
LOS ANGELES – Future Challenges Working Group (FCWG)

Wednesday, October 15, 2014 – 16:00 to 17:30

ICANN – Los Angeles, USA

JEAN-JACQUES SUBRENAT: Good afternoon. We're going to start the meeting of the Future Challenges Working Group of ALAC or At-Large in two minutes.

Hello. Good day, good morning, good evening.

UNIDENTIFIED FEMALE: [speaking in French]

JEAN-JACQUES SUBRENAT: Those who are promoting the idea of examining the work of ICANN and its remit also – not exclusively – but also with some lighting from the human rights angle do have a point because it's not about all sorts of human rights such as cultural expression, etc. It is more to do with, for instance, in the context of WHOIS.

So with that, I will chair this meeting by intervening not very much and it will be actually Holly who will start with some considerations on the shorter term, on things which have to be done actually quite rapidly. And then Evan will take us along on a different track, perhaps a bit more long term.

There will be two or three main themes and I suggest to give the floor to you for your questions or remarks after each short presentation, rather

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than have all this flowing over you and then after one hour you'll be looking at your e-mail, maybe you'll have left the meeting room.

So that was my introduction and I now suggest that Holly Raiche take the floor to talk about the initiatives which are or should be taken in a more immediate sense. Holly?

HOLLY RAICHE:

Thank you. Future Challenges and perhaps this particular working group is very apposite in that – I don't know how many of you were actually at ATLAS II but there was a particular working group which I chaired called Transparency and Accountability or one or the other. It was particularly chosen I think because by then the announcement by the NTIA of their intention for the transition of the stewardship function of IANA to ICANN had been announced and a lot of accountability issues were on everyone's mind.

That said, we in the Working Group 4 came up with a number of recommendations, which we'll have a look at – actually, we don't need to because right now the background to the Working Group 4 was to do things like define what we mean by accountability and define what we mean by transparency.

We tried, and I have to say in the space of probably 12 or 13 hours some of the recommendations reflect some of the things we came up with. Perhaps the most concrete was we didn't think that there ought to be an overarching body of accountability for the Board because then the question arises: who are they accountable to? So we really grappled

with what accountability means in the immediate term in terms of answering issues of accountability.

Now I'll repeat what I said yesterday really quoting Larry Strickling – and this will put accountability very much in people's mind what we mean. Accountability really has two streams. One stream is the immediate and that's got two sub-streams. The other is a longer term one. The one with two immediate streams are to do with this whole NTIA or IANA and Larry Strickling pointed out, in terms of simply the technical functions and those are the ones that are performed by the IAB, IGF, Numbering and so forth.

That's about technical accountability. It's about, do you set standards? Are they transparent? Does anybody monitor their compliance? Who does monitor? Is it independent, trustworthy? Does the public know about it? What happens when things go wrong? It's a whole stream of what accountability means in a technical sense and that has to be answered as part of the response by ICANN to the NTIA's invitation.

There is another aspect to accountability in that very limited – well not limited – but in the context of the transition and that is the larger question of I suppose the whole accountability of ICANN and the Board, and in the context of I suppose the current environment. Larry Strickling's words were essentially, well, what about if there's going to be a hostile takeover of ICANN? That's dark. Those were pretty much his words.

So it's the, I suppose, how accountable, how transparent are ICANN processes and I suppose how durable the multi-stakeholder model in

the short term that will give the confidence of the contracting parties to walk away.

And in that context, there is an accountability issue really for both subsets, one of which At-Large is probably particularly suited to talk about. The other is a technical one but yesterday we started to look through some overarching things that ought to be looked at and that things like what is the transparency of the standards? What is the accountability of the standards? How regularly are they audited? How public is that process? Is there a kind of risk management matrix that's been set up? Those sorts of questions are the ones that we can ask of the technical communities can't answer, but it can at least say, "Do you have this in place?"

The second set of accountability questions are the larger ones that were asked by originally the Transparency and Accountability Working Group, and they wound up being amongst the recommendations that were made to the Board.

What's happened from the process of the recommendation to the Board, the ATLAS II Working Group has gone through every one of the recommendations that went to the Board and basically said, "They have to be implemented. Where are [inaudible] to make sure they are?"

And what that ATLAS II Working Group did was to say, "All these issues of accountability really are Future Challenges stuff. They're not the sort of things that you can answer quickly. They need a bit of thought. They need a bit of real brain power, real discussion and involvement of the community."

When we as ALAC then really is the ALT team – the leadership team – looked at those recommendations. Six of them are really long term. Six of them are thought pieces. Six of them ask, “Put your heads together and come up with some really interesting responses on accountability.”

One of the others, the seventh, is the question of accountability in the short term. What is it that ALAC should say in terms of that subset of accountability? What do we mean when we say the accountability issue in relation to that whole IANA process involves the following? What should be in place?

