
SÉBASTIEN BACHOLLET: Thank you very much, and hello, everybody. We are starting our second call on the team about the ICANN Ombudsman, Ombudsman as we have decided to say. And I hope that you were able to read, the ones who didn't participate, the last call, the minutes. And we will start, just to be sure about...

Do we have new member or new participant or new observer, since the beginning of our group? Or is it staying the same group? I know that it may be on the wiki, but I didn't have a look. Brenda or Bernie, can you tell us, if it's possible?

Okay, no answer. Then we will do that later on, if there needs to update the list of participants, those active participants and observers. And we are having this, the second call. In between the first and the second, we had the call from the whole group of the CCWG on Accountability. And some of the issue we were discussing last time were discussed in the group. And we will come back on that during the call.

And welcome, everybody. Let's go to the next slide. It's the agenda. I'm sorry not to have sent this agenda to all of you prior to the call. But yesterday for me, and even this night, was quite busy. We organized a blues festival in my city, and it was quite tough. But hope that you are okay with this agenda. If you have any other items or anything else you want to add, feel free to say that now or later on in the call, and we will add it in the agenda.

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Okay. That's the schedule of our call. I will try to keep it update with the participants for each meeting. And I'll let you know what are the next calls scheduled.

Asha, you want to take the floor, please?

ASHA HEMRAJANI:

Thank you, Sébastien. So I just wanted to make a request, see if it's possible. I know we have the proposed time slots. And you had asked last time if we had any questions or requests regarding these time slots. So I just wanted to ask if – because we had three different [census]. We have 5:00 UTC, 1:00 UTC, and 7:00 PM UTC. I was wondering if the other members of this group are agreeable, if we could change the 7:00 PM UTC ones to either 5:00 AM or 1:00 PM UTC.

Yes, I see what Avri just typed. You're right. We are doing rotating [time sharing], but I am just asking if this is possible. But means we do away with the 19:00 and then we make the 19:00 into 5:00 AM and 1:00 PM, if that is possible. I'm just asking a question.

SÉBASTIEN BACHOLLET:

Sorry, I was on mute. It seems that fortunately, people are coming back to me. Sorry. To answer Asha, I will put the question in a mail and ask the feedback on this question. I don't think we will solve it during this call. And I would like us to go into the substantive work now.

Now, we have the task of our group. And we will go step-by-step in all those points, or part of those points, during the discussion. And let's go to the next slide. That's where the action item from the first call. And

you read what we decided to [inaudible] but I will try. And we are talking about the Office of the Ombudsman, that the person with the role of the Ombudsman. And by the timeline, I suggest we come back to that with the feedback from the CCWG on Accountability full group. And the other points, we will see in the next slide.

We discussed the question of dependency between subgroups. And that's not just the dependency. It's important also for the scheduling of our work. This was discussed with all group, and we are in the process to revisit this discussion to. But we will try to have all the, as much as possible, the issue of coordination between groups at the beginning, if it's possible. And it was agreed by the full group last time.

I asked for coordination, and we had all of them complete except the one on IRP phase 2. I just received a mail from Ed, who is online, with the... [I remember], you have all the person who accept to be coordination or to be liaison with the group. And I will try again to reach Robin to see if she is willing to do this for the IRP phase 2 subgroup. And thank you very much for all who give their agreement to do this job. It's an important one to help us to dive into the points raised in other group and to be sure that we are not missing anything in this work.

I will ask Cheryl, if she is online. She is not. Even on the phone, you are not, Cheryl?

Okay, then I will ask her when she will be able to give us feedback about the question we raised last time, if there are any stress tests dealing with Ombudsman for [part]. I guess that she will hopefully tell us, and I hope that it will be possible to do that one hour next call.

Okay, thank you. It seems that Cheryl will not be able to participate to this call today. And I hope that she will be able to be on the next one.

Okay. Now, one of the main tasks – and it was a request from the Work Stream 1 – was the evaluation between the current Ombudsman charter and operation against industry best practice. We had the link here with the Ombudsman framework and with the best practice from the International Ombudsman Association. And I think it will be good if we can do it and start this work now.

It's in the next slide. I would like to suggest that we split the work between four items, four group of items: one about the independence of the Ombuds Office, the neutrality and impartiality of the Ombuds Office, confidentiality, and all informality and other standards. If it's acceptable by you – and I will stop here to have your feedback – I would suggest that we try to find some volunteers to do the work in each of those four topics and to have the ball going.

Any comments? Any ideas on how you want to do this work? I hope that I will not be the only one speaking during the whole call, because it will be boring for both you and me.

