
SÉBASTIEN BACHOLLET: Thank you very much. Welcome to our eighth meeting on the Ombudsman Design Team meeting on Monday, 26th of September at 13:00 UTC. The proposed agenda is to do the roll call, to have some feedback from the Work Stream 2 plenary, discussion on the transparency with rapporteurs. Drafting Team hopefully will join us, Michael Karanicolas, and then to go back to some issue we were discussing in our document stress test with Cheryl Langdon-Orr, and maybe if he's able to join, Steve DelBianco, some discussion about ATRT 2 and where we are with PTI, and discuss about the next meeting.

Just to check with staff, do you have my PowerPoint I sent you, I don't know, one or two hours ago? And if you have it, can you put it on the screen, please? And for everybody, I've got trouble talking with people, because I've lost not only my mail, but also my contact information and I have to find a way to find some mail while I don't have update of the mail, and it is still bothering me a lot, and I have some trouble to prepare this meeting. I'm sorry for that.

Yes, please.

BRENDA BREWER: Hi, Sébastien, I did not see a PowerPoint come through from you in the last few hours. I'm in the [MSSI] mailbox, and there's nothing [inaudible].

SÉBASTIEN BACHOLLET: Yes, it's [MSSI] mailbox.

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

BRENDA BREWER: We have the agenda from you, but I didn't see anything attached to the agenda.

SÉBASTIEN BACHOLLET: it was 12:31 from Paris time when I sent it to you, to MSSI Secretariat.

BRENDA BREWER: Okay, one moment, I'll get that uploaded. Thank you.

SÉBASTIEN BACHOLLET: Thank you. I must have done that before, but sorry.

Okay, then roll call, we will take the people who are on Adobe. If there are people just online, please tell us now, and we will add you to the list of participants.

CHERYL LANGDON-ORR: Sébastien, it's Cheryl here, I'm not in the AC room. I hoped to join. I'm [inaudible] start up shortly. This meeting is running at exactly the same time as another meeting I [inaudible].

SÉBASTIEN BACHOLLET: Okay, Cheryl, but everybody knows you, and when you are on the phone, they know that it's your phone, and then you are in the Adobe room. Even if you don't see it, we can see you, then that's good. Therefore, as we have a topic where we need you, just tell me when it's

a good time. I will not call on you, but when you are ready to give us some time to discuss the stress test, we will come to this issue straight on to allow you to do your other obligation. Thank you.

CHERYL LANGDON-ORR: [inaudible].

SÉBASTIEN BACHOLLET: Okay, to answer one question sent by Avri, if she sends a list. Maybe you don't send a list, but I have incorporated all those elements into the document and on the last document I sent, the version 5, I didn't work on any new version yet. All was incorporated, but thank you very much for your input. It was, and it still is very useful.

Okay, let's go to the presentation. I had some pages, but we already talked about the agenda, the participant and observer same list, our meetings just to [inaudible] and now, our first item is what was done at the plenary. I have prepared a presentation, and [unfortunately], both in the preparatory meeting and in the plenary, no time was available for inputs from different groups. I guess that I was one completely cut. I guess Ed Morris was also completely cut. We discussed about other items by the two hours. We talked about the transition and where we are, and it takes some time. We discussed the issue of Work Stream 1 and Becky took us through the document she's writing with her team, and at the end of the meeting, the two hours passed.

I have asked the co-Chair to not wait three weeks to have the next meeting, and the next meeting will be the 4th of October, and I hope to

be able to ask them the question or at least part of the question I had for the plenary.

The main question was about what we will discuss again, the role of the Ombuds regarding PTI. Everything linked with ATRT 2 will need to be reviewed, because the CCWG on Accountability is still waiting for an answer by the Board of where they are and where we need to be involved to be sure that we both agree on what we have to do, and that's part of the question. Then I was not able to deliver any presentation, unfortunately, to the plenary due to the time constraint. Any comments on that, or questions, ideas? If not, let's go to the next page.

