ICANN multi-stakeholder model & the increase in National Legislations and Regulations

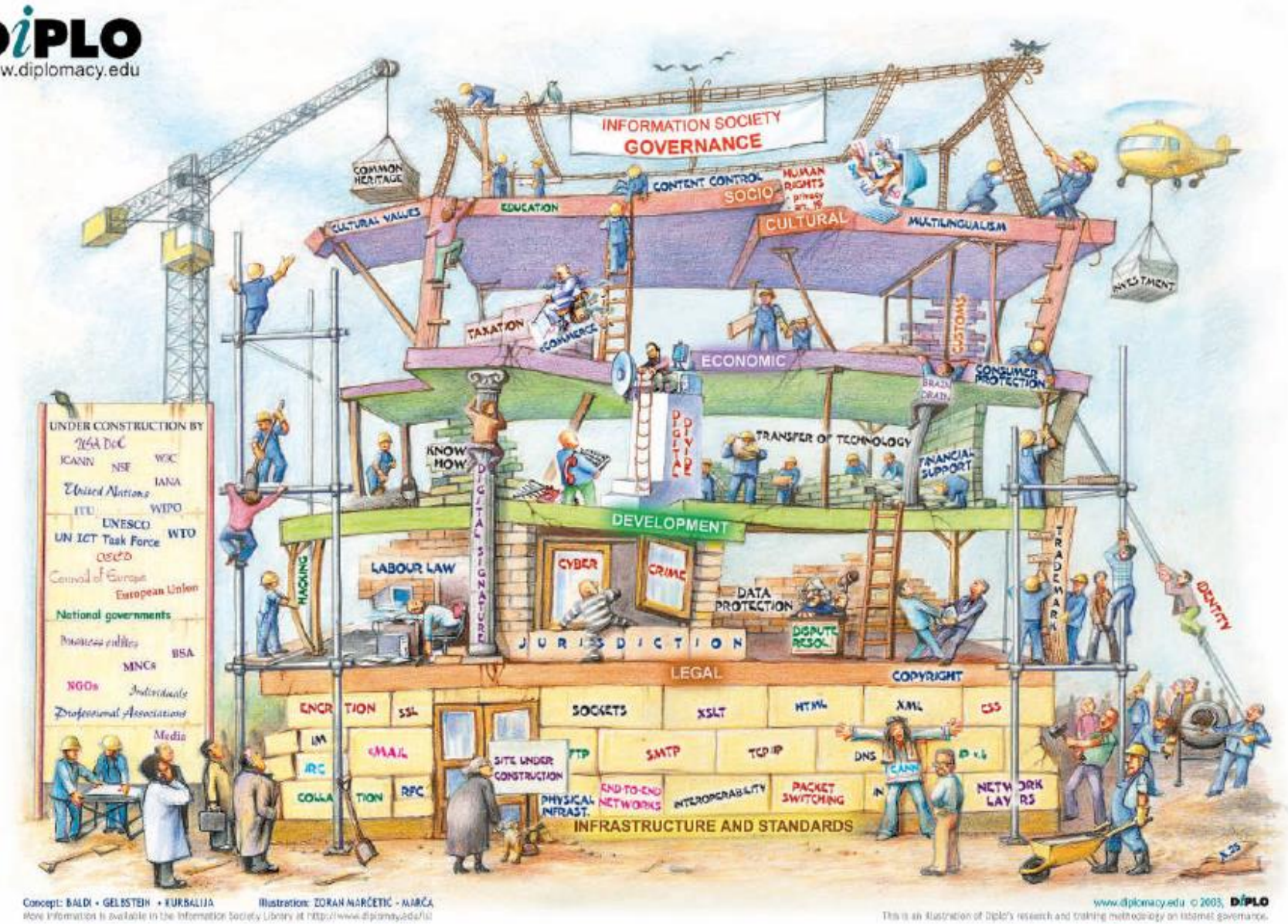
AFRALO
Capacity Building Webinar
24 February 2021

What are we going to speak about today?

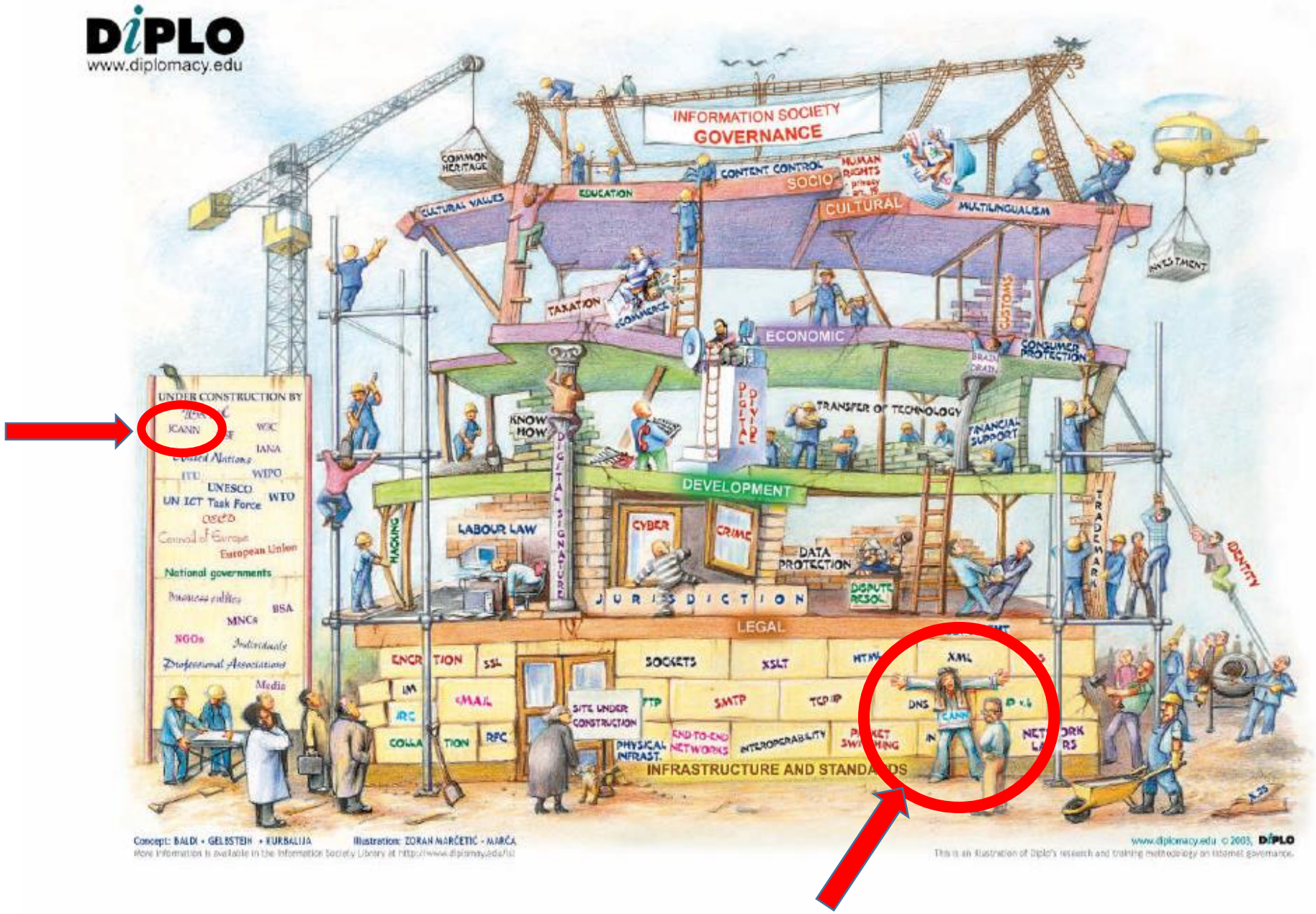
1. Internet Governance
2. ICANN Multi-Stakeholder Model
3. ICANN's involvement in the Internet Ecosystem
4. National Legislations and Regulations?
5. Conclusions
6. Your Questions

WGIG Final Report (2005)

- **Working Group on Internet Governance – Tunis Declaration**
- **Internet Governance Definition**
- ***Internet governance is the development and application by Governments, the private sector and civil society, in their respective roles, of shared principles, norms, rules, decision-making procedures, and programmes that shape the evolution and use of the Internet***



ICANN AT-LARGE



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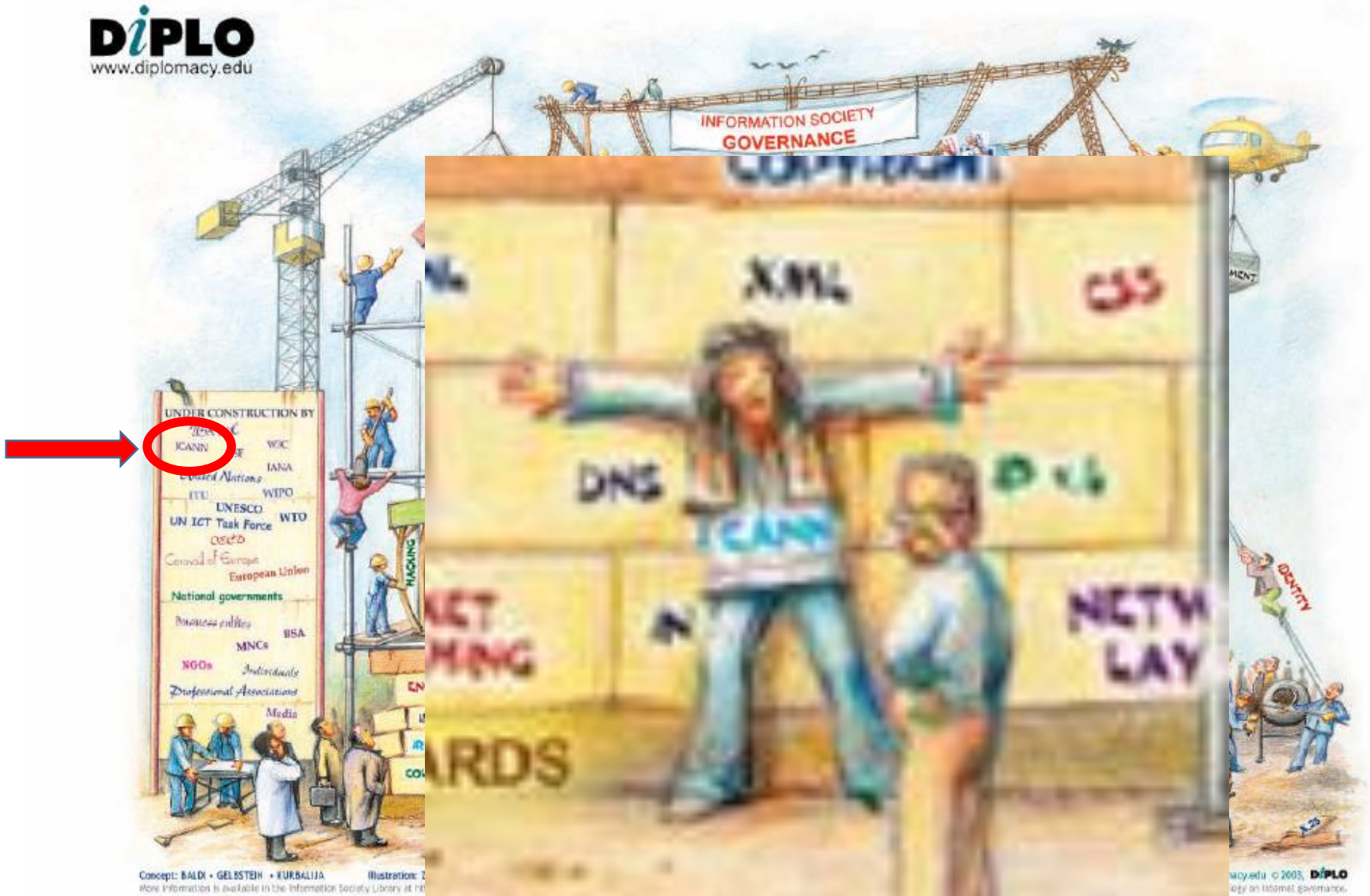


ICANN AT-LARGE

One World, One Internet

WHAT DOES ICANN DO?

To reach any device or thing connected to the Internet, you (or your search engine) must know their address – a name or a number. That address must be unique, so you can reliably find and connect to other devices, things, or information sources no matter where you are in the world. That's how the tens of thousands of physical networks appear and operate as 'One Internet'.

In concert with the technical operating community, ICANN maintains and administers the registries containing these unique addresses across the world ensuring the security, stability, and integrity of One Internet where we can reliably find each other.

Community-Driven Global Policy Development

To keep pace with dynamic technologies and rapid innovation, ICANN facilitates an open, consensus-driven, multistakeholder policy development process that is run from the bottom up.

Multistakeholder Model

Civil Society & Internet Users, the Private Sector, National & International Organizations, Governments, Research, Academic and Technical Communities are all represented.

