a four-quadrant diagram about this as we talk about it.

So what I wanted to do is, if you have questions in just understanding this, then raise your hand and let's get them asked. But then I want to just to do a quick poll.

GÖRAN MARBY: Maybe invite Jamie so he can explain how it works.

JONATHAN ZUCK: Sure. This is just the very beginning, Göran. This is not like we're voting on ALAC position or anything We've been invited—you might have missed the beginning—to come speak to the Contracted Party House Work Group on DNS abuse, so this is just an attempt to figure out what a very rough consensus, just on this call, which is not officially anything, is in terms of where we stand on this so that it might guide those conversations with the Contracted Party House. So there's nothing definitive going on here. It's just a temperature-taking.

GÖRAN MARBY: No, no. May I add something to what you said? [I just heard the half of it.]

JONATHAN ZUCK: Of course, yeah.

GÖRAN MARBY: So the way it works is that the contract that we between ICANN Org, which is a legal contract, has a hole in it. The contracted parties have accepted that that's a hole in that contract, saying that the contract can be changed if it's based on policies set by the ICANN community. That's a mechanism that is quite interesting. So there is no other way anyone can change any contracts with the ICANN Contracted Party House if there is not an agreement coming out of policy. There has been changes done to them on other matters, but that's really how it works.

So, if someone tells me, "Göran, you should do something about this," I can't because the contracted parties, if they don't agree, don't have to

agree. But they have to agree, if the community, through a process—first the process is defined; there's no exceptions to it—comes up with a policy that comes into the Board for decision, it then goes into the contract. That's the only way anything can happen in this world.

So I just want to add that to the conversation. It's important to understand that that's the mechanics set up in the bylaws.

JONATHAN ZUCK: Sure. It's definitely important, Göran. Again, what I'm trying to stress here is us just figuring out what we, in fact, want, which is completely separate from how we would go about getting it. What the mechanics would be of implementing it is a completely different conversation. This is literally trying to develop consensus because we don't necessarily have it in terms of where we would like to end up. That's the only question we're asking. So what needs to happen to end up there is a much broader question, for sure. Your input is very valuable in that regard.

But right now, it's just literally because we're such a diverse group. We're an unusually diverse group with ICANN, Göran. In other words, there's folks that are on either end of the spectrum related to privacy—on either end of the spectrum related to consumer protection, for example. So, because it's such a heterogenous group, this is literally just an attempt to take the temperature of our desires. From there, we'll have a long and arduous process to try and turn this into a reality.

Does that make sense?

GÖRAN MARBY: Perfect sense. I did a +1 on what you said. But with that said, I think, as a Board member … Because sometimes we get different kinds of reviews telling the Board, for instance, "You should go and do this." We always explain the same thing: "It belongs to the ICANN multi-stakeholder model and through policy." I don't have the powers to do what some people think I do. So I just want to add that to it because it helps the conversation. I'm here because I believe in the multi-stakeholder model.

JONATHAN ZUCK: Right. Us, too. That's why we're here, too. And we're volunteers, so we really believe in it.

GÖRAN MARBY: Thank you, Jonathan.

JONATHAN ZUCK: I'm just messing with you, Göran. That's all.

GÖRAN MARBY: I [don't] want to mess with you back. I can mess back with you. I have no problems with that.

Anyway, I just jumped in, didn't I?

JONATHAN ZUCK: No, that's okay. It's okay. Like I said, this is even just a level-set of where we're coming from because we're at the very beginnings of these conversations. But I appreciate you being here and I appreciate your openness in discussing it.

GÖRAN MARBY: You all know me well enough that I love the discussion.

JONATHAN ZUCK: Right. I know. We're anxious to take the discussion to the next level of action, but that'll be [inaudible].

                     Are there other questions about—

GÖRAN MARBY: I have tons of them.

JONATHAN ZUCK: Okay. But you're not in the At-Large.

GÖRAN MARBY: Can I say something?

JONATHAN ZUCK: No.

GÖRAN MARBY: Thank you for inviting me to this meeting.

JONATHAN ZUCK: Our pleasure.

GÖRAN MARBY: No, it's my pleasure. I miss you dearly. And I would like to have a beer with Greg and everybody else. You know, by the way, that Greg was one of the absolutely first people I ever met in the ICANN community back in Marrakech in 2016, where we bonded at an airport. We had a fantastic bus ride, where Greg [inaudible] tell me how ICANN actually worked, which I'm really grateful for. So I got inducted into At-Large from … That was actually the first thing I did. In 2016, the first dinner I ever went to with any constituency group was with At-Large, and I remember moving around with different tables and having a lot of good conversations, starting with Sebastien at one end of one table and ending with Alan at the other end. So with that, I'm happy to be here.

JONATHAN ZUCK: That's an interesting gamut of discussions.

Claudia, if you don't feel comfortable muting your boss, then just make me a co-host and then I'll be able to do it.

So the next step here is to—

CLAUDIA RUIZ: Sorry, Jonathan. I also want to let you know that there is a question in the chat from Steinar.

JONATHAN ZUCK: Oh, Steinar, yes.

CLAUDIA RUIZ: I can read it to you.

JONATHAN ZUCK: Yes, please.

CLAUDIA RUIZ: It says, "Will the reputation of block list providers be seen as "trusted notifiers"?"

JONATHAN ZUCK: Great question, Steinar. I saw your e-mail on the CPWG list about that group. I think any framework that comes out of the At-Large needs to discuss what the role of those entities should be—as you said, greater transparency for their methodology for how they're determining who should be on the block [with us] because a lot of folks rely on them, as you said, including DAAR. The fact that they give inconsistent messages about who the good and bad actors are suggests that there isn't a standard that they're following.

So I agree, personally, myself, with what you said in your e-mail, and I think, if we develop some sort of a framework document, much like a subset of the contracted parties have, then it should include those folks as well. They might be trusted notifiers, but as you say, they may need

some sort of standard. So that's probably the next conversation. What I'm trying to do is just prepare us for the conversation with the Contracted Party House, if possible, that we have next week. All right?

Any other questions?

So I wanted to do a quick poll—just, again, a temperature-taking—of where we are on these two continuums. So if you could bring up the first question, I'll talk about it a little bit. Because these are continuums and they're not perfect—I apologize; like I said, this is just a quick temperature-taking—as you go down this list, you can see that it's like moving up in that first diagram. It's meant to be a continuum. In other words, if you click on the second bullet, it assumes to include the one before it. Does that make sense? So, as you go down this list, it's more and more and more and more when you're selecting your answer.

So, if you would, this is, "What should constitute DNS abuse from a contracted party standpoint?" So this is separate from ICANN Org's role in this because some of these things they may do on their own, like a trusted notifier program or something like that. But what do you believe should constitute DNS abuse from the perspective of a contracted party? That's the question here.

CLAUDIA RUIZ: Okay. [inaudible]. I'll give it a few more seconds before I close the poll.

JONATHAN ZUCK: Sure.

CLAUDIA RUIZ: Okay.

GREG SHATAN: I don't think this should have been done by radio buttons, but maybe that's a different kind of poll.

JONATHAN ZUCK: Okay. Well, we can talk about that later, Greg. Again, we were just trying to do something quick here.

