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>> SEBASTIEN: Hello everyone. Sebastien is speaking.  
>> YVETTE GUIGNEAUX: Hi this is Yvette. You are a little soft. If you can speak up a little I think we'll be good.  
>> SEBASTIEN: Yeah. Hello everyone. We have three minutes, two minutes now to go before the top of the hour. I hope that some others will join us in the next few minutes.  
>> YVETTE GUIGNEAUX: This is Yvette. Did you send the powerpoint a few minutes ago because I don't have it? If you have me on Skype, I ask you to put it in Skype as opposed to e-mail. Okay. Thank you.  
>> ASHA HEMRAJANI: This is Asha. I switched telephone lines. Can you hear me clearly?  
>> YVETTE GUIGNEAUX: Yes, Asha, I can.  
>> ASHA HEMRAJANI: Thank you.  
(Beep.)  
>> SEBASTIEN: Okay. Thank you very much. It is Sebastien speaking. Can we start recording, please?  
>> This meeting is now being recorded.  
>> SEBASTIEN: Okay. Thank you very much. Sebastien speaking. Welcome everybody. We are today the 6th of June

2017. And it is our 24th meeting of the ICANN Ombuds office on the subgroup CCWG-Accountability workstream 2. Today's call is a longer call than usual. We are planning to have a 90 minutes call because we will be reviewing as the main topic the draft reports and by the reviewer of the ICANN Ombuds office. And I think that we will need some time to be able to discuss that in-depth and to see what are the next steps. And I will go very quickly to the first part of the agenda. It's -- then we will take the roll call from the Adobe Connect room. If there are people just on the phone line, they are not on the Adobe room can you tell us that now? Okay.

Thank you very much. And thank you for being all in the Adobe Connect room. It may be easier to follow what will happen today. Then the agenda is I will go quickly to the participation and then we will spend most of our time to the external review of the ICANN Ombud's office with the presentation of the draft report and discussion around with comments, questions and answers. And hopefully we will allow the reviewer to have a better document at the end of this call. And hopefully when they will publish the final report and we will discuss about those next steps and any other business.

Thank you.

I just go quickly to the participation. As you know we concern some of our meeting to deal with this review and to be online with the publication of the document. One important change since last time is that as you know Mathieu left. He left the cochairing of this CCWG and now Jordan is following this subgroup. I hope that he will take time to come to one of those meetings, but as you know starting in the middle to take all the responsibility that Mathieu have may take some time. And thank you for the one who participates to a lot of those calls. It is very appreciated.

Now I will give the floor to Phil. He is not prepared too much, but if you can give us some information about the document. Before I give you the floor and I wanted to know and it is to help this meeting to go -- to be useful for all of us, can I have an idea of who were able to read the -- all the document. If you can put a green tick, it will be very appreciated. And I need to put one. Thank you. Good, good.

Now if you can clear your status and tell me who will have some comments on the document or who knows that they will have comments on the document? Just to have an idea of how we can better organize the meeting. If you can put a green tick also if you know that you will have some comments now.

Okay. Thank you very much. And I give the floor to Phil, please. Go ahead. And thank you for having you today on the -- on this call. And thank you for the report you send us

one week ago.

>> PHIL KHOURY: Thank you, Sebastien. Look, I appreciate your comments about making the document a better document. We are conscious that our knowledge of ICANN is still pretty patchy and certainly not up to the standard of the people on the call. So we are sort of looking for advice and assistance with all of us here and more than happy to make the document more fulsome, more accurate and so on as we go through. Very happy to do that. It is quite detailed. And it is probably better that I don't sort of step through the whole document the whole way. I am happy to do a page turn through if that works for you. You are happy with that, Sebastien, as a process?

>> SEBASTIEN: Yeah, maybe you can tell us some not the construction of the document. Just to give us big pieces of this document. And then what I would like to suggest is that if there is any, I don't know how to say that, overarching or comments about the whole document once we start with those ones, and then we go to a page by page discussion, if you agree with this process.

>> PHIL KHOURY: Okay. Yes. I'm happy to do that. The bottom line really from our investigation is that there's a wide range of expectations from the community about what the ICANN Ombudsman can and should be doing. On our analysis of the environments and sort of position that the Ombudsman holds and the types of complaints that come to the Ombudsman and probably one more factor and that's that people who are considered part of the community are not registered or don't pay dues or there is no in or out test for people to be part of the community. And that also changes the flavor of what could be reasonably expected of an Ombudsman in this environment. I'm hoping Cheryl, that I'm a little louder now. I just rearranged the speaker, microphone at this end.

So to look at the report structure spends a fair bit of time setting out the environment because our recommendations are not radical. We have suggested really half a dozen key ways in which we think the Ombudsman function can work better, but we think it is probably not far off what is possible to achieve from it at the moment. I mean other people can decide whether they think it is radical or not but we don't think we are throwing all the cards in the air. This is a set of recommendations around refining the remit and the way the Ombudsman function works. And largely that rests on needing an understanding of the environment and how that maps to what an Ombudsman can and can't do in different settings. We spend quite a bit of time stepping through some of the background around both the ICANN environment but also what Ombudsman can do and what different models of Ombudsman can do in different

environments.

