SÉBASTIEN BACHOLLET: Yes, exactly, the meeting is now being recorded, and welcome everybody to our – I guess it's the 11th meeting of the ICANN Ombuds Office Drafting Team of the CCWG on Accountability Work Stream 2. Today – sorry, I didn't send an agenda, but I hope it will be okay. We will go to some welcomes and introduction, and updates to Statement of Interest, if any, review of the plan for Hyderabad, and Any Other Business.

First, do you have anyone who is just on the phone, and not on Adobe Connect? Okay, thank you. Anyone who needs to update their Statement of Interest? Okay, thank you. Let's go to the part of real work of this drafting team.

Today, we don't have the usual presentation with the usual slides. We have a new presentation, and I want to thank Bernard Turcotte to help me [inaudible] through this. I helped him to finalize it, but he's done a large part of the work to set up this presentation. It's meant to be presented tomorrow at the plenary session.

I hope that I'll have enough to talk about that, and I don't think that I will have a lot of time to make any presentation in [Hyderabad], and I hope that at least tomorrow it will be okay. Do you have any other business that you would like us to know about at the beginning of the call and want to raise?

Okay, hearing no one, I will go to the presentation. Yes, Herb, please, go ahead.

HERB WAYE: Thank you, Sébastien. Can everybody hear me okay?

SÉBASTIEN BACHOLLET: Yes, it's okay I think.

HERB WAYE: Good, thank you. Something, Sébastien, I've been struggling with, and I'll bring it up now before we make a presentation at Hyderabad of this report. I guess what I'm worried about is that this report reflects a handful – and I mean a relatively small handful compared to some of the other working groups of people who carry and interest in the office of the Ombudsman, and if this report is going to be supposedly reflecting the wishes of the community, I wonder if [inaudible] adding a caveat into it, or somehow – and I'm not quite sure how to deal with the fact that we only have about – on a good day – maybe 10 people showing up for our conference, and therefore, I'm a little bit worried that if we put this forward as representing the community that it is not actually something that represents the community. Does anybody understand what I'm trying to say here?

SÉBASTIEN BACHOLLET: Yes, perfectly, Herb, and I will try to answer your concern, good concern [anyhow]. First of all, our group, yes, small group, but we are here to do the heavily lifting or the hard work, then it will be presented to the plenary of the CCWG on Accountability Work Stream 2, and it's this one who will decide what we do with that, and I don't think it will be in the

near future, but the goal is to have a document ready by our group, who go through the CCWG plenary, and then to go through a public comment period.

The fact that we are not a lot of people doesn't mean that we will not ask, as much as possible, people for input, but somebody needs to start somewhere, and it's what we are doing.

HERB WAYE: I noticed there has been some discussion on some of the other groups about the role of the Ombuds, and it does raise a few people's interest across the board. I'm worried that we're going to put all this work into it and either have like zero input when it comes to public comment and things like that, or so much input when it comes to public comment that we have to go back and revisit all of the work that we're doing right now. So it's just something I wanted to throw in as a bit of a thinking piece.

SÉBASTIEN BACHOLLET: Okay. Bernie, you've raised your hand, please, go ahead.

BERNARD TURCOTTE: Thank you, Sébastien. Herb, it's a bit of the nature of the beast of what we're doing. There are many safeguards that Sébastien has presented. No matter what this group – regardless of its size – decides to put forward, it has to be vetted by the full CCWG, and then, after it's vetted by the full CCWG, it goes for a public consultation.

The second point I wanted to make from my CWG days when we had design teams, some of those design teams were only eight people and delivered key elements of what became the IANA Transition part from the CWG. So I don't really think it's a question of the number of people.

I understand your concern about it representing things, but I think it's slightly displaced in this case. Personal opinion. Thank you.

SÉBASTIEN BACHOLLET: Thank you, Bernie, and to add one point, you will see, Herb, during the presentation, that one of our concerns is also to liaise with other drafting teams when they are talking about Ombuds, and it's why we try to have liaison about that. Maybe it's not working as efficiently as we could wish, but we will discuss that in the presentation.