So you can see that there's broad support for … Well, it's interesting. It looks like the fairly limited definition and the very broad definition each have about 50% of the votes right now. That's an interesting outcome. So thanks for that. I'll try to represent that in the next meeting.

Okay. So the next question … Göran, I apologize in advance for the sloppiness of how this is constructed, but if—

GÖRAN MARBY: You don't have to apologize to me.

JONATHAN ZUCK: Can you bring up the next question, Claudia?

There we go. Okay, this isn't the one I meant. So, "How do you feel about trusted notifier programs?" is Question 2. So, one is they should be mandatory, that there should be a trusted notifier program. These

are often used in conjunction with non-technical abuse, such as trademark and copyright infringement or opioid abuse, etc., that allows, through a trusted notifier, to tell a contracted party that a site is bad. Because they're trusted, the contracted party is able to operate on that.

notification without a court order that might otherwise normally be required.

So, at the top of this is the strongest statement, which is, "They should be mandatory," and at the bottom of this is, as I said, is the other extreme, which is that they need to be, in fact, limited or regulated because they can go too far and represent a shadow regulation and sidestep due process. Then there's a couple of steps in between. So that's Question 2. Go ahead.

And I did throw an answer in there: "They should require more discussion," if you're not sure how you feel about them.

CLAUDIA RUIZ: Okay. I'm doing the poll.

JONATHAN ZUCK: Okay. "Require more discussion." All right. That's good. That's good to know because that's one of the conversations that's kind of hot right now, and it's part of the DNS abuse framework and should come up in the conversations with the Contracted Party House. So thanks for that.

Finally, Question 3, which is what I thought was Question 2 because I forgot about the trusted notifier question, is sort of about ICANN's role.

Again, this is meant to be a kind of a continuum. So at the top is the least-engaged role for ICANN to play in this DNS abuse framework, that research and reporting and helping people be aware of what's going on should the majority of their role.

The second is providing tools. There's been a conversation about things like predictive analytics, the tools that allow contracted parties, when a registration occurs, to predict whether it's going to be an abusive registration based on the history of the registrant and other factors, etc., that .eu are using. But some of that is expensive, so maybe ICANN could play a role in providing such tools and making them available.

"Enforce within its technical remits"—in other words, enforce upon the Contracted Party House an aggressive takedown of domains or discipline of domains that violate the technical abuse standard.

The other thing is promoting community consensus—so leading the conversation but having the community have a conversation about what represents the boundaries of this, coming up with community standards on trusted notifiers, and then managing a program or enforcing the contracts explicitly, despite being beyond their technical remit.

Okay. I guess people felt they understood.

How did we do on numbers, Claudia? How did you decide to end that?

CLAUDIA RUIZ: For this one, there was only about nine people that answered—

JONATHAN ZUCK: So why did you end it?

CLAUDIA RUIZ: Well, I ended it because we kind of stopped it there for a few seconds because nobody answered for a while.

JONATHAN ZUCK: Oh, I see. Can we redo that one?

CLAUDIA RUIZ: Yes, I can relaunch it.

JONATHAN ZUCK: Because I was still talking through what the meanings of things were.

CLAUDIA RUIZ: Okay.

JONATHAN ZUCK: Now, folks, take your time and ask a question if you've got one.

Holly, you've got your hand up.

GÖRAN MARBY: Jonathan, can I ask a quick clarifying question?

JONATHAN ZUCK: Of course.

GÖRAN MARBY: Are you talking about ICANN the institution or ICANN Org? It's a big difference.

JONATHAN ZUCK: I guess, if I'm honest, this question is a little bit of a mix of the two. In other words, ICANN the institution might be involved in coming up with a community consensus on what a trusted notifier program might look like, which falls short from ICANN Org managing a trusted notifier program. So that's the distinction that I was making. Promoting a conversation is why I worded it that way. The Org might be involved in facilitating community consensus, but then the second-to-last bullet here is actually taking on the role of managing such a program, which would be .org, right?

GÖRAN MARBY: ICANN Org cannot manage a program like that if it's not policy. That's why I'm asking for the distinction.

JONATHAN ZUCK: Again, Göran, this is just what we might want. So, obviously, we would then be going to promote it as policy. So we're not generating advice

from this or anything like that. Don't worry. This is literally to inform conversations that we're going to have with others. That's all.

How are we doing on—oh, Greg, go ahead, please.

GREG SHATAN: Thanks. This is really a question where I wish we had either non-radio buttons or an "All of the above." I don't know if the [answering]—well, the bottom one is intended, in this case, to be an "All of the above" answer.

JONATHAN ZUCK: It is, yeah. The bottom one is intended as "All of the above."

GREG SHATAN: Because there's some things below "All the above" that I'm not sure should be on the list of things that ICANN should do. So I chose the answer I did based on the best available choice. Each of these deserves discussion. These are not merely concentric circles, [where] each surrounds the one before it. Just the issue of enforcing contracts … I mean, I don't want to get off track, but I would object to the bullet where both of the items on enforcing contracts were mentioned, as well as the thought that ICANN's sole remit is so purely technical that it can't enforce it's own contract to the letter of what they say.

JONATHAN ZUCK:	By clicking that, you're expressing that. So that's why it's worded that way. But I'll concede out of the box that these are not perfect questions. So we will consider the conversation. It's just a temperature-taking.
OLIVIER CREPIN-LEBLOND:	Jonathan, just jumping in quickly, I note there are quite a few people waiting in the queue.
JONATHAN ZUCK:	I know.
OLIVIER CREPIN-LEBLOND:	I think Göran has a limited amounted of time, and I wondered whether we could jump onto the next section, deal with it, and then we can always go back to this because it looks as though it's a topic which is certainly bringing a lot of response. So is it possible for us to do that?
JONATHAN ZUCK:	I think so, yes.
OLIVIER CREPIN-LEBLOND:	So we can take note of the current list of participants in the queue and then, after Göran has worked on his section, we can come back to it and pick up the queue where we left it off. That will also get people to think a little more as well in the meantime about those very interesting topics. Okay?

JONATHAN ZUCK: All right. Thanks. So make note of who has their hand up, or remember you had your hand up.

GÖRAN MARBY: The funny thing is I can immediately just go into this conversation as well. There is a reason why we bothered, Jonathan, with these things. It's because ICANN is a very specific machine, many of you have been involved in designing that machine. You are the ones who decided how to make the multi-stakeholder model work, and I, as the President/CEO, am bound by your rules.

At the same time, I realize not everybody knows the rules and how it works, so I often take the opportunity—sorry for stealing it, Jonathan—to give some clarification. On the different between the three parties—the community, the Board, and the Org—we have all different roles. That's why I always talk about specifying those roles, taking into account the boundaries or the frames in ICANN's mission—when it comes to abuse, what is content or not?—because it becomes a separate discussion. So I just took that opportunity. Sorry about that.

JONATHAN ZUCK: Okay. I'm just worried about the limits on your time. So hopefully you still have enough time to discuss what you wanted to about ODP.

GÖRAN MARBY: First of all, I'm really happy to be invited to this call. I feel honored to be here. I'm open for any questions about anything, as always. I enjoy interaction with you. I'm sorry for not speaking my name every time I go on. I hope the translators by now know my bad voice. By the way, I'm on a little bit of medication, so my vocal cords are a little bit dry. So, if I sound more upset than I actually am, blame that. I'm really happy to be here.