So in the contents page gives you on page 2 just gives you an idea of the overall structure of the report. It is not complete. We like to get this sort of round of feedback behind our belts before we investigate in an executive summary, particularly before polishing up the recommendations making sure they are going to fit the environment from the point of view of people who are closely involved in ICANN.

The process that we followed is set on page 3. And we would like to thank everyone who was very helpful with getting us background documents we should read, data, helping with getting the survey online and arranging interviews which people gave very generously of their time both at ICANN and on the telephone afterwards. The survey gave us better results than we had hoped for in terms of spread and depth of feedback. But I think you will agree when you look at the results that there is quite a spread of views there in terms of people's expectations, what the Ombudsman can do. We did some research around work that first Ombudsman had done. Some of the currently published material about how Ombudsman work from around the world and look at a few different standards as part of our background. And some of that is included in the report. Not because the report hinges on it in particular but because it is important that in choosing to evaluate your own Ombudsman for your own environment you understand what the options are in that space.

Now we have had a chance to test our ideas with a subgroup and with staff. And this draft is step 7 in our exercise. So we are almost there, we hope.

And I think probably the key recommendations are in five areas or so. And I guess we will get to those, but on a page turn the important things that we thought to tackle that issue of managing expectations head on. So some work to clarify the role and clarify how processes work. One of the things that's evident once you pull apart the number of complaints in the ICANN environment is that they are quite different in style and dynamics and the amount of money involved, if there is money and so on. So we think the best way to clarify that is to get quite practice and specific about the different types of complaints rather than trying to have generic language that spreads across everything. We thought that the standing and authority of the Ombudsman came in for quite a lot of criticism from stakeholders. And while the Ombudsman was satisfied that people play by the rules and are cooperative with anything that the Ombudsman's office has been doing it is clearly not the impression out there in the minds of people who have responded to us. So we think that's an area that needs some strengthening.

You know, you might argue that's a matter of perceptions in reality. In a large community like this perception is critically important. A key piece in that second grouping is decision making powers. Clearly some people have an expectation that the Ombudsman will be able to set decisions aside or replace decisions and we didn't think that would likely be the case. And in any event it would depend quite heavily on the particular dynamics of individual complaints as to what the Ombudsman could do in that space.

The third dimension that we included was the apparent independence of the Ombudsman. Again comes in from some criticism and we think that could be strengthened. And we made some recommendations which we can go through later around giving the Ombudsman some advisory resources that can -- that have more expertise in that space that can provide a system of guidance and accountability for the Ombudsman that it is very difficult for the remuneration committee absent any expertise in the area.

Our fourth area for change was around transparency where we think the work that Herb is currently doing can be built on to bring the Ombudsman up -- profile up higher than it has slipped in the last few years and to make it clearer to people what the Ombudsman does and the value add that the Ombudsman brings to the overall environment.

And then finally we think there are some issues around a number of the nondispute roles that people would like the Ombudsman to complete. And we think a policy sort of establishing some parameters for that would be a wise way to go forward.

So we can talk about all of that in detail but I think I'm -- I will stop there, Sebastien, unless there is anything I missed and return to you for a moment. And then perhaps we can step through from page 5 where the slide is at the moment.

>> SEBASTIEN: Okay. Thank you, Phil, for this summary of your document. I would like before we go page by page to know if there are people with overarching issues of something which is not just dealing with one page or one paragraph, but more with the global question, if there are any. I would like to be sure that everyone could speak. I have some if nobody else wants to jump in. If not I will start.

One of my questions and sometimes difficulty to get along the document is that I have difficulty to try to differentiate when you are talking about the Ombuds as a person, the Ombuds as a function and the Ombuds as an office. And I think this document will be clearer if first we can have a page where you explain what is the difference between those three and maybe others but those three different types of -- not type. But definition of Ombuds, Ombuds person, Ombuds function and office and to see if

we are really talking at the right level throughout the document. And we will go page by page. I hope that I will be able to point to some of those issues.

And the second question is that there is nothing and it was not in your scope of your work, but it is something maybe we need as a subgroup to take in to account one way or another, it is the question of the budget. Who is defining the budget for the Ombuds function, how it is done, and I think it is one part of the possibility or impossibility of the independency of the office. It is how the budget is set up for this specific function. And is it the right level for this organization. That's my second point.

And my third point is that do you think that with the Ombuds office plus the complaints office now set up within the ICANN staff do we cover the full range of structure issue need of ICANN. And that's something that could be useful to have your input on that. And maybe when we will go through the discussion of the document we will be able to raise some of the questions dealing with that one.

I see that Asha raised her hand and I will give the floor to Asha. And then Phil, we'll give you back the floor. Asha, go ahead. Please. Thank you.