I hope that at the end of the discussion today, we will have some better view on what we will do, and some answer to your concern. Thank you.

Okay, I will start moving the PowerPoint, and let's see, ICANN Ombuds Office. The agenda of this meeting is – we are the point three of this – I will try to do better here.

Now, in the Work Stream 1 final report references, we tried to take out all those issues. We have that in our document, but here in the different slides, the Recommendation #8 is improving ICANN's request for reconsideration process. It's making ICANN Ombuds Office responsible for ensuring substantive evaluation of the request, and the status of that is now included in the ICANN Bylaws section 4.2, and we have nothing more to do I guess, but it's important to remember this part.

I suggest that if you want to speak, raise your hand when you want, don't wait until the end of the presentation. And if you pass through the one you want to talk, just raise your hand and we will come back. No worries.

Recommendation 12 is committing to further accountability work in Work Stream 2. It's what we are doing, and here, you have considering enhancement of the Ombuds Office role and function. The Ombudsman can perform a critical role in ensuring that ICANN is transparent and accountable, preventing and resolving disputes, supporting consensus development, and protecting bottom-up, multi-stakeholder decision making at ICANN.

ICANN Office of Ombudsman must have a clear charter that reflects support and respect ICANN's mission commitments and core values, and sufficient authority in the panel to ensure that it can perform this important role effectively, and I guess efficiently too.

Evaluation of the current Ombudsman charter and operation against industry best practices, and recommend any changes. This is there to ensure that ICANN Ombudsman has the tools, independence and authority needed to be an effective voice for ICANN's stakeholders. I really think that's the core of what we are doing with the discussion we had since the beginning of this subgroup.

Any comments, any questions? Okay, and the status of this: this subgroup will commission an external evaluation of the ICANN Ombuds Office. We will see that in the ATRT2 dependencies against industry best practices.

The subgroup will consider the topic of the independence of the ICANN Ombuds Office, and the subgroup will consider the impact of the new accountability model for ICANN, including the new Bylaws and the Empowered Community with respect to the role and oversight of the ICANN Ombuds Office.

Recommendation 12 also staff accountability. The CCWG Accountability works with ICANN to consider a code of conduct, transparency criteria, training, and key performance indicators to be followed by staff in relation to the interaction with all stakeholders. Establish regular, independent internal and community surveys in order to track progress and identify areas that need improvement, and establish appropriate processes to escalate issues that enable both community and staff members to raise issues.

This work should be linked closely with the Ombudsman and announcement item of Work Stream 2, and it's something we will discuss again later. It's how we deal with such an issue where two of the drafting teams must be involved. The subgroup will liaise with the Staff Accountability subgroup regularly and will integrate the relevant recommendations on the ICANN Ombuds Office subgroup recommendation if necessary, as feasible.

About stress test #34, the one still concerning [us], and the question is how to help the participation be open and to avoid any barriers of that, and Ombuds can be one part of the solution. The subgroup will consider this when considering the impact of the new accountability model for ICANN, including the Empowered Community with respect to the role and oversight of the ICANN Ombuds Office.

Now, I will not read this one, it's the one about additional dependency overlap and requirement coming from ATRT2 recommendation. This one essentially is the one connect with the review, and it was later that there are still open questions on ATRT2 recommendation taken into account.

This subgroup has accepted to take on this recommendation from ATRT2, and currently awaiting confirmation with respect to funding, which was not part of the Work Stream 2 budget, and I heard that it was not [inaudible] ATRT2 part budget, but I hope that ICANN staff and CFO will find a solution, maybe with the help of the Board Finance Committee.

One of the finding confirms the subgroup will commission the evaluation and oversee the contractor, analyze an issue raised and propose a recommendation if required as per the new context of the ICANN Ombuds Office.

Now the elements in the 9.3 ATRT2 and we are awaiting an answer about if it's to be handled within this group, question as a whistleblower of the role of the Ombuds concerning the whistleblower, for example.