If I start off just describing a little bit about OPD, then we can just have a conversation and anyone can jump on me. Yes, I agree with what I saw in the chat. For anything I do wrong, blame Greg. Okay? So we cleared that up.

So the ODP came out of the notion that we have not been very transparent in the process, where the GNSO Council makes a decision and puts that forward to the Board. A lot of mysteries have been happening there. The complexity of some of the things that come to us now is so big it could have financial effects, it could have organizational effects, it could have a lot of effects. I really want to make sure that that becomes transparent. I also realize that many of those things are so complex now that it will have an effect on how we do things, and I wanted to figure out a way to open that up.

Remember, when the GNSO Council makes a decision and gives a recommendation to the Board, that becomes a non-option for us in the sense that we are now going to do it. If the Board doesn't agree, the only thing that happens [is] to go back to the GNSO Council. The Board cannot cancel a recommendation coming from the GNSO Council. It cannot stop the multi-stakeholder model, and neither can I.

What we discovered often is that many of those things that are left open—because it's complicated stuff—[is] the next step of that is that what happens is it goes into we call implementation. The implementation is an ICANN Org work, where we take inputs from the community. It's not a community-driven project. It's actually ICANN Org who works together with the community. They're often then seen as things that maybe we should have sorted out earlier in the process. I think that Recommendation 7 is one example in Phase 1, where the Board instructed ICANN Org to do something in one certain way, and it turns out we had to go back all the way to GNSO Council to get the questions answered again.

One thing that's a good reminder of this is that, when the Board makes a decision to ICANN Org, it's first in the resolution. "Where are hereby instructing the ICANN President and CEO to go and do this." For me as the President and CEO, when the Board tells me, that's where everything ends. I now am obliged to go and do exactly what the Board tells me to. It sets the clock to zero for me.

So I thought, "What happens then if we haven't answered all the questions and there are cases where we have to go back?" That became the operational design phase because I'm also looking into that we have some projects, things that we haven't really done before. We've never done a second round. We have never done an SSAD. Actually, no one in the word has done an SSAD. We've never done implementation of the auction procedures. They are completely new things to us. Because our belief and my belief in the multi-stakeholder model, we wanted to figure out a way to engage in that. We have had a lot of good input. We

have changed our original proposal with really good input from the community. But that's the real thought about this.

Again, this was my opportunity to talk about if you have questions. But if you have any other questions, if you're interested and want to talk about abuse, I'm happy to do that as well. So I open the floor.

And I see Greg there, my bus compadre.

GREG SHATAN: I have been watching this process from a distance. Hopefully, we are getting somewhere on this, although it seems like it's "one step forward, to steps back" in this whole process. But things continue to be complex and, I think, sometimes overly complex. I can't blame Göran, and if I did, [it] would only be blaming me in the end for that. But I think this something I've been watching with concern. So—

GÖRAN MARBY: Why, Greg? There is another aspect to this. The Board as a collective has matured as well. They want to know more stuff before they make a final decision about how to implement something, which means that my choice really is that either I do this without transparency and the ability to go back … We're not talking about the implications of the actual policies. For instance, we're doing a very [fast speed of parts] of the Phase 2 recommendation because we can just run them through, where we don't need an ODP for that. But I always have these problems where we say, "The Board has to do this work. The Board has to make those decisions." Org needs to prepare the Board to make those decisions.

What we're doing is opening up so you know what we're doing and which questions the Board is asking us.

So that's really what we're doing. We're opening up a process that already existed. I hope that helps you in thinking about it.

GREG SHATAN: To briefly respond, I think that part is good, and I really appreciate the fact that this process has been put more out in the open. I think that sometimes we just have imbalances in information, and sometimes, with the fact that certain parties may have more data, it perhaps can be given undue weight in those sorts of things.

But, overall, I think this is a step in the right direction, both in terms of transparency and in terms of community input. So if I sounded more negative, then you can just blame it on the fact that I have been locked up in a room for a year with a computer.

GÖRAN MARBY: [inaudible], my brother.

Anyway, I'm not a good moderator, but I think Alan is next. Hello, Alan. I do now recall the first conversation we had ever. It was about old Cisco routers.

ALAN GREENBERG: It was indeed. The At-Large is, to some extent, an outlier in our comment here. I wanted to explain a little bit about why.

To go back for a moment, the operational design phase is not a new concept, but formalizing it for really complex problems is a new concept. I think it's a great thing. It's clear, before the Board can make a decision on something that is really complex and will have a lot of decisions points in how it is implemented and therefore a lot of options on cost, timing, and things like that, it makes complete sense to both formalize the specification for what it is the Board is going to be approving, if they approve it, and to involve the community so these implicit decisions are understood. That's really what's needed to make sure that, if the Board agrees to do something and we go through a long and expensive implementation, we end up with something that is what we want. Clearly, anything else makes no sense at all.

The SSAD, as an example—but the Subsequent Procedures is another example that will be coming up—has, number one, an awful lot of things that are not specified at the policy level and probably shouldn't be specified at a policy level. They couldn't be, partly because of time and partly because maybe they're not really policy. But they will affect the outcome.

So it makes sense for all of us to make sure that, if the Board approves something and funds it and we go through it and ICANN Org implements it for the next n years—when you look at the implementation of the first new gTLD process, that was about a five-year process; hopefully, this one will not be quite as long … You really don't want to come out the other end with something that's wrong.

So the ODP makes a lot of sense.

Now, our concern … I believe staff, when they did the first version of this document, was really inspired. They realized that there are decisions that will be at the operational design phase which will affect what can be done in the real design and implementation because the Board is going to fund something based on the ODP. If what is really needed is something other than that, it's really too late to discover it later in the game.

So I thought that the staff including the concept of the ability to review what was going on in the ODP by experts who will be using the product—whatever the product is—made complete sense. There was pushback because the process that was specified was a little bit complex, but it was yanked back completely and what was said was, "Okay. This is a GNSO function." When you look at something like the SSAD, where a significant number of potential users are not represented by anybody—anyone on the GNSO Council—you may end up missing something and, again, end up with a product that doesn't meet the real needs that the policy was designed for.

The same is going to be true for Subsequent Procedures, where our concept is we want to attract new players into the game, not just the existing people who are already on the GNSO. By not allowing them an input during the ODP, we are disenfranchising them and therefore may end up with an end result which doesn't really meet the overall community's needs—maybe the GNSO people's needs but not necessarily the overall community that we're here to serve.

So we did a fair amount of pushback in this paper, saying maybe what was specified by the consultation group in the first paper was not done

well enough or was done in too complex a way. But you can't just cut off that kind of input because otherwise we're going to lose something that we may well desperately need to make sure to make the right decisions when the Board approves something. Thank you.

GÖRAN MARBY: Thank you. May I comment? I have a couple of comments. I think it's important to clarify—you know this, Alan, so I'm not doing it to you; I'm doing it to the broader audience … I sometimes get the question, "So what if the Board finds out that the solution that comes out of the policy doesn't solve the problem? What is the Board going to do then?" The interesting thing is that we say, and our Board says, "That's not our decision to make. That decision was already made by the GNSO Council." The GNSO Council adopted the recommendation bearing in mind the minority statements that came in because that's the rule according to the bylaws.