And so when I say and this is – Ariel, can you get that slide? Talk amongst yourselves. Let me read it. Can we have a full screen? Okay. I’ll read out the one that is immediate that was given to the Future Challenges Working Group, and after I read it I’ll explain where – currently it’s looking for [a home]. The recommendation was ICANN should examine how best to ensure that... That’s not it? Yes it is.

“IANA should examine how best to ensure that end users remain at the heart of the accountability process in all aspects pertaining to the transition of stewardship of the IANA function.”

Now that is, at its heart, part of the whole transition thing. And this is where Jean-Jacques will be involved. For all of his sins, he’s on cross community. Which acronym are you on? I know about three and they’re the same thing.

JEAN-JACQUES SUBRENAT: To respond to Holly’s question, I am on the ICG which means the oversight of the IANA function and the transition of that oversight from the U.S. government to another arrangement which the community will be providing input for and which the ICG will then turn into a document known as the Transition Plan to be sent to NTIA through the Board of ICANN.

HOLLY RAICHE: Thank you, Jean-Jacques. So this recommendation that came out of Working Group 4 really is the basis of saying, “We have to do something.” Sheila, we have a question.

SIVASUBRAMANIAN MUTHUSAMY: I’m Sivasubramanian Muthusamy from ISOC India Chennai ALS. I’m a member of this working group and I have some comments that is meant for Jean-Jacques Subrenat to take to the IANA Coordination Group, that exactly pertains to Recommendation 5 assigned to the Future Challenges Working Group.

It is on the context of IANA transition. What ICANN or the community could consider as necessary is that as far as the IANA transition is concerned, there are adequate accountability mechanisms in place, there is a review process in place, and ICANN has demonstrated during the last few years that it is very seriously committed to accountability and transparency and that it could commit to continue the process. The only thing that was important as far as the IANA transition is concerned is the commitment to continue the process along the same lines so that they don’t consider accountability as a short-term function.

HOLLY RAICHE:

I appreciate that's your view. I'm not sure that's a view withheld by everybody. I think we, as ALAC, have to discuss amongst ourselves what is in place. Is that adequate? What else do we have to put in place?

We haven't answered that question, and in fact what the discussion has been around this table is the need to form a small group of people to deal with the issue of accountability in that immediate process, the short term. The longer term is something else that's completely different. We're at the moment trying to find a home for that one piece of work and it's a specific piece of work in relation to NTIA.

What I've done is – and I probably won't have time to go into it – but one of the pieces will be what's happening to ATRT 2 recommendations? What do they say about accountability? What else is in place? Things like by-laws, constitution. It's going to be a review of looking at what's in place, is it enough, and so forth. So we have not got a home yet. We will have a home for that question on Thursday.

The other slides are longer term. They ask the harder questions about accountability. So we're not solving that first question. It has to have a home and it has to have a way for people to contribute if they want to. Evan.

[ED MONCHONGIA]:

I apologize. I will need to leave for the Universal Acceptance session immediately. But I guess on this particular topic when we scope out the thing, it may be useful to take a look at what mechanisms there are

now, including at ICANN and what the U.S. government – what NTIA’s function is on this particular – how that’s reflected and how we then want to see it, I guess.

And when we talk about now, it should just be what’s in ICANN now but also what’s NTIA’s function and how do we relate that with what we’re talking about in terms of users on this particular point. So that’s just my –

HOLLY RAICHE:

I’m so glad you contributed and I’m sure that we’ll put you – we will draft you onto the small team to say – we want a few people to say literally, “What is there? Is it enough? Should there be more?” Because Larry Strickling was really very clear. He’s absolutely convinced that there are hard questions and people out there who aren’t happy with the answers. Yes, of course. He’s put his hand up. I heard him put his hand up.

JEAN-JACQUES SUBRENAT:

Thank you. Holly, have you finished your presentation or should we – and in that case, we can go over to question and comments or did you have some other things to present?

HOLLY RAICHE:

That’s certainly the first in the main item for this group and then for the decision on Thursday. Afterwards, there are a list particularly for – because this is a Future Challenges Working Group, that’s the mandate next. All of them were referred to the Future Challenges Working Group to address, to come up with decisions about what we do about them,

who does them, in what order, in priority order and so forth. So this working group in the longer term should be looking at those.

What Evan told the Board yesterday was we have an immediate response for the NTIA staff. Those longer ones – the term longer ones – have a home in Future Challenges, but there's a recognition it's not an immediate task. Okay.

JEAN-JACQUES SUBRENAT:

Thank you very much, Holly. That was an interesting and clear presentation. I'm sorry that I didn't make it clear right at the start that perhaps we could take your comments and questions just after Holly had completed her presentation.