Competition & Choice

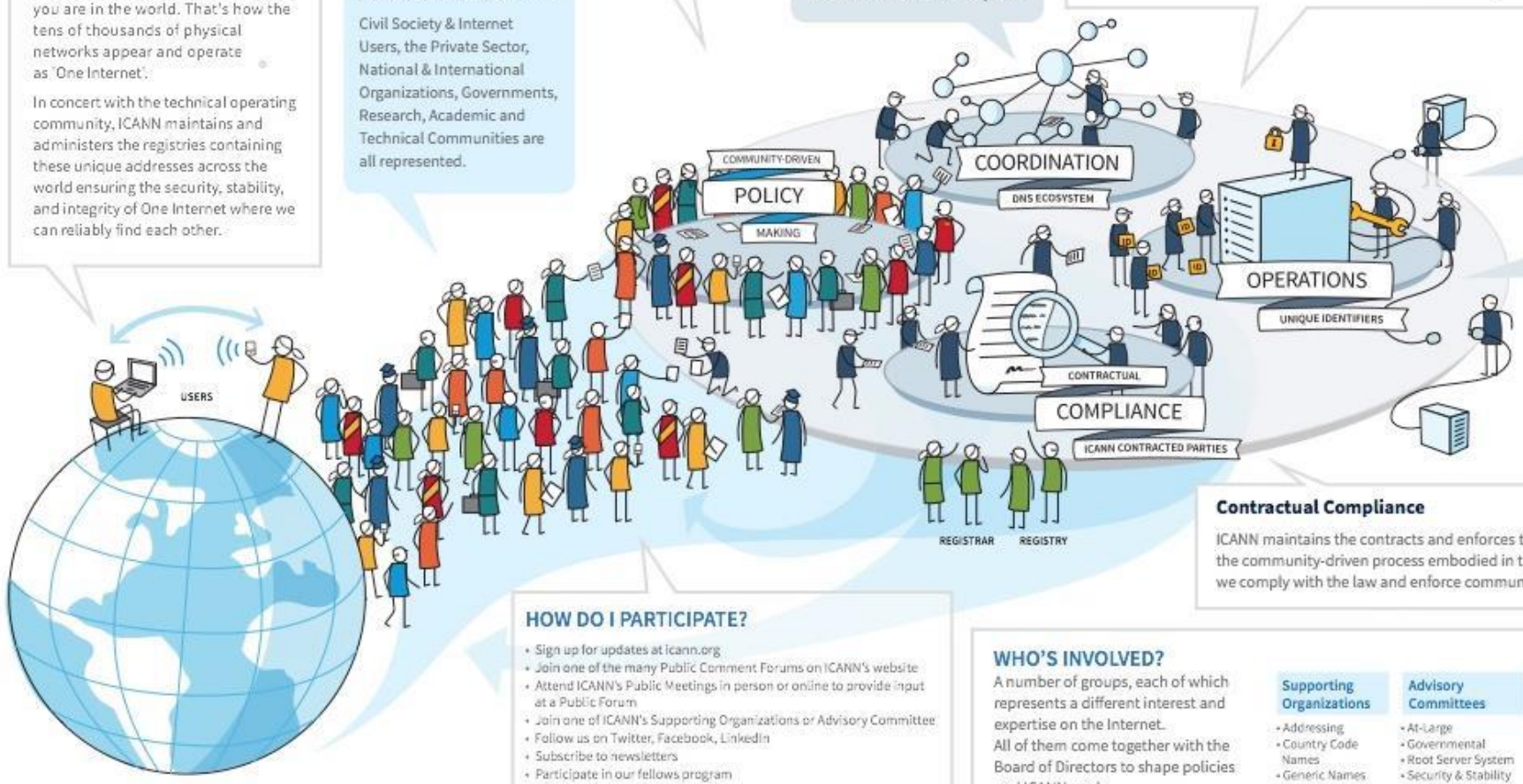
From accrediting over 1000 registrars, to introducing new Top Level Domains (TLDs), ICANN works to expand consumer choice by fostering competition and innovation in the domain name marketplace.

WHICH FUNCTIONS DOES ICANN COORDINATE?

DNS
- Development of generic TLD policy
- Facilitation of country code TLD policy discussions
- Delegation of and changes to Top-level domains
- Management of the root's DNSSEC trust anchor
- Facilitating Root Server System discussions

Internet Numbers
- Approval of global number allocation policies
- Allocation of top-level blocks of Internet numbers
- Recognize Regional Internet Registries

Protocol Parameters
- Creation of and changes to protocol parameter registries
- Management of the Time Zone Database



Security & Stability

ICANN supports DNS security by supporting a secured DNS infrastructure (DNSSEC) and managing the top-level key of that infrastructure, requiring close coordination and collaboration with the community and volunteers around the world.

Interoperability

ICANN's work plays a role in helping the community to develop new technologies that flourish while maintaining interoperability across the global Internet. For example, the central publication point of unique protocol identifiers maintained by ICANN makes it easier for protocol developers to create protocols that allow communications using secure connections between users.

Contractual Compliance

ICANN maintains the contracts and enforces the consensus policies developed through the community-driven process embodied in those contracts. While we are not a regulator, we comply with the law and enforce community policies through contractual obligations.

HOW DO I PARTICIPATE?

- Sign up for updates at icann.org
- Join one of the many Public Comment Forums on ICANN's website
- Attend ICANN's Public Meetings in person or online to provide input at a Public Forum
- Join one of ICANN's Supporting Organizations or Advisory Committee
- Follow us on Twitter, Facebook, LinkedIn
- Subscribe to newsletters
- Participate in our fellows program
- Join a regional engagement group

WHO'S INVOLVED?

A number of groups, each of which represents a different interest and expertise on the Internet.
All of them come together with the Board of Directors to shape policies and ICANN work.

Supporting Organizations
- Addressing
- Country Code Names
- Generic Names

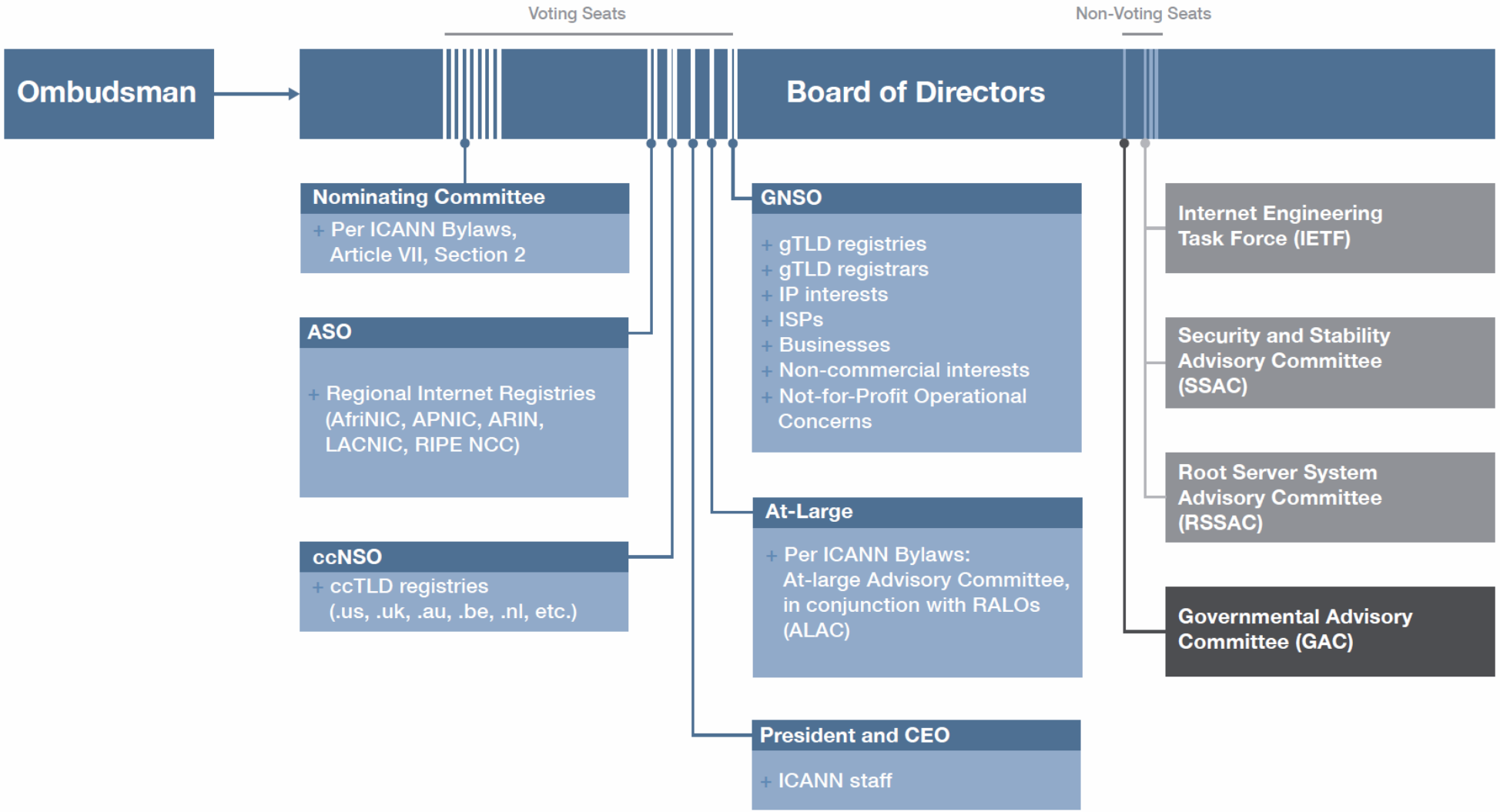
Advisory Committees
- At-Large
- Governmental
- Root Server System
- Security & Stability

Technical Advisory Bodies
- Technical Experts Group
- Technical Liaisons from IETF, ETSI, W3C, ITU

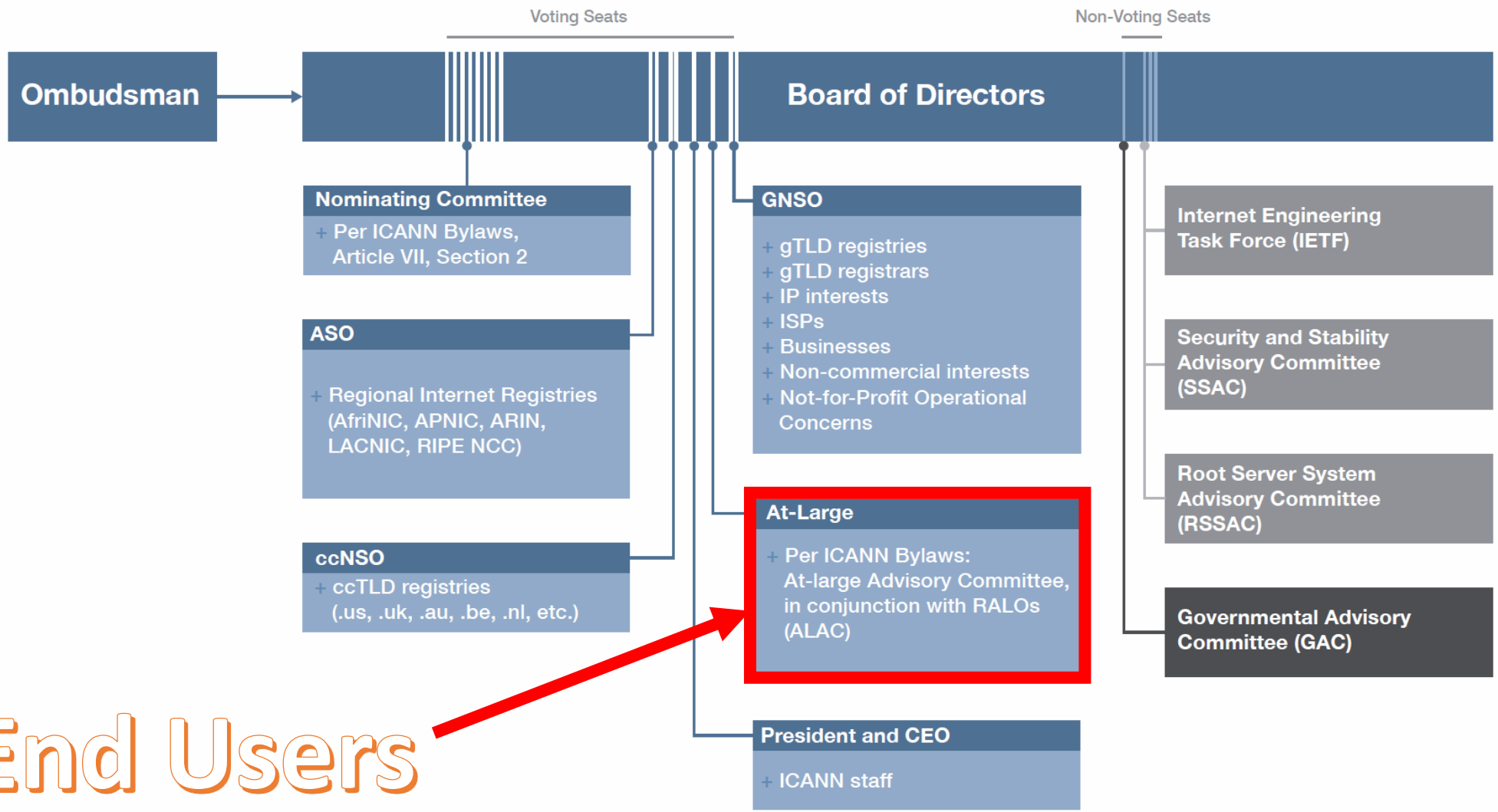
Board of Directors
- 16 Community Appointed Board Members