>> ASHA HEMRAJANI: Thank you, Sebastien. Did you want Phil, to address your three points which I thought were spot on? Did you want him to address those first and then come to mine or maybe I can just ask my question and then Phil can address all of them together?

Okay. All right. Phil, thanks so much for this brief overview. I had meant to ask you this last time but now you have been very clear about the half dozen or so key ways that the Ombuds function could work better. I apologize if you did mention this, but I wanted to ask in terms of priority. In terms of these five or six areas that you highlighted, would you care to venture an opinion on which would be more important in terms of priority? Which areas do you think would be of benefit for us to work on first? Thank you.

>> PHIL KHOURY: Okay. Well, I will answer that and then come back to Sebastien's. It seems to me that the -- let me get this right. I think -- let's get those up for you all. Let me get this. I'm sorry about that. I'm jumping in the middle but I'm not an expert at Adobe Connect. I think probably the No. 1 I would count as probably making the most difference to the overall framework but it is unlikely to, you know, catch anyone's attention. I think that the things that people will pay attention to are No. 2 and No. 3, beefing up authority of the Ombudsman and strengthening independence. People understand that and there will be a headline such as there will be a

headline. There will be a headline change because it is a little more black and white and tangible, but in many ways the longer term most important thing is for people to have reasonable expectations of what the Ombudsman can do. So that the -- so that their role is valued and there is much less chatter about how the Ombudsman either has no power or is too weak or nobody pays any attention to it or all that kind of gossip. But I don't know, that's hedging my bets a little bit but I think that's the right answer, is that ultimately an Ombuds function that's well understood is going to be sustainable over a long period in the first instance of in terms of restoring some confidence. I think the recommendations are No. 2 and 3 will make -- will get people's attention more. And I think there is a need to have a little bit of theater around relaunching the Ombudsman function and that area -- they are the areas would give you some room to do that.

>> ASHA HEMRAJANI: Thank you, Phil. That's very helpful. I pretty much guessed that you had ranked them in that order, but I wanted to get your feedback. So thanks.

>> PHIL KHOURY: Sure. Just to go to Sebastien, his point about confusion over person and office is welcomed and taken. Debra and I got confused over it multiple times as we were sort of writing. I think a definition page is an excellent suggestion. And then we will be able to work our way through and make sure that the language is consistent everywhere. If anyone has suggestions about terminology I am happy to -- happy to accept suggestions also.

The second point Sebastien raised about the budget, how prepared and approved, that's an excellent proposition. Typically that is a part of the independence criteria for Ombudsman when they are being externally evaluated. Key measures for Ombudsman independence is they can set a program of work which provided it is reasonable, is accepted and they can then operate with independence without having to worry about if they are going to offend anyone who can tighten the purse strings or take away funding. So that's -- that's a good point to pick up and we'll make sure we incorporate that in to the next version.

And I think the third one was one that exercised their minds. We have a tentative understanding of what the complaints officer will do and what the scope of all of that is. And we have not had a chance to really firm that up. We have spoken to Krista a second time and looked at the coms documents that have come out about her role. We will put -- there is a little more sort of text we can wrap around that in the revision, but it is probably still a bit of an open question as to whether that's covered all the basis as between the Ombudsman, the established review

processes like IRP and whatnot and the complaints officer. That's a very good question. I am not sure we will be able to answer it with sort of full authority in the second version.

I think that's because it is still an evolving -- evolving role.

>> SEBASTIEN: Thank you, Phil. Yes, thank you, Phil. I think a good answer. And what I suggest we go page by page. I would suggest that I will run the meeting and I will move the page and expect that you will concentrate on listening to the question and answering the question and not bothering you with administrative things. I am here for that. And if you are not agree with me going from one page to another just tell me, but I think it is better. I suggest to do that if you agree with that.

But first any other comments on the overall issue or on the paper you want to make before we go page by page? Okay. If not, let's go to I guess -- now first just to be sure, you made some -- sorry. Some changes in this page here with some comments from Lars. I will not give you during this call because it will take too much time but I will send you some editing. But I have one question on this page. And Lars maybe can help us or Angie can help us with that. But the No. 8 report provided to ICANN and the ICANN board, I thought that this report was supposed to be provided to the workstream 2, to our subgroup but to the workstream 2 and with that our subgroup will publish a report. This report will be sent to the shadowing organization or we will publish the report as a subgroup. It will be sent to the full group of the workstream 2. And after two readings it will be sent for comments and then changes. And when it is done, it will go through the shadowing organization and then at the end it will go to the board.

Are there any intention to send this directly to the board? I have no trouble with that but I need to be -- to know how we will work around the document. And once again maybe Lars can help us with that. And then depending on the answer maybe some changes in this aid will be useful. Lars or Angie, have you any inputs on that? If not let's go and we will come back. I have noted that as a question we have to work on.

>> Angie: Yep.

>> SEBASTIEN: Okay Angie.

>> Angie: Hi Sebastien. This is Angie. I want to restate the issue, the question for Lars. The No. 8 item reporting, the report provided to the ICANN -- to ICANN and ICANN board, whether that be via Cameron Ralph or the workstream 2 group is what we are looking for clarification on.