From the CWG, ICANN Ombuds Office has also [to handle] complaints about PTI. We will integrate the requirements related to this additional functionality n the requirements or in the recommendation of what the ICANN Ombuds Office will do.

Other dependency, it's Work Stream 2 transparency subgroup last recommendation and [to] the number eight about document policy, it's exception for information requested which are not reasonable,

excessive, or overly burdensome, not feasible, abusive of [inaudible] individual should be amended to require the consent of the Ombuds before it is invoked.

That's a proposal from the other subgroup. Here, another one, the Ombuds mandate regarding the DIDP should also be [boost] to grant the office a stronger promotional role, including by integrating understanding of transparency, and the DIDP into ICANN broader outreach effort by publishing a list of the category of information ICANN holds, and by tracking and reporting [basic] statistics on the DIDP [reviews], such as the number of requests received, the proportion which were denied, and [inaudible] or in part the average time taken to respond and so on.

It's difficult for me to follow what is on the chat, and if somebody wants to raise an issue or comment, please raise your hand and I will give you the floor. Like that, it will allow me to stop to talk, you will hear a new voice, and all that will be great for everybody.

Herb, thank you very much to come to my help. Go ahead, please.

HERB WAYE: [inaudible]. If you can go back – I guess there's no need to go back, but as far as the external review that we are asking to be conducted, while that is being discussed, possibly I'll mention if funding becomes an issue that I could co-fund some of the evaluation from my office. I don't know if that would create a conflict of interest or whatever is as far as independence goes, but if money becomes an issue, I would be more than happy to look at my budget and see if I could come up with half of

the funds or whatever is required to get that done, simply because it's something that if it's not approved for the subgroup, it is something that I would be doing anyway in the very short term, so very likely at the very latest this spring. If it's not done by now, it will get done then out of my budget anyways, so you can hopefully pass that on.

SÉBASTIEN BACHOLLET: Thank you. Go ahead, sorry.

HERB WAYE: That's fine. Oh, and if you could [bring back] the DIDP slides – the next one – okay, yes. No, I'm sorry, the next one. Okay, come back one, please.

The question I have [for] recommendation – so the next slide. Yes. I'm a little bit confused with this one, and maybe if I get a chance to drop in on the Transparency subgroup, I will mention it, but this almost looks like it would be up to my office to actually have some sort of control over this.

Now, there is actually no reporting on DIDP being done now, so there seems to be a bit of an internal staff role more than a role for my office.

SÉBASTIEN BACHOLLET: Okay, before I answer, you're done, Herb? I can give the floor to Klaus?

HERB WAYE: Yes, thank you.

SÉBASTIEN BACHOLLET: Okay, Klaus, go ahead, please.

KLAUS STOLL: I'm a little bit hesitant to go in with a very simplistic issue. Sébastien, I think the contents of the slides are very important, and I know they're complex, but the Office of the Ombudsman is about accessibility, and I'm really worried that that density, complexity of information presented in that way will really flow by to the majority of the people who will listen to it, and that brings me back to the original point Herb made.

It is quite simply – if you want people really to comment on this, we need to find a way somehow to make it more accessible. This is, by the way, no criticism to any kind of the content, or even the presentation, it's just something which strikes me that there is so much good content in there, but the presentation or how it is transmitted just doesn't work for me. I'm sorry.

SÉBASTIEN BACHOLLET: Klaus, no offense at all, and if I make this presentation today, it's exactly for this type of comments, and I appreciate your comments. Maybe if I can ask you how you think that we must present the issue. Here are these two slides. I guess – no, generally speaking, how you would like us to have the slides done, bearing in mind that this presentation is done for CCWG members, participants, observers, who are supposed at least to have knowledge to part of the issue discussed in the CCWG Work

Stream 2. But except that, I will be very happy if you can give us your point of view how you will wish us to present.

I see that Bernard – please go ahead. [inaudible].

BERNARD TURCOTTE: Sorry, talking to a muted mic. Yes, mostly at this point, Klaus, I can understand, but this is a status report type presentation and not really for comments. The second point is most of the stuff we've been going through up until this point is either text that we've extracted from Work Stream 1 directly – copy/paste – or from recommendations of other groups, like ATRT or the Transparency.