So perhaps at this stage I would input one remark. As a member of the ICG, I must say that whatever you do or we do in this group will have to find its way to the IANA transition etc., working group of the ALAC because I will take my instructions or my tune as it were from that working group and not from anyone else. I will take it from this Future Challenges Working Group. So it'll have to be pre-digested, already well-drafted position for it to be made use of in the ICG. I'm not sure everyone was aware of that. That's why I thought it necessary to state this again.

I think we have John Laprise. Please, John.

JOHN LAPRISE:

I don't want to complicate this but I've been thinking about this for a few days – actually, more than a few days. And another way of viewing

this issue of accountability is thinking of it in terms of the appearance of impropriety in an environment of full transparency.

And this is a soft definition because it's a perceptual one. But what we're essentially seeking here is making sure that things are done properly and being able to see everything. Not only they are done properly, but in the event they are not that we have some recourse. And so we want the appearance of impropriety, and should we see impropriety, we want the ability to intervene.

HOLLY RAICHE:

I'm going to interrupt and the reason I'm going to interrupt is you say the appearance, and that it's the use of language that says "[appearance substance] can be different." Could you just clarify that and then go on?

EVAN LEIBOVITCH:

Sorry, just a quick point of order. John what you're saying is absolutely critical and vital. I just want to make sure, are we making the leap from the immediate stuff to do with IANA or into the larger issue?

HOLLY RAICHE:

He's [inaudible].

JEAN-JACQUES SUBRENAT:

Right. John, please go ahead and then we'll have a reaction from Holly.

JOHN LAPRISE: By appearance, that definitely is a subjective measure, right? However, given the scope of the community of users, we have expert users who are expert in how things should function, so it is subjective. But given, I guess, a wisdom of crowd sort of point of view, it's actually pretty good.

And so that's sort of the approach I'm taking in terms of appearance. I'm not taking appearance from an individual perspective, but where you can get a significant minority saying, "Hey, something's fishy about this and something needs to happen about this. This can't go on unchallenged." And then we have recourse to challenge it and to sort of make the case.

JEAN-JACQUES SUBRENAT: Just to add one point to what you called that. It's usually termed "perception" or "perceived" in the language we've used in ICANN for years now. It is the perceived damage or the perceived whatever it is. Is that what you meant, John?

JOHN LAPRISE: Yes, absolutely. I mean, if you look back at the controversy over the triple X domain, it was the perception of – I don't want to say [inaudible] – but the perception of impropriety that really started the ball rolling on that, that something was horribly awry that process.

JEAN-JACQUES SUBRENAT: Right. Thank you.

DAVID SOLOMONOFF: David Solomonoff, ISOC New York. I'm a newcomer here so I'd like to ask a question that will help clarify in my mind some of these issues with certainly I and our chapter are particularly concerned about.

Could you describe a very simple crisis scenario in terms of accountability and trust that would help clarify the issues here and then a little bit of a description of some of the checks and balances that could prevent that type of thing from happening?

HOLLY RAICHE: I am going to start, but I'm in no way going to finish because Evan is going to jump in whether I like it or not and probably Jean-Jacques is going to then jump in. Because I think we all have our own perceptions and I think that's a good thing. Accountability in a technical term, which is where we also have to contribute is going to be that are there measures? Are they – what are they going to achieve? Are they – do we know it's being measured? Is there an audit process? Is there a risk management? All that kind of stuff goes there.

And then we have a more difficult task to define what the accountability is going to be. And as I said, Larry Strickling really – he expressed I think the theory he feels and the administration feels and the questions they're asking. What if there's a hostile takeover of ICANN? Now, that's the way he pitched it to 500 people. I think it's more sophisticated than this. I think John was talking about some of that. But I think that's the first big task we've got.

Evan will die if he can't speak right now.

DAVID SOLOMONOFF: Okay, I'll ask again. Just describe a very, very simple crisis scenario just for me to visualize the problem a little bit better like the xxx or something like that.

JEAN-JACQUES SUBRENAT: I would hesitate to give a complete list of crisis scenarios or catastrophe, but, one, I can seek guidance from the past when we had to replace the JPA with the Affirmation of Commitments, etc. Very much of the work was about for instance the risk of capture, the risk of capture by another government or a collection of governments or by part or a whole [swath] of industry by whatever. So that was one of the crisis or at least risks which were envisioned. So you can update that, but does that answer your question at least partly?

DAVID SOLOMONOFF: Partly, but I was wondering if you could just give like one simple theoretical scenario to help clarify the situation.

EVAN LEIBOVITCH: So you're asking for some specific examples of – oh, they're not all theoretical. Some of them are quite real. We've had situations of accountability or trust issues where, for instance, under the guise of multi-stakeholderism – to me in a sense, multi-stakeholderism means there's no such thing as conflict of interest as long as you declare. And this is very often been used as a smoke screen.