>> SEBASTIEN: Yes. Thank you.

>> LARS HOFFMANN: Sorry. Thank you for repeating it,



Angie. My understanding is that it is a two-pronged approach. But I would be more comfortable if Laena was down but I think she had to jump off the call. My understanding is it goes to the board. There is a tier 2 relationship here, but it is also going to the top team for their consideration and to the workstream 2. I will get you the correct answer with feedback from Laena as soon as I can after the call.

>> SEBASTIEN: Thank you. My understanding was tier 2 gives us a job to do and there is not anymore tier 2 link, even if at the end of the work the tier 2 team will have to take that in to account. But never mind. I will be happy to have an input and to be clear on what are the next steps because I am in trouble if we go through two passes for this document because it goes to the board. It needs to go to comments before and we are not intending to have a comment period for this specific document. But to include it in our report as a subgroup of workstream 2 and a workstream 2 report. Happy to have clarification. Lars, go ahead.

>> LARS HOFFMANN: Yes. I will definitely clarify. And you might very well be right about the tier 2. So I'm -- I do not want to say that is not the case and that's why I would like to clarify. Thank you.

>> SEBASTIEN: Thank you. Phil, you see that not -- not everything is easy and just one sentence can have some discussion. Okay. Let's go to --

>> PHIL KHOURY: I am happy to be guided on that. No problem.

>> SEBASTIEN: Okay. Thank you. Okay. Then let's go to the next page with contents. ICANN environment, Lars, you are still -- your hand is up. It is two comments here or -- okay. Thank you.

>> PHIL KHOURY: From my point of view, Sebastien, we want to make sure we were not insulting anyone here. It is often quite difficult to very briefly summarize, you know, somebody else's environment. So again, more than happy for people to suggest wording here that might be more accurate.

>> SEBASTIEN: Yeah, I have a few comments on that. Yeah, my first point is that I am struggling, again the use of the word international too much. International it means that we are talking about international organizations and we are a global, blah blah blah, organization. But then the word international when it can be changed to worldwide or global, it is better because very often we talk about international organization as a United Nations organization. Okay.

And my second point is that when you talk about at the end of your page, comment or summary, models of Ombudsman, you really think about U.S. and Canada or it's broader than that, and

Australia and New Zealand, eventually UK are the same type model of Ombudsman or it is really the North American one?

>> PHIL KHOURY: It is dominantly North American. All the countries in UK and Jersey and so on there is more range of Ombudsman. They have government Ombudsman, but far, far fewer corporate Ombudsman. Internal Ombudsmans are comparatively rare in those other parts of the world that I am more familiar with. They are much more likely to have decision making powers outside of North America.

>> SEBASTIEN: Okay. Thank you. And in the point six at the end, some aspect of standard and policy are highly technical, I will say that there could be also highly legal, highly economical, and there are more value driven. I think you talk about more social or more political. And I think even if we are a technical organization we deal a lot with academics and with legal also.

So it might be useful to change a little bit the sentence here.

>> PHIL KHOURY: Okay. So for values you were saying political also, yeah?

>> SEBASTIEN: I will send you something in writing but just to give the possibility to other two comments or to come to the discussion. Okay. No other comments on this page. Let's go to the next one. Any comments? Okay.

Okay. If no comments let's go to the next page.

>> PHIL KHOURY: For things we are describing the ICANN environment, we have had one conversation with Herb, you know, sort of at a high level about some of our ideas but if -- but the invitation is there for Herb for anything that, you know, his level of detail when you read it again to pick up by all means. Just shoot us a -- just shoot us an e-mail or a phone call. We will be happy to pick those up. And I'll try and speak louder.

>> SEBASTIEN: Yeah, that's better, Phil. You are closer to the mic. It seems to be better. Yes, definitely and not just -- but if others have some comments by writing after the call, it is important that we do that now.

The page 9, my only comments is that you need to define ADR. You know by heart what it means. But I don't know that people who will read that -- just to let you know in Europe it is used for (inaudible) dangerous goods by road. It is not what you meant even if it is an interesting definition. It is important that -- at least the first time you use an acronym that you put the spelling out of this. Okay.

Let's go to page 10. Okay. Page 11. Okay. Yep. I have the question of the complaint officer, but you will work with Krista on that. My only comments here it is about independent review

process is that center for dispute resolution is U.S. based organization. And I think it could be useful to indicate that in this document.

Okay. Page 12, in the last sentence I think you need to write what is the number of tools you are talking about. Because in the previous page you were talking about six -- five or six.

>> PHIL KHOURY: Yep.

>> SEBASTIEN: Sorry, you were with six points somewhere, five or six points and now you are talking about two of them. And it could be useful to say which tools you are talking here.

>> PHIL KHOURY: Yep.

