ANDREA GLANDON: Thank you. We will now officially start the recording of this conference call. Good morning, good afternoon, and good evening to everyone. Welcome to the sixth webinar of the 2018 At-Large Capacity Building Program on the topic of protection of global public interest and contractual compliance, consumer rights, which is held on Thursday, the 20th of September 2018 at 21:00 UTC.

Our presenters today will be Olivier Crepin-LeBlond, Maguy Serad, and Bryan Schilling. We will not be doing a roll call since this is a webinar. We have French and Spanish interpretation. May I please remind you to state your name before speaking to allow our interpreters to identify you on the other language channels and for transcription purposes.

Please also speak at a reasonable speed to allow for accurate interpretation. May I kindly remind all participants on the phone bridge as well as the Adobe Connect to please mute your speakers and microphones when not speaking to avoid any background noise. Thank you all for joining and I will now turn it over to Tijani Ben Jemaa, chair of the At-Large Capacity Building Working Group. Over to you, Tijani.

TIJANI BEN JEMAA: Thank you very much, Andrea. Good morning, good afternoon, and good evening, everyone. As Andrea just said, this is I think the sixth or seventh webinar of the Capacity Building Program for At-Large. Today we will speak about protection of global public interest and the contractual compliance and consumer safeguard. Andrea just said that you will have three speakers, but thanks to Maguy, we will have five.

Olivier Crepin-LeBlond, as she mentioned, is a former ALAC chair and current EURALO chair and he will speak about public interest in the ICANN [inaudible]. Then, we will have Jamie Hedlund who is senior vice president for contractual compliance and consumer safeguard and managing director. Then, we will have four friend, Ergys Ramaj, who is vice president for public responsibility support. Then, our friend, Maguy Serad, who is vice president for contractual compliance services. At the end, we will have Bryan Schilling who is consumer safeguards director.

So, we are lucky today because we have this very comprehensive and very complete list of speakers. First of all, I will give the floor to the staff for housekeeping announcements. Andrea, please.

ANDREA GLANDON: Thank you, Tijani. I will run through a few housekeeping items before we start. For questions and answers during this webinar, you can submit these via the chat pod by typing the word "question" followed by the actual question. These will be directed to the presenter. Please do, however, note that we have a question and answer question after the presentations and pop quiz questions. Regarding the pop quiz questions, we will display these after the presentations. So, for all of those, again, in the AC room, please be ready to answer the questions via the polling tool.

Finally, at the end of the webinar, after the question and answer question, we will have a user experience survey composed of six questions. Please stay around for an extra three minutes or so to

complete them. It is important feedback for this At-Large Capacity Building Program. Thank you and back to you, Tijani.

TIJANI BEN JEMAA: Thank you very much, Andrea. Now to the presentations. Olivier Crepin-LeBlond will start and he will speak about the public interest in the ALAC remit. Sorry, I made the mistake saying in the ICANN remit. Olivier, please go ahead.

OLIVIER CREPIN-LEBLOND: Thank you very much, Tijani. I'm going to be taking you through a few slides. But I must ashamedly admit I've somehow taken some of the material from Wolf Ludwig who was, and still is, the chair of the At-Large Working Group or Taskforce on the public interest. Let me see if this works if I click here. Right.

Well, one of the big things, one of the big discussions, that you might have heard, if you've ever lingered around ICANN circles and in ICANN corridors, is this whole thing about the public interest, the public interest. Well, what is the public interest is the big question here.

Wolf, when he looked into this, went back maybe not just to the beginning of ICANN, but quite a while ago, going back to the antique times where the public interest was defined by Aristotle as being the concept of the happiness of its citizens, effectively. The idea that a citizen cannot just be happy by being happy in their life and personal satisfaction and so on, but also by being completely fulfilled in taking part into a community activities and taking an active part in running the

community. So, for Aristotle, the whole political justice and public [utility] were actually the basics of happiness and also acting in the public interest.

If you looked at Roman times, you had a similar concept which evolved around the term "citiza". So, ever since that time, you've had various words over the years. Terms in Latin, terms in other languages, and so on. We'll see that in a second.

Really, the whole concept is rather old, rather than being something that's just been put together recently. Several European constitutions refer to the public interest. You've got here the German, the Swiss, the French, the Spanish, and I'm sure other constitutions around the world also refer to the public interest in some of their paragraphs. So, it's not an unknown concept as such.

If you look at the public interest in various European languages – again, taking from the material that Wolf Ludwig had put together – you can find it having its own word in German, in Greek, in Latin of course, as you know, various forms of what the public interest is. In French, la [inaudible] public. In Italian, [inaudible]. Or in Italian, in English, the common good.