So in other words, you can have a working group that's doing something that has a very, very big effect positively or negatively on a business sector, and that working group can be basically totally dominated by that sector. And as long as everybody sitting at the table declares that they're with this interest, things go on as normal. There is no concept of people recusing themselves for conflict of interest. Under multi-stakeholderism everybody is entitled to a seat regardless of how much you're invested in this.

So just to follow along with this. This isn't theoretical. I have literally been in a room, for instance, arguing in favor of a charter of registrant's rights. A simple document based on perhaps a handful of things that a registrant has the right to – accurate information on who's selling – the details don't matter but even the act of trying to do this. Unfortunately, the venue for putting this forward was in a room where I was the only person who is not a domain seller, and so the natural result of that was essentially a verbal firing squad.

Well, I'm simply saying, David, you asked for an example. This isn't theoretical. You have a situation where real circumstances within ICANN that are perfectly within the rules of how you act in multi-stakeholderism, provide an atmosphere in which there are definitely trust perceptions – some perceptions and some real trust issues – because it's very easy to get captured here when there's no technical concept of conflict of interest because this is multi-stakeholderism.

JEAN-JACQUES SUBRENAT: I'll use my privilege as chair here to suggest that we keep that part of the discussion, which is only one part of a wider picture, for a bit later, if you don't mind. I'll ask now Evan to go ahead with his own presentation and then we can come back to that, if you don't mind.

DAVID SOLOMONOFF: So in essence, you would say that basically that's a case where the foxes are guarding the hen house as long as they admit that they're foxes, it's okay.

EVAN LEIBOVITCH: In ICANN's definition of multi-stakeholderism that is exactly what's happened. I didn't really have a presentation. What I want to try and do is drive the conversation. When Jean-Jacques and I were talking, we were thinking about the idea of going to the staff and saying, "Could you just put up a slide that simply has the word 'trust' on it and shove that so that the word fills the screen and we can work backwards from that?"

When ICANN talks about accountability and transparency, these are not ends in themselves the way so often talked about here. There's a perceived – I perceive it. I know other within the community perceive it – that there is a trust gap. There is a legitimacy gap on whether or not ICANN is doing the right thing in the public interest in terms of the way it's stewarding these critical resources. And so if we're talking about accountability, accountability means more than the Board has fiduciary duty to something. There's a lot more to it than that.

I mean, in terms of perception, you had the person who was the head of the ICANN staff dealing with the expansion of the TLD program who now is the head of the Domain Name Association, the industry group that's trying to promote the sale of domain names. You have the person who was the chair of the Board of ICANN at the time that the TLD expansion was announced at the first Singapore ICANN meeting, who within two weeks had stepped down as chair of the ICANN Board and taken a position with one of the bigger TLD applicants.

These are totally legitimate and within the rules of ICANN. They did not break any rules at all. Because when there is no concept of conflict of interest, there's nothing to break. This is totally legitimate.

But what does this do in the public realm? What does this say about the perception of when people who are supposedly shepherding a public resource? That's what the Domain Name System is. It's a public resource of the Internet. When the organization that's supposed to steward this has so many people that immediately having accomplished something, immediately jump to an organization involved in the exploitation of that something.

And so within At-Large or within my own ALS or within people I talk to, there's a very good perception that ICANN has a significant amount of industry capture. And that to me goes to a lot of the accountability issues. Who is ICANN accountable to? You look at the GNSO, which is the primary body here that makes policy about generic domain names. ICANN has nothing – no authority over Country Codes.

So generic domain names are essentially what they have authority over. How is this broken down? Into two houses. The contracted party house, that is the domain sellers (registrars, registries). On the other side, you have the domain buyers which is an amalgam of a whole bunch of different groups with widely various agendas.

The domain sellers generally have their act together. They know what they want to do. They know where their interests are. They know why they're there. They know why they come to these meetings. They have a very specific thing in mind. We want to sell domains. We want to sell top-level domains. We want to sell second-level domains. We dress people up in purple and have them sell X, Y, Zed – sorry that's Canadian – XYZ.

But the other side of it, for instance, the business constituency has two very, very disparate groups. You have large companies like Ford, IBM, or whatever who own domains, are there either to protect their trademarks or to be able to use the Domain Name System to deliver good services whatever to end users.

Also within the Business Constituency are those who maintain portfolios of tens of thousands of domains with the speculative intention of holding on to them until somebody is ready to buy them.

There was an article – I think it was in the Washington Post or Times or one of them – talking about the owner of Ebola.com now wanting six figures for the domain and concerned about the fact that if they come up with a cure, the value of the domain goes down. This is the world we're in.

And so when you think about the public looking at that and saying, “Okay, is the world in which so many domains are tucked away for the purposes of speculation?” This is part of the Business Constituency, so they have very disparate views, and as a result, very often when it comes down to votes within the GNSO, how do things go?