[UNIDENTIFIED MALE]:   No, no, no, no.

GÖRAN MARBY: It's true, Alan. This is how it works. The Board is going to make a decision based on the GNSO recommendations. This is how it works, and you know this well. I can hear you protesting. The way it works is the GNSO Council is, according to the multi-stakeholder model, responsible for doing the recommendations for a policy. It goes to the Board. The Board takes into account the statements that come from you

guys because you have the unique ability to give advice to the Board. But if the Board actually does have a problem with a policy itself, it has to go back to the GNSO Council. The GNSO Council, according to the bylaws … We can debate this endlessly, Alan, but according to the multi-stakeholder model, it's not the Board who is the multi-stakeholder model. Sorry, maybe I [fought] with you, too, Alan. Then I'm really sorry. It has to come up with the GNSO Council. The GNSO Council is the engine for policies inside of ICANN. I love to debate this.

ALAN GREENBERG: I don't know who's running this meeting. I'm not sure if I'm supposed to respond or we're going back to the speaker queue.

OLIVIER CREPIN-LEBLOND: Yeah, I think I should jump in and get the queue moving because I see the queue is getting really, really long. Alan, we'll get back to you afterwards. I'm sure you've got an answer, but I see Christopher Wilkson, Hadia Elminiawi, and Holly Raiche. So let's go through our queue and then we'll get back to you afterwards. Thanks. So over to Christopher Wilkinson.

CHRISTOPHER WILKINSON: Hello. Good evening. Thank you, Göran, for joining us. It's an important opportunity to hear from you and provide input on this topic. Please note my full support for a stronger version of Alan's concerns. When I first read the ODP or whatever you'd like to call it, I thought, "Right. Finally, the Board is implementing a mechanism for correcting the GNSO

when they get it wrong." I've been supporting multi-stakeholder decision-making in ICANN and in ccTLDs for more than 20 years, but as things stands at present, I do not recognize GNSO as reflecting a balanced and legitimate expression of the multi-stakeholder interest in the global Internet. There's something wrong here with the balance. The power exerted by different stakeholders is not balanced. I referred to this in my personal dissent from the SubPro report. Thank you.

GÖRAN MARBY: Thank you, my friend. You pointed to a very fair question, which I think is a little bit bigger than the ODP, and that is how ICANN as an institution is set up and how it was formed with the different parts and the role of the GNSO. I always call ICANN a tree with two branches. We have the policy-making arm, which you're a part of. We also have the technical arm, which is IANA, and all the things we do around there. I think it's always necessary—a part of that discussion goes from the evolution of the multi-stakeholder model initiative from the Board—that ... Can I say it like this? As long as the rules are in place, I think that you appreciate that I actually follow the rules because they're made by you guys. I'm not the one who should change it. You are the ones who are going to change it, not me. I will be very happy to support discussions, but it's really your decision. If I didn't believe in that, I probably wouldn't here because I actually do believe it is. I take away the [action]. I do believe in the multi-stakeholder model.

Who's next?

OLIVIER CREPIN-LEBLOND: It's Hadia Elminiawi next.

HADIA ELMINIAWI: Hi. Thank you, Göran, for being with us today. So the operational design phase is indeed a very much required phase. I think it's about time that ICANN starts doing this.

However, when we think about what kind of feedback or clarification the operational design team would be looking for, we can think that there are two sorts of feedback or clarification that could be required. One of them is feedback or clarification in relation to the intent of the policy of the nature of one of the recommendations—the intents of one of the recommendations—and that definitely, without doubt, belongs totally to the GNSO Council. A response to that definitely should come from the GNSO Council alone, as the owner of the policy.

However, there might be other kinds of clarifications required in relation to the implementation itself and not to the intent of the policy. For that, maybe it's not only the GNSO. The response from the GNSO alone is not sufficient. This is what we actually mean by this statement.

So when it's policy, it's definitely GNSO, but, again, we are talking about implementation. It won't only be about the intent of a certain recommendation or the policy. This is where we think other parts of the community should be included. Thank you.

GÖRAN MARBY: Look, my friend, I really don't want to sound—but you as a part of ICANN have a unique ability to go outside the system. You can give the

Board advice. You're among the few who can, if you think something is wrong, send that advice to the Board directly. The members of the GNSO cannot do that. It's stipulated in the bylaws that—and you also have representation on the Board. So everyone wants to be like you, to be honest, because if we open … Yes, Alan, I know you will. I actually asked you to give more advice to the Board. So you have this unique ability to bypass any process, to send advice to the Board, specific or not, and the Board has to take it into account and do actions about it. Don't forget that. You're not bound by the rules of a PDP. You have your own rules which are stipulated inside it.

So don't forget that. It's very important: Board representation—a very good Board representation, by the way. I like him a lot. And then you have the unique ability for direct advice to the Board. Okay?

OLIVIER CREPIN-LEBLOND: Next is Holly Raiche.

GÖRAN MARBY: Just to give you … Because you're right in all the discussions. I'm going to give a stupid and simple but also complicated example. Sometimes I like to say that we reach the point in technical implementation to have an effect on the policy stuff. Think about it like this. We realize that a slight adjustment in a policy or something could actually be beneficial for end users and users on the system, or we detect a problem that we need to solve.

I'll give you two simple problems from SSAD that we need to figure out and we need to work on. One is, how do we authenticate the requester the first time? I'm talking about the first time now, not after they're identified. How do we know that the person who actually asked the questions is that person? That's one of the biggest mysteries in the Internet itself because often … Think about it as a credit card company. At one point in time, you had to physically walk into someone and say, "I'm this person. I'm doing this. I'm now showing a passport. I'm showing some sort of identification." How do we do that on a global scale? If you look at the potential cost for us, that's one of the big things because that's like building a PayPal system or an Amazon system or something. The first identification we're going to sort out. We're going to figure out a solution to it. We have some ideas. But that is a very important thing. Depending on how we do that, it might have an effect on the technicalities of the policy.

SSAD is legal. We believe it's legal. So it's not a problem. The Phase 2 people do the work. But there are some unknowns in this. Again, I'll give you one example. When the contracted parties make the balancing test, which is defined by the law that they have to do before they give out the data, there's actually two things that they have to do, we think. One of them is to do the actual balancing test but then also know, can I legally send this data because of the international data transfer regulation in GDPR? So they actually have to make two decisions: how can we help and how can we support with that information? How do we know that the requester is in that particular jurisdiction? How do we know that the information is transferred in such a way that it's actually according to GDPR? How do we legally take into account that if you as a

requester get the data, you're now under GDPR yourself and you're now under the provisions of GDPR and how does this—places—A lot of things were talked about in the Phase 2 work. Fantastic work, by the way.

So we just have to put that into mechanics. Therefore, we also need a silo. I actually think that, when this thing evolves, maybe there will be an opportunity to ask questions to the people who actually wrote the policy in the first place. Maybe that's a practical outcome, but that's just me. I just wanted to add that.

By the way, I skipped my next meeting, so I'm going to be here as long as you want me. You can throw me out. Was Holly the next one?