ICANN AT-LARGE

ICANN Governance Structure



ICANN Governance Structure



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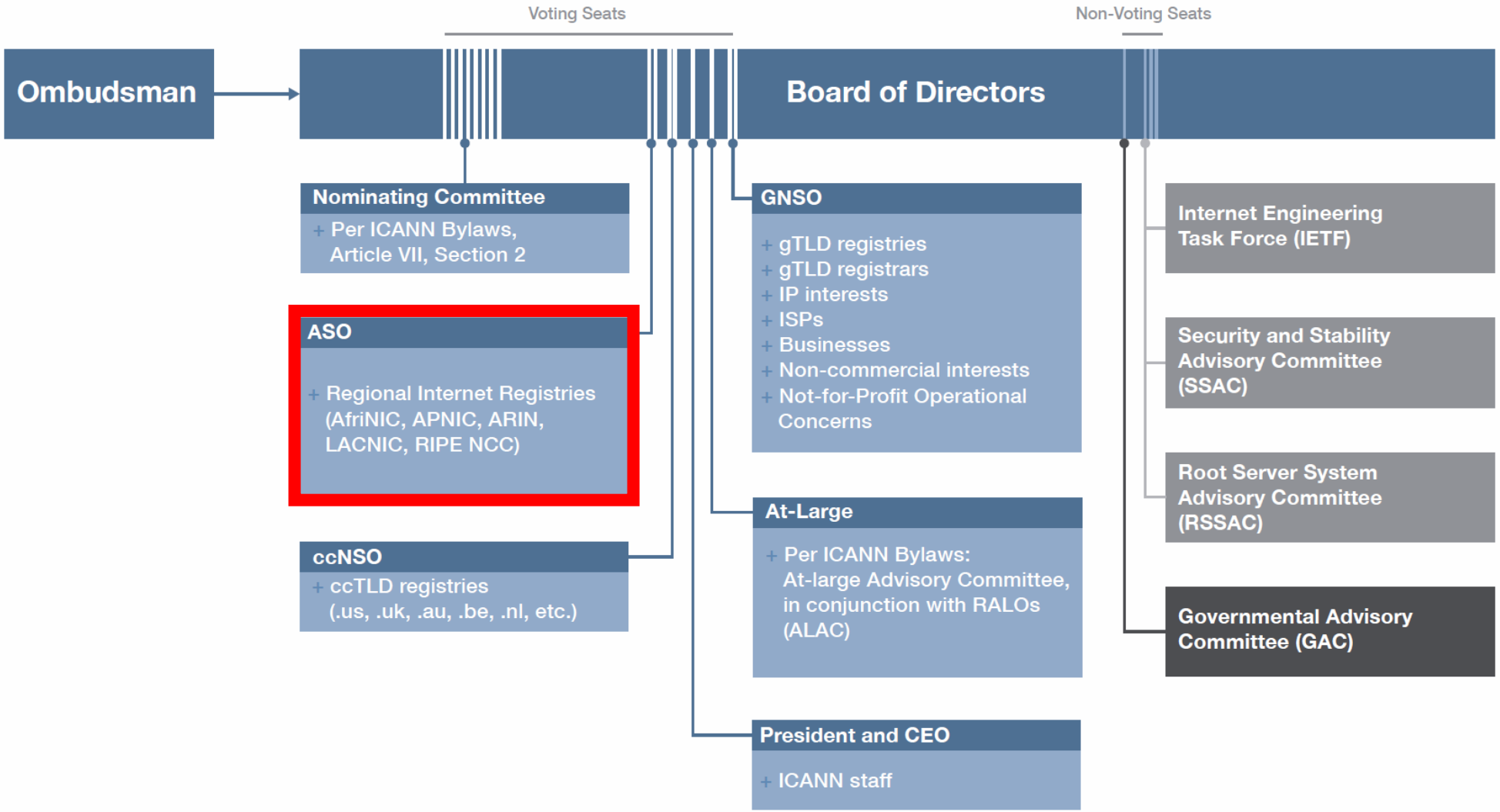

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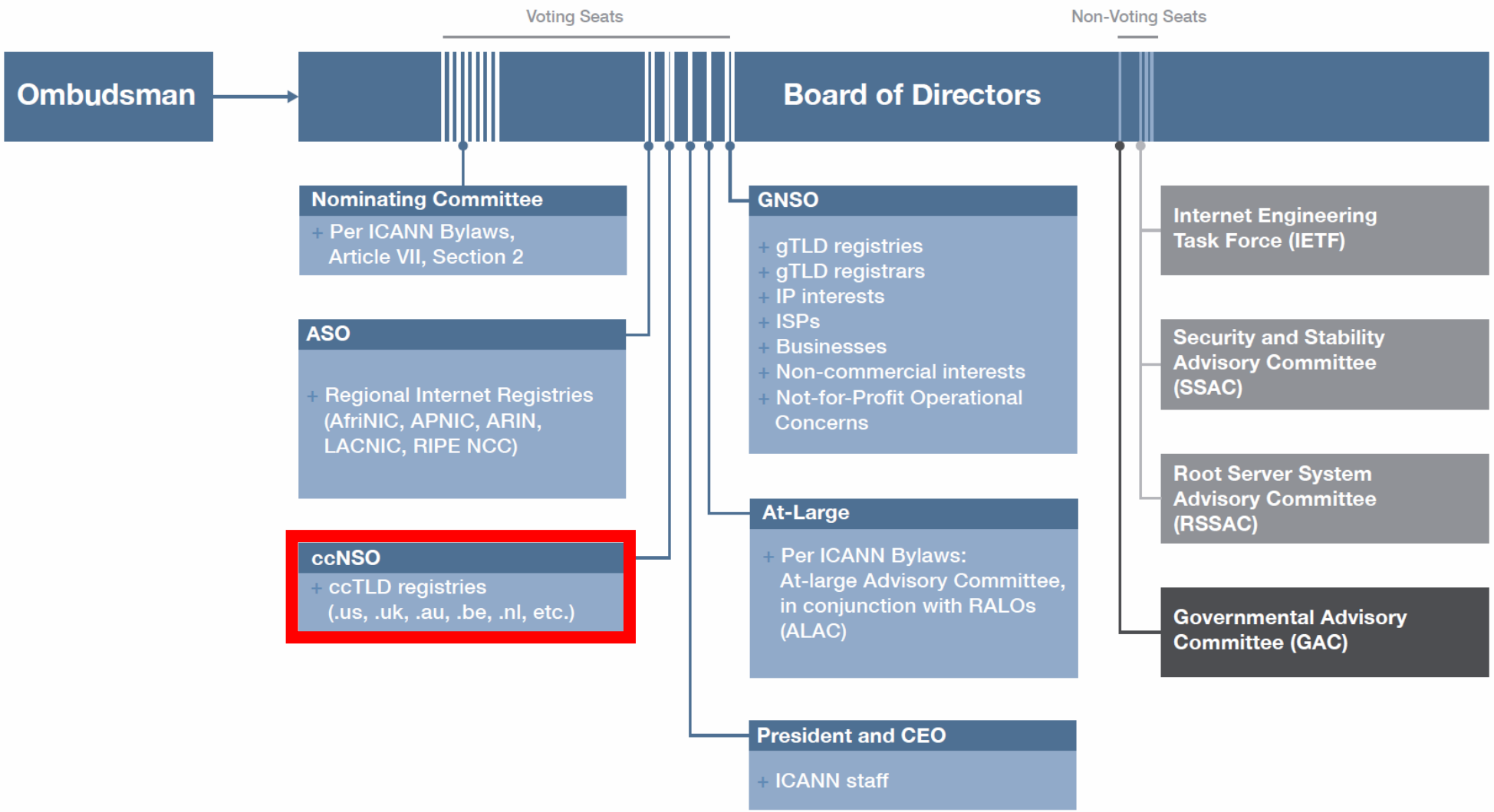

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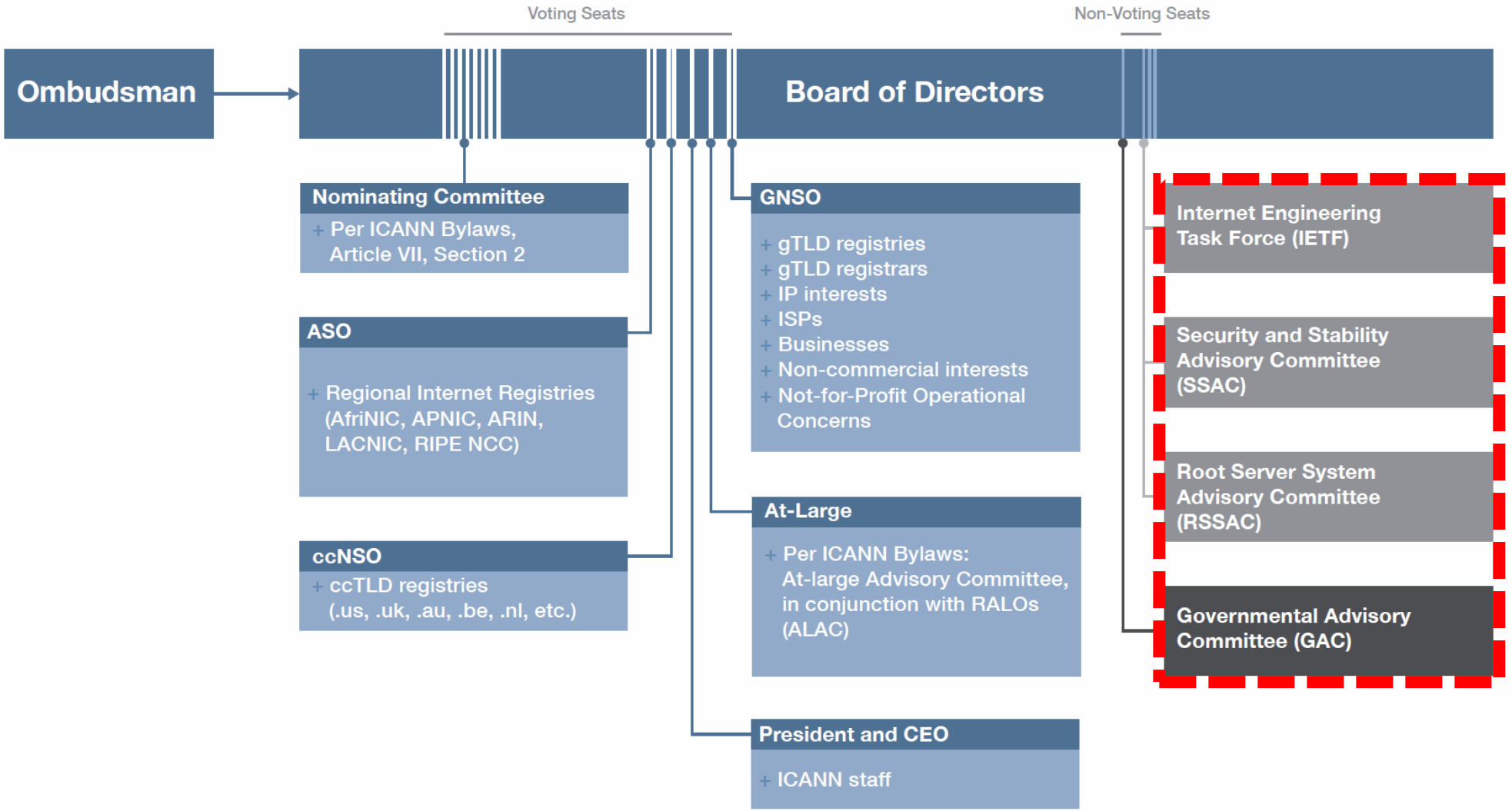

