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RECORDED VOICE: This meeting is now being recorded.

SEBASTIEN BACHOLLET: Thank you very much and good evening, good morning, good night, wherever you are in this world, for this seventh meeting of the CCIWG accountability work stream two, ICANN ombudsman drafting team or subgroup, whatever name we want to take. Thank you for joining.

I would like to apologize because I send you an update of the document late, and the agenda of the meeting also at the same time. But we will review all of that during the meeting, and if there are, of course, change needed, we will do it.

I will go through the four points first quickly, that is the list of the participants, you can see since the beginning, we have a very small attendance, including from the active participants. If you have any idea how we can involve more thoroughly, it would be a good idea, because it's a pity that we have 20 active participants and we have just, five of them or maybe a little bit more, but who participate regularly to this call.

This is our seventh call, and yes, for me, it's very early, but for some, it's the middle of the night, and for others, it is the day. It is why we thank those three timeslots who share the pain. And the proposed agenda, it's to take the roll call as it is in the AC room. If someone is not in the AC room and just on the audio, it's time to say so, please.

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Okay. I guess that everybody is on the AC room. We will, in fact, not review the ICANN for the last call, because they are all included in the new version of the document, and we will try to use the review of the document as a check on the action item.

And I would like to have a discussion with you about what to report to the full plenary of the CC accountability work stream two, as the meeting will be later today, later. And talk a little bit about our next meeting.

Before we go to the document itself, here are the chapter title. And as you can see, I have updated those titles, because we had the discussion about what is the difference between recommendation advice, and I tried to specify the recommendation, it's about the ombudsman office and the advice will be to the ICANN ombudsman's office, but we can review that, of course, when we will have written the text in those documents.

And I guess I add interaction with other ICANN mechanisms in brackets. And as I remind you in your, in the mail I sent for this meeting, I wanted or I suggest to other report, short report from each [inaudible], but you can see there are even very small number of liaison from those groups. And I suggest that we will do that taking into account the document in a few minutes, if there are some inputs to be given some of the liaison.

And to remind you, next call, we will have Steve [DelBianco?] and Cheryl. She's here, yes I know, but as one who take into the account the stress test, and we will discuss in a stress test way some inputs from,

and about the ombudsman. And our, that will be at the end of the meeting. Okay.

If we can change to the document I sent, at the same time as this PowerPoint, it will be great.

Thank you very much. As you may have seen, I had add the new text to this document, and I tried to put it into two lines here, for example, in diversity. But before we go to diversity, I would like to follow on the discussion we had last time. [Inaudible] about the need for bylaw changes.

I guess it's a little bit… Here. Okay.

And I know that both Herb and Asha wanted to give feedback of the discussion there, one in Los Angeles and in other… I don't know if it was someway on the phone or on Skype. But if you can, if I can give you the floor to give you the opportunity of giving us where we are with that. And I see that Asha and Herb want the floor. Asha, please go ahead.

We can't hear you, Asha.

ASHA HEMRAJANI: Hello, can you hear me now? Hello?

SEBASTIEN BACHOULLET: Yes, now we can.

ASHA HEMRAJANI: Okay. Okay, there is a lot of echo. Hold on a minute.

Please bear with me.

Hello?

SEBASTIEN BACHOULLET: Yes Asha, but still echo.

ASHA HEMRAJANI: Okay, one minute. I'm going to try something else.

Can you hear me now?

SEBASTIEN BACHOULLET: Yes, it's better with no echo.

ASHA HEMRAJANI: Okay, wonderful. Okay, thank you for that. So, thanks for that Sebastien. So I wanted to provide some clarification on a discussion we've had during a couple of our previous meetings. The first one is about whether PTI is a subsidiary or an affiliate, and I think we had some back and forth, I was some…

We had some back and forth on this, and I think finally we've agreed, and we have discussed with our legal counsel, and we have clarified that it should be an affiliate and not a subsidiary, because there was, the terms were being used interchangeably, so I think we sorted that out. So it's best if we all use the word affiliate as opposed to subsidiary, and

it can't be used interchangeably, and that's really in accordance with California code for non-profits.

The second question we were discussing is the fact that there are no, there is no mention of the ombudsman in the PTI bylaws. And so the question then was, what would be the role of the ombudsman in any PTI related disputes? So, we have discussed this in the Board with, as well as with our legal counsel, and the thinking right now is that there are mechanisms through which the naming functions agreement in the ombudsman will have responsibility to get involved with complaints with the PTI.