OLIVIER CREPIN-LEBLOND: Thank you. Holly was the next person. Holly Raiche.

GÖRAN MARBY: One of the first persons who ever gave me a hug.

HOLLY RAICHE: It's true.

GÖRAN MARBY: She and Cheryl came up to me in Marrakech and gave hugs and wished me good luck when I got this job five years ago. Just saying.

HOLLY RAICHE: We still would. Just to carry on from Alan's and Hadia's well-made points, the ODP process is … We understood the first version to deal with the fact that the implementation may in fact raise issues that haven't been properly considered or in fact will perhaps either countermine or undermine the policy that was well and truly in the GNSO purview. The original design was such that you have experts, and those experts go back to their constituencies, and listen to their constituencies so that the implementation reflects everybody. That was our understanding and that was our intent. I think our concerns were that that structure and intent seem to be a bit undermining. Alan can tell me if I'm wrong, but I think that was our concern—that, in the implementation, you want to make sure that you're getting the policy intent right. Thank you.

GÖRAN MARBY: Thank you, Holly. Believe me, I don't think that the ICANN Board or me has the ability to change the policy. I've been repeating that. If the ICANN Board has a question about policy, it has to, by the bylaws, go back to the GNSO Council because … That was emphasized also by you guys during transition, where you went through the role of the Board. It's particularly important that it's always the multi-stakeholder model. Then the GNSO Council has to handle it.

I want to give a compliment to the GNSO Council when it comes to the GDRP. When we started this journey about GDPR and WHOIS way back, we made up a process that ended up in temp spec. We were among the only ones who got recommendations from the data protection authorities—a legally binding guidance: that we can keep the WHOIS

system. That was a big win for the ICANN institution. We went through the temp spec. We went into Phase 1, which in many ways adopted what the temp spec was, which was natural because the temp spec was based on ICANN community input, as you remember. We went on into Phase 2, and here we are now for an implementation. There's no way the Board can change these.

The only thing I want to put a marker on is that we have worked very hard with the European legislative institutions and also with the European Commission and other ones. I want to point out, if you don't know, that we have asked questions to the European Commission's data protection authorities about things that we need to know. We got an answer, and there is a seminar coming up with the European Commission. It's going to be announced tomorrow, I think. You have the ability to ask the questions directly to the European Commission because their way of approaching our questions is they actually came up with new legislation. That, again, shows the importance of ICANN as an institution.

Going back to what you said, we don't have the mandate to change policy. That comes out of the community process, Holly. We have no intent of doing it. Making it transparent about what the Board is asking for is a way of making them accountable to making sure that they don't happen.

It was a long answer. I hope it was okay, Holly. And I miss hugging you as well.

HOLLY RAICHE: Well, next time.

OLIVIER CREPIN-LEBLOND: Thanks very much for this. We're going to circle back to Alan Greenberg to end this section. Alan, you have the floor.

ALAN GREENBERG: Thank you very much. Just as a prefix, I disagree with what Christopher said. The ODP is not an opportunity to correct errors in the GNSO policy, no matter how they're perceived, with one exception that I'll cover in a second. I think I have a pretty good idea of how the PDP policy and the Board works. I was one of the very small groups that wrote the current bylaws on the PDP. So I think I have a good idea of it.

GÖRAN MARBY: Alan, that's what I said. I'm not telling you this. I'm telling the broader audience.

ALAN GREENBERG: I understand. The Board does not have an obligation to approve policy recommendations that come from the GSNO. That's why the Board is there. A two-thirds majority of the Board can override that policy and not support it. They can't change it. All they can do is remand it to the GNSO, where it may come back again or it may die. But that is a Board decision: whether the policy is to be implemented.

You said the GNSO Council has to consider the policy. At some level, this GNSO Council that approved this current policy decided to pass on to the Board recommendations that had divergent views in the PDP. That means, in theory, if the Board approves it, the Board is now approving a

consensus policy that didn't have consensus in the PDP.

So we're living in an interesting world. Fine. We can't change that. The ODP—

GÖRAN MARBY: Can I—

ALAN GREENBERG: May I finish?

GÖRAN MARBY: Yes, of course.

ALAN GREENEBRG: The ODP gives the Board insight as to what it's going to cost and whether it should implement it. The ODP also could come back and say, "This policy is unworkable. You have to send it back to the GNSO." So, in one sense, the ODP could affect policy. It can't change it, but it can suggest to the Board that the Board may want to remand it because of something that is either unimplementable or has consequences that weren't foreseen.

But the bottom line is that the ODP is there to try to make sure that, if the Board approves the policy and it is implemented, we end up with what were hoping for. Our belief is that, to do that, you need to be able to accept input from various parts of the community, not just the GNSO. That's the whole substance of what we were saying, no more, no less.

GÖRAN MARBY: I don't disagree with what you're saying, Alan, but—

ALAN GREENBERG: And we'll look forward to Version 3 to see if it's changed to allow that because Version 2 did not allow that at all. Version 2 suggested that there might be one liaison from the GNSO Council who will speak on behalf of the GNSO Council. That certainly did not give an input for others to speak. We'll see what comes out of it.

GÖRAN MARBY: You already have the right. You can give direct advice to the Board. You don't have to go through any report. You can give direct advice to the Board that the Board has to take into account.

ALAN GREENBERG: Göran, we would far prefer to influence outcomes, like we do in the PDP and we'd like to do in the … The ALAC is not likely to contribute to the ODP, but the various parts of the overall world community might be able to. So it's not so much the ALAC saying we're doing it wrong. It might be the cybersecurity that says we're doing it wrong. It's far more

effective to make sure the answer comes up right than to tell the Board after the fact that your input is wrong. Sorry, that's just my opinion.

GÖRAN MARBY:

I love our disagreements. I too actually think that this deserves a longer discussion because I have a great respect for At-Large as a community also encompassing many different points of view, as Jonathan said before. And I know, by knowing you, that you also have insight in many of those different parts that you mentioned as well inside of the AtLarge community. I'm just adding to it. You have one of the strongest voices within the ICANN setup by having Board representation, and you have the ability that the Board has to take what you say into account.

There's another thing I also want to mention as well. This deserves a longer discussion. It's about accountability. Who is accountable for a decision? As you rightly pointed out, if the Board doesn't agree with a recommendation, it has to go back—and it has to [inaudible] and all of that—to the GNSO Council. That's the setup that exists [inside us,] because the GNSO Council for policies is how we do things within ICANN. I'm not going to debate that because we all agree on it. But that also means that the GNSO Council is accountable according to the ICANN bylaws for its decisions. They are the ones who are accountable for it. So, however we turn this one around, it's always going to go back there because that's what you decided. Some of you might not like it, but that's how you decided you want to do it. Many people in this room designed it like that.

So, according to the bylaws—it's not even a strict one; this is the intention of it—the GNSO Council is accountable for the recommendations they send out. If the Board [inaudible] it goes back to the GNSO Council. Yes, as you said, it might die. It might disappear. I don't think this one will. But that is as the multi-stakeholder model as you designed it. Even with its flaws, I actually happen to think it's a fairly beautiful machine.