You have one side of the house that knows exactly what it wants and the other side of the house that’s very disparate. You have business users, you have the domain owners, you have civil society, and the non-commercial groups that have their own civil society agendas which is very heavily privacy-focused, not necessarily how you sell domain-focused but essentially a civil society within ICANN has been successfully but very, very focused on privacy issues, which is necessary but there’s a lot more to all this.

Anyway, what I’m trying to get at is in a very, very roundabout way to answer your question about accountability. When the public looks at all this, what do they see? When the public looks at all this and says, “Why do we have 500 new TLDs? Did ICANN engage in any market research to determine whether or not there was any need for this or any market demand?” I don’t think there was any done. Go ahead, Dave.

DAVID SOLOMONOFF:

You have clarified this a lot. I’m going to ask another question, but if people want to wait a moment and clarify whatever before going to it, could someone describe what they would think of as the worst event scenario – the nuclear catastrophe scenario – in terms of a loss of public trust in ICANN.

JEAN-JACQUES SUBRENAT: John Laprise is a volunteer to give you that.

JOHN LAPRISE: The catastrophic event is an easy one. That is ICANN in some way completely either invalidates or screws up the root zone and bringing global chaos to the Internet through some error, malice – who knows? But it's their watch.

DAVID SOLOMONOFF: Okay, that is the saying that goes, "Shit happens." But there are different kinds of bad things that happen to the Internet now and then for a variety of reasons in terms of security breaches and malicious hacking and stuff like that. That's the bad thing in terms of the operation of the Internet. What's the bad thing that would happen to ICANN the morning after the bad scenario you just described?

JOHN LAPRISE: Before getting into that, I'll give into a more minor but very plausible, possible bad result and that is that there are so many TLDs, that whole pile of them fail financially. Now, within the plans of the TLDs, all of them must have transition. What happens if you fail? That's part of the application process. But think of what that does to not only public confidence in ICANN. Think of what that does to public confidence in the DNS.

If all of a sudden you had let's say tens of thousands, maybe hundreds of thousands of domains having been bought in TLDs that simply weren't enough to enable the registry to sustain in going on, and it just said, "I give up dot-blah. I can't maintain it." If you had a dot blah domain, it is now being handled by somebody else that may have different rules, different policies, different whatever, they're still being governed by ICANN but all of a sudden it's a very different place than you thought you bought into.

That's a plausible way of going because we're got five – we've got hundreds and hundreds of new TLDs. It doesn't make sense to think they're all going to be able to survive financially. So what happens the moment the first ones of them start either failing, giving up, or whatever?

We've had a circumstance already. Do any of you know that there exists a .PRO top-level domain? It exists and it's not part of the current round. .PRO has existed for quite a while. It was part of an earlier round.

And when .PRO came out, they came out with the promise that in order to get a .PRO domain, you had to have professional credentials – either a CA or you had to have your bar exam. Or you had something that proved that you are a professional in your field – your engineering ring or whatever. So you had to prove credentials. So at the beginning, .PRO was supposed to mean something that you had passed some kind of professional certification in the field of your choice in the country where you practiced.

But what happened? It didn't sell enough. So what happened? One day they said, "Sorry. It's wide open." So what happened to everybody who had bought under that thinking that being in .PRO meant something? That it meant when you went into that domain that you could find people that had that professional certification. All of a sudden it was wide open. So a medical doctor is there and so is Dr. Seuss.

So what does that do to public perception? Something that once was a source of public trust overnight is no longer a source of public trust. So what happens now? A new TLD came out: dot .PW It's a two letter. So it's a Country Code of some kind that I don't know, but the marketing for pw said, "Guess what? In order to be pw, you have to demonstrate professional credentials." Sound familiar?

A business model that has already failed once and has led to a decline in public trust in one particular corner all of a sudden now the same thing is being tried again. And what was Einstein's definition of insanity? Trying the same thing over and over and expecting different results.

Sorry, Holly.

JEAN-JACQUES SUBRENAT: Holly, taking over.

HOLLY RAICHE: My question then is what would you build in so that it doesn't happen? Because you've outlined a scenario and—

EVAN LEIBOVITCH: [inaudible]

HOLLY RAICHE: No. I've said you outlined a scenario. What should have been in place that was not that we could put in place so that when other circumstance hit, there will be not the harm to ICANN. Right now we're going to have to come up with something that says accountability in the context of NTIA transition. What should we put in place? My question to you is: what would you have put in place that would have stopped that?

JEAN-JACQUES SUBRENAT: Yes. State your name, please.

UNIDENTIFIED MALE: [inaudible] from ISOC India Chennai At-Large Structure. Even if something has to be put in place, in the IANA context, is it possible to debate the site and put it in place within the framework that was stipulated for IANA transition? That's my whole point.