And I think, like Sébastien said, the community is familiar with this material, so if it's for the target audience, it is for the CCWG, I think as a status report, it's doing okay. Thank you.

SÉBASTIEN BACHOLLET: Thank you, Bernie. Klaus, you want to come back and –

KLAUS STOLL: Not really. I just simply want to say that I really think that the comment from you and the last comment, they're right. I just wish it would look and could be communicated in a better way, but I think under the circumstances and given the purpose, it's okay. Thank you.

SÉBASTIEN BACHOLLET: Thank you, Klaus, but it's an important point that you keep in mind, because when we will do for a larger public, we will need to take that into account very seriously, then we will need your eyes specifically on that.

I see in the chat that Chris raise issue of the slide about [inaudible] of the Ombudsman is an issue. Do you want to say something about that? I don't know where I am –

Okay, first of all, can you close your mic if you are not speaking? Because I heard an echo. I guess, Bernie, you are the first, and then Chris. Can you go ahead, Bernie?

BERNARD TURCOTTE: Yes, thank you. Simply to add onto Klaus's concern, I fully understand for a general audience, this was not good. But in the Work Stream 2 budget, we do have a fair amount of money reserved for communication specialists, and if we were going out for a public consultation, it's these people who would go over it, and I think address the issues for which you have concern. So I'm not saying your concerns are not right, depending on the target audience, but we do have communication specialists which we used all the way through Work Stream 1, which are very good and both do presentation and rewriting of documents, which I think would address most of your concerns, or at least I would hope so. Thank you.

SÉBASTIEN BACHOLLET: Thank you, Bernard. Chris, please, go ahead.

CHRIS LAHATTE: Hi, I just wanted to talk about slide #8, which is slide 14, which talks about the exception for information requests to be amended to require consent of the Ombudsman before it is invoked. I'm a little bit uncomfortable with the concept of the Ombuds Office being a gatekeeper.

I think t's quite proper for the Ombudsman to review refusal of requests under the DIDP, but I don't think we are a gatekeeper reviewing requests as to whether or not they're excessive or not. That would be our reply, I think at the next stage, because if someone made a DIDP request which was, in fact, excessive or burdensome or unreasonable or vexatious and ICANN staff then refused, they could then come to the Ombuds who could come to the conclusion that their request was indeed excessive or vexatious. But I don't think we should be a gatekeeper. Thanks.

SÉBASTIEN BACHOLLET: Thank you, Chris. Bernie?

BERNARD TURCOTTE: Thank you. It's usually not my role to speak this much, but as we mentioned at the beginning of this call, all the groups have to go through review by the CCWG, and then a public review, and I think Chris and the Ombudsman, as part of the CCWG community, certainly, we would hope you would bring those points up when this is being

presented to the full CCWG community, and although we have links with them, you could even do it before.

But we do know that the Transparency subgroup will be submitting its draft report and will be presenting in Hyderabad, and I think the idea is that if you have these comments or if this group in general has these comments, that would be the place to bring them up, so there can be that synchronization between the working groups. Thank you.

SÉBASTIEN BACHOLLET: Thank you. Chris, you want to add something?

CHRIS LAHATTE: No, that's very helpful, Bernie. That's exactly what I'll do. Perhaps premature, as I think you're ever so politely telling me to raise it at this stage. I'm trying to speak a bit more loudly in case Cheryl can't hear me again. But yes, I agree, it's a comment later on and perhaps not here. Thanks.

SÉBASTIEN BACHOLLET: Thank you, and no, it's also a comment welcome here, because I think it's one of the discussions we will need to have, I will say cross-subgroup one way or another, and it's a good input. Let's take track of that.

Just to remind you that we write recommendations if necessary and as feasible, then we will discuss even if it's coming from another group, we will discuss it, and I hope that we will discuss it collectively.