I didn't change the document too much, but after discussion with you, I changed some titles. You have here the list of the chapter titles, and to be sure that it's clear, when I write IOO and not 100, it's ICANN Ombudsman Office. We like acronyms, I found that we need to have one, and I took IOO.

As you know, we have a liaison to the group, and for this meeting, we will spend some time with Michael, because he wrote us some inputs, and I would like very much to have an exchange with him. And I guess he is online. Yes, great. Then I will [inaudible] mailing list and to us earlier today. And, Michael, may I ask you to talk about that? It will be better than to hear just my voice during this call, and as you wrote it, what other question do we need to answer or discuss in this group, please? Thank you very much.

For the moment, we can't hear you, Michael. Okay, now I hear a noise, and I think you will be the one talking, hopefully. Not yet.

MICHAEL KARANICOLAS: Sorry. Is it fixed now?

SÉBASTIEN BACHOLLET: Yes, great, go ahead, Michael. And for the others, if you can turn off your mic during the conversation, that would be great. Thank you very much. Go ahead, Michael.

MICHAEL KARANICOLAS: Sure. Thanks very much for that introduction, Sébastien, and great to meet all of you. I hadn't really prepared a formal presentation per se, but just as a way of introduction, I'm one of the two rapporteurs for the Transparency Work Stream, and I wanted to get in touch mostly because I think there's a strong overlap between what we're looking at and your area of research, specifically because both complaints about the current transparency system and considerations in terms of improving it is in the appeals and oversight mechanism, whereby if you feel that ICANN is doing something wrong or if they refuse a document exposure request, you appeal to the Ombudsman.

My background, which is coming from governmental right to information systems, I think an oversight system is critical to making an effective transparency system work. Without an Ombudsman, there is no way of ensuring that there will be proper institutional compliance, there's no way of ensuring that employees of ICANN are interpreting

provisions correctly in terms of transparency and disclosing what they're supposed to, and are taking an adequately broad understanding of the public's right to information. So that's sort of the perspective that we're coming at this from, and obviously, as part of our analysis, we're looking at how the oversight system could be improved.

Currently, because appeals go to the Ombudsman, that's going to be very closely connected to what you guys are looking at. As part of the Transparency subgroup, we may end up with the recommendation that rather than sending appeals to the Ombudsman, that there should be a separate independent oversight body set up. That's sort of something that's been batted around a bit, so that to set up a parallel organization just to hear transparency appeals, in which case I guess the overlap would be less between what we're doing and what you're doing, but because currently, we're working within the same system, it's the last consideration.

With that being said, looking at the documents that Sébastien circulated, there were a few sort of discussion questions that came up. I sort of drafted these basically as a way of raising some new issues for inside ration. Issues that come to mind from my perspective is examining what a strong information oversight body should be, which I think will also be germane to this conversation.

One of them is whether the Ombudsman has the sufficient independence and competency to perform their task. When I talk about competency, I don't mean that it's an incompetent person, but what I mean is that whether they have specific information, specific skills to deal with the issues that are coming across their desk.

For example, understanding transparency and the right to information requires a very specific skillset. We look for an Information Commissioner or a Human Rights Commissioner who's dealing with this to have a background in journalism, information management or law, or something specific like that, and I'm not sure if the Ombudsman – not only whether the present one has that particular skillset, I actually have no idea about that, but generally whether there are requirements in appointing the Ombudsman to look for that particular skillset, and whether that's a particular consideration, so whether they have experience.

I look at this specifically in terms of transparency, but presumably, that would apply equally to the other areas that the Ombudsman have to examine, and of course, that raises the challenge of having a general use Ombudsman, which is whether or not you have a person who has the expertise in every area that's going to come across their desk.

There's consideration – we want to raise the issue as well about the Ombudsman's independence, powers and expertise. Independence is a tricky one, because generally, again, I'm coming at it from a governmental perspective, where there's more of an established way to build up independent institutions.