So what the Board really is doing is the Board is going to do a resolution. Remember, there's one thing that is very, very important, to remember in the ODP. The Board is going to be open about what they are … When the GNSO Council comes up with a recommendation, the next step is the Board decision. What the Board is going to do through the ODP is actually to tell everybody. There's going to be a resolution on the Board saying, "These are the things that we're going to focus on now." They're going to tell that to everybody. They're going to tell that to you. It's a public document when they do that. One of the things that is important for me and, I think, for you as well is that we all want a well-prepared Board when they make the decisions. So by opening it up, we also have an opportunity for you to say, "No, we think you should look at this as well."

I think that we will never end up in the most beautiful process in this, and it will never be exact because, hey, we're ICANN. 80% bureaucracy, 20% insanity. But I think that we all agree that the notion that I get from you guys that we're trying to do the right thing for the right reasons. Work with us. We'll work it out. I will promise to be transparent and accountable for what I do. It's important work. The biggest failure for us

if we fail to implement something according to the policy that was set. Okay? Holistic review, yeah.

OLIVIER CREPIN-LEBLOND: Okay, Göran. Thank you so much.

GÖRAN MARBY: Thank you, my friends.

OLIVIER CREPIN-LEBLOND: Thank you so much for spending a lot of time with us today. Clearly, as you can see, there's a lot of questions for you, and it's great that you managed to spend an extended amount of time with us. We also have tons of other things today, so you're very welcome to stick around, of course, if we've completely screwed the rest of your day. But if, on the other hand, you still have people knocking at your day and you're about to open the door, then you're of course welcome to go and move on.

GÖRAN MARBY: Thank you for inviting me. Again, don't be shy. Invite me when you want. I can bring my executives here as well. You can ask specific, nasty questions. I love my arguments. Alan and I have been arguing since I joined, and he taught me a lot through those arguments. Sometimes it might that he even was right and I was wrong, but I wont's say that officially. But invite me. I'm here to serve. Okay? And I mean that. You know that.

OLIVIER CREPIN-LEBLOND: Okay. Well, thank you. See you next week then. Let's move on in the agenda. No, we might invite you on every call. It'd be absolutely great to have you if you behave when you're given the floor with the speaking time and things. But that's fine.

GÖRAN MARBY: I will never behave.

OLIVIER CREPIN-LEBLOND: Oh, dear. Okay. Then we might not invite you every week but every other week.

Anyway, thank you so much for this, Göran. We do need to move on. In fact, we're kind of running out of time. We're currently trying to negotiate if we can also miss some other meetings after this one. We're going back to the At-Large priorities for 2021. Back to Jonathan Zuck. Jonathan, just to remind everyone—it was a while ago—we were on Question #3 in this poll. Is that correct?

JONATHAN ZUCK: That's right. Thanks, Olivier. I asked Claudia to refashion the poll as a checkbox poll/a multiple choice/multiple answer poll that might help. There's not a lot more I'm going to be able to do, I think, within the Zoom limits to modify the type of poll. But Claudia, if you could put that version of the question up and give folks a chance to have the—well, actually, before we take it, do we remember the queue that we had up

when we paused? I don't want to steamroll anybody that was trying to speak up. I feel like I had it there someplace. Maybe Hadia, Alan, and …

CLAUDIA RUIZ: One moment. I could pull it up. Heidi did note it down.

JONATHAN ZUCK: Yeah, I saw that, too, somewhere in the chat. Right?

CLAUDIA RUIZ: Yeah. Scrolling. One moment.

JONATHAN ZUCK: I know Hadia was one it, so, Hadia, why don't you go ahead?

CLAUDIA RUIZ: Sorry. The queue was Holly, Alan, Hadia, and then Greg. I will write it down again in the chat.

JONATHAN ZUCK: Okay. Holly, go ahead.

HOLLY RAICHE: I have completely forgotten my question, so let's just move on.

JONATHAN ZUCK:	Sorry about that. Okay, I understand. I think you were supportive of Greg's concern over the construction of the question. That's what you wrote in the chat.

HOLLY RAICHE:	Yes.

JONATHAN ZUCK:	Okay. Alan, do you recall what you were going to say?

ALAN GREENBERG:	I not only don't recall the question I was going to ask but I don't recall the subject we were talking about. If you remind me of the subject, then I might remember the question.

JONATHAN ZUCK:	The subject was, in addition to our, in the abstract, notion of how far we think the responsibility of Contracted Party House goes, we're also trying to figure out what the spectrum of responsibility for ICANN itself is as an organization and as a community.

ALAN GREENBERG:	Okay. Now I remember the comment. It was a comment to something Göran said. Göran said ICANN can only implement policy that comes from the GNSO. I was going to say—if he's not here anymore, it doesn't matter, perhaps—that that's not true. ICANN cannot change policy and cannot enforce something with contacted parties that does not come

out of the GNSO and is approved by the Board or is negotiated. But ICANN does all sorts of other things unrelated to the things that don't come out of the GNSO. DAAR is something that ICANN built much to the chagrin of many people on the GNSO. But ICANN decided to do it. I can't enforce policies that come from somewhere else or that are invented somewhere else, but ICANN does all sorts of things. So there's virtually nothing on that list that ICANN Org could not be involved in if the Board decided that it was within the remit according to our bylaws and letters of incorporation. That's what I was going to say. Thank you.

JONATHAN ZUCK: All right. Thanks, Alan. Hadia, go ahead.

HADIA ELMINIAWI: Hi. My question was related to the questions that you had. You had one of them saying "Enforce within its technical remit" and another one as "Enforce contract explicitly despite being beyond technical remit." My suggestion here was actually to remove the word "technical." So it would be "Enforce within its remit," or, "Enforce contract explicitly beyond its remit." And I'm not sure why we put the word "technical" here. As Alan just said, ICANN could actually sometimes get into things that are not purely technical but are regarded as within its remit. So that was my question.

Then I had another in relation to what you have on the screen now in relation to the infrastructure abuse. I wasn't sure if the infrastructure abuse includes domain hijacking. Does it include spam in the sense of using others' domain names to send messages? So I'm not sure really

about what infrastructure abuse includes and what it doesn't include. Thank you.

JONATHAN ZUCK: Thanks, Hadia. I'll try to go through that briefly. This is really meant to be a high-level discussion. Nothing definitive is happening on this call, so getting into an explicit definition of infrastructure abuse is probably beyond the capacity of this call.

What was intended there was … That term came out of the CCT Review Team's report and has been a community agreed-on definition of DNS abuse for quite some time, which is phishing, pharming, malware, and spam insofar as it's used to deliver malware. So those were the things that had come up.

So, in addition to things like domain hijacking, man-in-the-middle attacks that are in fact much at the technical level, those were the things that were part of that initial definition—that conservative definition on which there has been community consensus for a very, very long time. So that's all that block was meant to be. It was just meant to be a quick notation of that. But it's like the uncontroversial definition of DNS abuse. That's what it was meant to be. Okay?

Any other questions?