And the PTI's work really is to be fair, it's solely directed by contracts with the ICANN, with ICANN. So we are comfortable with the PTI bylaws do not have to be updated to specify the ombudsman role, as it relates to PTI. So a couple of things we could do to get around this, for example, we could provide some content on the ombudsman and the PTI website that explains that the ombudsman is able to assist a dispute between PTI and any party that's receiving a service from the PTI. That's one option.

Another option is to modify the ombudsman framework and charter, the framework that we have for the ombudsman, because we have to understand the fundamental concept behind all of this is that the availability of ombudsman is enforceable on ICANN through ICANN's bylaws, even if it's not specified in the PTI's bylaws.

So I just wanted to clarify those two points. Thank you.

SEBASTIEN BACHOULLET: Thank you Asha. Herb, please.

HERB WAYE: Thank you Sebastien. And thank you Asha, that was very informative regarding the PTI. I really don't have much else to say, other than the fact that in keeping with the concept of inclusiveness for the office, simply adding possibly a link on the PTI website, as Asha mentioned, or adding it to some sort of a communication, you know, as we move forward, including it in discussions, topics, and also maybe making an active presence at some point during some of their meetings, either at the ICANN meetings or when they hold various meetings through the year, dropping in just to say hi.

So it could easily become more of a communication objective than an actual rewording of bylaws, or any other documents. Thank you.

SEBASTIEN BACHOULLET: Thank you Herb. As you can see in the document, all of the inputs are already inserted and suggested. And I have a few questions to go a little bit deeper here. Do we consider that the request of the, sorry, CWG on stewardship is only on naming functions? That means that is we, and it's written what they ask for, we don't take it [inaudible] on the other function of PTI.

That means that they don't want to use the ombudsman. And that's the first question. And my second, it's more, [inaudible] different report was from Herb and from Asha, that we don't need anything in the bylaws. I will, I would like to be sure about that, that it's enough for our

work, then one of the other solutions proposed here. And I suggest that we came to the full group of the CCWG, and ultimately they will have to decide my preference, if I can speak for myself here, is that we need to have something else than just the website.

And if we don't want to do something into the bylaw, at least we need to write clearly that into the framework of the ombudsman, ICANN ombudsman office. But please feel free to talk about that. And I see that Herb is asking for the floor. Yes, Herb, go ahead.

HERB WAYE: Thank you Sebastien. I could possibly suggest that we take a look at this definition of affiliate, and see whether it is inclusive when we talk about ICANN community, and also if there are other examples of organizations or groups similar to the PTI group, that are already included in the framework, because they're in some way, considered part of the community.

So there may already be a catch, potential phrase in the framework such as community that is inclusive of groups like PTI. Thank you.

SEBASTIEN BACHOULLET: Thank you Herb for your suggestion. I will add that in the possible solution and a way forward. Thank you. Asha, go ahead.

ASHA HEMRAJANI: Can you hear me?

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SEBASTIEN BACHOULLET: Yes, great.

ASHA HEMRAJANI: Can you hear me? Okay. Sorry, I'm using a new phone and a new device today, so you'll have to bear with me today. I don't know how to use them. I wanted to address the point you made earlier, Sebastien, about putting it in the ombudsman framework. I would be more than happy to support that suggestion, so the idea of putting it in the website is only meant to suggest one of multiple possibilities, and not the only one.

So, I definitely would support the suggestion that we put it on the ombudsman framework. And the other point, question I had was, I couldn't hear Herb very clearly, I found it very muffled, his voice, so maybe you can type it or re-say it about what you said about affiliate and about the community.

Sorry, I couldn't hear it.

SEBASTIEN BACHOULLET: Maybe I can answer this. Yeah, maybe I can do it, Sebastien Bachoullet, to try to… And Asha, it's written in the notes taken by staff on your screen at the right, inside of the screen. And Herb was saying that we should look at the definition of affiliate, and see if it is inclusive for the, within the ICANN community, that the affiliates, it's included in there, in the ICANN community. And if ICANN community is in the framework, then it will be the framework.

And yes, we will look to this affiliate, and thank you for supporting the idea of putting it in the ombudsman framework. Go ahead, Asha.

ASHA HEMRAJANI: Thanks Sebastien. So if you want, I have a very short definition in front of me. I could read it out. I can't type it in because I don't know how to type it in with this new device, but I will read it out very quickly.

