
SEBASTIEN BACHOLLET: Thank you for joining this call. We will take the role call from the AC room and we'll try to go to just two topics. One is to finish to review the comments that were gathered by staff [inaudible]. As you know, I tried to add some comments, some answer to the comments, made by – go to the last one.

I guess the second point will be what will be our next steps. I will hope that we will finish the comments first reading today and then we will see how we can go to next phase later on into the call. We are the five participants and we can start [inaudible]. I think we stopped at recommendation ... I guess we have to finish recommendation 8, 9, 10, and 11. Okay, we don't have the one with my suggestive comment. [inaudible]. Can somebody from staff help me with that?

BERNARD TURCOTTE: Yeah. We're [inaudible] and we'll get the right version up in a few minutes.

SEBASTIEN BACHOLLET: Okay. Just to start for the participants, and once again thank you for joining. Did you have time to read the comments on column E or do you want me to read it through? We have a recording, but to be sure that you have the same level of information. Okay, if you want me to read it through, then please put a green tick and I will do it. Klaus, did you want to talk?

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KLAUS STOLL: No. I just wanted to – sorry, I didn't find the tick button. I think it would be helpful if you read it through. Thank you.

SEBASTIEN BACHOLLET: Then I will read it. You will have it in a few seconds. Therefore, we are commenting recommendation 8. Number 9 [inaudible] and it's coming from the ICANN board. [inaudible] to the different topics they have in this comment. Maybe what I will try to do is to read both. [inaudible] recommendation to include [inaudible]. See if you can change. That does not seem appropriate for implementation at this time [inaudible] can be strengthened, should come first and then consideration can come later as to whether additional [inaudible]. When reading these recommendations [inaudible] identified many questions that support this conclusion. I will read them after.

Now to read [inaudible] comments. [inaudible] one of the main proposals of the external review. [inaudible] thinking that bylaw changes would be feasible. Shorten the implementation. The co-chair of the CCWG on Accountability requested the subgroup to find the best way to implement any recommendation with [inaudible]. The way the subgroup on the ICANN Ombuds office seek it to put that in place with the [inaudible] of the ICANN board.

Is it better now? Have you any comments on this first part of the Ombud comments? Okay. I guess we are [inaudible].

Number one comments [inaudible]. What is the role of the broadly [inaudible] in relation to the proper role of ICANN Org and the board, with respect to the office of the ombuds? My suggestion is to add ...

First, I have a question. What is the role of ICANN Org regarding ICANN Ombuds office?

From my understanding and knowledge, it was something with no link to the ICANN Org, but maybe I'm wrong. If so, I would be happy to have a correction. The other part of the answer is [inaudible] bylaw changes, the board will [mitigate] [inaudible] duty and responsibility, including the one actually done by the Board Governance Committee and the Board Composition Committee to the [inaudible] panel.

I would like to add that it's a way to strengthen the independence of the ICANN Ombuds office with the board and that's, once again, one main point. Most of our work [inaudible].

Okay, [inaudible] too low maybe. May I ask [inaudible] mobile and it would be easier?

BRENDA BREWER: Excuse me. I'm sorry, Sebastien. What did you say about your volume? Because it is hard to hear. Plus, I also hear papers shuffling. Did you ask for a dial-out?

SEBASTIEN BACHOLLET: Yes. If people like you and Alberto have troubles, can you call me?

BRENDA BREWER: Yes, I will. Please stand by.

SEBASTIEN BACHOLLET: Sorry for that.

BERNARD TURCOTTE: Since this one is a complex one, Sebastien, maybe we can skip ahead to some of the other ones quickly that will require less speaking.

SEBASTIEN BACHOLLET: Can you hear me better?

BERNARD TURCOTTE: That's excellent.

SEBASTIEN BACHOLLET: Thank you very much. I heard that, Bernard, you were saying something. May I follow on? Okay, I will.

Let's go to next comment. It's number two. What is the scope of [inaudible] outside of involvement on non-[inaudible] work [inaudible] on the authority contribute to the hiring and evaluation of the ombuds office. My suggest is answer is [inaudible] will be in charge of hiring, firing, and evaluating the ICANN ombuds office, but also will give advice if needed to topic as to [inaudible] to understand that under new subject [inaudible] here, how to organize the office. It could be also at the request of the ICANN ombuds office. It is important to note that a [inaudible] panel will allow inputs from people with knowledge of other ombuds activity from other structures. I add now as it is proposed to be

built with people with good knowledge of ICANN and the ombuds work within ICANN, but also with ombuds from other places.

Any comments? Okay. I will go on.