>> SEBASTIEN: Okay. Interesting diagram. May I suggest that in this one and maybe with the help of staff, maybe Lars can help, asking Patrick -- what is his name? Dodson or something, to design something with specifically how they grant new function and way of intubating the Ombudsman is working with the other processes or with the processes to show where at the start when asked to intervene at the middle or at the end, a diagram could be very useful for explaining more easily the -- your last sentences.

>> PHIL KHOURY: Yeah, I think I understand that.

>> SEBASTIEN: Okay. Okay. I'm sorry to do a monolog. I hope in the next page you will have some inputs. On that I have one comment. It's -- maybe it could be useful to talk about one who respond and the respondents is just one part of the community. But I know that we expect that those one who represent the community but I'm not absolutely sure. It is more the people when -- who knew about our work, who knew about who deal with the Ombuds in previous years and a real picture of the overall community and that's good. Some regions like Latin America have done a great job and I think that Alberto, thank you for your work on that to pushing people to answer in Spanish. Even if we just get three answers in Spanish, I guess others were able to answer and it is why your region is the one with more participation outside of North America. And I really think that your inputs and job was very important for this feedback. We have done that in the other regions as well. Okay.

>> PHIL KHOURY: Yes, we did have a look at some data to try and get a picture of the proportionality of the response to the survey. But it is -- it is a very fluid community you have. It is pretty difficult from the data we saw that to pin down what proportion of the community would indicate they were associated with which region.

>> SEBASTIEN: Yeah, I understand that. But my point was to maybe say somewhere that we are dealing with the respondents who were participating in those surveys. And it may be a little

bit different on what we could get if we go to interview. Much broader range of participants of the community if we go to an ICANN meeting with those questions and ask the people in the corridor, I am not sure that we will get the same type of answer. It is the one who were -- who answer the questionnaire. Yeah.

>> PHIL KHOURY: They self select.

>> SEBASTIEN: Okay. Let's go to the next page. Page 16. Okay I don't have any comments. If nobody else, I will just jump to the next one. Okay. Okay. Let's go to assessment page. This page on page 20 before go to assessment, it is something I would like to comment back not specifically to this page but to be sure that you take in to account these two additional roles. And I would like very much to have your point of view, specifically about these two additional roles. Is it good to try to include them and how we can include them in to the Ombuds office or we need to find another venue to do that. Because -- you will see the discussion for the next page. It's -- I get trouble to understand what you were talking about, if you were talking about these two additional roles or about others, other roles possible. But I have no specific issue on this page.

>> PHIL KHOURY: Okay.

>> SEBASTIEN: Okay. Let's go to the assessment. Okay. Here I have -- but we will not spend time on that but I need to come back to you, Phil. There are sentences that I have trouble to understand. And I think maybe it is Australian-American English language or it is something we need to put to be more understandable. But I -- we don't need to spend time on this call for that.

>> PHIL KHOURY: Okay.

>> SEBASTIEN: On this diagram I have just one question. It is on the internal organization. As you say that it is funded by CU board. Why at the last column reporting to the CU it is not all the board. Because if it is funded by the board it may be reporting to the board and not to the CU. It is a question mark.

>> PHIL KHOURY: Yes. It has to be expanded. And under the heading of remediation powers it is small r reporting to the board, to the CEO. Sorry, the power comes from bringing an issue to the attention of the CEO and the CEO using their powers. So I'll expand the language to make it clearer what we are talking about there.

>> SEBASTIEN: Okay. I go through. Of course, if any of the participants want to jump in, please do so. I have the impression to -- I don't want to steal the call. Yeah, I just suggest that we put the name of the first Ombudsman

because -- and write the first ICANN Ombudsman or to write the name but something to be more clear who are you talking about.

>> PHIL KHOURY: Uh-huh. Okay.

>> SEBASTIEN: Now here it is, page 26. In fact, the first column it is coming from page 24 and it is not exactly the same.

>> PHIL KHOURY: Okay.

>> SEBASTIEN: May I suggest that you don't rewrite or maybe this one you can but maybe not. You just put the 1, 2, 3 and what it is in bold, and you say that it is coming from the page 24. And -- but at least you need to be accurate between page 24 and 26.

>> PHIL KHOURY: Okay. That's a good suggestion.

>> SEBASTIEN: And you will see that I will do the same later. You have another document where you take another page, where you take these two columns and you add a third one. And then we'll talk again on that later on. Okay. Imperative for change, any comments here? Okay. On this page my only question it is about the last sentence. When you talk about individual matters, you talk about one file or one single issue or one single complaint and the complaint can be done by an individual, people, a person or by a group of people or it is really an individual matter as -- as a person.

>> PHIL KHOURY: Generally we would -- I'm just wracking my brain here, Sebastien. I mean in general we would talk about one matter in the sense it wouldn't be essential that it is a single person involved. It could be a group. I'll need -- I'll make a note and double check my language there to make sure I have -- we haven't made any -- just made a slip. But in general we would be talking about a matter.