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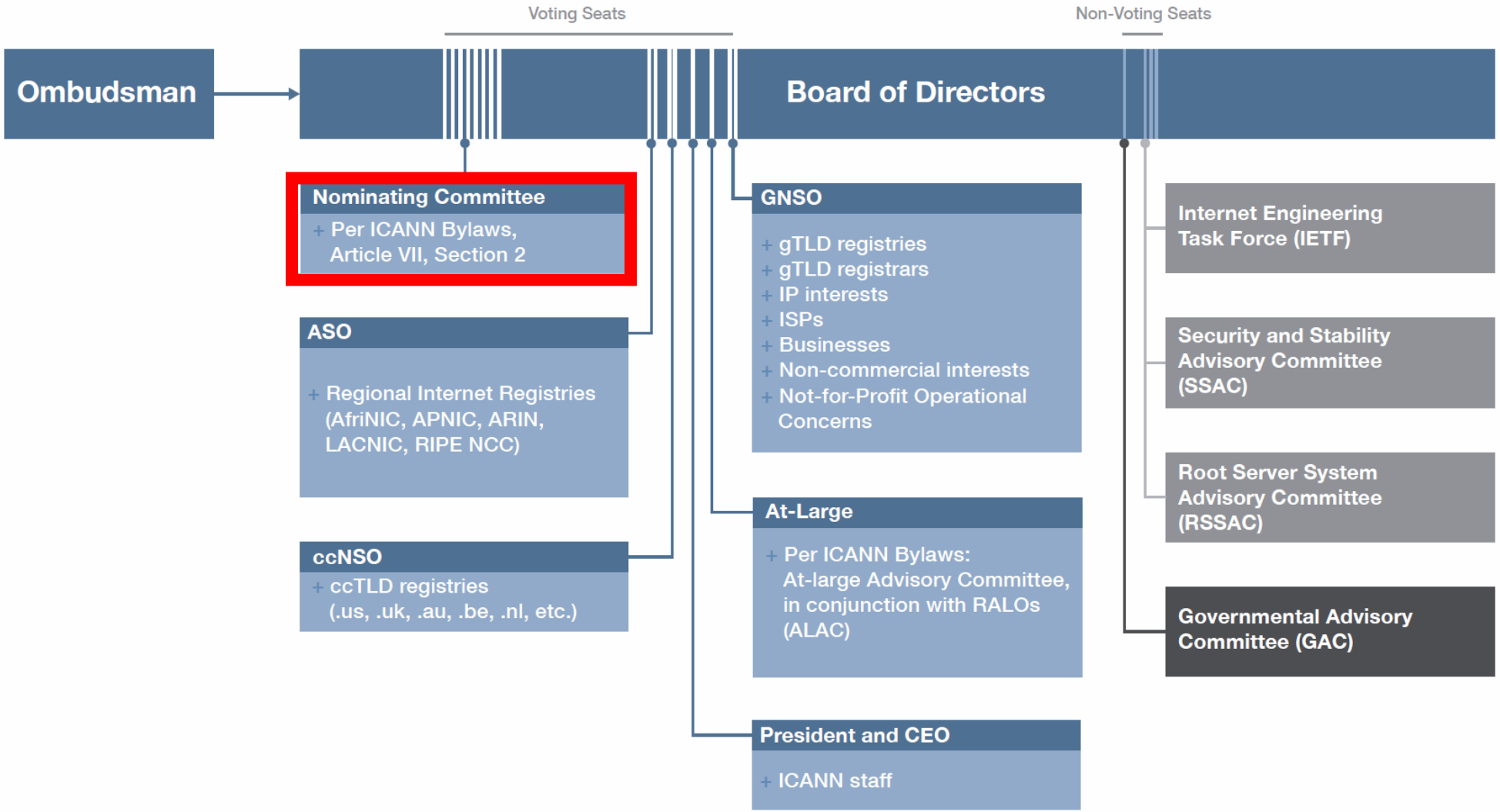

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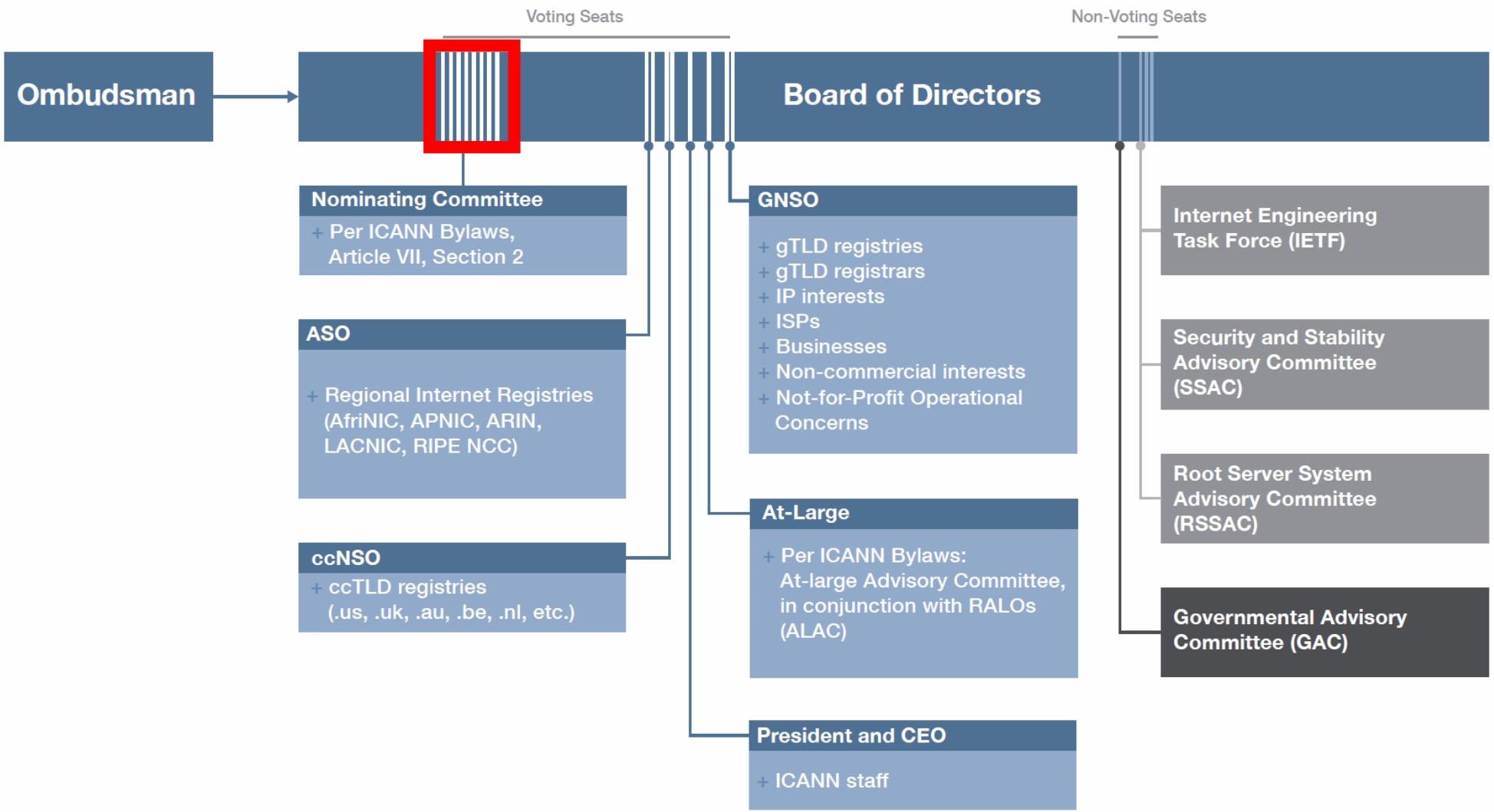

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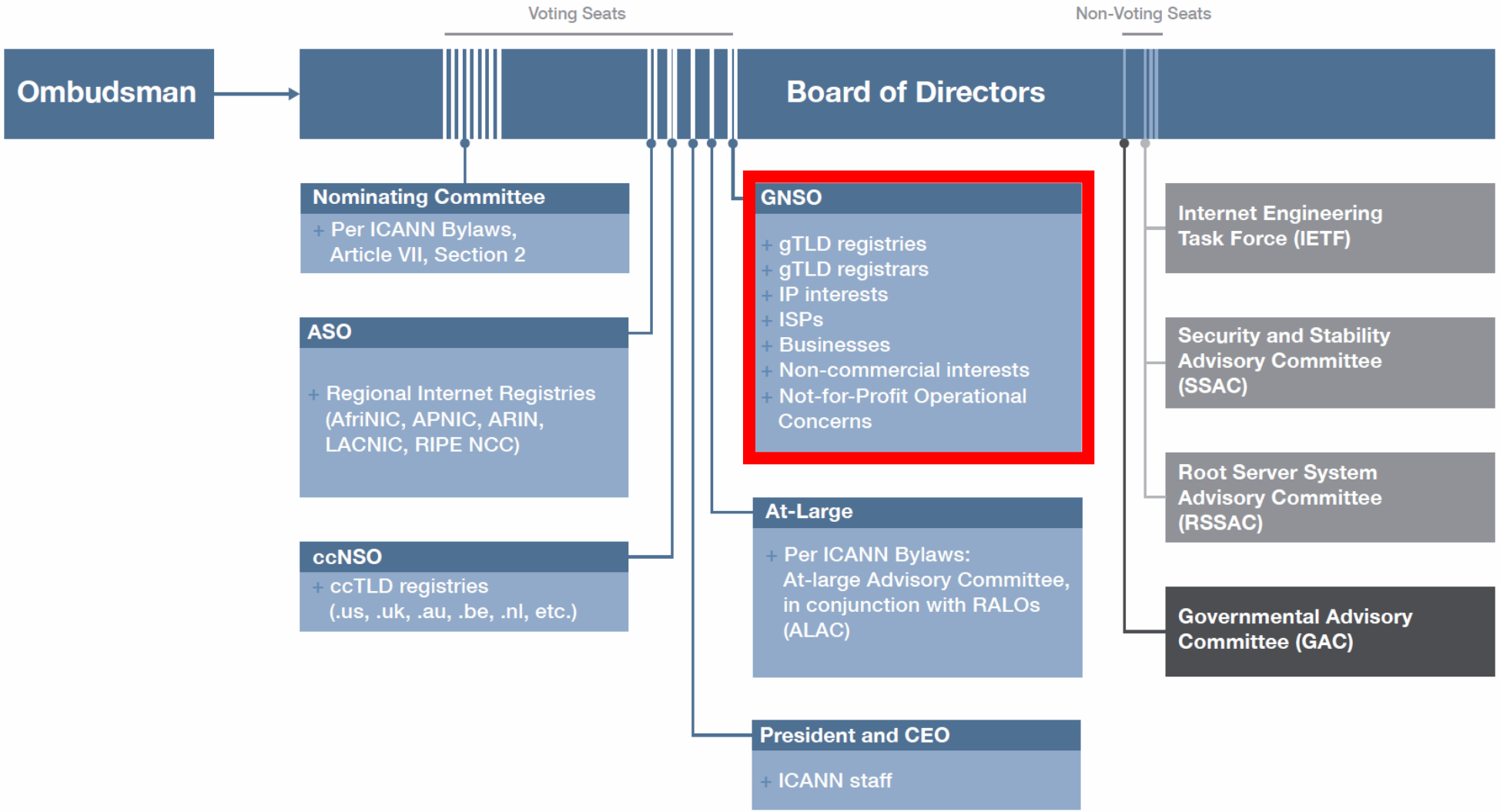
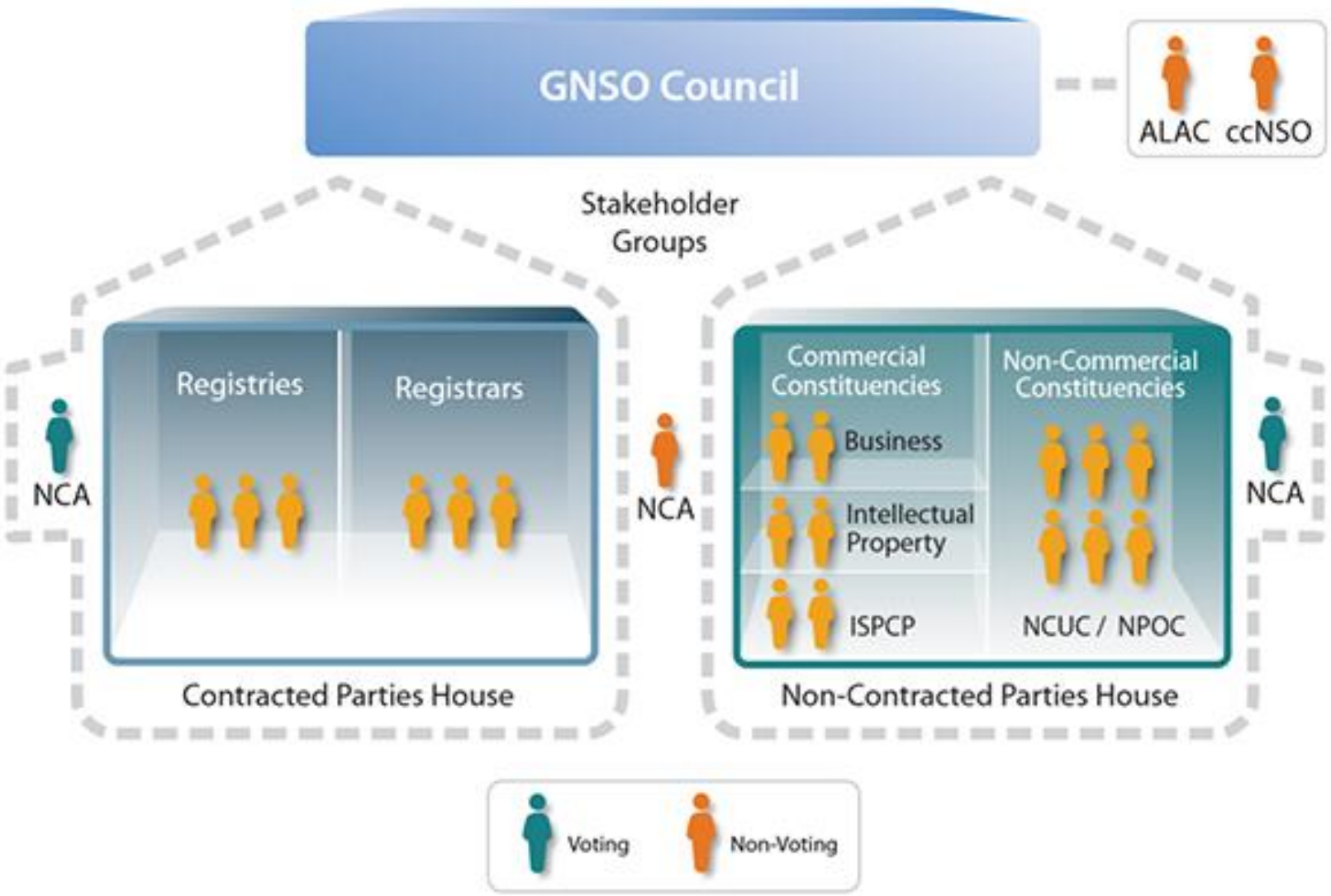