Within an organization like ICANN, it's more challenging, because systems of democratic accountability are different, but we look specifically about the relationship between the Ombudsman and the Board. The requirement that the Ombudsman has to request authority from the Board prior to starting an investigation sort of raised a bit of a flag for me, as it might potentially undercut their level of independence.

And I also wanted to raise considerations of expanding the Ombudsman's role to be more proactive.

And again, this has its basis in my background from a governmental side, where the best Information Commissioners and information commissions have a role not only in assessing compliance with the law and in hearing appeals, but actively promoting transparency within the organization and externally. So it should be promoting their role and saying, "Hey, we have an Ombudsman, this is what I..." Reaching out to people to see if they have inputs or to see if they have issues that should be improved. Reaching out to people to encourage use of the DIDP system and to sort of promote the fact that ICANN is a transparent organization, and to help the ability of the people to request information. So the idea lower down, and the second from the bottom, that the Ombudsman would play a promotional role to educate the public about his office and about ICANN'S DIDP mechanism are considerations.

I also, again, just wanted to inject a bit of a broader consideration of what the Ombudsman doesn't do just in comparison to parallel Ombudsman, but again, coming at it from a quasi-governmental perspective, to think about it against what Human Rights Commissioners do, what Information Commissioners do, what these sort of general oversight rules do in a public sector context, and how we would want to see those ideas manifested in ICANN, which is not a governmental organization, but I think we should be pushing for a more – at least in terms of the transparency system – for expectations which are more in line with a governmental organization than we would see as being in line with a private sector organization or potentially even an

intergovernmental organization. That's sort of a brief introduction to my thoughts on this issue and I'd welcome discussion.

SÉBASTIEN BACHOLLET: Thank you very much, Michael, and very interesting inputs and so then I am sure that it will give some good possibility for discussion. Please, any comment or question to Michael, or ideas? Yes, go ahead, please.

HERB WAYE: Yes, merci, Sébastien. Thank you, Michael, very interesting perspective. I'm not going to go into a full-blown discussion on your comments because I think we could probably discuss these issues for days. But for the group, the Ombudsman Working Group, I think one of the critical points that you bring up is the balance between informality and formality, so the organization is going to have to choose kind of one or the other, because as you get towards the middle of the continuum, the roles and the authority starts to get a little bit muddled. So if you want the informality of an Ombudsman's Office, then you accept the fact that only recommendations can be made and there's kind of a moral, organizational conscience behind the office.

As you move more towards the role of Commissioners, human rights information ethics, they're – governments have them. Every government or government in the world has some form of the various commissioners. Then, you're moving much more into a structured authority, where decisions and recommendations are not something that an organization would have really the leeway of accepting or rejecting. So there may very well be in the organization the place for the

equivalent of a Commissioner. I think the weights and balances and the costs involved for – when you look at it as an organization, ICANN is relatively small, a couple of hundred employees. The community is huge, but you have to balance the impact of having external mechanisms that are 100% independent. And the value that that adds to the organization, I think that has to be weighed against the impact that it would have both fiscally and administratively on the organization.

So these are the things that I think the group is going to have to look at a little bit more in depth. Basically, the informality versus formality, and the fact of having all of these external commissioners or trying to blend that into the Ombudsman's role, it kind of moves the Ombudsman from an informal voice of the people to a structured watchdog over the organization, and I don't think that's the role of an Ombudsman. Very interesting comments you made. I look forward to hearing some of the other input from the group and from the community. Thank you.

SÉBASTIEN BACHOLLET: Thank you, Herb. Farzaneh, do you want to talk? Because you've put some inputs in the chat, it would be great if you'd agree to talk, and then I will go to Michael. If you can take the mic, Farzaneh, now or... Just let me know.

FARZANEH BADII: Hi, sorry, can you hear me?

SÉBASTIEN BACHOLLET: Yes, very well, go ahead please.