>> SEBASTIEN: It was also my understanding. That's why I think it is important that we -- you use the right word to talk about that even if I -- we can't understand but it is better if it is a single matter or whatever you will say in English. Okay. Now this page design consideration for new functions, what are those new functions that you are talking about? Is it the two about the diversity and DRDP or it is others? It could be useful to specify what you are talking about or what you intend to talk about because at least I got some difficulty to be sure on what you were talking about.

>> PHIL KHOURY: Okay.

>> SEBASTIEN: At the end of the first paragraph you have also your individual matter. And I would like you to on the second column, you have at the end of the paragraph establish a principle to guide this. And I guess on future, and future decision but to put that in bold because I think it is a very important sentence and maybe our group will need to work out something after you give us your final report to do this part of

the work as a workstream 2 issue in the next few weeks after you give the report.

Or if you consider that it must be done by somebody else, just explain who must be in charge of establishing those principles.

>> PHIL KHOURY: Okay. I have got it.

>> SEBASTIEN: Thank you. I guess you already have these comments about governors, what you mean by. If it is a member of the board, member of the committee of the community, whatever. It is useful to take maybe some wording we use within the ICANN and we are not too much issues with governor or governors wording.

>> PHIL KHOURY: Okay.

>> SEBASTIEN: Now let's go to recommendations. And mainly in this second column, the second paragraph, all the notations we also think there will be an advantage if the Ombudsman is a trained mediator as was the second Ombudsman. Here it is why -- one of the reasons I ask you about the person, the office or other function. Here you seem to talk about the person but from my point of view what is important is that within the Ombuds office you have a trained mediator. It is not the same that asking the head of the office to be a trained mediator. Or you want to say that and then maybe you need to be more spot on and say the head of the Ombuds office must be a trained mediator. It is up to you. But one or the other can be done and your input will be useful.

>> PHIL KHOURY: Okay.

>> SEBASTIEN: And --

(Beep.)

>> PHIL KHOURY: I think you are quite right. It should be the office, not the person in that case.

>> SEBASTIEN: It is my feeling, too. But it is your report. And then you talk about, for example, in the next paragraph, the second line, we have suggested the addition. You may have to write that after you wrote the next pages, but you are suggesting or we are suggesting or we suggest because we have suggested it is -- it seems that we may go page before. But in fact, as we are now coming to the recommendation it is the first time you make this recommendation.

>> PHIL KHOURY: Yep. Got that. Thank you.

>> SEBASTIEN: And it is on all the paragraphs on this page.

>> PHIL KHOURY: Yeah. Okay. Yep.

>> SEBASTIEN: And the last sentence is the same to set up the policy, to set out the basis for any such role who must be in charge of that. Is it as a subteam of the workstream 2 or it must be somebody else. I don't know if you answer that in this page or in the following ones. But it is something would be

useful for us to have your inputs.

>> PHIL KHOURY: Okay.

>> SEBASTIEN: Asha, please. Sorry for the delay to give you the floor.

>> ASHA HEMRAJANI: Thank you, Sebastien. Can we scroll to the area -- to the page where you talk about the trained mediator? Not -- I'm sorry, I know we are on that page. But I wanted to zoom in on that section because the font is really small. It is on the right-hand side, right?

>> SEBASTIEN: If you click on the four hours just on the top, you will have a -- it will be bigger because it will take your whole screen.

>> ASHA HEMRAJANI: Yes, I got that. Yes, yes. It is still very small for me but it is okay. I put it now on my bigger screen so I can see it better. The -- I wanted to ask you Phil, about what you meant here. And I know, I heard Sebastien's question about whether it is the Ombudsman himself or herself or whether it is the office. And the other point I wanted to ask is is if you wanted to restrict -- if you wanted to -- did you really mean trained mediator or did you mean a trained and experienced mediator. It is one thing to be qualified as a mediator but it is another thing all together to be experienced in that field.

>> PHIL KHOURY: Yeah, we had wanted to be flexible in that space because this is not a field where there are thousands of potential candidates. It tends to be fairly rarified skills and you -- we didn't want to so tie it down that it looked as if the only person who could possibly apply to be an Ombudsman was someone who had been a mediator for many years. The important thing and I will change the wording, the important thing is that the mediation that's -- that the -- the office of the Ombudsman or the function has access to strong mediation skills. Now in some cases someone that you hire and they do some mediation training would be able to do some mediations, but obviously there will be others that are complex or particularly difficult or involve many, many parties where you would go seeking experts in mediation. And that's a special skill and you are probably better off -- you are better off to hire that individual because they come along fairly rarely. And it would be expensive to maintain someone of that standing in-house where they might go months or years between substantive mediations.

So I think probably that there can be a mix of that for the function. Clearly if somebody who had both training and experience as a mediator and otherwise the role came along, I think that would be terrific. I don't think I want to structure it to assume that.