It's interesting to note that, in some languages, like German, for example, [inaudible] is exactly the opposite – an antonym – of the [inaudible] effectively puts the public interest against particular interests within a community or society. So, public interest on one side and private interest on the other.

So, is the public interest, when we speak English, is that an antonym of private interest, the interests of the few? Well, perhaps we've now defined what private interest is, rather than being able to define the public interest.

And this is where the difficulty is. When you start looking at the Internet in itself, one often speaks of the Internet as being something that is out there for the common good. The Internet is for everyone. So, global public resource, it's all done out there for the public, for end users, for everyone to be able to enjoy.

So, when you look at the public interest as far as the Internet is concerned, you'd be looking at perhaps having a [inaudible] of interests on how best to serve the interests of the general public and by which means would you serve the general public. Making the Internet user-centric, making sure that it accepts services from everyone. It's one of these core values, if you want, and really, when you look at the whole thing, you might say, well, that's kind of public interest as such.

In relation to ICANN, this is a slightly different story because, first, looking at the use of the public interest, the term public interest, I'm sure there were – and I'm not an expert in this. It must have been some previous papers about the public interest and about the Internet and the running of Internet resources. But the NetMundial multi-stakeholder statement argued that the Internet is a global resource which should be managed in the public interest.

In ICANN, you've also got section two of the ICANN bylaws that clearly says that the public interest is a core value and that was actually

reflected back in the Affirmation of Commitments as well which were one of the earlier organizing documents of ICANN and it was reflected in several different locations.

The GAC has involved the term to underline some of its positions, especially when it came down to [tentative] strings in the last round of new generic top-level domains. The applicants for the new generic top-level domains were indeed asked to undertake public interest commitments [inaudible].

So, in the ICANN remit, if you look at it, well, the most direct thing is really the public interest commitments, as you know. In effect – and I'm not going to list all of the different details of what the PICs are supposed to have and the whole difference between voluntary PICs and the mandatory PICs which is really going too deep into the weeds. But, the thing, though, is that in general domain names should serve the interest of the general public.

So, a domain name or a top-level domain should not cause any harm to end users and that includes confusion, deceit, and inconvenience. Confusion, if you have spamming or – sorry, confusion is if you have a name that looks very similar to a brand or to another type of name. Deceit is of course when you have phishing and inconvenience is spamming for example, is one of the problems, having thousands of e-mails in your mailbox. It should be run in a responsible and ethical way. It should be serving end users. It should be promoting … This is actually part of the realm of the remit, in the realm of the last round, promoting competition, consumer trust, and consumer choice.

And I guess one could argue by extension of this, although it's not explicitly mentioned, that it should be run by a respectable registry. Of course, again, so many different terms that we're using here. What is respectable? What is not respectable? What is fair competition? What is trust? What is choice? All of that are more words that might need to be defined if one looks at it in a very purely legalistic way and through a lawyer's point of view. And I'm not arguing against it. I'm just saying that the difficulty with all of these points is that it always has to be somehow defined. And we end up defining so many different things that, at the end of the day, we find out that it's sometimes quite difficult to define things.

So, if you look at the ICANN remit, to further things in the ICANN remit, you look at the public technical identifiers, the PTI, which used to be the Internet Assigned Numbers Authority, IANA, the root should be run in a non-discriminatory way. I think most people, if not all people, would agree to that.

The ICANN policy development processes should be open and fair. The ICANN board should consider input from the various component communities that are out there, supporting organizations, advisory committee, and act again in a fair and non-discriminatory way. I'm just paraphrasing here, by the way. Of course, there's legal text that goes into this.

And of course ICANN's accountability mechanisms which were [inaudible] by the community quite recently should ensure all of the above, both in the IANA side of things and also on the ICANN board side of things. That, of course, looks at the ICANN component communities

who should act accordingly. There are also ICANN standards of behavior in how people take part, so not only the communities, but the people taking part in the communities should act in a way that might be seen as being fair and balanced, although one could again argue whether that's the case or not, since we know that some come to ICANN with vested interests. And who doesn't, of course?

Then, ICANN's multi-stakeholder model should be a balanced multi-stakeholder model. I think some previous ICANN CEO there needs to be an equal multi-stakeholder model, although I've never been quite sure what an equal multi-stakeholder or multi-equal stakeholder model really meant. Anyway, a lot of these terms have been thrown in.

So, as I said earlier, defining the public interest is going to be really hard and some of the earlier work that was done, including some meetings that took place during the ICANN meetings, I think the overall consensus was you just need to act in the public interest rather than having to define it altogether.

Let's look at some of the recent processes. The new generic top-level domains. We have a GNSO policy development process, subsequent procedures, that is working towards another round of new gTLDs. I think it's pretty much given that there will be future rounds, whether in a year or two years or five years' time. Who knows? But, there certainly will be. And it has. In order to be able to look and do things better than the previous round, that working group has been looking and receiving input from all sorts of sources. The issues report is massive.