FARZANEH BADII:

Okay, great. I agree with Herb. These are [especially] the kind of giving the Ombudsman a very proactive role that could eventually lead to his or her becoming kind of like a watchdog. I don't think it 's optimal and I don't think it really fits the definition of Ombudsman. It will take away the informality and what we really treasure in the Ombudsman, is the informality and the neutrality even. So if we give the Ombudsperson – and I keep saying Ombudsman, we should say Ombudsperson, probably. If we give the Ombudsperson a proactive role, I think there will be neutrality concerns. So I would say that the Ombudsman perhaps should talk about the role and what they do, what the office does and the jurisdiction of the office, and all these things so that the ICANN community knows where to go if they have a problem, but I am in doubt of giving them like a proactive role, to [inaudible] the DIDP and all these things. Thank you.

SÉBASTIEN BACHOLLET:

Thank you very much, [inaudible]. Michael, please, you have your hand raised, go ahead.

MICHAEL KARANICOLAS:

Sure. I hadn't realized that the Ombudsman is actually here, which is fantastic. And I just wanted to comment on a couple of things, particularly in terms of the distinction between a formal and an informal role, because this is an argument that has come up in quite a lot of different governmental structures, specifically in Canada, but we hear it all the time that there's concern among Human Rights Commissioners

that pushing them towards order-making power or the ability to make binding resolutions will restrict their ability to play an informal resolution process. I do want to say that that can be a false choice, because what we see that can work very well is to have informal processes like mediation or dispute resolution, which lead into a binding one, or are backstopped by a more formal process.

What we found, at the governmental level at least, is that having that stronger power is in the background of what an Ombudsman does, tends to boost their ability to take those informal steps, because it leads to government actors at least taking the recommendations more seriously and feeling a stronger power associated with the office and stronger authority associated with the office. So I do want to note that it's not necessarily a choice between one or the other, that you do have mixed systems which operate in a lot of different countries. Sometimes, the opening of a complaint starts with an informal dispute resolution process, which then leads into a more formal binding process if the dispute resolution process doesn't work, and that having that binding process in the background can increase the ability to get a satisfactory resolution at the outset. So I do want to just note that idea.

In terms of the cost and the administrative impact, those are certainly fair considerations. That's something that has to be considered in the broader context of ICANN budget. I'm not sure why having a more formal process would necessarily be – or having a formal process in the background would necessarily raise the cost that much of having the office which is already there, but certainly, when we talk about adding a new Commissioner, that's always something that comes up.

That's, again, an argument that I've had, discussion that I've had at the governmental level a lot, where governments are always concerned about setting up a new institution and obviously, at ICANN, which is a smaller organization as people say, that's a fair consideration, something to think about maybe as we move forward on this conversation to think about what it would cost to set up a new organization, what it would cost to add a couple of staff to the Ombudsman's Office who have specialization information management or different [inaudible].

In terms of the Ombudsman's role as being a voice of the people versus a watchdog, yes, that's also a fair point. I think that it's worth considering though whether at the end of the day we do want to have a watchdog in place at ICANN, an organization which is empowered to look at potential malfeasance to weigh if things are being done correctly or incorrectly. Again, these sorts of institutions are invaluable in governmental organizations and I think it is worth considering whether something like that would be beneficial at ICANN. And again, these are just questions that I'm hoping to put out there, hoping to advance the conversation. Thanks.

SÉBASTIEN BACHOLLET:

Thank you, Michael. Before I give the floor to Herb, I would like to ask Herb, is the third [break point] about the fact that Ombudsman request authority from the Board prior to starting an investigation, is it something that is done at ICANN or it's something that's done differently? I am sure you have the experience and you can answer this

part of the [inaudible] which is quite a bit surprising for me. Please, Herb, go ahead.