>> ASHA HEMRAJANI: Thanks for that. So I have a little

different view. And this is, of course, your report and I would not, you know, tell you how to write it. But at least where I'm from we have more mediators than mediation cases. It is -- there are -- there is an abundance of mediation skills. What there isn't an abundance of is a mediation experience. And so that's why I say this from a position of experience because I am a trained and experienced mediator. So I'm -- in my arena I can see what's happening in the market. So I don't want to tell you how to write the report. This is really very much related to Sebastien's question which is if the office is meant to have the experience or the skills, then you wouldn't have that restriction of being only able to look amongst experienced mediators for an Ombudsman. So that's why I support Sebastien's suggestion about making it broader. And making it the office rather than the person. Then you can have -- you can pick and choose the skills that you wish to have. But it is just from my experience, you know, in the mediation skills it takes five days or about seven days rather to take all the courses and to take the exam and that's it. And then you are an accredited mediator. Having the experience to be a mediator is a different ball game all together. It is one thing to have the classroom skills and another thing to have done it before and to handle actual disputes. I will stop there.

>> PHIL KHOURY: I accept that.

>> SEBASTIEN: Thank you. Let's go to the next page. Here again Phil, I suggest that you -- the first column you just leave the -- what is involved and you refer to the page 24. The first column it is coming from page 24. The second from page 26. And the adding column it is one more important one. Here I have a few comments. First the title recommendation. You missed one letter. And then on the second establish Ombuds accessory panel at statement experience of former Ombudsman. Once again it is my feedback. We are a multi-stakeholder organization. If you need to take ex-minister from states and not other people with good knowledge, we will be in trouble. I understand your idea about the Ombuds advisory panel. Maybe you need to enlarge where people can come from and not just former Ombudsman or elder statesmen or states person.

And my second comment on this part is that the last -- its term five per three years, it is not accurate with page 39 where you say five including one year of probation and two years optional. So I need you to be accurate.

>> PHIL KHOURY: No problem. What was the other page, Sebastien?

>> SEBASTIEN: 39.

>> PHIL KHOURY: Okay. Thanks.

>> SEBASTIEN: And here also you talk about Ombudsman,



Ombudsman. We prefer to use Ombuds, Ombuds person. But Ombuds is enough. But you have all those -- and for outside if you start to read why they talk about Ombuds one time, Ombudsman, Ombudsmen and so on and so forth and you may wish to revisit the wording here.

>> PHIL KHOURY: Sure.

>> SEBASTIEN: Next page. I guess the A, B, and C governance community corporation, it is when you are talking about its complaints, again those three groups and not coming from one of those three groups. It could be maybe useful to explain it a little bit in your document.

>> PHIL KHOURY: Okay.

>> SEBASTIEN: Okay. Okay. If no other comments here, just reviewing individual matters, the second frame could be useful to be revisited. And next page, interesting page and then quickly to understand. I have just one question, it is that when you talk about the community, you talk about this dispute between ICANN groups. Do you mean ICANN groups, formed groups like SO, SC and so on or it can include groups with no standing? I don't know what I can take as a very bad example but I hope that I will not check anybody. But a group of women against a group of men, is it something who can be included or a group of Spanish speakers against the others or whatever. Then it is not a formed group. But it is a group who gather and who do something together. It is a question.

>> PHIL KHOURY: Look, I took it to be small g groups. Not formal groups. I took it to be the broadest definition of groups. It could be a group that has only formed at a particular event or as you say a group of Spanish speakers or anything else. That seemed to be more consistent with my understanding of how ICANN operates than to attempt to define formal groups only. There may be complaints from, you know, a formal group that might fit in to some other category. But we were really looking at a pretty broad definition for this third grouping.

>> SEBASTIEN: Okay. Maybe you can think about how to put it as it has become clear that it is not. Okay. Next page. Here you have full range of Ombudsman, Ombudsman function, and you need to revisit with the question is it the office, is it the function or the person. It will be useful, for example, the last -- not the last. How do you say? Not the last one but just the previous one in the second line. It is a skill set for the Ombudsman. Here it could be useful to say it is the Ombuds office.

>> PHIL KHOURY: Yes, I agree.

>> SEBASTIEN: On the previous sentence you talk about the ICANN website. I understand that, but it may be important that

it is published on the Ombuds website and with advertising or announcement put on the ICANN website. I think the ICANN website, if they need to have everything from everyone it is more and more complicated to go and what is important is that it is published and advertised or announced by the ICANN main website.

>> PHIL KHOURY: Okay. All right.

>> SEBASTIEN: Okay. Here again you talk about elder states person. I will not make it again but I have one more fundamental question, that if we want to have an independent Ombuds adversary panel, who will select as this group? You may not give an answer but you may put a sentence saying that a decision must be taken who will select those people and we as a workstream 2 subgroup we can work on that. Or if you have a suggestion put a suggestion. You have to have thought about and decide to answer or not answer.

>> PHIL KHOURY: Okay. Thank you.

>> SEBASTIEN: And I am not sure about what you put in to brackets. We understand -- not the last one but the previous one, paragraph. I am not sure that it will change something if the board creates a new committee for the rest of how we organize the office of the Ombudsman because it will still be a board committee and a board committee is a committee with only board members despite my struggle to open some of them when I was a board member and I don't think it will change anything in your proposal. But once again it is my point of view. And on the last paragraph it is here you have five years plus two years.