Within the stipulated framework, we can only look at possible directions that we can take and possible course for progress in accountability and transparency and make assurances. And then on top of [commencing] NTIA that already has a framework in place which happens to be working, which happens to be heading in the right direction, but instead we say that we'll put this in place, we'll put that in place, all before IANA transition. It is not possible to put something in place before the timeframe. So it's a long-term process. That's my point.

JEAN-JACQUES SUBRENAT: You are absolutely right. Yes, this is part of the debate but we're not capable of coming up with a solution which would be a viable input for the ICG if it takes this long to discuss it. We have to air our views, but let me give you this also from my experience on the ICANN Board.

The thing of trust and accountability and transparency has come up on several occasions in the life of ICANN. So let me try to sum this up and see what were the elements which were discussed and which appeared to be at that time at least a valid – not guaranteed perhaps – but a valid element which we should take care of or integrate into our thinking all the time.

One is the notion of the global public interest. I remember that when I was in the Board and I had suggested for the [inaudible] statement of ICANN, as it were. There were two or three of us on the Board who had suggested the notion of the global public interest, and it was hooted down by some Board members. It has taken quite a number of years but now in the statement of mission of ICANN, it is there. There is the global public interest.

Now, it may still take some time to persuade everyone on the Board and in various parts of ICANN that this should indeed be the guiding line of ICANN, but at least it's there in writing. That's one thing.

Another thing is about mechanisms. We have to have the right sort of process which is still very imperfect but we should go on improving that process so that in making policy in the decision-making process of the ICANN Board also that little by little we go towards a process which

becomes more and more foolproof. So depending on the subject, I agree with you that we are successful or not successful. But I'm talking about a general trend.

I'll give the floor back to [Evan] to continue his presentation, because otherwise, the risk of this meeting this afternoon is that we go all over the place without following a track. So I'd ask Evan to come back to his track, finish his presentation, and then we can more validly open the floor. I don't mean that the interventions so far have not been interesting. They have been very interesting. But for the sake of method, let's do that.

EVAN LEIBOVITCH:

I'm going to agree with Jean-Jacques, but I want to take to heart what you're saying and along with what Holly is doing. So perhaps what we want to suggest is as some general guidance to the short-term team in saying, okay, there's some quick deadlines that have to be met. There's some quick comments that have to be made. But some of them can be deliberately in anticipation of a larger statement of a larger issue of accountability that has to be addressed.

So the short-term one still has to be made, still has to meet the deadline, still has to deal with whatever specific process exist right now to take that information. But then it can be written in a sense that deliberately points to this, this, this has to be done and also this process does not end here. There is an ongoing accountability conversation and process that needs to be had going forward that is not going to take

place quite as quickly as the NTIA transition needs to happen. Is that reasonable? Holly.

HOLLY RAICHE:

That's exactly what we had in mind. When we said there's one recommendation that has to happen quickly – there are however many others – that are longer term that actually go to the heart of what Jean-Jacques is saying, which is essentially go to the trust. Go to accountability.

Some of it – looking at the ATRT2 recommendations, ATRT1 recommendations, those sorts of things, that's not going to happen overnight. But if there's a framework, if it's a kind of, "These are the tests you have to run, these are the things you have to do..." And we have to do this in the short term. We have a deadline, so we cannot say, "Too hard, too long term, we can't do anything." We have an opportunity to do something, and as Evan said, "To point to a longer term conversation."

But to start saying – and this is a conversation that Evan has had with review of the GNSO – essentially saying the way that decisions are made in ICANN right now tend to be in the GNSO with contributions from what's called Advisory Committee.

If you start to rethink that and say, "Why should policy be only in the place where there is a particular contract and everything else is advisory?" Why don't you actually rethink what you mean by advisory and say "everybody's advisory" or "nobody's advisory." Everybody has a seat in policy or nobody does.

I mean, why don't you start to say, "Look at the structures, look at the way decisions are made. Look at the checks and balances. What can you do in the short term and in the longer term?" Because if we don't start to come up with something short term, something that's got to be a proposal by January 15, then we're going to miss an opportunity to start to set things going.

And Evan is absolutely right. If you look at the recommendations from the ATLAS II from the working group, those are the recommendations of longer term. Those and some things at the ATRT2 came up with, that the ATRT1 came up with. So we're stuck with a two-pronged attack. "Attack" is the wrong word. A two-pronged approach. Let's be diplomatic here.

JEAN-JACQUES SUBRENAT: Thank you very much, Holly. That puts it into perspective very nicely. Evan, did you want to respond to Holly or just carry forward your presentation?

EVAN LEIBOVITCH: No. I mean, this is exactly the things we need to do. So I guess... Dave?