Number three. How does the notion of a [inaudible] panel [inaudible] relating to selection and termination accommodate work in practice with [inaudible]? [inaudible] of the ICANN bylaw, which requires the office of the ombuds to be independent. It is [inaudible] that there is a bylaw change here.

My suggest answer is if we can work around to leave the bylaw as it is, it will be a good first step. I can add, yes, we know that it's in contradiction or not fitting with the current bylaw, but [inaudible] before, it's a [inaudible] from the board to the [inaudible] and the final decision is taken by the board. Hopefully, they will take the same decision that the [inaudible] panel suggest. They [inaudible] bylaw changes.

Number four. Would the [inaudible] panel be [inaudible] consent? My answer is more a question. I don't see a difference. It may be my English and/or little understanding, but I think the [inaudible] panel will try to give wise advice. I don't know if there are some specifics with a [inaudible] but my understanding is that ... Really, I don't get what would be the difference between [inaudible] and wise counsel. Maybe one of you has some insight on that. Maybe we can have [inaudible] and if they want to give more input, we will [inaudible].

Number five. [inaudible] proposed work with section five points 1, 2 of the bylaw, which requires [inaudible] votes [inaudible] ombudsman. Would the board in such [inaudible] recommendation on [termination]?

My suggested answer is no bylaw changes. It will remain and the board will act on the proposal of the [inaudible] comment [inaudible] implementation we will need to define by the number for the vote by the [inaudible] for easy decision, but I imagine that the decision by the board at the end must be [inaudible] no change here.

Now, number six. [inaudible] in relation to the task we need to undertake in relation to the ombudsman. The proposed [inaudible] number seven. How can the ombuds [inaudible] confidential [inaudible] as ICANN bylaws [inaudible]. No case will be discussed by the [inaudible], therefore there is no question about confidentiality, but the [inaudible] panel will ask also and I guess the implementation rule will fix that [inaudible]. I don't see any trouble.

Number eight. Is a five-year evaluation [inaudible] accountability and transparency review team [inaudible] ombudsman as part of the ICANN accountability work? My suggest answer yes.

And number nine. How will our conflict of interest consideration to be assessed with regard to the [inaudible] panel? My suggest answer is [inaudible] implementation five phase we will define the conflict of interest to speak with the [inaudible] in the composition and during the work of the [inaudible].

Number ten. Why the report [inaudible] be required to maintain its confidentiality and engagement [inaudible]. It isn't clear how the

practice of [inaudible] panel will function with the ombuds in light of this requirement. I will change that. There is no big deal here as this panel will work with those questions of confidentiality. And once again, there is no discussion on the case. I guess it will be the same that [inaudible] discussion between the ombuds and the board, and specifically the [inaudible].

That's the first one. Any comments, questions on that one? Klaus, please?

KLAUS STOLL:

Thank you. For the answers, I have no problems with the answers. I have a problem with basically reading what the board is asking us. I feel that there is not a misunderstanding, but a suspicion brought about this advisory panel, and also with regards to confidentiality and all these things.

I don't think it will be sufficient if we just provide an answer like you did quite well. But, I think this needs a little bit of work and explaining it face-to-face and trying to solve things out in a more detailed and substantial way.

And without trying to put somebody on the spot, I also would like to have the opinion or the comments of the ombudsman to it because my problem is the tone and my problem is the direction the questions are going, not so much the answers. I'm frightened that we are stumbling here to a conflict which might not be that fruitful and necessary. Thank you.

SEBASTIEN BACHOLLET: Thank you, Klaus. Herb, do you want to say something? [inaudible], just suggestion. Maybe you can [inaudible] next call [inaudible]. I will go to the next one.

Recommendation from the GNSO Business Constituency. I guess we are now talking about recommendation 9, and it's number [10 or 1]. The comment, it's agreed that the extension should be subject to community-based feedback [inaudible] covering ombuds [inaudible] over the previous five years. We have the same from the GNSO IPC [inaudible]. I suggest that we include something like that in our report if you agree with that.

Okay, next one is from the ICANN board [10 or 3] comment. I will read the comment from the board. The board understands the reasoning behind the recommendation changes to the ombuds [inaudible] contract, that it's concerned that the creation of a five-year fixed-term contract is [inaudible] may not provide motivation for [inaudible] from the ombuds. It should be a collective goal across ICANN that the ombuds try for exemplary performance in service to the ICANN community and not be [inaudible] have been met. Similarly, if the ombuds is doing a good job and gaining trust [inaudible], why would there be a recommendation to only extend [inaudible] for up to four years [inaudible] ombuds have been [inaudible] to ICANN that it doesn't [inaudible] this recommendation [inaudible] by the means to promote and protect and implement [inaudible] office. The [inaudible] accountability in ICANN [inaudible] reducing issue it is seeking to solve, so as to not discourage high-quality ombuds and [inaudible]. It may be

preferred that we [inaudible] ombuds composition based on some objective criteria such as [deliberating on the reporting goals] [inaudible] on this report.