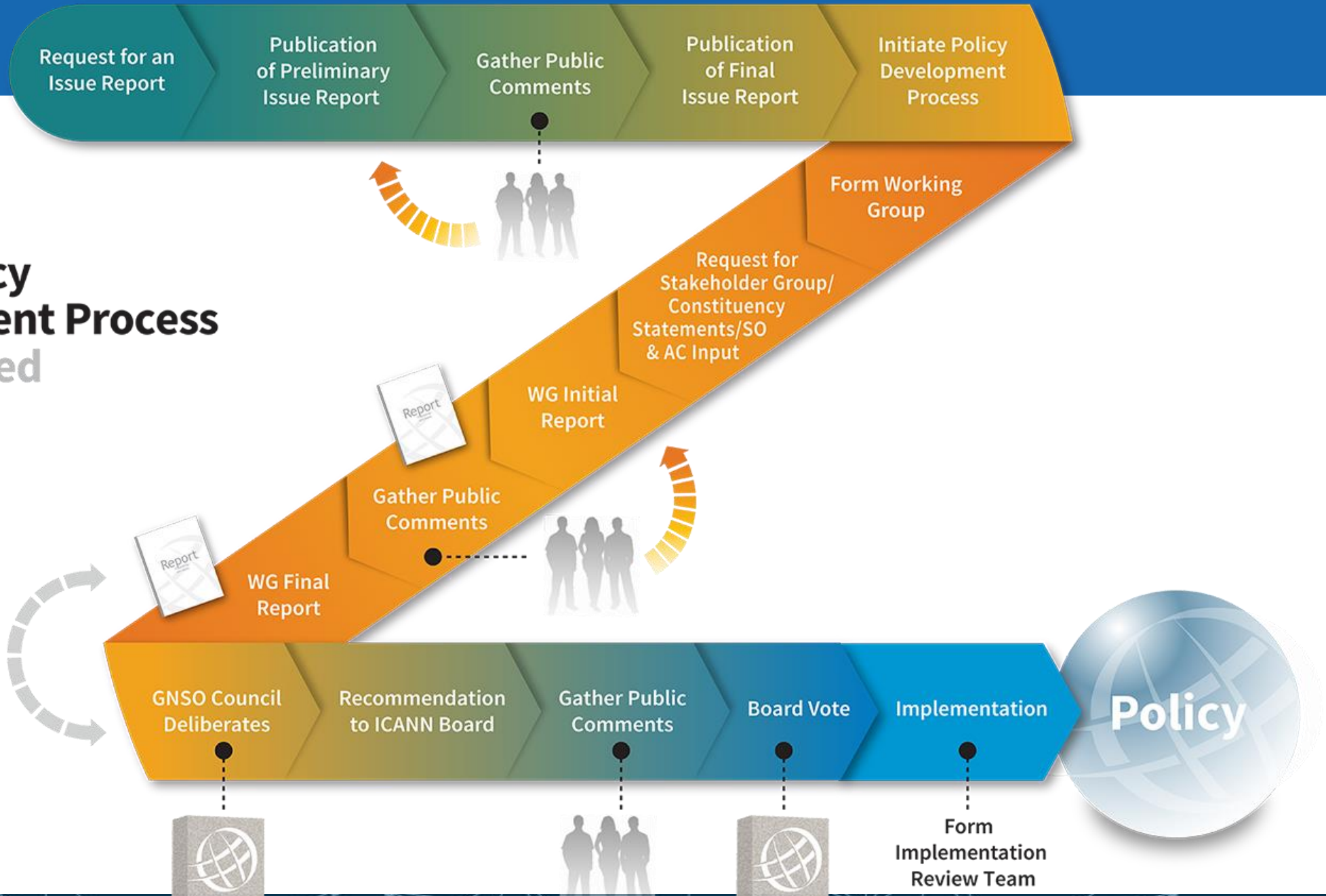
Generic Names Supporting Organisation Council (GNSO) Structure



GNSO Policy Development Process

*Summarized

*Some steps omitted, for brevity.



Engagement Group on Internet Governance (EG-IG) Session on Digital Platforms and Regulation

BDWGIG Models of Engagement in the IG Ecosystem
Focus on Technical IG

Virtual ICANN 69
Wednesday 21 October 2020

Internet Ecosystem Engagement

Internet Ecosystem Engagement Model developed by the BDWGIG and endorsed by the full Board

Three types of agreed Internet ecosystem engagement and issue focus:

- Leadership
- Collaborative participation
- Selective engagement

Source: BDWGIG

Leadership

- Those issues where ICANN takes the lead role because the issue or initiative directly impacts ICANN's mission and technical remit

- Global and regional engagement of ICANN to assert and protect its role in the Internet ecosystem;

- Governmental and IGO proposals that would directly impact the DNS or unique identifiers

Source: BDWGIG

Collaborative Engagement

Those events or issues where ICANN takes a secondary or supporting role:

Examples

- ICANN role within the promotion of the multistakeholder IG model (in collaboration with I* and other organizations such as in the WSIS process and certain ITU Plenipotentiary events), also:
  - WSIS Forum workshops
  - OECD and Security WG
  - IGF evolution

We collaborate with others in the ecosystem.

Source: BDWGIG

Selective Engagement issues

ICANN selective engagement on specific subjects, in existing and evolving issues or Internet policy within the ecosystem that have a relationship to ICANN's remit, mission and mandate.

- Example – GDPR, data protection and privacy.
- Discussions on cyber policies and norms and law enforcement that may affect ICANN in the future.
- Events, resolutions or trends in the geopolitical and economic environment that may affect ICANN in the future, including issues being faced with the evolution of the Internet and the multistakeholder model.

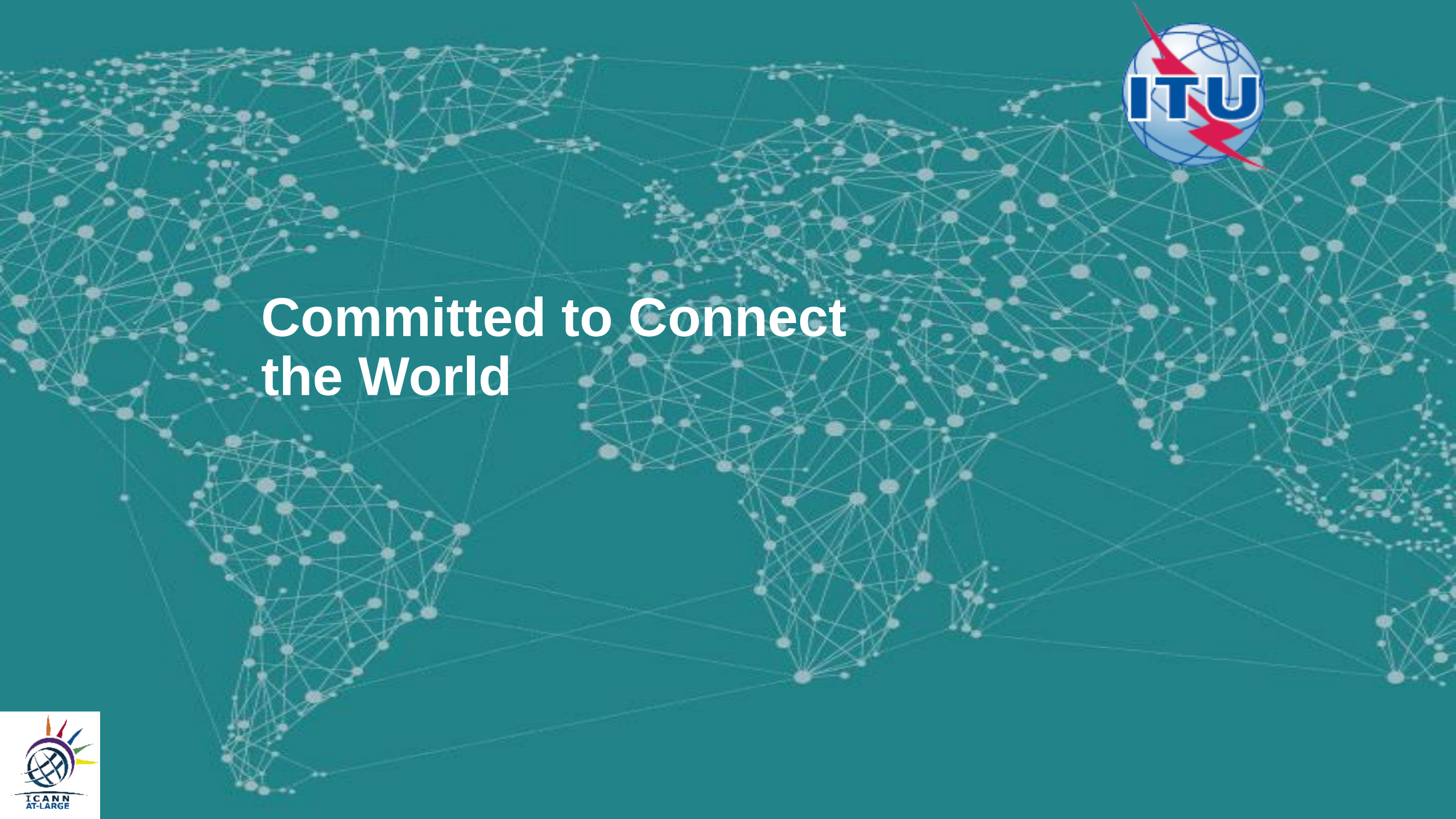
Source: BDWGIG

Technical Internet Governance Engagement

These are three questions that guide ICANN's assessment of technical Internet Governance

- What is the impact of this proposed process, regulation or resolution on the management of the unique identifier system?
- Specifically the question should be first and foremost is there an impact on the management of the DNS?
- Does the effort touch the technical underpinnings of the Internet's unique identifiers?

Source: BDWGIG


Committed to Connect
the World

Who are the ITU

- International Telecommunications Union
- Created in 1865 as International Telegraph Union
- Regulations regarding telephone service:
  - Billing
  - Standards (V.21, V.32, V.90, X.25 …)

ITU Structure

ITU Plenipotentiary Conference:
Constitution and Convention

ITU Council

World Conference on International Telecommunications (WCIT):
International Telecommunication Regulations (ITRs)

ITU – R	ITU-T	ITU-D
World Radio Conference (WRC): Radio Regulations	World Telecommunication Standardization Assembly (WTSA)	World Telecommunication Development Conference (WTDC)
Radio Advisory Group (RAG	Telecommunication Standardization Advisory Group (TSAG)	Telecommunication Development Advisory Group (TDAG)
Study Groups	Study Groups	Study Groups

Plenipotentiary Conference (PP-18; Dubai)