HERB WAYE:

Thank you, Sébastien. Yes, I'll get to that in a second, I'd just like to finish with Michael. And the thing that popped into my mind as you were discussing the expansion of the role into more of a watchdog or into the whistleblower functions, and as you talk about Human Rights and Information Commissioners, we already have the Independent Review Panel, which is available to review externally many of the things that ICANN does that are contested by members of the community. Would it not be possibly something you could discuss with them? And when an information [inaudible] up for document disclosure or whatever, or a human rights issue is brought to the attention of the organization, we could potentially have experts in the Independent Review Process who could be brought in for those very specific complaints, rather than having – it's potentially something you could discuss with the committee that's reviewing the IRP. Just a thought.

As far as the request for authority from the Board regarding own motion or systemic investigations, not exactly sure why, and for the record, we have never been refused a request to move forward with a systemic or own motion investigation. It's possibly more of an information to the Board or putting the Board on notice than actually requesting authority. It's advising the Board that the office is moving forward with an own motion or a systemic issue and as I mentioned, it's possibly something that can be reviewed when we're looking at the Bylaw amendments that might come out of this, but it has never been

an issue where that is refused. And to be quite honest, if the Board did refuse, I don't know if there's anything that would prevent moving forward with the investigation.

The very worst they could do is fire the Ombudsman with a 75% motion from the Board, so it doesn't prevent the Ombudsman from moving forward with an investigation and making as much noise as necessary. So I don't really think it's an issue right now. It's always been a positive experience. Thank you.

SÉBASTIEN BACHOLLET:

Thank you. Any other thoughts? Just to answer one question in the chat, Carlos asks, "Where can we find details on the structure of the Ombudsman Office?" If you look to the page of this group, you have various documents and there's a document we are taking care of within version five. You have a link at the end of the document with documentation of the ICANN Ombudsman Office, and you can have a look there, I think, and there's a link from the ICANN site also, very easy to go.

I guess this discussion was useful. Oh, sorry, Asha, go ahead, please.

ASHA HEMRAJANI:

Hello, can you hear me?

SÉBASTIEN BACHOLLET:

Yes, very well, go ahead, please.

ASHA HEMRAJANI:

Thank you. I don't have comments for every single one of Michael's points, which I thought was really good that he brought these up. I wanted to maybe just bring up a few first and then discuss the others later in detail.

On the first point about the competency and the specific expertise, I note in the chat that the Ombudsman does have access to all documents, so I wanted to echo what was said in the chat. As far as [inaudible] are concerned, I think I've mentioned before, I believe that mediation would be a very important skill for any Ombudsman to have, at least the ones that I've looked at in different parts of Asia all seemed to have mediation as a skill.

The second thing is on the requesting authority from the Board. I think Herb has clarified some of that, and as far as I know, that's only happened once in my memory and as Herb mentioned, the Board gave that authority or acceded to that request. So the idea of the Ombudsman having to regularly go to the Board for authority before starting an investigation is not quite correct. It's only for very specific cases.

I like the idea of point number five, the fifth bullet point, which is that the Ombudsman should play a more important role or a larger role to educate the community on his function and role as well as perhaps on how the DIDP mechanism actually works and what it should be used for. So I personally – and I'm not speaking on behalf of the Board right now, but speaking for myself here, that I think that is a good idea in terms of

being able to let everyone understand how to use the DIDP and what are the more appropriate occasions to invoke the DIDP, so thanks for that.

SÉBASTIEN BACHOLLET:

Thank you, Asha. Thank you for your input. Any other comments before we go to the next item? Once again, I want to thank Michael for various reasons. The first one, to give those inputs from the other subgroup and that's very useful. And I don't know if somebody except Michael from our group participates in the Transparency one, but if you think, Michael, at one meeting you would like to have one of us participating, we can try to arrange that and maybe also you can invite the Ombuds to come to one of your meetings. I'm sure that he will be happy to do so. And that shows that maybe in other subgroup or Drafting Team, there are some initial thoughts like this one which could be useful and I hope that we will be doing it with the other groups.

I see that we have people who are – I don't know if it's new hands, but I will go to those hands. Please be short, because I would like very much to go to the next item if possible. Farzaneh first, and Asha after. Please, go ahead.