What I asked Claudia to do was refashion that last question as a series of checkboxes instead in hopes of at least quickly … Yeah, Holly, I'm not trying to ask what's in their control. It's, where do we want their responsibility to lie? This is aspirational. And this why I was pushing back

on Göran. This is not meant to be in any way guided by what our current belief of policy is or what their current responsibilities are. It's what we as the At-Large imagine wanting their responsibility to be. Whether we can accomplish that is a separate question. It's really just to get a sense of consensus here of what we want, not how we'll get it, what our strategy would be, what it would take to get it, whether it's renegotiating a contract or getting ICANN Contractual Compliance to interpret their contracts differently, a Board resolution, a community consensus. All those things are part of the implementation of our desires, but before we do any of that, we want to receive some broad consensus on what our desires are. That's all this poll was meant to be. I hope that's helpful.

HOLLY RAICHE: Is this one choice only or can we—

JONATHAN ZUCK: Multiple choice. You can tick as many as you want.

HOLLY RAICHE: Thank you.

JONATHAN ZUCK: I think this is to address Greg's concern that he wanted to tick the last box but not some of the ones in between.

CLAUDIA RUIZ: Hi, Jonathan. So far, we have 25 participants that have answered—okay, up to 28—out of about 48, not counting staff.

JONATHAN ZUCK: Okay. Let's give it a few more seconds for people to answer.

CLAUDIA RUIZ: [Okay. Thank you].

JONATHAN ZUCK: I go through moments where I'm interested in having more of these little temperature-taking polls on these calls and maybe even going so far as to suggesting that, if don't you respond to a poll, you'll be marked as absent from the call. So I say let's keep that in mind. I'm less interested in folks signing onto a call so they can be called as present and then not participate. We really do need to hear from as many people as possible. But that's a broader discussion.

CLAUDIA RUIZ: We have 32. Should I close the poll now?

JONATHAN ZUCK: Sure.

SEBASTIEN BACHOLLET: When you are just on the phone, it's quite complicated to follow.

JONATHAN ZUCK: I agree, Sebastien.

SEBASTIEN BACHOLLET: I hope that you will not [take] those, and I think that—I am sorry to interrupt you—it's not a way to take us to say, "If you are [not a voice], you will be [casting]." Sorry, Jonathan. I hope you will apologize for what you just said because it's not fair at all. We are all [working] hard, and if we don't vote, it's maybe because we don't understand or maybe because we don't know the answer or because maybe we wish to have more time to think about it. We are not just like you with, "Oh, yes. We have a question. I know the answer." Sorry.

JONATHAN ZUCK: Sure. We'll have to find a way to address that, for sure. I didn't mean to open up a bottle—

ALAN GREENBERG: Jonathan—

JONATHAN ZUCK: Alan, I don't want to open up a can of worms of this. Sorry.

ALAN GREENBERG: I'm going to open it anyway. Sorry.

JONATHAN ZUCK: Oh. Okay.

ALAN GREENBERG: Even those on Zoom do not have an ability to respond to something on a keyboard. We have complex lives. If you want to accuse me of not participating in this call, I'm happy with that.

JONATHAN ZUCK: Okay. Good to know. Thank you.

All right. Here's the answers that we have. Thank you. I'm not going to, because we're short on time … I appreciate this. These are interesting and I will do my best to take a look at what the implications of them are afterwards and share my thoughts on the CPWG list.

Olivier, back to you.

OLIVIER CREPIN-LEBLOND: Thank you very much, Jonathan. We are somehow a bit pressed for time, but we can move over to the work group updates with Hadia Elminiawi and Alan Greenberg, first, for the Expedited PDP.

ALAN GREENBERG: Hadia has her hand up. I'll let her speak. She may have something to say about the Legal Committee. I'll have a comment afterwards.

HADIA ELMINIAWI: Alan, go ahead.

ALAN GREENBERG: Okay. My comment is very short then. The EPDP is proceeding. The really notable thing is that we are spending almost as much time in teleconferences in preparation for each meeting as we're spending in each meeting. So there's lots of discussion going on. We'll see if it ends up having any benefit in the end. That's it from me.

OLIVIER CREPIN-LEBLOND: Hadia, you have the floor. Over to Hadia.

HADIA ELMINIAWI: Okay. There's not much to report in relation to differentiation between the registration data of legal and natural persons. We are currently working on putting forward proposals, mainly for new registrations now. So the Bird & Bird memos as well as the study suggest safeguards and implementation guidelines that address each and every concern of the contracted parties. So basically the proposal is based on the implementation of those safeguards and guidelines and then maybe seeking legal advice in relation to the suggested working model.

In relation to the feasibility of unique contacts to have uniform e-mail addresses, we are still working on the definitions. As Alan said, we are working a lot on preparing for those proposals and meetings, but we don't have something concrete yet.

OLIVIER CREPIN-LEBLOND: Okay. Thanks very much for this, Hadia. Thank you for the update. I see two hands at the moment. One is yours, so I gather I probably need to skip yours. And Sebastien Bachollet has his hand up. Is that a new hand?

I gather that it is not.

ALAN GREENBERG: I think it was from the time he made his comment before.

OLIVIER CREPIN-LEBLOND: It was from before. Okay. Hadia, your hand has gone up again. It's gone down and up.

HADIA ELMINIAWI: Yeah. I would just note that there is a new public comment in relation to the recommendations that relate to the SSAD. I think we will need to comment on that. Thank you.

ALAN GREENBERG: I believe we had previously decided that our comment is essentially our minority report to the extent that it may not have been addressed yet and combined with any other dissenting positions we had. So it shouldn't be particularly hard to craft, but it should be something we should start on soon.

OLIVIER CREPIN-LEBLOND: Okay. Thank you very much for this.   Are there any comments or questions from anyone on the call to Alan and Hadia?

I am not seeing any hands up, so thank you for this update.

I believe that Justine Chew is not with us with week, so there hasn't been any time allocated to her update on the Subsequent Procedures, but there is a provisional ALAC advice to the ICANN Board on the Subsequent Procedures, which I invite you to have a look at in your own time.

Not having any hands up, we can move to Agenda Item #6 with a policy commenting updates. Just one thing. I think we have a potential extension because we're at the top of the hour. It's an extension with the interpreters. I'm not sure whether we'll have an extension with the captioner, the real-time transcription. But, if not, then thank you for the real-time text transcription. We can continue.

"I'm good to stay." Okay, thank you very much, Heather. So that's great. Thank you.

Let's move on then and go over to the policy comments updates. That's over with Evin Erdogdu and Jonathan Zuck.

EVIN ERDOGDU: Thank you, Olivier. I'll try to be brief, of course. There were no recently ratified statements by the ALAC, but there are several upcoming public comment proceedings that are scheduled this February. Just to note that the DAAR public comment has been bumped to March at this stage.

As Hadia and Alan just mentioned, there is an ICANN public comment for decision regarding the EPDP Phase 2 policy recommendations for Board consideration. This closes at the end of March.

Other than this, there are of course several statements and advice being developed. On ALAC advice, as noted, there is a Google Doc that was shared in the chat. I'll share it again for comment on ALAC advice to the ICANN Board on Subsequent Procedures.

There's also an ALAC statement being developed in response to the SSR2 Review Team final report, which the CPWG had a presentation on last week from members of the SSR2 Review Team—ALAC members, that is.

Finally, there is the EU directive on security of network and information systems. This is also known as NIS2. This is not an ICANN public comment, but Hadia and Alan mentioned this on last week's call. There's a timeframe of mid-March for this, and we will have speakers on next week's CPWG to discuss.