And I wanted to come back to the question of budget. I have noticed what you say, Herb. Already, you told us that – I don't know, two or three, four weeks ago – I was waiting for the comeback of ICANN staff or finance people to see where they are, but we will take that into account if needed. Thank you.

Okay, this slide is really to discuss different points where we could have dependency overlap. There is a question of Human Rights subgroup. Could ICANN Ombuds Office be asked to deal with human rights? Okay, I am sorry, but HR for me is human resources, but okay. I guess it's human rights complaints, and we will also have to deal with the question of human resources or staff complaints, and that's the last point.

What will really do the ICANN staff Complaints Officer, the newly created job within the Legal department of ICANN, and what will be the relationship with ICANN Ombuds Office? It's something we hope to be able to discuss with Göran during Hyderabad or maybe the 2nd of November.

And the question with the diversity, could the ICANN Ombuds Office be asked to deal with diversity complaints? We had the question about the election issue. Do we need something, and if we need something, is it the role of the Ombuds? And that could be discussed either with the accountability of SO and AC, or with the Transparency subgroup. Something we are still [inaudible] but not yet – we didn't start any discussion with that.

Okay, we will try to focus, I would say, as an overall issue on the independence of the ICANN Ombuds Office, and of course, the review of the ICANN Ombuds Office charter versus industry best practices.

We will have, if we have the budget and the responsibility at the end to prepare for evolution of the ICANN Ombuds Office, develop requirements and deliverables list, identity a review of [inaudible] mechanism for the vendor, develop vendor selection process, and confirm a final report acceptance process.

And I guess for some of that, we will need to work with other, for example with department of the buying department, contract department and some other part of ICANN, I guess.

Okay, two hands, thank you. I don't know who was the first. Maybe I will ask Herb first, and then I will ask Bernard. Herb, please, go ahead.

HERB WAYE: Thank you, Sébastien. Could you just go back one slide, please?

SÉBASTIEN BACHOLLET: Yes.

HERB WAYE: Two, sorry. Yes, okay. I'm curious, when they talk about those first three, for the human rights, diversity and accountability transparency, are they saying that this should be specifically addressed by Bylaws, or

something to that effect? Because all three of these issues are already, by default, jurisdictional.

So I'm kind of curious why they are showing up as – if we're just talking overlap, then that's fine. I do have a role, but if they are actually talking about modifying somehow either the framework or the jurisdiction, it seems kind of [inaudible] because all three of them are already there. Just a comment. Thank you.

SÉBASTIEN BACHOLLET: Thank you. I will try to get you some input on that, but first, Bernie, please go ahead.

BERNARD TURCOTTE: Thank you. Maybe I'll put in a comment relative to Herb's concern. These are the things that have been mentioned in some of the other groups, and they're not anything specific. They're just open-ended ideas for potential overlap, so I wouldn't worry about them at this point.

The second thing – where was I going with this? Oh, yes. If we go back down a couple of slides on the process, the process will be handled according to the standard evaluation process, and will be led by Legal internally, so the exact mechanics about how we're going to handle this, we're going to have to work through, and we're fortunate enough to have Karen Mulberry with us, who's familiar with those mechanics.

And I'm not saying we should do that today, but in one of our upcoming meetings once we get the funding, I'm fairly certain that Karen will be able to present it, though I'm told that Legal hasn't quite agreed to it

yet, so I apologize, but whenever we do find the funding, we'll need a leader, and we'll need to follow the review process, so we'll have to fit ourselves into that, and I'm sure Karen will help us work our way through that. Thank you.

SÉBASTIEN BACHOLLET: Okay, thank you very much. Then, I know that Karen, and she's working on all of that, and she heard what Herb propose if there is some need of budget, part can come from his office if it's acceptable, and I don't see why not, but that's not in my hands for the moment.

Just to come back to this slide, I will say it's a little bit more – I had discussion – within the Diversity subgroup, there are some discussion, for example to set up an Office of Diversity, and one of the questions is where this office will stand. Is it within the staff? Is it a new office independent from anybody, or is it part of the Ombuds Office? It's why it came here.