FARZANEH BADI:

Thank you, Sébastien. Just a clarification, I see in chat that there was some kind of discussion on whether the Ombudsman can start investigation on its own. I am not sure if I got this right, but I never knew that Ombudsman actually can have an investigative role without having received that complaint. So if you can clarify that, if Herb can

clarify that, that would be great. So could the Ombudsman actually go to the Board and say, “I have not received any complaint, but I think this is an issue within the community we should discuss”? Is that possible, or not?

SÉBASTIEN BACHOLLET: Thank you. Maybe I will ask Herb to answer this question and then we’ll go to Asha. Herb, please.

HERB WAYE: Yes, thank you. That’s exactly it. For complaints to come to the office from individuals or groups in the community, we have the power to immediately investigate and move forward with whatever decision we make: mediation, report to the Board or to the committee group, so we are free to work in that environment completely. When it’s a systemic issue or an own motion, which means that we move forward with something that we feel is not running properly in the organization or causes unfairness to a group or whatever, we can move forward without actually having a complainant. And in that case, we have to advise the Board. It’s in the Bylaws, the word “approval” I believe is used in the Bylaws, which is probably not an appropriate word. We advise the Board of the issue and that we are moving forward with an investigation and we report the investigative findings to the Board.

I hope that makes things a little bit clearer, so specifically, systemic or own motion, which means that – unusually a systemic, but if we have received several or many complaints regarding a very specific issue, at that point we would go to the Board and say, “Hey, we see something

happening in the community that has to be dealt with and we're dealing with it in the informal structure of the office." Thank you.

SÉBASTIEN BACHOLLET: Okay, thank you very much, Michael. Just a point in the notes taken now: just before Herb, it was not Asha, but it was Farzaneh who asked a question, "Can the Ombudsman move on an investigation without a complaint?" Thank you.

And now I give the floor to Asha. Thank you.

ASHA HEMRAJANI: Yes, thank you, Sébastien. I wanted to actually ask Michael from the five points here – six points, rather – that he has presented to us today, which one would you put on a higher priority based on your discussions in the Transparency Working Group?

SÉBASTIEN BACHOLLET: Michael, if you want to answer, it will be great. Thank you.

MICHAEL KARANICOLAS: Sorry, just unmuting. Yes, I would certainly say stemming from this and from the conversation today, I would say the most important thing that I'd be interested in looking at and moving forward is going to be the specific track that [appeals] take from the DIDP system, and how the Ombudsman's role in that should interact with the IRP's role. I think that's a very interesting idea. It's not something that I've looked into

yet, I don't know a huge amount about the IRP, so that's something that I'll have to start learning.

ASHA HEMRAJANI: Sorry, Michael, half of what you said just blanked out, I don't know why. Can you repeat that again, please?

MICHAEL KARANICOLAS: Sure. For me, it would be not exactly a single one of these points, but rather to examine the specific role of the Ombudsman in reviewing DIDP complaints and how that interacts with the IRP role and how we think it should react. And the example of having one or two specific people on the IRP who have specific expertise in this issue and could be called on for that is an interesting one, and potentially one that would be cheaper than expanding the Ombudsman. I would have to look more carefully at what the IRP does and how it works, but that's sort of going to be an area that I'm definitely going to focus on now. Generally speaking, it would be about the Ombudsman's general role in the appeal process and whether they're currently equipped to play that role in an optimal manner, or whether there should either be a shift in the Ombudsman's role to make them better equipped, or whether there should be a shift in how the process works to put it in a direction that's better equipped. I'm not sure if that sort of answers your question or if that's too vague, but that's the basic idea that's, for me, coming out of this that I think is a major area of examination.

ASHA HEMRAJANI: Okay, thank you, Michael.

SÉBASTIEN BACHOLLET: Thank you very much, Michael and Asha. Once again, thank you for all your inputs, very interesting and very useful. We have 15 minutes to go, even less.