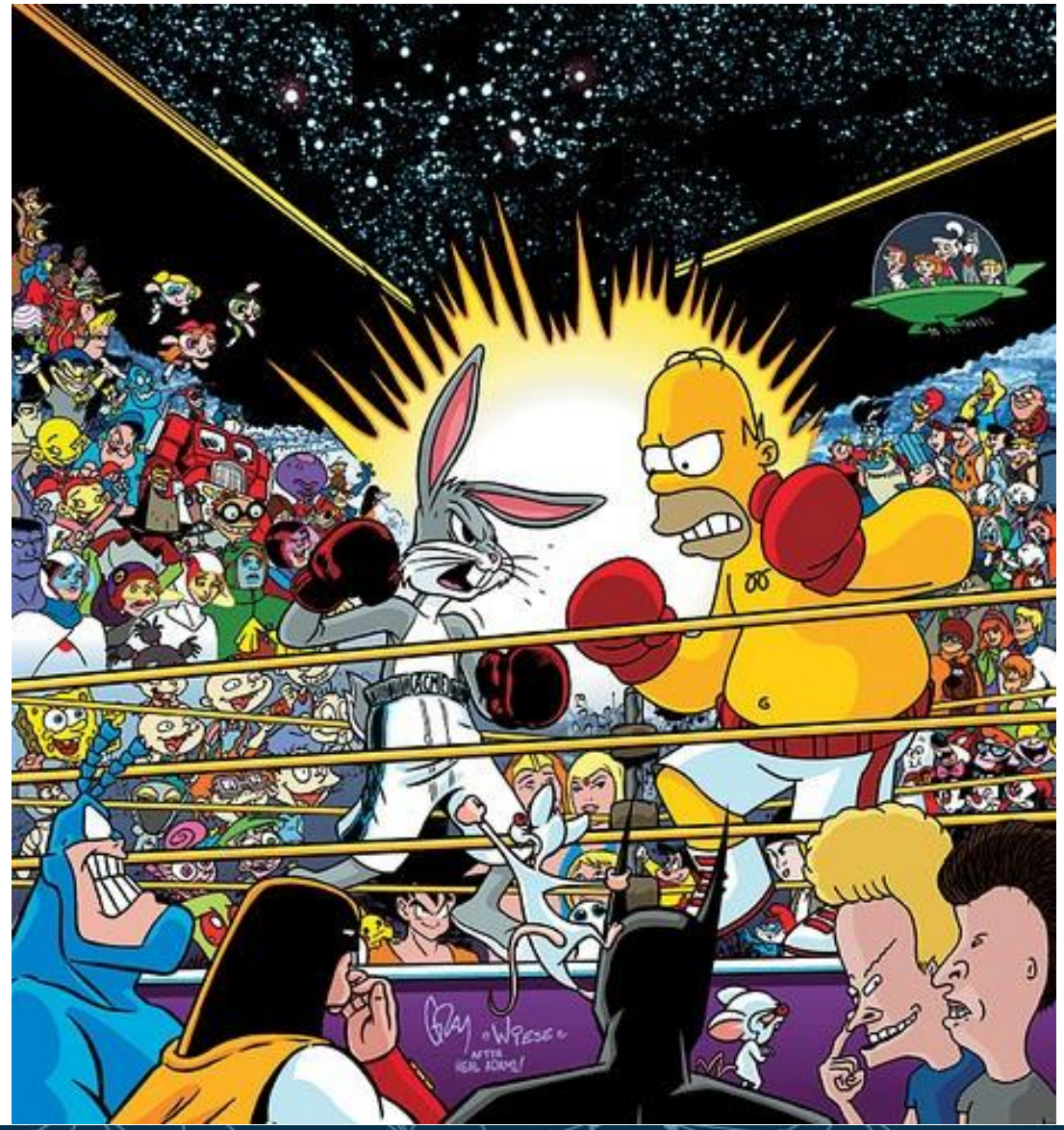
- **Four yearly Treaty Conference of all of ITU;**
- **Took place in Busan; Korea; October – November 2014;**
- **Included elections; Strategic Plan adoption; potential changes to Constitution and adoption of revised / new Resolutions;**
- **Important for ICANN as addressed IG issues (not least current Resolutions 101, 102 and 130);**
- **Potential change for scope of work – IPV6; IG?**
- **Next one was PP-18 – Dubai – Oct-Nov 2018**

International Telecommunication Regulations (ITRs)

A 1988 treaty to Establish *general principles* for the provision and operation of international telecommunication to

- **facilitate global *interconnection* and *interoperability***
- **underpin harmonious development and *efficient operation of technical facilities***
- **promote *efficiency*, usefulness, and *availability* of international telecommunication services**

Multi-stakeholder vs. Multi-lateral



World Conference
On International
Telecommunications

Dubai
3-14 December 2012

UN Cyber related discussions

- Open-Ended Working Group (OEWG) updates
- Open-Ended Committee of Experts (OECE) updates
- Group of Governmental Experts (GGE) updates
- Other UN updates

Source: ICANN IGO Engagement / EG IG Internet Governance / ICANN69

Other IGO Events

ICANN recent IGO engagement:

- WSIS Forum 2020

- GSR 2020

ICANN upcoming IGO possible Engagement

- WTSA – World Telecommunication Standardization Assembly

National Regulation

With International Regulation not finding consensus, the other avenue that was available for Nation States is National Regulation.

EU updates

- **Key initiatives at EU level**
  - Digital Services Act
  - Review of the Directive on security of network and information systems (NIS Directive review)
  - ePrivacy
  - eEvidence
- **Other actions and initiatives**
  - European Commission study of the DNS abuse
  - Regulation on electronic identification and trust services for electronic transactions in the internal market (eIDAS)

European Commission
Proposal for a revised Directive on Security of Network and Information Systems (NIS 2 Directive)

Alan Greenberg

17 February 2021

Source: ICANN At-Large CPWG / 17 Feb 2021

Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on measures for a high common level of cybersecurity across the Union, repealing Directive (EU) 2016/1148

Whereas: 61

In order to ensure the availability of accurate and complete domain name registration data, TLD registries and the entities providing domain name registration services for the TLD (so-called registrars) should collect and guarantee the integrity and availability of domain names registration data. In particular, **TLD registries and the entities providing domain name registration services for the TLD should establish policies and procedures to collect and maintain accurate and complete registration data**, as well as to prevent and correct inaccurate registration data in accordance with Union data protection rules.

Important EU initiatives relevant to the DNS

In December 2020 the European Commission published important initiatives relevant to the DNS including domain name registration data and DNS services providers:

- The Digital Services Act package, comprising of:
  - the Digital Services Act (DSA) and
  - the Digital Markets Act (DMA)

- The new EU Cybersecurity policy package that includes:
  - A "Communication on the EU's Cybersecurity Strategy for the Digital Decade"
  - A proposal for a revised Directive on Security of Network and Information Systems (NIS2 Directive)
  - A Directive on the resilience of critical entities

Source: ICANN IGO Department / Elena Plexida / CPWG / 17 Feb 2021

The DNS is the context of the 2016 NIS Directive

- NIS2 is a proposal to reform the 2016 NIS Directive.
- The NIS Directive sets out cybersecurity requirements for services deemed “essential”, such as hospitals, public transport systems and telecom networks.
- DNS providers are included in the existing NIS as operators of essential services, but it is up to the EU Member States to identify operators of essential services within the DNS.

Source: ICANN IGO Department / Elena Plexida / CPWG / 17 Feb 2021

The DNS in the context of the NIS2 Directive

- NIS2 will impose updated requirements on "essential" and "important" service providers in critical sectors. Companies are defined as either “essential” or “important”, with different sets of obligations.
- NIS2 applies to all providers of DNS services along the DNS resolution chain, including operators of root name servers, TLD name servers, authoritative name servers for domain names and recursive resolvers.
- They qualify as essential services, while there is no identification system by the EU Member States.
- Territorial scope similar to the GDPR: A DNS service provider must designate a representative under NIS2, in cases in which a DNS service provider not established in the EU offers services within the EU (cf. Art. 24 (3) NIS2)
- Moreover, the small and micro business exemptions do not apply to TLD name registries and DNS service providers (cf. Art 2 (2) NIS2)

Source: ICANN IGO Department / Elena Plexida / CPWG / 17 Feb 2021

The DNS in the context of the NIS2 Directive

- Main responsibilities for essential services under the NIS2 Directive are:
  - Implementation of appropriate and proportionate technical and organisational measures (Art. 18 NIS2)
  - Reporting obligations (Art. 20 NIS2)
  - Provide contact details for the registry of essential entities to ENISA (Art. 25 NIS2)

- In addition, we have the registration data related provisions.

Source: ICANN IGO Department / Elena Plexida / CPWG / 17 Feb 2021

Australian Press: The Concerns

That newspapers are facing enormous challenges from the internet is not in question. What the debate is generally about, and it was no different among participants in this Inquiry, is how newspapers deal with the current challenges and how they will be transformed by that process.

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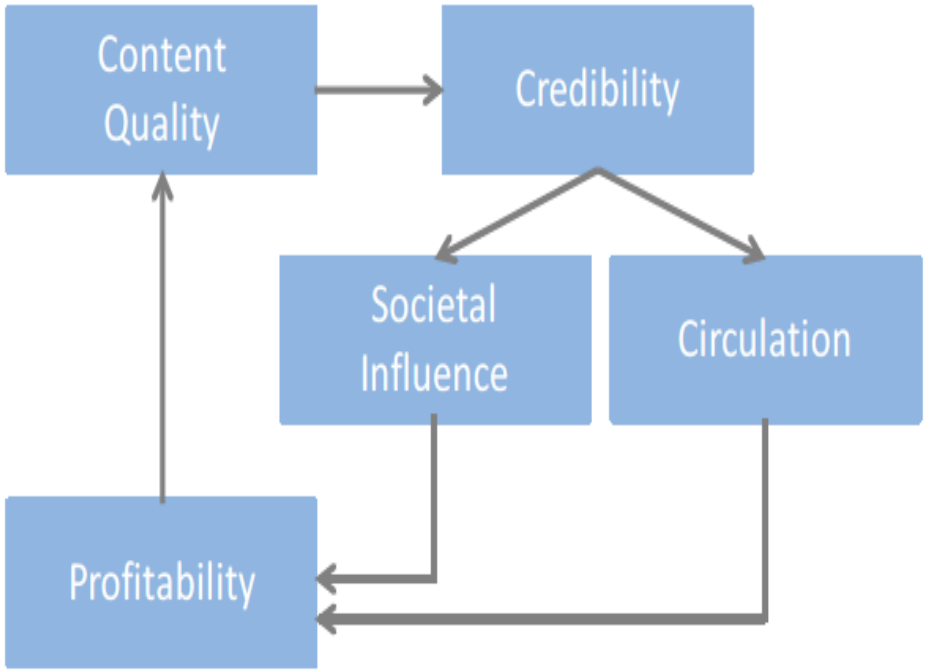
Source: Holly Raiche / EG IG (Engagement Group on Internet Governance) / ICANN69

The Journalism ‘Death Cycle’

Figure 1: Tracking the newspaper 'death spiral'[58]



Source: Holly Raiche / EG IG (Engagement Group on Internet Governance) / ICANN69

The Code/legislation– A Summary

- **Bargaining Rules** – REQUIRING designated digital platform and 'registered news businesses' to indicate an intention to bargain in good faith
- **Compulsory arbitration rules** – when the parties cannot come to a negotiated agreement on payment for including news on the designated platform – rules to be followed by an arbitral panel selecting between 'final offers' by both parties
- **Minimum standards** – designated digital platforms to provide registered news with advance notification of algorithm changes, information about the collection and availability of user data and advance notification of changes affecting the display and presentation of news content corporations
- **Non Discrimination by digital platforms** – not disadvantaging an Australian news Business

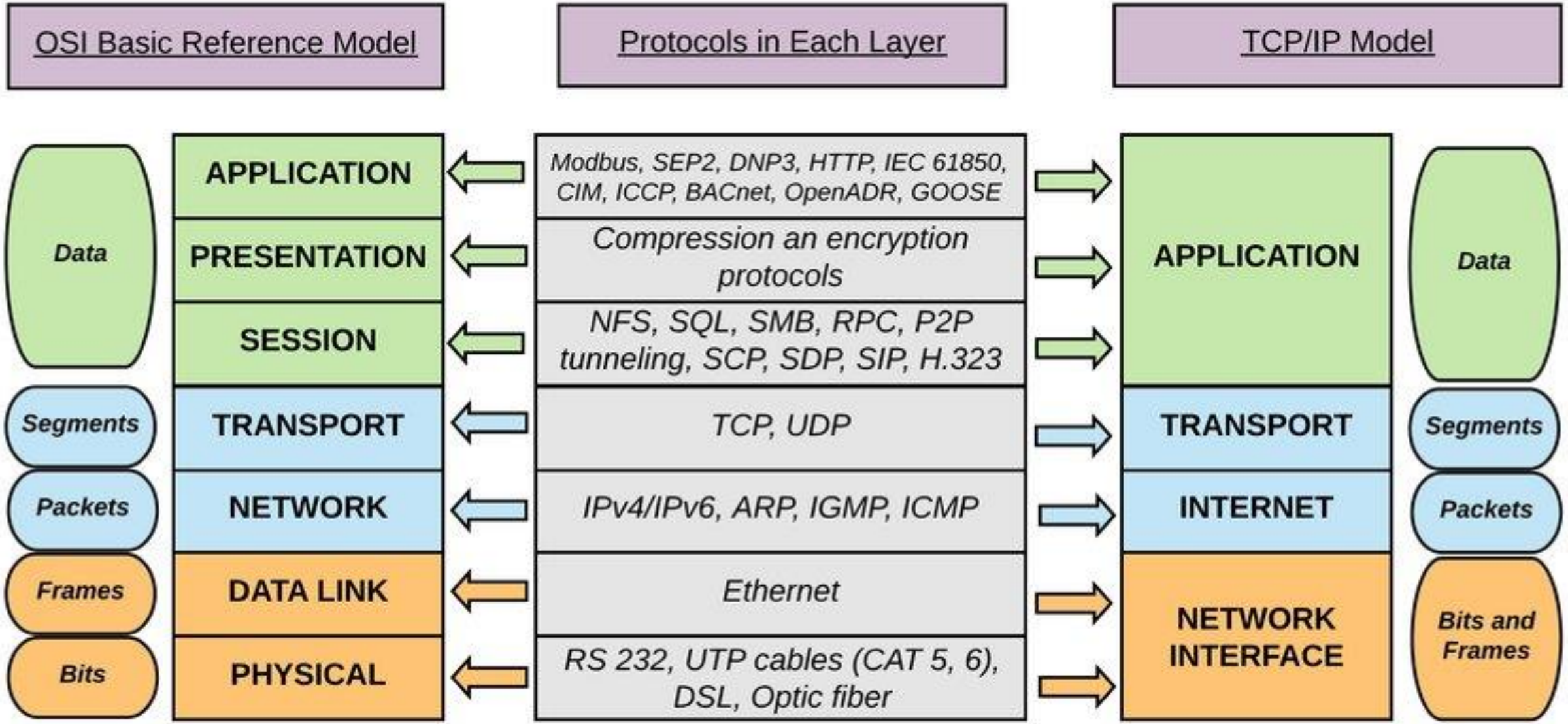
Source: Holly Raiche / EG IG (Engagement Group on Internet Governance) / ICANN69

Other type of Regulation happening

- General Data Protection Regulation (GDPR) in Europe
- California Consumer Privacy Act (CCPA)
- Japan's Act on the Protection of Personal Information
- Brazil Internet Content Regulations regarding Fake News
- Chinese Internet – mostly closed to the outside world
- Russian Internet – able to function on its own without "A" Root
- Etc.