So, unless there's any comments, we'll turn it over to Jonathan. Thank you.

JONATHAN ZUCK: Thanks, Evin. I don't know that I have anything to add, unless anybody that's been working … I know that Greg was working on reading through to give us some bullets. I don't know, Greg, if you've had the opportunity to digest yet. Greg Shatan, for the record.

GREG SHATAN: I am still suffering from indigestion on that. So I'm not fully digested.

JONATHAN ZUCK: Okay. All right. Evin, what else did you say we had for decision?

EVIN ERDOGDU: Thanks, Jonathan. It's new ICANN public comment on EPDP Phase 2. Hadia and Alan just noted this. It just opened and it closes on the 30th of March. I can share the At-Large workspace in the chat so that people can take a look at the background and begin commenting if they wish.

JONATHAN ZUCK: All right. Thank you. I guess that's it then, Olivier. Back to you.

OLIVIER CREPIN-LEBLOND: Thank you very much, Jonathan. That has gone a lot faster than I thought it would. I do note that we will have a more extensive discussion next week on the EU directive on security of network and information systems. Next week, we will have … Could you just let us know now, Jonathan, as to who will be joining us and what we're likely to do? We'll probably spend half-an-hour on this topic, at least.

JONATHAN ZUCK: Which topic? Say that again, Olivier. I apologize. [inaudible]

OLIVIER CREPIN-LEBLOND: EU directive on security of network and information systems.

JONATHAN ZUCK: Yes, the NIS2 thing. I think that we're looking in particular for Mason Cole to come give us some inputs. And who else? Evin, I think we secured somebody else to come participate as well.

EVIN ERDOGDU: Yeah. Thank you, Jonathan. Elena Plexida. Staff will invite the ICANN Government Engagement team rep, Elena Plexida, to speak to this. She's monitoring the EU's activities on this.

JONATHAN ZUCK: All right. Great. Thank you.

OLIVIER CREPIN-LEBLOND: Okay. Thank you.

JONATHAN ZUCK: [That's it], Olivier.

OLIVIER CREPIN-LEBLOND: Thank you. I see Alan Greenberg has put his hand up.

ALAN GREENBERG: Thank you very much. I'm always delighted to have Elena join us, but I would really like to know what she's going to be doing? Is she going to be explaining the directives to us, which I don't think we really need, or

is she going to be explaining what ICANN is doing in parallel with anything else? Is ICANN going to respond to the public comment? I'm just not sure what it is she's presenting. It would be useful to know that in preparation for mine and for Mason's presentations. So if someone could get back to us, I would really like to know. Or is she just hear to listen? I don't know.

OLIVIER CREPIN-LEBLOND: Thanks very much, Alan. I've been following on this. Elena is leading ICANN's responses and interfacing with the EU in Brussels. So it was felt—or I guess I felt—that she could be of help in providing some detail on what ICANN has been doing so far. I see that Adam Peake has put his hand up. He probably knows a lot more than I do.

ALAN GREENBERG: Just to be clear, Olivier, I know what Elena does—she's very good at it—but I don't know what she's going to be presenting to us. That was what I was asking.

OLIVIER CREPIN-LEBLOND: Maybe Adam knows. Adam Peake?

ADAM PEAKE: Hello. Good evening, everybody. I actually can't speak for Elena, but if you invite her and ask her to give you what you need, I'm sure she'll do her best to do so. I mean that sincerely. Of course, it is something that she's following very closely and will do her best to prepare on, I'm quite

sure. She is looking at this very closely with the OCTO team and David Conrad.

I really wanted to just flag that there's a webinar on February the 26th. It is with members of the European Commission for them to discussion and to explain the DSA, the cybersecurity initiatives, obviously, [and] NIS2. I put the link for registration into the chat. I think this is going to be extremely important because it's actually an opportunity to hear the commission staff discussing the intent around this and particularly the areas that are relevant to the DNS and to the ICANN community.

So please mark that. I'm sorry for taking time on the closing agenda, but I thought this was important to flag. So thank you.

OLIVIER CREPIN-LEBLOND: Thank you very much for this, Adam. Very helpful.

Matthias, I gather? Is it Matthias Hudobnik?

MATTHIAS HUDOBNIK: Thank you, Oliver. You're right. I just want to quickly go to Alan's question. I assume that she will talk about the updates and implications of the Digital Market Act, Digital Services Act, and the NI2 directive because, if I'm right, there was also a webinar related to the NIS2 where she was talking about the implications related to the WHOIS database because the NIS2 is also mentioning DNS and WHOIS as well. So I assume she will maybe give us an update these issues because it's of interest to our policy discussions. Thank you.

OLIVIER CREPIN-LEBLOND: Okay. Thank you very much for this Matthias. We'll close up with Alan and then we'll just have to close up all together. Alan Greenberg?

ALAN GREENBERG: Just to be clear, NIS2 has a lot of parts to it, but the part that caused us to bring it up at this meeting to begin with last week is the WHOIS implications and the fact that it really changes the game completely in terms of EPDP's implementation of GDPR. At least that's our view of it. That's why we're looking at all and proposing that the ALAC make a comment. Thank you.

OLIVIER CREPIN-LEBLOND: Thanks very much for this, Alan. I'm not seeing any further hands up.

Any Other Business is where we are now.

I am not seeing any further hands up. I guess that we've reached the end of this call. Well, we already know a little bit of what we are going to speaking about on the next call next week, which is going to be rather exciting. Now we need to know when that will take place.

Does anyone know?

CLAUDIA RUIZ: Hi, Olivier. The next will be on next Wednesday at 17:00 UTC to accommodate the guest speakers.

OLIVIER CREPIN-LEBLOND: Fantastic. Thank you so much. So 17:00 UTC shouldn't be too early on the U.S. west coast. I think that's all we have for today.

Jonathan, is there anything else that we need to announce or you need to announce?

JONATHAN ZUCK: Nope, I'm fine. Thanks, everyone.

OLIVIER CREPIN-LEBLOND: Okay. Well, thanks to everybody on this call. This has been very interesting, as it always is. Thanks to our interpreters, to our captioner and real-time transcriber. That's been an extended hard time for all of you, but for everyone else, just follow this on the mailing list, I guess, where we need to follow up.

JUDITH HELLERSTEIN: Also, please fill out the survey that they will be sending around because I notice many people are not filling out the surveys. So we don't have very much data. So please fill out the survey.

OLIVIER CREPIN-LEBLOND: Which survey, Judith? I mean, I know which survey you're speaking about, but you need to say which survey it is because there's lots of surveys out there.

JUDITH HELLERSTEIN: After every call, there'll be a survey on how is the RTT on the session and asking for some demographics because they use that.

OLIVIER CREPIN-LEBLOND: Fantastic. Thanks for this, Judith. So, yes, please feel in your RTT even quickly. It takes a minute just to do it—boom, boom, boom. At least we'll get some responses on this.

Thank you so much. If you don't use RTT, then you don't need to comment on it, or maybe you just say you're not using it. We'll have some numbers as to how many people are actually using it.

For everyone else, have a very good morning, afternoon, evening, or night. Goodbye.

[END OF TRANSCRIPT]