On ATRT 2, I guess we are waiting for the answer from the Board to the letter sent by the CCWG on Accountability. I don't know if some inputs – Avri, do you have something specific on that issue, both about the review of the office or the link with ICANN employees to add today, or do we wait for the answer from the Board and inputs from the CCWG plenary on the 4th of October?

AVRI DORIA: Hi, I don't have any information on the Board feedback. I know in terms of the employee group, which is going to look at some of this stuff, we haven't gotten there yet. So yes, I would say that at this point, carry it. We know all the items that are listed. In some sense, we can do a gap analysis and see all the ones that have not been addressed yet, and I would think that that gap would be within this group's purview to talk about and deal with unless there's some specific comment to the contrary from the Board.

So at this point, I'm not sure – even though I think I started with that – I'm not sure that we necessarily need to wait. We may need to do a gap analysis of what hasn't been done, what hasn't been talked about and therefore, what looks like is on our plate. We have a Board liaison here

who can take that back and say, “No, this is already being dealt with,” etc., but I think maybe, yes, wait, but no, do a gap analysis. Thanks.

SÉBASTIEN BACHOLLET: Thank you, Avri, and then we will move to the – I take your advice and move to the next topic. I see that Farzaneh and Michael have to leave. Thank you very much for your participation and your inputs. I don’t know if we can move to the stress test. Cheryl, when you are available and ready to talk with us about that –

CHERYL LANGDON-ORR: I’m perfectly happy to do that.

SÉBASTIEN BACHOLLET: Great, then the floor is yours, Cheryl. Maybe if you can talk a little bit closer to your mic or whatever to be better understood, it would be great. Thank you. Go ahead.

CHERYL LANGDON-ORR: Thank you, Sébastien. How is that for the audio?

SÉBASTIEN BACHOLLET: Great.

CHERYL LANGDON-ORR: Good, okay. Remembering that I was in two calls up until a second ago, so I wasn't having both microphones and earphones equally distanced from everywhere.

Okay, well, I shouldn't think this would take too long, because there is very little indeed to say about stress tests and the Ombuds Office. As you've indicated in your slides, Sébastien, there are only two references to the Ombudsman's work or office in our stress test from Work Stream 1, that is stress test 13 and stress test 34. In stress test 13, as you will see in the slide, it's the point where one or several stakeholders excessively rely on accountability mechanisms to paralyze ICANN. In other words, they're perhaps reusing certain parts of appeals, etc.

The Ombudsman Office is one of the – in terms of reconsideration options listed, and it was our view in the stress testing that the Ombudsman's Office was not seen as an adequate or effective mechanism to counter that as a risk, so either counterpoints were required and needed to be developed. And on the second one, which is stress test 34, which is where stakeholders attempt to join an ICANN Advisory Committee or the Support Organization and are encountering barriers, which is discouraging them from participation and appeal to the Ombudsman's Office was mentioned as an action to help new entrants join ACs and SOs. And in this case, it was seen as a potentially helpful office.

So that is really it in a nutshell because there's not much more than a nutshell to talk about. I'm open to any questions, comments or interactions.

SÉBASTIEN BACHOLLET: Thank you very much, Cheryl. Even if it's not a lot, it's very useful to have your presentation, as you were a key actor in setting all of the stress tests, and it's always useful to go to the mother mouse and to have somebody else talking about that. I see that Asha is having her hand up, and if you want, it's your turn, Asha.

ASHA HEMRAJANI: That was actually for a previous – hello?

SÉBASTIEN BACHOLLET: Okay, go ahead, it's okay now. Yes, it's working, go ahead.

ASHA HEMRAJANI: Yes, thank you. So no, I had my hand up from the previous slide with regards to what Avri mentioned, but it's not problematic. She's already addressed what I wanted to say, so I'll come back on this point to see whether there's any Board input yet – Board response rather.