On the Internet most of these have an aspect of Extra-Territoriality

OSI Basic Stack vs. Internet Protocol Stack



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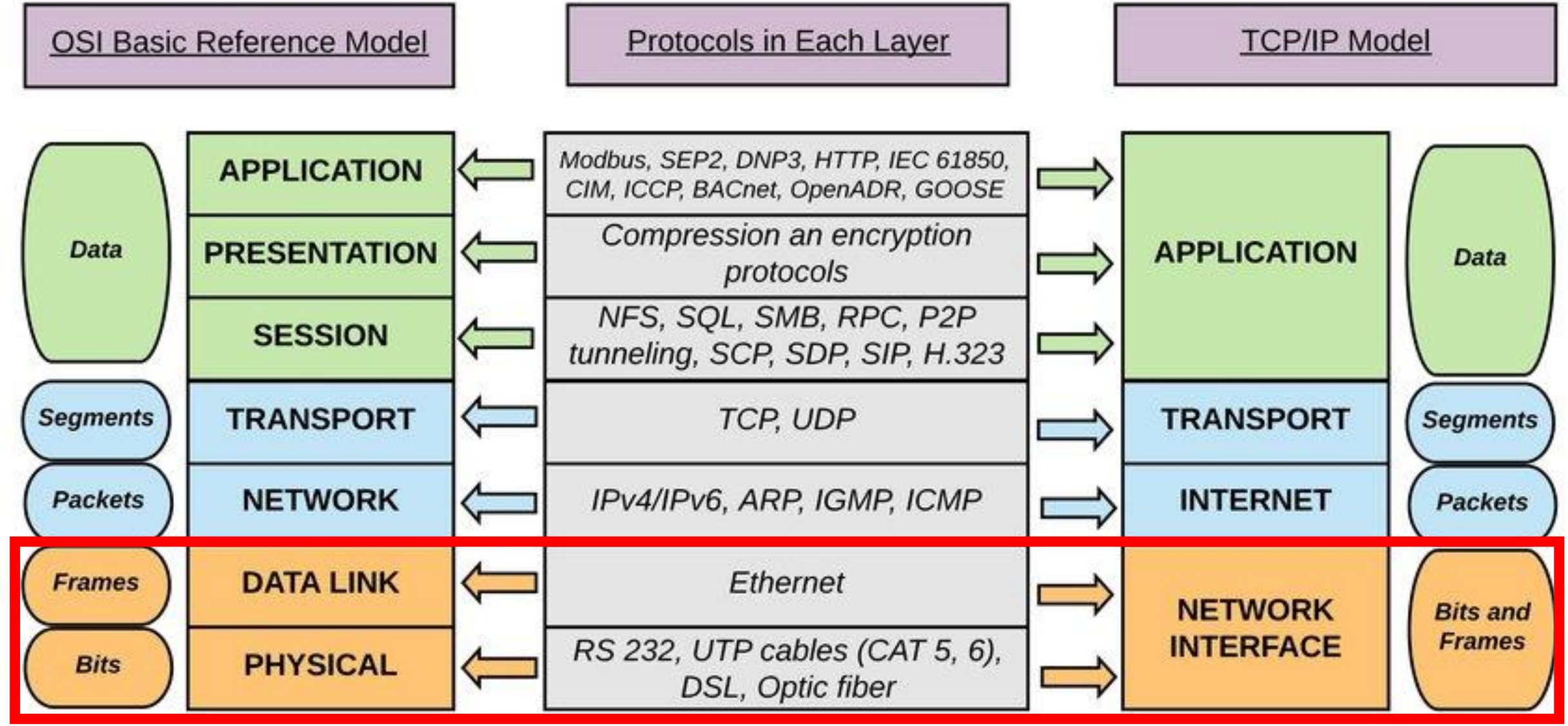

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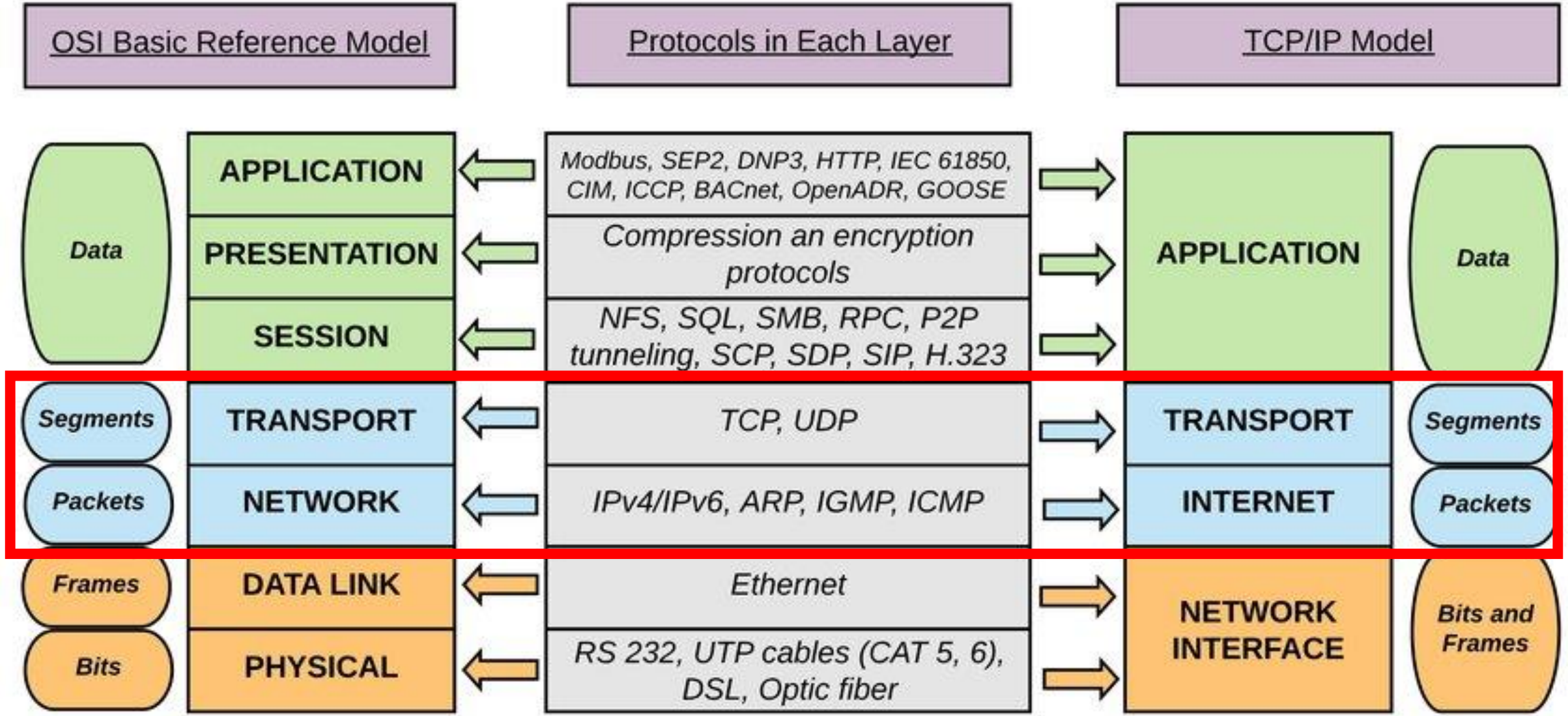

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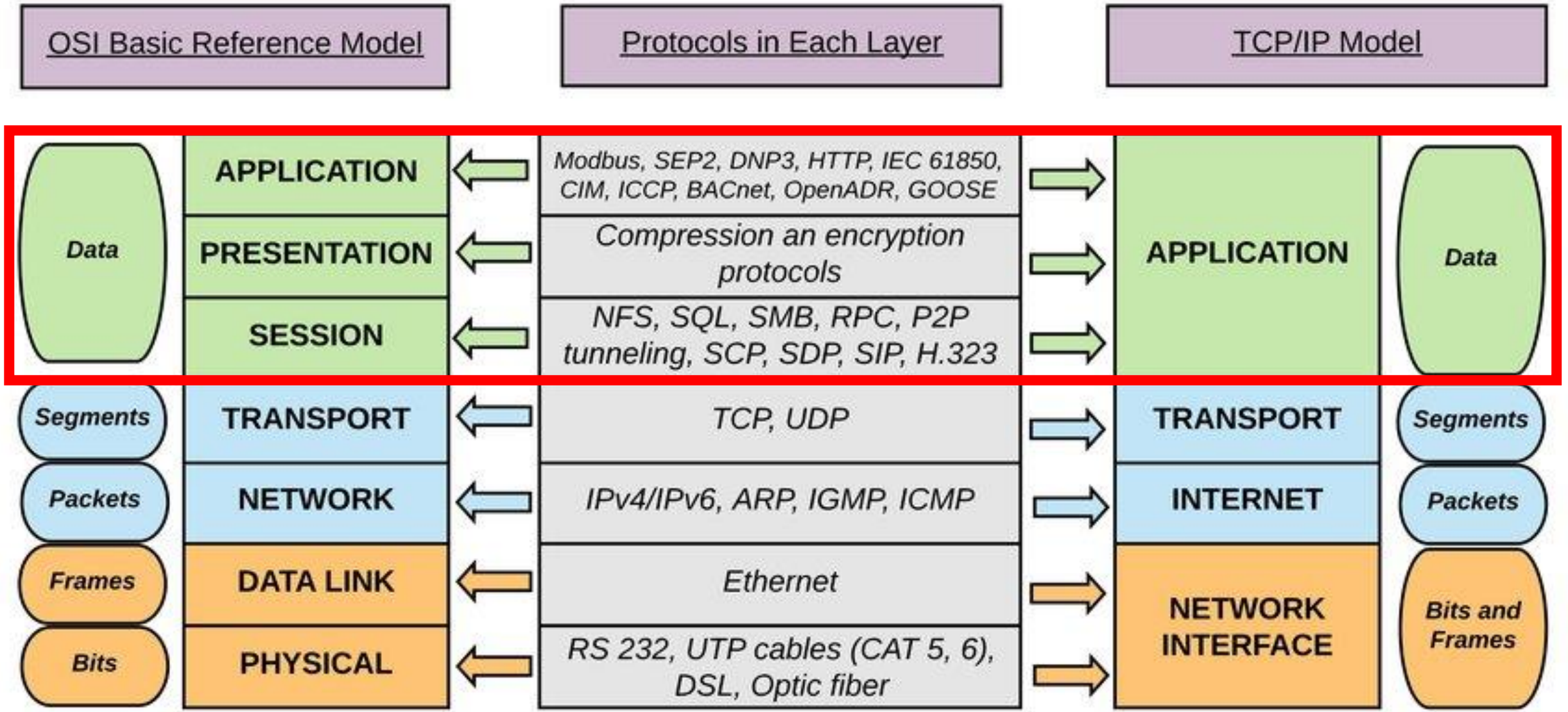