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It's looked at competition, consumer trust, consumer choice, and it's also looked at aspects of the Applicant Guidebook and all sorts of aspects, registrant protection and intellectual property, compliance, financial, the whole lot basically. The whole view for this, I guess, is that one wants to act in the public interest and get there.

Same thing for the At-Large perspective on new gTLDs. For us, it kind of comes down to maybe a little bit less of a large list. Effectively, from an At-Large perspective, new gTLDs have to serve end users, regardless of whether they hold a domain name or registrants of domain names or communities around the world that might be interested in applying for a domain name in the next round, which effectively means that we do have several different types of interests within At-Large. The end users might say, "Well, we don't want anymore domain names." The registrants of domain names would perhaps like to register further domain names and the communities might be interested in applying. So, having one type of consensus on these issues is not an easy task.

Same thing, also, for WHOIS. As you know, this is a topic that's gone on forever, even before ICANN was there. Again, here, there's the General Data Protection Regulation that you've all head about, the GDPR, that's kind of put a deadline for all this work to reach some kind of consensus.

Here, again, we've got an EPDP (Expedited Policy Development) that could either reach a conclusion or something else or nothing. The At-Large point of view is actually quite diverse. Just before this call, there was a call discussing this and we found that we're not always aligned on all these things because some would like to keep the information, preserve the registrant's privacy on one side, whilst on the other side,

one doesn't want to make so much information available so as to stop the ability of finding a domain name's reputation.

I guess the message I wanted to say here is that although we are trying to act in the public interest and it's a concept that is undefinable, it's also something that is hard to uphold and to work towards, especially in a diverse community such as ours. I guess that we rely on ICANN then for some processes to actually help end users and it really is not only for us, but for ICANN, to act in the public interest. I guess that's an opening and example to open the door for the next speakers on this call.

TIJANI BEN JEMAA: You're finished, Olivier?

OLIVIER CREPIN-LEBLOND: I've called in the next speakers on this call, so it's up to them if they want to speak.

TIJANI BEN JEMAA: Okay. Thank you very much, Olivier. Thank you for this presentation. Now we will go to the second presentation. For this presentation, we will have four speakers. Jamie [inaudible] giving an intervention. So, Jamie, please, you have the floor.

JAMIE HEDLUND: Thank you, Tijani; and thank you, Olivier, for that presentation even though you took a lot of those things that I was going to so, so I will be

even brief. Thank you, all, in ALAC for having this call. I think this is a great opportunity to share insight and hope that we can do more of these going forward.

I am Jamie Hedlund. I head up our contractual compliance and consumer safeguards department. The person who will speak after me is someone you all know well, Ergys, and he will I think review a little bit about what his department is doing with respect to public interest. He will be followed by Maguy Serad who heads up – she's the VP for contractual compliance. As I think she will say, the contractual compliance department is charged with enforcing the registry and registrar agreements and ensuring that registries and registrars adhere to the obligation that are contained in those.

As you all know, many of the policies that have been developed by the community are incorporated into those agreements and many of those policies were motivated by and informed by doing what was in the public interest, whether it's ensuring that registrant domain names would always be accessible and viewable, regardless of what might happen to any particular registry or registrar.

So, while in contractual compliance we enforce the provisions of the agreement, we do not have a overarching general public interest obligation, except to the extent that the public interest confuses the policies and provisions in those agreements.

After Maguy, I believe Bryan Schilling will speak. Many of you know Bryan. He is the first consumer safeguards director. He has been charged with engaging with the community to figure out, with the

community, and get some sort of community-wide agreement on what consumer safeguards exist. Consumer safeguards are a little bit easier to define than public interest and they are often in the – most of them, or all of them, are in the contractual agreements that we have with registries and registrars.

More importantly, getting conversation going on what consumer safeguards may be missing and how those may be filled, either within ICANN and through the amendments of the contract and policies developed by the community or outside of ICANN, because they may go to issues that are outside of ICANN's remit.

So, I think you'll hear more of that and hope from him, and me as well, that we can really get that discussion going in earnest and get the community, the whole community not just the registries and the registrars, not just ALAC, but everyone talking about what consumer safeguards are there, how effective are they, what's missing and what can we do to develop new ones.

One thing that Olivier mentioned that's helpful in that regard is the CCT Review Team report that I think is out or will be shortly out for public comment. I was a member of that review team. It was a parting gift from the last CEO. I enjoyed very much participating in it. And from a contractual compliance perspective, I think it could be extremely helpful, particularly the very substantive chapter on DNS abuse and what things would help ICANN and community in mitigating a particularly systemic DNS abuse.

So, with that, I will turn it over to Ergys. Thank you.