SÉBASTIEN BACHOLLET: Okay, thank you, and maybe as inputs, I can – before giving Herb the floor, Becky, during the plenary session took that on Board and was also supposed to seek Board answers and maybe you can also contact her and see if she has done something or where she is with that, but thank you for your help, Asha. Please, go ahead.

HERB WAYE:

Yes, thank you. I've addressed stress test 13 in the past, so there's no need to go on with that. But 34, I think that it's important. One of the messages that I'm going to be getting out this year, over the next several months, and especially at Hyderabad, is to bring balance to the smaller groups in the ICANN community. And there are structures in place that I've been [dealing] with in the recent past that I will be looking at as I move forward that are preventing or restricting or preventing community involvement and community inclusiveness. So one of my main focuses in the coming months is actually going to be to break down those barriers that are being restrictive or non-inclusive in many of the smaller groups, especially that where you have one portion of the group that is either more powerful in number or in financial means and has a tendency to control in a community group.

I will be working hard at giving these smaller groups and the less powerful people in those groups the opportunity to use the office as a voice to raise their concerns, and to hopefully break down barriers and to limit restrictive actions by some of the groups. So this stress test 34 is something that I am actively looking at and I hope to make progress with, and I will be discussing with many of the leaders in the community groups in the near future. I'm already scheduled on a couple of calls with the executive committees and in some of the groups, and it's a message I'm going to be getting across. Thank you.

SÉBASTIEN BACHOLLET:

Thank you very much, Herb. Any other comments, inputs? Okay, we have just four minutes to go. Cheryl, do you want to say a few last words on that issue?

CHERYL LANGDON-ORR: No, Sébastien, I popped my excitement about what Herb said in the chat. Thank you.

SÉBASTIEN BACHOLLET: Thank you very much. Let's go to the next slide. I am not sure that we will have enough time to discuss that again in full, but you all have seen that there was some exchange with legal point of view and possible solution. Maybe we can have a look to the last e-mail that Herb sent to the group. If staff can put it on the [inaudible] and Herb, you can give us your interpretation of the document, and I guess we will come back on that next meeting because you have just two minutes to allow me to close the meeting. Please, go ahead, Herb.

HERB WAYE: We all know how to read, so basically, PTI will fall under the Ombudsman umbrella as most community groups and organizations that are directly linked to ICANN will, but as Samantha mentions, it will be customer service complaints have the open door to the Ombudsman. Will it be a first stop or a last stop has yet to be seen because the organization is not up and running yet, so there will be growing pains potentially. But we will be leaning much more towards the inclusive than the exclusive when it comes to dealing with PTI and any issues that come up. And they have no intention of changing the Bylaws because PTI by its own structure falls under the Ombudsman's umbrella. Thank you.

SÉBASTIEN BACHOLLET: Okay, thank you very much, Herb. To the group, I want to ask two or three questions and we will discuss that at the next meeting. The first one, are we happy with this answer and with this way of proceeding? Do we need to have more inputs from legal? And we will have input from the plenary, but do we need to have advice from external legal advisor or not? And how do we deal, or do we deal with anything outside of the [inaudible] function regarding PTI? I would say that's my three questions I want to raise. Thank you for all the work done around that, and we will come back on that during our next meeting.

Just one minute before the end of the call, I just want to recall to you that the next meeting will be next Monday, the 3rd of October. The 3rd of October is just before the plenary, [who] will be the 4th, and three days before any documents that need to be discuss during Hyderabad need to be published. Therefore, I don't know if we want to publish something or not, but if we want, we have to be in a hurry.

I guess that's all. Thank you very much for your participation, thank you very much for your inputs. I found – and I hope you found also – this meeting and little exchange very interesting. Thank you for your participation. Talk to you next week, and have a good week. The meeting is now adjourned. Thank you very much.

CHERYL LANGDON-ORR: Thanks, Sébastien. Thanks, everyone. Bye.

SÉBASTIEN BACHOLLET: Thank you, Cheryl. Thank you all. Bye.

[END OF TRANSCRIPTION]