Election issue, to be transparent, it's not coming from the Accountability or the Transparency group. It's coming from a comment made by someone – and this someone is me – at the discussion of the first document of the Work Stream 1. But if you consider or if the group considers that it's out of topic, it will go out, but as I tried to find with the help of staff all the places where we were talking about Ombuds, I took those ones too, even if it was done by me at that time. And of course, the Complaint Officer, we already discussed that last time.

I hope it's answering some of the questions. Bernie, go ahead, please.

BERNARD TURCOTTE: Sorry, old hand.

SÉBASTIEN BACHOLLET: Okay, thank you. Okay, now let's go to – we got through all these ones, then the last one I guess is to consider the impact of the new accountability model for ICANN, including the new Bylaw and the Empowered Community with respect to the role and oversight of the ICANN Ombuds Office, which includes identifying new roles or responsibility for the ICANN Ombuds Office in the Empowered Community processes and procedures not identified in Work Stream 1 recommendation.

For example, escalation process, moderation for the community forum, and some others. Reviewing the oversight of the ICANN Ombuds Office in light of the Empowered Community, for example, who should ICANN Office Ombuds contractor or contractors, and who should they report to? We should discuss the payment and so on and so forth.

And I guess that one is the last slide. It's we are awaiting confirmation of budget or external evaluation, and then we will be able to know what will be done by the external evaluators, and that will, in fact, the external evaluation will help our group. We will prepare the evaluation requirement document.

The last point is that if we have to do that as it's planned, how we revise our schedule, because I don't think – if we need to go through consultation to hire an external evaluator, it will take time, even if it's

not a long time. And then we will have to revise our schedule and that's something we will need to discuss in this group, but also with the plenary of the CCWG.

I hope it was not too boring and that is was clear enough. Any advice to do that tomorrow in five minutes will be welcome. I don't know how I can do that tomorrow in five minutes, but any comments? Did we forget something? Did we miss something? Bernie, please, go ahead.

BERNARD TURCOTTE: On advice for tomorrow, Sébastien, you may wish to consider skipping over the Work Stream 1 and ATRT stuff. The Work Stream 1 – I mean being very quick about it. And the ATRT, we had a presentation directly from those people, so that's all known stuff. So I think if you move to the bottom half of the presentation, you probably could get through it and provide the most information.

SÉBASTIEN BACHOLLET: Okay, thank you. Good advice. I will try as much as I can to follow your advice. Thank you.

Any other comments? Okay, that's our last call I guess prior to traveling to Hyderabad. As next week, some of us will be on a plane, and obviously, I will be on the plane on the 31st of October, then no call.

We will see our [inaudible] call for the plenary of the CCWG the 2nd of November, and my question is, do you want to resume our call just on Monday, 14th of November, after you come back from Hyderabad, or do you want to relax one week and we go directly to the 21 of November?

I will just be back the day before the 14th. I am not sure that I will be able to prepare anything specific prior, but if you wish, so be it. But can I have your feedback on that? Maybe I can ask you to use your mouse to click on… If you want a meeting on the 14th of November, please put a green tick, and if you don't want, please put a red cross. And if you want to have the next call on the 14th, put green tick. If you don't want to have a call on the 14th put a red cross or a white cross on the red circle.

If you don't care, please – I don't know, do [inaudible] for example. Okay, and my friends from the Ombuds Office [said] they want to work and they want to be back on the 14th, [inaudible] I have no input, then I will see with staff or I will do a Doodle with our colleague to see if we keep the meeting or the 14th, or if we could do it on the 21.

Okay, any comments, questions, any other business you want to talk? If not, anything we forget? Bernie, everything okay, clear for tomorrow? Okay, if it's so, then I would like to give you back almost ten minutes of your life in other activities, and a safe trip to Hyderabad.

I hope to see a lot of you there. And for the ones who are not traveling, please connect to the meeting, and talk to you on the next call, either the 14th or the 21st of November. Thank you very much for your participation, your inputs, very appreciated, and have a good week. Take care. Bye-bye.

[END OF TRANSCRIPTION]