So an affiliate is a term often used to refer to a commercial entity with the relationship to a larger entity, or appear, with or without the control over the affiliated entity. And this is a key point. So affiliate is a broad term that can refer to numerous circumstances and arrangements.

In this context, PTI is viewed as an affiliate of ICANN, and by the way, I just wanted to clarify, this came from our general counsel, so it came from the ICANN general counsel, this definition. In this context, PTI is viewed as an affiliate of ICANN, because ICANN is the sole statutory member of PTI, with the ability appoint the PTI Board. PTI is a separate legal entity that is controlled by ICANN through its membership, and its ability to appoint the PTI Board, as well as the community powers that will exist in ICANN's bylaws.

These arrangements and circumstances create an affiliate relationship between the two entities.

SEBASTIEN BACHOULLET: Thank you Asha. Maybe later on, if you can send to the list, the definition it will be great, and we will add that to our document to take

that into account, and thank you for this [inaudible]. Any other thought about this?

ASHA HEMRAJANI: Will do, will send it to the list.

SEBASTIEN BACHOULLET: Thank you Asha. Anyone else want to, about this topic?

Okay. If not, thank you very much. And what next?

I don't remember where I have inputs. Not here. Sorry for doing quickly to the document. I guess I have to go up and not down.

Okay, what, let's go up by PC, sorry again.

Let's go up.

Here we had this discussion, as you can see, I had those, it was starred, but it seems that it is a little square, dark square, lines but between those two lines, I had inputs or questions, and I would like to suggest that we go, if you think that for each part of the document where specific question, we need to answer.

What I would like to do now, it's to go through the question, and not to try to answer them right now, but of course, if you have inputs, that will be welcomed. And okay. And I…

As you can see, I made mistakes. The numbering was supposed to be question, the number of the paragraph is two, and here it must be… I

don't know what's happened, but something. Okay, I have to change the numbering.

And when it's written, not 100, but it's ICANN Ombudsman's Office, to shorten my typing. And in the discussion, we had this question, can we, and how can we end up on the ICANN ombudsman office? And I guess that is one question we will have to answer. And if you have any idea in which chapter we will have to put that in, I guess it's in the nine, but we may wish to redo that.

Asha, it is a new end or a [inaudible] end? I guess it's an old one. Okay. That's the question about the independence. The previous question, not too much, we discuss but we had the add to the document ATRT 2 part, referring to the ombudsman, and from this part, I took out this question, what is the role regarding ICANN ombudsman office of the Board? Board [inaudible] committee.

And what is the role of the [inaudible] community? Is there other roles we need to add them, and this answer will be reported in chapter nine of this document.

Feel free to jump into the discussion if you have a comment, question, if you think… Here, it's to say that in the chapter 11 and chapter 11 is a chapter where we will talk about interaction, sorry. And in the ATRT one, it was the question of the inter-relation between the different mechanism, and it's something we will have to deal with.

Now here, I will put the question first. In the ATRT 2, there was a question about the review, and the role of the ombudsman regarding staff. And I turn it to question in this report of the work stream

ombudsman, sorry. Is this report of the work stream two ombudsman drafting team, can be considered as a review in ATRT 2? Or do we need additional work? It's something we start to discuss last time, and I would like to raise this issue to the full CCWG, but I would like to have your input on that when you think it's appropriate.

And there is a second question, it's role of the ICANN ombudsman office regarding ICANN employee, versus public policy. It's written in more words up there. And regarding ICANN [inaudible] line user and other whistleblowers. That's something we start to discuss, but we need to come back to this discussion.

Nobody wants to take the floor?

Okay. Yes. I see that it's a new hand. Herb, go ahead, please.

HERB WAYE: Thank you Sebastien. I just wasn't clear on the instructions. Are we looking to answer these questions now? Or are you just looking for comments?

SEBASTIEN BACHOULLET: For the moment, Sebastien speaking. I wanted to have your comments about, is that the right question? Is it a good way to go? To go ahead with this document? And maybe specifically on the question of the review, we can, or we can do it now. It will be good to have more input as it will be a question I will raise, or I suggest to raise this afternoon, for me, with plenary of the CCWG on accountability.

Then I… Yeah, I think for this specific question, if you have some, adding point of view, I remember that you suggest that you can help to, a review. But if you have a specific input, Herb, or other in that question, it will be a good time to do it, and thank you for raising the issue.