Okay, I don't know if I can take that as an agreement that we can organize the work like that. But at least let's start with this assumption. And if we need, we will change it.

Thank you, Mike. Please, take the floor.

MIKE SILBER:

Thanks, Sébastien. I'm just wondering if we're not creating too much complexity by trying to break this down into small items. To me, all four of those are kind of motherhood and apple pie concepts that nobody is going to disagree about. We all agree that the Ombud must be independent. We all agree that there's got to be a high degree of neutrality and impartiality. The process needs to be confidential.

In terms of other standards, I think there's a bit more work that's required. But I'm not really sure what point there will be in giving a work team to draw down on each of those individually. And I would have thought that what we would rather do is do a comparison of the current framework, one or two of the comparative frameworks that have been offered, start extracting key principles, seeing where there are differences. And then once we've got that chart of options, differences, approaches, then we can start looking at drafting rules to ensure that those principles are enshrined, in terms of the actual execution. But I'm just concerned with creating work parties whose work will be done in 15 minutes.

SÉBASTIEN BACHOLLET:

Thank you, Mike. And no disagreement here. My point was to try to... Maybe if it's just 15 minutes... I was not sure that I will find somebody or a group of people willing to the whole work. And it's why, taking into account the different documents, I tried to split it in four. But if someone is willing to take the whole package at once, I have no trouble with that at all. And maybe it will be as short as you say, as it was a request from Work Stream 1.

But, yeah, if there is somebody or a group of people willing to do it in once, why not? It was [all of] the work not to make it totally complete [inaudible]. But thank you for your feedback. And let's see who will be willing to do the work and how we can organize it. And I get your point. Thank you.

Herb, please?

HERB WAVE:

Yes, Sébastien, thank you. I agree with Mike that these are pillars of any Ombudsman's Office. If there's to be a comparative element of research going into this, potentially it would be to compare the various types of Ombudsman's Office. There's the legislative Ombuds, the organizational Ombuds, versus the ICANN hybrid, which is more of an executive Ombudsman.

So if you would compare, for instance, the quantity of university Ombuds in the United States versus the legislative Ombudsman that are in the international organization of IOR, which are the legislative Ombuds, basically the ones that are hired by the provinces, states, governments to work with legislation. So there's a lot of variance in those types of Ombuds Offices. And they work differently, depending on their legislation and their powers. So there is a little bit of research that could possibly be done in that area. Thank you.

SÉBASTIEN BACHOLLET:

Thank you. Ed, please, go ahead.

EDWARD MORRIS: Thanks, Sébastien. I don't want to muddle things a little bit more. One of the concerns I've had over what folks in other groups, and throughout the CCWG, process –

SÉBASTIEN BACHOLLET: Sorry, Ed, can you speak a little bit closer to your mic? I guess you are very –

EDWARD MORRIS: How is this, Sébastien? Is this better?

SÉBASTIEN BACHOLLET: It seems a little bit better. Thank you.

EDWARD MORRIS: Okay, thanks. So one of the concerns I have is what a lot of the other groups...

SÉBASTIEN BACHOLLET: I guess we lost you.

UNIDENTIFIED FEMALE: Hello? Did we lose him?

SÉBASTIEN BACHOLLET: I guess, yes. We will check. Can we try to reach out to Ed? As soon as he's back online, we will give him the floor.

Any other feedback? And I will read why Mike Silber put in the chat during this time. "Could we ask someone from the current Ombuds Office to start with that?" And as you read our – or at least my mind, but my next slide will give part of the answer to that.

But if, Herb, you want to take the floor, as we are waiting for Ed?

HERB WAVE: Thank you, Sébastien. I'm not exactly quite sure what Mike is asking. But if he's asking about an analysis of independent, neutral, confidential, and informal, I am available as a resource and more than happy to help the working group in any way that I possibly can. I can supply the links and resources. So I am totally available for any assistance I can give in any of the sub-working groups that will be coming forward.

SÉBASTIEN BACHOLLET: Thank you.

UNIDENTIFIED MALE: [crosstalk]

SÉBASTIEN BACHOLLET: Mike, can you wait for the next slide? Because I hope that part of the next slide will answer the question. But, yes, go ahead if you wish.

MIKE SILBER: Thank you. My thought was it's always easier to work off a draft than to start initiating from scratch. And I just thought if we can work on one or two charts or comparatives. For example, definitions of independence under different models, or definitions of independence under different frameworks, codes, etc., then people can start adding in and working out what's missing. So I was just thinking that the Ombuds Office could possibly just do a very rough first draft, and then people could start editing from that. And particularly, if we put this into an online repository, like Google Docs, where people can actually edit in real time, rather than having to circulate redline versions around, when we've [got] very much of the information-gathering stage.