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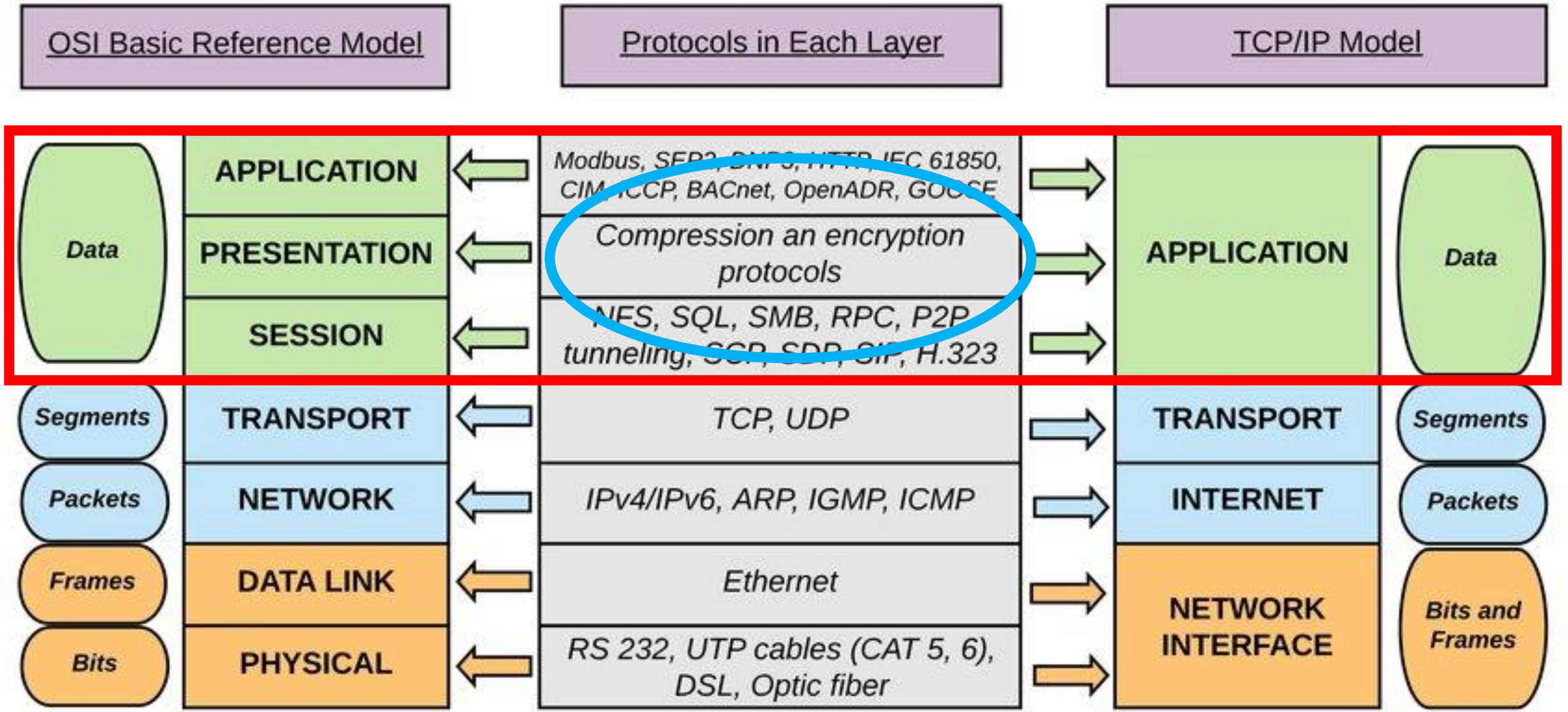

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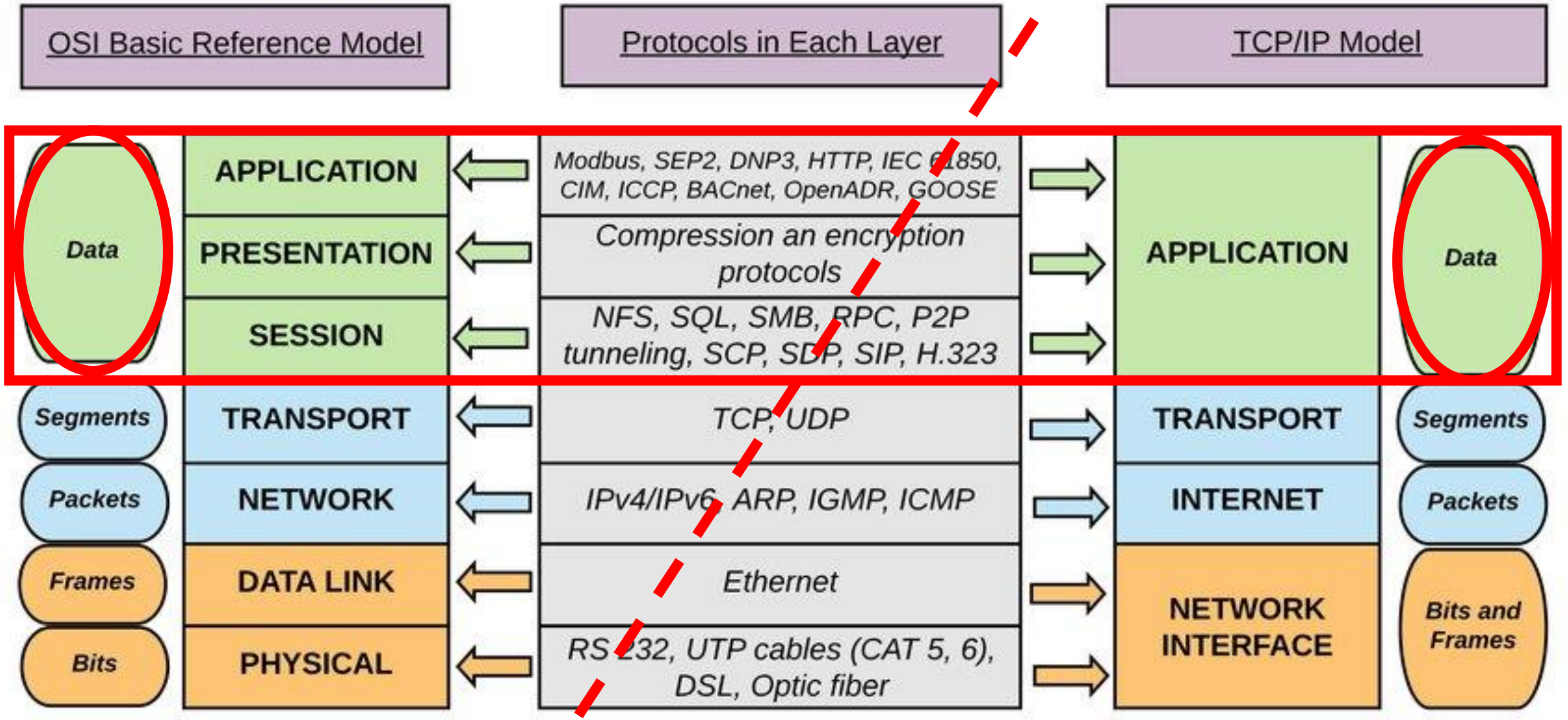
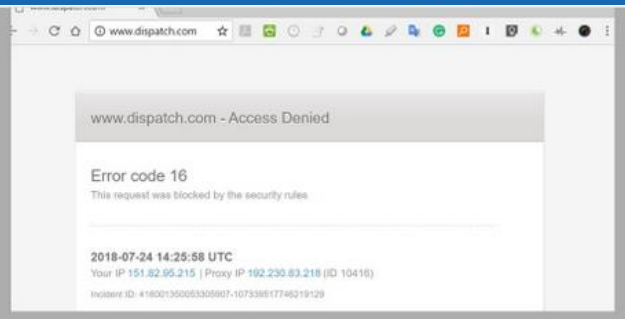
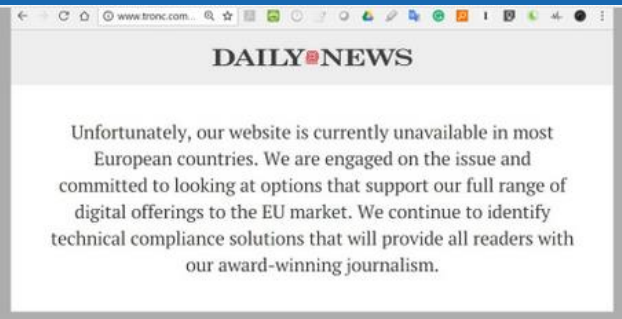
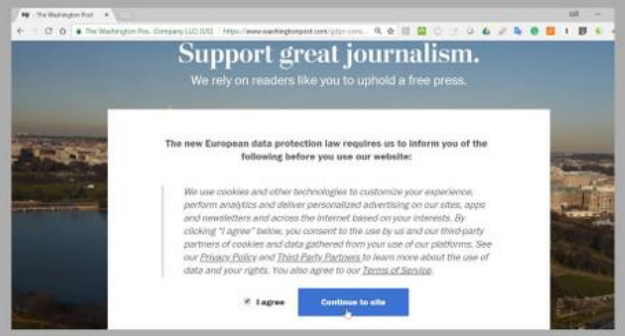


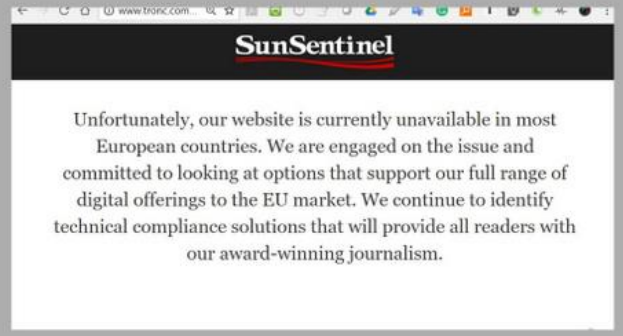
Blocked Site (at Network level)

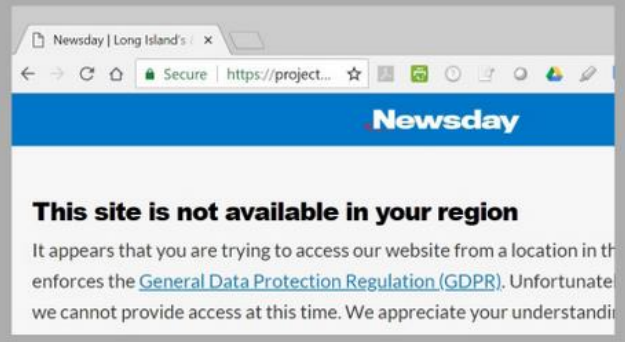
Blocked Site (at Web site level) – 1000+ in United States

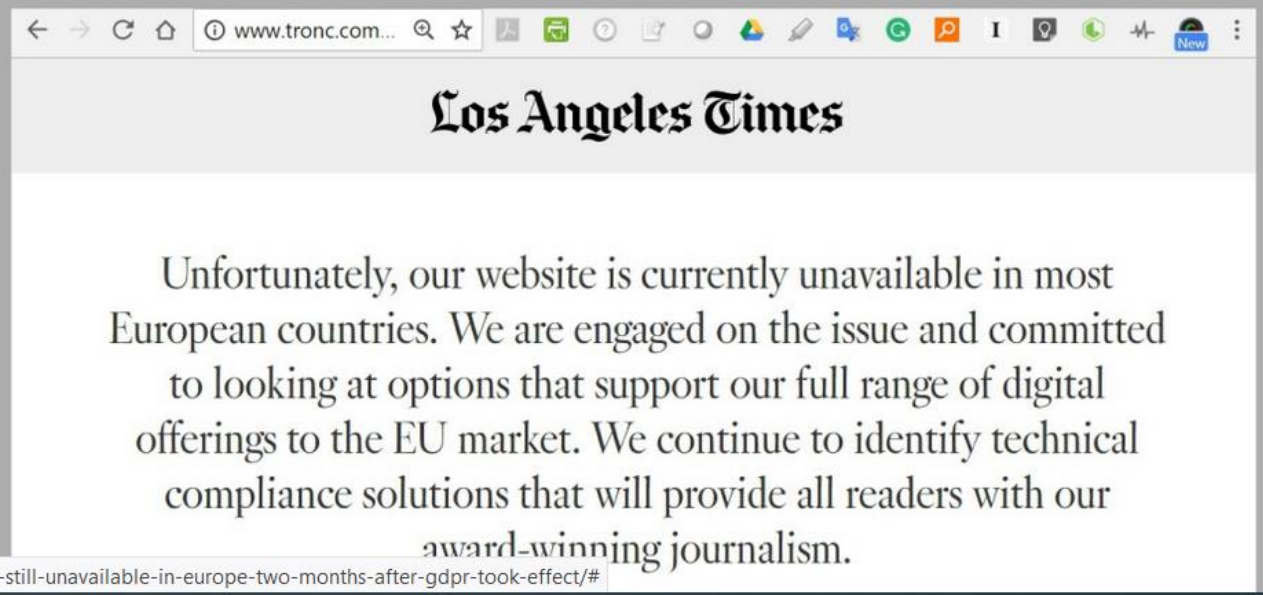


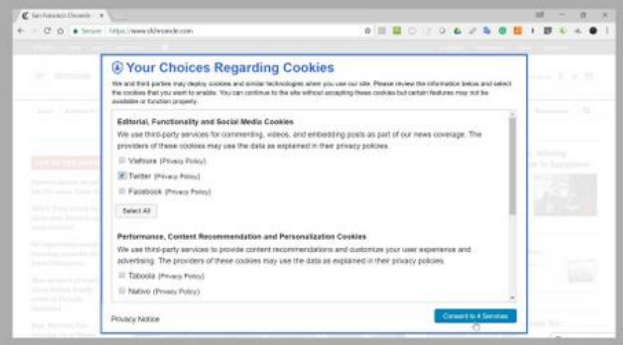












tps://www.niemanlab.org/2018/08/more-than-1000-u-s-news-sites-are-still-unavailable-in-europe-two-months-after-gdpr-took-effect/#

Conclusions

- It is undeniable that there will be more regulation on the Internet
  - The age of self-regulation has reached a limit
- It is undeniable that so far, the ~~dialogue~~ battle has been between Governments and the Private Sector
  - Multi-lateral deals have been struck between the big players and governments
- What impact could this all have on the end user?
- Where is the space for a multi-stakeholder dialogue to find solutions?
- Is a multistakeholder dialogue needed for solutions to be found? Some exist, like for example https://www.internetjurisdiction.net/

Thank you !

Questions? Comments? Suggestions?

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AT-LARGE