HERB WAYE: I was just going to say that there were a couple of things that potentially we can do, and of course, one of them is bringing in an outside expert, which was what was going to originally in the ATRT one. So that is an option, but of course, there are costs attached to that, which I would have no trouble sharing if it was an option that the group would be interested in, bringing in either some sort of a peer review or a professional ISO review of the office, which has been done in the past. Thank you.

SEBASTIEN BACHOULLET: Thank you Herb. Asha, please, go ahead.

We can't hear you.

ASHA HEMRAJANI: Now can you hear me?

SEBASTIEN BACHOULLET: Now, it's coming yes, great. Go ahead Asha.

ASHA HEMRAJANI: Okay, great. Yes, I couldn't Herb very clearly, I was trying to guess what he said. If it's in relation to an expert, I would urge discussion and caution in that we should really look around for experts if we want to, and get quotations, and get some sort of estimate or budget in advance, before we commit.

SEBASTIEN BACHOULLET: Thank you Asha.

ASHA HEMRAJANI: …what is the mandate we want to give. Hello? Can you hear me?

SEBASTIEN BACHOULLET: Yes, yes, but it's getting a little… Yeah, I guess there is no [inaudible] on that… But the first question is before we had an expert, is it what we have to do? Or is it something somebody else had to do? Or we don't need an expert. And I am not clear about what is a request from both the ATRT to implementation team, and the CCWG on work stream one, and I will bring that back to the full group later on today.

But I take both your points. Other comments?

Okay, thank you. And let's go up. I try to add something about the [inaudible].

And Asha sorry, is it still a hand and I didn't leave you talking up to the end? I guess you were done, but I think maybe it was because of a

technical issue you were cut off. Go ahead Asha, if you have something to add. I'm sorry misunderstanding and technical trouble. Go ahead.

And for the moment….

ASHA HEMRAJANI: Hello?

SEBASTIEN BACHOULLET: Yes, we can hear you, go ahead.

ASHA HEMRAJANI: No, no, I pretty much had finished. I just wanted to add a last point which is what actually, you kind of read my mind, which is we need to, in advance of discussing whether we need an expert, discuss amongst ourselves what would be the mandate for this expert. What areas are we not very clear on? Before we go to the CCWG, or even ask Herb, the ombudsman office to fund anything.

We need to discuss amongst… It would be a good idea to discuss amongst ourselves what areas is it that we are not clear about and that we would need help on. And start from there. Thank you.

SEBASTIEN BACHOLLET: Thank you Asha. I get your point, but I want first to ask the question to the plenary about the fact that we're looking for, as a review, and the work we are doing, and if the answer is no, yes, we will go into more detail in what you are suggesting, and what is suggesting to.

But my first question is that, yeah, sorry I will go back to this part of the document. My first question, is this report, can be considered as a review, requested by ATRT 2, and CCWG in work stream one, or not. If the answer is yes, we are almost done. If the answer is no, then we will have to figure out what additional work we need, and by whom, and by which mandate, and the cost, and so on and so forth.

And once again, thank you for your inputs. Okay. Let's go to the… I tried to take into account some of the inputs in the document sent by work stream one. But first, I have to say that work stream two on diversity drafting team, or design team, is still on the start-up phase.

We had one meeting, but I guess it's just one, but no more than after I sent this document, I saw that staff send a staff document about diversity. I didn't have the chance to open it yet. But it's to say that this is not what I put here, was not yet discussed in the work stream two on diversity.

But I took from the document, as you'll remember, during the work stream one, there were work party three on [inaudible] issue, and this work party organized via sub-group, and one was on diversity. You have the link here. On the final proposal from this working group, there were both a problem statement, and in the problem statement, there were discussions about, do we need diversity of this? And do we need an election office?

And the suggestion was to see if we need those offices, whatever the name is taken, is it possible to include it in the duty of the ICANN ombudsman's office or not? And it's… This part I underlined in red, and

[inaudible] after the prime statement, the next issue, or next phase of the work, and one of them, it identifies a possible structure that could follow, promote, and support the strengthening of diversity within ICANN.

It was a document about diversity, of course. And it's where we are with that. And I had two questions, and if the ICANN ombudsman's office, most can be charge of diversity office, and the same about the election office, that's my take on the current work on the diversity issue.

And what I would like very much to [inaudible] that if there are same type of inputs from the other working group, or subgroup, it will be great to have them in the near future.