SÉBASTIEN BACHOLLET: Okay. Thank you, Mike. Ed, you are back online. And please go [for it].

EDWARD MORRIS: Thanks, Sébastien. Can you hear me this time?

SÉBASTIEN BACHOLLET: Yes, very well. Thank you.

EDWARD MORRIS: Okay, fantastic. Yeah, a concern I had, when I was looking the things we're actually looking at, is that a lot of the groups, a lot of the CCWG work, in the past year and a half, two years, has...

SÉBASTIEN BACHOLLET: Oh, I guess we lost Ed again.

UNIDENTIFIED MALE: Hello? Hi?

SÉBASTIEN BACHOLLET: Hello?

UNIDENTIFIED MALE: Hello?

SÉBASTIEN BACHOLLET: Yes, what happened? Who are you? Who is speaking?

EDWARD MORRIS: Can you hear me, Sébastien, at all?

SÉBASTIEN BACHOLLET: Yes, Ed. Go ahead.

EDWARD MORRIS: Okay, thank you. Wow, this is strange. Anyway, a lot of the groups have given responsibilities, or proposed responsibilities, for the Ombudsman that go far beyond the basic concept of...

UNIDENTIFIED FEMALE: We lost you, Ed.

SÉBASTIEN BACHOLLET: You are cut off, Ed. And it's difficult to hear your full sentence. You are at the middle of a sentence, and suddenly no more sound from you. I don't know what's happened. Yeah, we will... I don't know what's happened today with [him] back. But, Ed, if you can try again or write in the chat will be a good way, because we have trouble to get your full sentence.

Okay, I guess as soon as Ed is back online or on the chat, we will come back to him. And I suggest to go back to the presentation, which is the next slide.

And I just put the slide with each of the work we are supposed to deliver, at least for the moment. And I will not comment on all them right now. But it's just to have our task [keeping] one single repository and share with you. That's all of the points. Yeah, these two are the first slide.

And I know that I should ask not to have this call next week at the same time, but if we keep on that, or even if we change, I was suggesting the agreement of the current and the past Ombuds to be on the single-topic meeting call, with them giving us our feedback on how they are working with ICANN. And I was wondering if you think it could be useful. And the second, if yes, the other question was to the Ombudsmen at this call.

First of all, Ed, are you back online? Or by write on the chat? If not, Asha, please take the floor.

ASHA HEMRAJANI:

Thank you, Sébastien. So I'm looking at the bullet points that you showed in the previous slides, which you went through rather quickly. If you go back to the first four bullet points, yeah, this one. So there's these four areas to look at. And then subsequent slides, you have different areas that also pertain to different – if you look at the following slide, page 11? Yeah, so these, 11 and 12 and so on, they are all areas that we could start off, as Mike suggested, maybe start off with some initial thoughts, and then use that as a starting point to launch our discussions.

So if you are suggesting the two Ombudsmen speak at the next meeting, it would be good, for instance, to get their views on these topics that you have on the slides. And then we can start from there. Thank you.

SÉBASTIEN BACHOLLET:

Thank you, Asha. I will read what Ed put in the chat. "Point I am trying to make, other group in the CCWG have at time [inaudible] to give the Ombudsman power [inaudible] to go far beyond the traditional remit of an Ombudsman. [inaudible] sort of scheme [inaudible] of what we are really talking about was more of an Inspector General than an Ombudsman. Has anyone considered this? Perhaps can [inaudible] whether some of the things that may be proposed are beyond the

Ombudsman competence [inaudible] I was just [inaudible] we might want to first see if we want an Ombudsman or something else.”

Any reaction on this slide? Okay, Herb, please, and then Asha.

HERB WAVE:

Thank you, Sébastien, and Ed for the comments. I definitely agree that there are limitations to an Ombuds Office, and one of those being informality, of course. And one of the things that I feel are most important is that component of informality, which takes out the legal aspects that tend to take over any type of conflict.

One of the underlying goals of any Ombuds Office in any organization or government is, bottom line, saving the organization time, money, grief, lawsuits, and so forth if conflict can be resolved at the very lowest level possible. And the further up that scale of complexity the Ombuds Office goes, the more lawyers and analysis goes into any conflict. And it gets to a point where, really, why don't you just go straight to independent review or reconsideration?