I suggest that [inaudible] its proposal. The objective is to [inaudible] ombuds with high performance. After eight years, it may be a good time to change ICANN ombuds office. Experience can also come from outside of ICANN. The board receives the inputs from the current ICANN ombuds and the CCWG on accountability receives the view of the [inaudible].

Any comments, questions?

I would like to just add one point. It's [inaudible] what Klaus said before. The tone is quite strange from my point of view and it's also very surprising for me to [inaudible] ombuds comments made [inaudible] here. I don't think it's a good way to go. Maybe we should have some discussion with the board in one point on the other.

We are almost at the middle of the call. I will try to go as quick as possible. [inaudible] comments on recommendation 9. On recommendation 10 we have support and agree. Let's go to recommendation 11 if you all are good with that.

We have the first comment [inaudible]. I will read it. It's from ALAC 1201. We recognize that the ICANN [inaudible] high level policy expected to be observed by the office of the ombudsman. Therefore we do not believe restricting the ombudsman from certain activities as suggested by several members of the community is a necessary detail to codify in such policy. We expect the ombudsman will understand their

role and [inaudible]. Community policing of the ombudsman should not be a solution to fix a governance issue. I don't see any problem with that.

Let's go to GNSO IPC 12.03. [inaudible] as to what [inaudible] works. Ombuds office would be involved within ICANN. My suggestion [inaudible] implementation phase taking into account the report of the external reviewers. [inaudible] difficult because we have different [inaudible] the review, the inputs of the [inaudible] to the work we are doing.

Okay, next one is GNSO registry. [inaudible]. With respect to recommendation 11, regarding the ombudsman effort in non-compliance work including involvement in policy design, registry stakeholder group. Out of concern about clarity, the role of the ombudsman is to act as a neutral dispute resolution practitioner. While the ombudsman may accept questions in addition to complaints, it should be made clear that the ombudsman does not [inaudible] in policy development unless and to the extent that the ombuds is formally asked to do so by policy development process. The Registry Stakeholder Group [inaudible] any level of ombuds activity in a policy design process if and as so requested should be given [inaudible] of approval.

I don't see any trouble with that. Maybe we need to confirm in one way or another, but do you have a comment on that? I don't see any trouble.

The board agrees. It's comment number 12.05. I will read it. The [inaudible] the report in the strong enhancement and clarification of the ombuds function and [would not] support this recommendations [inaudible] between this work and the work of the transparency subgroup. The transparency subgroup recommends [inaudible] involvement of the ombuds in the [inaudible] process to the extent that transparency recommendation is an expansion of the role of the ombuds, it would be very [inaudible] to the transparency report recommendation to consider request to expand the ombud's role.

My suggest answer is yes and it was somehow done by the external reviewers. They took that as an advantage and formulate recommendation 11.

I have finished the comments and I suggest answer. Do you have any comments, inputs, questions on what we have done today and what I have read?

If not, I suggest that we discuss what will be the next step, and with the next step how we want to organize our work. Thank you, Herb. Hope to see you and talk to you at our next call.

I would like to suggest the following next steps. The first one, we are now [inaudible] comments and possible answers to those comments and we may circulate that to our group, and give time between this call and the next one [inaudible] will have a second reading during the next call and in parallel to build where we want to make changes within the report.

It would be possible that [inaudible] help us with that. Considering that we will have a second reading and we agree with that, what could be the change that we made within the document? It will be very [inaudible] do it. I don't know. You need a few days for that. If it can be done two days before our next call, it will be great and we will be able to discuss. After our second meeting what other changes we want after we have read and agree on the second reading, we will discuss the changes in the report.

With that, I hope we will a [inaudible] work. We may have a need for big changes, but I don't think so. Maybe a second reading [inaudible] changes of the report and then we will be able to send it to the CCWG and I will work [inaudible] hopefully soon.

Any comments, questions? If not, may I suggest that we stop our call now if there is no any other business? I would like once again to thank you for your participation and hope to talk to you soon. I don't remember when is the next call, but as it's now a new very useful way of doing them, I will send a reminder and also will send a request to [inaudible] participate [inaudible] five participants and that's great improvement to our work. The next call is on Monday, February the 12th at 19:00 UTC. I hope that we will conclude our work. It will be a very good [inaudible] as it's the next day for me.

Once again, thank you very much for your participation. This call is adjourned. We can stop the recording. Bye-bye and take care.

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