DAVID SOLOMONOFF: [inaudible]

EVAN LEIBOVITCH: We're more than an hour into this meeting. So, what I think is going to be the right thing to do is start to be working on the outputs that need to be happening. So I'm proposing at this point, Holly, that you are essentially chair of this little subgroup. We've already volunteered on their own behalves the people that have left. So, [Edmon and Siva] are already conscripted.

John and David merely for persevering here and showing interest, could we conscript you into this, as well? It definitely is going to need some talent. And you folks actually bring some fresh blood into this.

JOHN LAPRISE: I was already on one of the conference calls, so I guess I'm in already.

DAVID SOLOMONOFF: I'm at the earlier start of much broader and more ambitious projects, so certainly I would like to get some input with this, which is looking at kinds of standards and protocol issues for a variety of new technologies with an eye to privacy and security and that type of thing, and human rights issues. But I'm a little bit overwhelmed. I very much want to be a part of this conversation for obvious reasons. But I might not be able to make a full commitment to this – this group. Can I now ask my follow-up question or is that...? Okay.

EVAN LEIBOVITCH: It's contingent to a new coming in at whatever level you feel comfortable.

DAVID SOLOMONOFF: Well, okay. I was a small level and being part of the conversation [inaudible]. Okay. What I wanted to go back and get a sense of what we'll call the day after or disaster scenario, we had a great session here with Evan earlier today about discussing alternate DNS systems. And also where at the beginning Evan pointed out that there are ways that the DNS is being supplanted by social media, search engines and also we have situations where internal organization maintains their own DNS or certain countries firewalling their Internet off and that type of thing as well as actual alternative DNS issues – systems, many of which have failed but there are a few ones on the horizon which I think that are much interesting ones, probably are ones that use the new crypto currency-based bitcoin and related technologies to do.

My question really is could you see the worst event scenario where one of these bad things happen that we were discussing earlier and that reduce the trust enough so that there would be a faster migration to some kind of alternative to the current DNS system?

And just to clarify or to help visualize that, I would like to make an analogy between the impacts that the Snowden revelations had on American cloud computing services. So a lot of business analysts think that tens of billions of dollars were lost because of the loss of trust in American cloud computing services. Could something like that happen? That's the question.

JEAN-JACQUES SUBRENAT: I'm not a specialist in this field. But I think that, David, you've given some very interesting examples. I think that in the longer term, perhaps not for the work Holly is going to lead but for the one that Evan and I are supposed to lead, I think yes, we have to look at those aspects also which is accountability, also through the effects of changing technology.

Here I would like to add a notion to what you said, David, which is very interesting. Things may change and they may be major shifts. Companies may disappear not only because of the lack of trust, but simply as an effect of competition on technology. Sorry?

DAVID SOLOMONOFF: "There's a better mousetrap," as the saying goes.

JEAN-JACQUES SUBRENAT: Yes, the "better mousetrap" design. Exactly. So we can't boil down everything to only a matter of public trust. It is an important element. We think that at this stage in the life of the Internet and of ICANN, it is certainly a crucial element which has to be improved. But that is not saying that we can exclude that someday, for technological or geopolitical reasons, the picture may change entirely.

So I think our duty here – let's be realistic – is to work on scenarios which are likely or probable. We do not exclude any of the worst-case scenarios you are pointing at, David. Simply, we should be complete and list them, and perhaps in the certain order of probability. But that's our duty. Otherwise, I mean let's make a film. After all, we're in Los Angeles.

DAVID SOLOMONOFF: Fox Studios is down the street. Just run down there.

JEAN-JACQUES SUBRENAT: Exactly. But we're not in the business of making horror film. We don't have the money, first of all. And we don't have the right actors or actresses. So, your point is taken, David. I'm simply putting that in perspective in saying for the purposes of this work in this Future Challenges Working Group, it's only one element. We can list it. We can't study all its effects.

So, John Laprise.?

JOHN LAPRISE: I'm going to put on my academic hat and direct to some of your questions, one of which is that, as far as the [inaudible], the Snowden revelations go, I think that what has happened is basically the information that was out there about government surveillance was out there prior to Snowden. This is simply a market correction based on better information or [inaudible] of information. And we've reached a new equilibrium where businesses are now actually aware – as they should've been before – but they're publicly aware of the risks of that. So that's now been priced into the market which is the “loss of business” that you were talking about.

In terms of the change in adoption for something catastrophic, I would say that you look in adoption [inaudible], you would need an alternate DNS solution that would be at least in the neighborhood of being as

user friendly and as easy. Because if it isn't, you're not going to get that wholesale migration.

EVAN LEIBOVITCH:

If I can make a point of order. We're getting a bit off topic in the sense that what you're describing, David, and what you're answering, John, is a bit of an "or else" scenario.

The primary purpose of why we're here is to fix ICANN and make ICANN better. And so a lot of these, "What are the alternatives?" – they're necessary to be aware of and they probably need to be noted. But that, in effect, becomes part of an "or else." So if ICANN doesn't get its act together, there's all these alternatives, there's all these other innovative approaches that are waiting in the wings to serve the public in mapping what people want – two IP addresses or whatever.