>> PHIL KHOURY: Yes, I'll fix that.

>> SEBASTIEN: Okay. No comments on this page. Other functions. On the third paragraph you talk about -- yeah. Three possible avenues. May I suggest that you put these three avenues and three bullet points. We have trouble to see where we as a -- the other three are and these bullet points would be easier to understand.

>> PHIL KHOURY: Yep. Good suggestion.

>> SEBASTIEN: And once again it is three reviewable, when you talk about he or she, once again you talk about the person and you talk about the office or you talk about the function. Here you talk about the person obviously. But is it what you meant or --

>> PHIL KHOURY: Okay. Got it.

>> SEBASTIEN: Okay. Nine minutes to go. I don't quite get the point No. 5. It should be my operation of English. But we may need to discuss that off call and maybe to change it a bit.

>> PHIL KHOURY: Expand.

>> SEBASTIEN: Here you are talking as an example, DRDP, I understand. Maybe in this page or somewhere else you can tell us what is your feeling about the proposal about diversity if you wish so.

>> PHIL KHOURY: Okay. We'll do.

>> SEBASTIEN: And I guess we are at the end of the document. I don't think we need -- we will go through -- that's the attachment and the review. Here, for example, in this one you have -- when you talk about GNSO in the first frame, you have ENPAC is one or two Cs. It is the same organization with just one C.

>> PHIL KHOURY: Oh, okay.

>> SEBASTIEN: Okay. We'll go through those pages if you have any comments. Okay. Interesting comments and sometime we need to take them in to account. Take them onboard.

I guess we are going to the end of the document. Yes, we are. Okay. Any additional comments, questions? I have one additional question at the end. I put to three questions at the beginning. I have a fourth one, is that did you consider the question of having as we have today, in fact, in-house Ombuds? Again the possibility to have an external office, some organization just need to have an Ombuds function and they give it to outside organization. Ombuds who are doing the different work for different organizations. Did you think about that or you think that we have since the beginning of in-house and it is okay like that and we don't need to rediscuss this issue?

>> PHIL KHOURY: First, I will take that as a suggestion to cover the issue in the report which I'm happy to do. And then just very briefly we think about whether that was doable in this environment. And we concluded that for ICANN because it is a community, because it is a highly unique environment, that unless the Ombudsman was closely and I mean the Ombuds function was closely tracking and involved in the doings and current issues of ICANN, an external Ombudsman would be hard to keep on top of the issues. Often external Ombudsman are law firms or professional mediation firms. And they usually need -- because they are not -- they are generally not closely involved in the community and the issues they usually need to work from constitutions or bylaws or documented rules and former view about an issue from that sort of basis of information. So we really fairly early on for that probably wouldn't work in the ICANN environment. But we should write that down --

>> SEBASTIEN: Yes.

>> PHIL KHOURY: -- in the report.

>> SEBASTIEN: Thank you very much. Any last comments from others? I hope it was not too boring for you to participate to this call. If we can go back to -- go back to my slides and I

would like to thank Phil for your participation and your answer and thank you and Debra for the work you have done. We go to what are the next meeting and our next meeting will be in six days. Maybe it will be a short -- it will be a one hour meeting, not 90 minutes meeting. And the last meeting before the Johannesburg meeting will be the 19th of June. And the question is when you plan to have a final report. Because if it is on the 12th, do we need to keep this meeting or do we wait for the 19th or do we want to discuss other topics. I will raise this issue on the list and we will decide.

But Phil, do you think -- you told or you write that you will send a final report on the 12th. That means that we will not have time to go through it but that's okay. Do you think that you will be able to do it for the 12th? Or you will after this discussion maybe more -- need more time?

>> PHIL KHOURY: No, the 12th will be fine. We can turn it around for the 12th. There is a couple of things that we need to check, you know, some things with Herb. I think something also with Sam Eisner. And I need to talk to you Sebastien about the extra feedback you have for me. But I think we shouldn't have any trouble getting it to you for the 12th.

>> SEBASTIEN: Good. Then I will ask the question on the list if we want to keep that meeting of the 12th. If we want to discuss other topics. And then the 19th will be useful to discuss the final report. And I hope that we will be able to have for the ones who will join us, to find the time to discuss. I don't -- I don't know the answer. You will be with us in Johannesburg, Phil and Debra?

>> PHIL KHOURY: We are not expecting to be there. At this stage we are waiting for you guys to figure out what the process is from here but we weren't expecting to be there.

>> SEBASTIEN: Okay. Thank you. And as it is the top of the hour I am one minute late. Any other business? If not, I would like very much to thank you and have a good day. Good night for everyone. And thank you very much. And this call is adjourned. Talk to you soon.

>> YVETTE GUIGNEAUX: Thanks, Sebastien. Thanks, everyone. Bye for now.

>> PHIL KHOURY: Thanks, Sebastien. Thanks everyone. Bye-bye.

(Call concluded at 1:31 a.m. CST)

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