If the process has been fair, then there's absolutely no reason for an Ombuds, in any type of a situation, to be analyzing something that a judge or an arbitration panel, who has the expertise and the resources to analyze every word. So there's that balance. The fairness aspect is critical. But the informality is something that should be kept in the forefront. And an Inspector General or an Auditor General, or whatever you want to call it, watchdog of an organization, is a very different role. And for an Ombuds to go in that direction, it would be a complete change in the focus of having that accountability mechanism.

So informality, I think, is something that should remain in the forefront. And if it's a complex issue that is going to end up in the courts anyway, then if the process is fair that has been taken, then really, the informality gets wiped out if we have to bring in lawyers and do a full-body analysis on the issue. So I'm going to try to keep things, and I'm going to recommend that things remain in the office as informal as possible.

The Ombudsman for Coca-Cola prides himself in not even carrying a pen. Everything he does is informal, and he is at the far end of the continuum, as far as informality goes. And the further you go to the other end, and everything gets analyzed and complex, you move more and more towards the Auditor General and the Inspector General role. And so those are the two variables that we have to look at and see whether we keep it informal, or if we move much further towards the formal side of things. Thank you.

SÉBASTIEN BACHOLLET: Thank you, Herb. Asha, please?

ASHA HEMRAJANI: Thank you, Sébastien. So I really agree with the point that Edward made in the chat. I think that's a very important question we have to discuss. And we have to take a step back, and I think we have to look at function and role. We have to define what we see as the ideal function and role of an Ombudsman. And then from that, we can define how he or she will function, or perform his role. Where there are differences, what

degree of formality/informality is needed to perform that function and role?

But first, we have to define the boundaries. And in order to do that, I think we have to answer the questions you have listed in your slide, Sébastien. So it would be good to have that starting paper, to have some kind of skeleton that looks at each of the different aspects that you've listed in your slide. And then we can use that as a starting point for discussion, to see how this group wants to shape the function and role of Ombudsman. And then, accordingly, decide what is the correct characteristics we want and the correct skillsets we want, and how we want to find the correct person, or persons, to fill that role. Thanks.

SÉBASTIEN BACHOLLET:

Thank you, Asha. Other feedback points? I get all your points. What is troublesome for me, that we want to start all the points at the same time and discuss all the issue. And I have trouble to find helping with the first item. And we may want to revisit the document made by staff, who are the starting point of our work, and see how we want to use it as start point, or we need to write something else for this group to work.

I put it back to slide 4 just to show with all the requested from Work Stream 1 and to be deal with in Work Stream 2. And I think not including the dependency with what will come out of the other Work Stream 2. But that's task we have to [move to].

Okay. If there's no other comments or feedback, I will come back to this our next call and ask you if you have any specific question you want to

be discussed by the two Ombudsman, or if you want to use the mail to send the questions. If you have some now, you are welcome to do it.

Okay, I see that Sivasubramanian put one question, or a few questions. I will read it for the benefit of the one listening. “So when are the example of informality that you are talking about and the [one] for informality? Would it be possible that at time, lack of respect for [attention] could pass as informality?” Yes, good. Herb says that he will address that as a point during his presentation next.

Okay, any other comments, feedback, point of view? Okay, I see that Robin is online. May I ask you if you are able either to type or to speak if you agree to be the liaison with the IRP? I’ll come back to the right slide here. Great, thank you. Then we complete full list of people who are liaising with the other [drafting] team or subgroup, whatever you want to call them. That’s very good. Thank you, Robin, for that.

Okay, if you don’t have any other points, I will go to the end of the call. Any other business? And as action item, I have one was to ask for feedback about the schedule of the calls at 19:00 UTC. And we will gather your feedback to put it in some action item – not for the next call, because the next call will be to have the presentation by Herb and the previous Ombudsman. Also, I guess he will be with us during that call. And it will be a single-topic call. We will not discuss other thing. I am sure that one hour will be a good timing for presentation and question and answer.

And with that, any other business? Any other... And to answer your question, Herb, yes, it is better if you can send the PowerPoint to

Brenda before the call, so she will put it in the Adobe Connect. And if you have some summary of the PowerPoint you want to share with the group, you are welcome to do it. Up to you, Herb.

Okay, last call. Any comments? Any other issue? If not, I will thank you very much, and hope to see you at the call with Herb next week, whatever the time will be. And I hope for you all a very good week, and thank you very much for participating to this call. Bye-bye, good day, good night, good afternoon, whatever, for all of you, and thank you for coming.

[END OF TRANSCRIPTION]