I guess… Let's see, I guess we get through all the new part of the document. Any comments? And particularly, I would like to be sure that you agree that we go with this type of way with question raising each point, and to see what we do, where we do it, and what report. Where we would put it in the report. Herb, please, go ahead.

HERB WAYE: *Merci* [thank you] Sebastien. Diversity is, it dawned on me that possibly Asha doesn't have access to the chatroom. Diversity, I mean, the diversity issue is human rights issues. Some of those fundamental issues that office deals with, not frequently, but do definitely fall within its mandate. I can see potentially being the role of the ombudsman a little bit more hesitant about the election office, sounds a little bit more

of a, require something that will be a little bit more structured as sort of an auditing type of role.

So I believe that that would require a little bit more analysis. Thank you.

SEBASTIEN BACHOULLET: Thank you Herb. Interesting inputs, of course. Other comments, questions, ideas?

Okay.

I guess I will go up to the top of this document, but I guess, yeah. Yes, Cheryl, please go ahead.

CHERYL LANGDON-ORR: Thanks Sebastien. Cheryl Langdon-Orr for the transcript record. I'm not bringing in any point to diversity, but I also want to make sure that realize many of the groups are very early on, and in case of some of them, not even started, we have to remain open to dependencies and interdependencies throughout our whole process.

Particularly with something like, I could predict for example, there will be some specific issues. But whether or not they are beyond what is currently enshrined in our bylaws, and in the mandate of the office, we don't yet, and we won't know if it's not in time.

So it may be that the risk of the other ones are going to be in a similar situation. That's all. Thank you.

SEBASTIEN BACHOULLET: Thank you Cheryl. It's Sebastien Bachoullet speaking, and definitely fully agree. I just wanted to start the ball rolling, and as you are the leader of this AC SO accountability, of course we can't predict what will be the output, as we can't predict what would be the output of diversity, but another way would be for me to say that it wasn't the question, because it wasn't the previous documents.

It's not an intervention from our group, but we may have… And for example, if I take something, I didn't, I have not done is, for the staff accountability, if we took the question we have about this question role of the ICANN ombudsman office regarding ICANN employees versus the big policy and [CROSSTALK] user…

[CROSSTALK]

Please… There is a mic open, I guess.

Now it's okay. For example, this question may be, need to be discussed with staff accountability subgroup, and it's something we can start also to ways within, but unfortunately, the, sorry. Avri, she's not with us now, but I will also work with her and see what we can do. And add that here in this part of the document.

But, yes, thank you for the reminder that we are still, for some group, in the early stage, I will not save that for your group, Cheryl, as you already have six or seven meetings, but it's a long way to go. Anyway, for all of our group.

Okay. Can I take your inputs, your not input, that you agree with the way forward, with those questions, and we'll try to answer them in our

work? And if so, really if you have, if you're saying that are questions that we need to raise in each point, any part of this document, please feel free to do it.

Okay. For this later on full group of plenary of the CCWG, I will ask the question about, are we sure of the [inaudible], but I guess Cheryl will be there, and we will be able to exchange on that, on how best we can do it. And I would like to raise the issue of the review as we discussed earlier, and maybe the discussion about PTI, to the PTI, the role of the ombudsman regarding PTI.

That was my two points I will raise, I guess, in this plenary. Do you think that there are other points I need to raise during this meeting? In fact, it's not the plenary this afternoon, sorry, it's the preparation call, and the plenary will be tomorrow afternoon, or tomorrow. Yes, afternoon for me, I guess it's 1 PM UTC.

Okay. Thank you. I guess we can finish soon. The first is that next meeting will be next week at 1 PM UTC, and we will follow on the discussion with this document. I hope that we will have some inputs from you and from the other supposed to be active participants. And I would like to ask if there are any other business you want to raise now?

Okay. I would like to thank you very much for your participation, and Herb you are, go ahead please.

HERB WAYE: Sebastien, I'm not sure if the participation issue exists in the other sub-groups, but it may be something that you would wish to address

tomorrow when you speak the group as a whole. And if other groups are experiencing issues, possibly a communications strategy or some sort of a call out to the members that are of the respective groups, to remind them of their involvement and the need for their participation. Thank you.

SEBASTIEN BACHOULLET: Thank you. Yeah, I will take that onboard. Thank you Herb. Okay. Then thank you very much for your inputs and participation, and talk to you next week, and have a good day and night, and talk to you later this week. Bye-bye. This meeting is now adjourned.

[END OF TRANSCRIPTION]