So while what you're saying is all valid, in the context of what we've been charged to providing into this process is improving ICANN's accountability, improving the trust in ICANN, improving the legitimacy of ICANN, it's necessary to say, well if all this goes down the tubes, yes, there's something else that can take its place. There's a whole bunch of other things that can take its place, but job one is trying to make this better.

JEAN-JACQUES SUBRENAT:

Exactly. David, I ask that we stop this part of the discussion now because it's already 17:15 and we haven't even started looking at proposed

output which is really what we're here about, right? But I very much value your input. Thank you so much, David.

Okay, a very brief thing then.

DAVID SOLOMONOFF: This is very brief. Okay. Yeah, just my point is that these discussions bring a greater urgency to any kind of proposal that this group will make. That was just my point.

JEAN-JACQUES SUBRENAT: We got that. Thank you, David. Now let's look at the proposed output which is also next steps. We won't take long. Maybe five minutes.

First of all, what kind of deliverable do you think we should or can make? I see two things. First, as we said earlier, Holly has accepted to be the leader in answering that immediate task which was allocated through ATLAS II, right?

So in the e-mails we'll be sending around soon as a consequence of this meeting, there will be a call for a discussion led by you, Holly. Can you give something more precise on that?

HOLLY RAICHE: Yeah. One step which is, in principle, ALAC has already agreed that there has to be something. [Alan] is going to develop some kind of charter I think and we're voting on it at the ALAC meeting, Thursday – tomorrow. In fact, tomorrow there will be this – at the moment [inaudible] thing

for the short term, specifically with the term of reference for that accountability piece in the NTIA thing. So I'm happy to be whatever it is for whatever it is and it will be finalized tomorrow.

JEAN-JACQUES SUBRENAT: That's a very generous open-ended statement. My goodness! What a risk. There are in effect two approaches and two tasks at hand. One is the one that Holly has just detailed. The other one will be taken care of more by Evan and myself with your vast and wise contribution.

So about the second part, which is more long-term approach and not linked directly to the timeline of the transition work, we have the impression – Evan and I – that we should have online meeting let's say once a month, and in between the meetings, then of course we will have all the exchange by e-mail that is necessary.

Now this will be done first through a report that Evan and I will be sending out as a result of this – today's meeting – with some suggestions on the way forward, a language which we think would be useful to be used.

Now, the next question is what deliverable do we see? Here we have an example, which as I said at the beginning of this meeting was quite successful actually. It was the white paper. It started off as a document from the Future Challenges Working Group. It was presented to the full ALAC and which was accepted by the full ALAC unanimously and that's what became the white paper. So that's one possible outcome or product.

At this stage, I put a very specific question to all of you: do you think this could be an appropriate product or do you have in mind something quite different?

Holly?

HOLLY RAICHE:

I think what we probably need as an output, given that whatever we contribute has to be a contribution of ALAC, is to come up with dot points of what accountability might look that is possible to be commented on in time for the January 15 deadline. So not come up with final text but come up with a “we think that these things should be part of the response to the NTIA’s call for a plan” and it would amount to a discussion paper for ALAC for that contribution. I think that’s what we’ve got to do.

EVAN LEIBOVITCH:

On a more long-term basis, I’ve already started putting together the kernel of what could be white paper. The traditional method that I’ve used and has worked well for myself and other people within At-Large is to use something like a Google Document where multiple people have editing privileges, the ability to come in, change, edit, comment as necessary. I found this to be a very, very good way to have multiple people working collaboratively on something.

Basically, we’ll take the inputs from this meeting together with those Thematic Group 4 recommendations for the longer term accountability issues, see if I can put together the kernel of something that perhaps we

could turn into a full-fledged white paper. Put that up and put it in front of everybody for consideration. And either tearing it down and rebuilding it from scratch or at least we're working on it, but at least giving a starting point.

JEAN-JACQUES SUBRENAT: Thank you. I think that's a very good way forward and, in fact, it is the model we have already followed. If on the way we discover that there may be some other improvements to bring to this method, fine. We'll look at it carefully. But for the time being, I think we agree that this is the way forward.

Now, we have promised to end our meeting at about 20 minutes after 5:00 PM PDT. This is the case – it's 17:21 – because there's a meeting just after us by the North American RALO and we don't want to keep them up. So thank you very much to the interpreters for their patience in this exercise. Thank you so much. Thank you to the technical staff and thank you to staff for the very precious support, as usual. And thank you for the very numerous gathering here and online.

Future Challenges is always a difficult exercise. It was the case in the past. It remains the case. But the important thing is the product. Thank you. This meeting is adjourned.

[END OF TRANSCRIPTION]