ERGYS RAMAJ: Everyone, I hope you can hear me well.

ANDREA GLANDON: Ergys, can you speak up just a little bit or get closer to your microphone?

ERGYS RAMAJ: Hello. Can you hear me well?

TIJANI BEN JEMAA: No. It is still very low. Can you speak up, please, or go closer to the microphone, please?

ERGYS RAMAJ: Okay. I will try my best. I'm not sure why my microphone is not good. Hi, everyone, and I would like to thank you for the opportunity to participate in today's webinar. Like Jamie, I'd also like to thank Olivier for setting the scene here and conceptualizing this conversation.

TIJANI BEN JEMAA: Ergys?

ERGYS RAMAJ: I will just [inaudible] to provide a brief overview about some of the broader public interest discussions, if you will, that have taken place

over the past few years across the community. And I do see a lot of familiar faces in the room, so many of you are no strangers to these conversations and, of course, have contributed a great deal to moving things forward. So, please, do feel free to chime in at any time.

Going back to about four years ago, the community felt it was important to explore the public interest—

ANDREA GLANDON: Excuse me, Ergys?

ERGYS RAMAJ: Yes?

ANDREA GLANDON: I apologize. You're still too low for the interpreters to be able to interpret. Are we able to call out to you so we can get you on the audio bridge?

ERGYS RAMAJ: Yes.

ANDREA GLANDON: Okay. If you want to just send me a message with your phone number, I will have the operator connect you.

ERGYS RAMAJ: Okay, thank you. Sorry about that.

ANDREA GLANDON: Thank you. Thank you, everyone. We do have the operator dialing out to Ergys now. It will be just a moment.

TIJANI BEN JEMAA: Thank you.

ERGYS RAMAJ: Hi, everyone. I'm back in. Can you hear me better now?

TIJANI BEN JEMAA: Yes. Thank you very much. Go ahead, please.

ERGYS RAMAJ: Okay. My apologies. I'll get right to it and sorry for the suspense. As I said, going back to about four years ago, I was saying that the community felt that it was very important to explore the public interest within ICANN's mission in a more bottom-up fashion. Of course, it goes without saying that the discussions on the topic predates this time period.

But, at the time – and many of you were around – you will recall that the panel on public responsibility framework, which was one of the five strategy panels, that was meant to inform the five-year strategic plan, was put in place and that panel came up with a definition of the public

interest as it relates to the Internet. It was this report that triggered the need for a more inclusive discussion. I will share the link of the report with you in the chat shortly.

So, touching on the scope of those discussions, there were a couple of key considerations and Olivier touched on some of these. The first one was to understand what is the public interest and how the concept itself is understood across different regions.

The second consideration was whether we, as a community, can get to a shared understanding about the concept and to potentially operationalize it.

So, in terms of key takeaways to date, there are a few that I want to mention to the group. In the early stages of the discussion, the need to have a strict definition was [inaudible] seen as a must-have, but over time, there was a shift in favor of not having a strict definition of what constitutes the public interest in the context of ICANN and its mission.

The rationale for this is that because a concept of the public interest itself is highly context-driven – it's a relative concept – and any strict definition, it's unlikely to cover all possible scenarios and considerations that may arise in a specific situation, and of course across different issues. And if a definition is too aspirational or too high-level, then it really doesn't offer a lot of guidance for the community to work with.

On the point of what is the public interest – and again, Olivier spoke about this a bit earlier and provided some very good examples. But, just to reiterate his point, the public interest is really the aggregate of individual interests, and of course this is an oversimplification. But, in

essence, your individual interest is what is good for you, whereas public interest is what is good for the public. And defining, of course, who the public is, in a specific situation, is a critical component.

The community, over time, has also discussed issues related to who determines what is in the public interest and of course the role of different stakeholder groups. And if this was not complex enough, the understanding and application of the concept itself of course varies from region to region and different regions have different histories, experiences, as well as different legal frameworks and so on. And in a global setting organization like ICANN, this is another important consideration.

One particular observation that has enjoyed much support – and again, I'm going to go back to Olivier because he touched on this – is the notion that the public interest in the context of ICANN and its bylaws is really self-executing. Essentially, what this means is that if the bottom-up multi-stakeholder process is followed and the end result is supported by consensus, then by definition, the global public interest is automatically served. This statement or observation has enjoyed a lot of supported across the community.

The discussions, of course, are still ongoing and there are no final conclusion or decisions which is partly largely to the nature of the topic. Some have claimed that it is not necessarily a process, meaning that it has a beginning and an end. But, the public interest in and of itself is more of a continuum that really represents values and principles.

Before I hand over to Maguy as the next speaker, I just want to make an important point. When it comes to determining what constitutes the global public interest at ICANN, that can only be determined by the multi-stakeholder community. I would like to stress this point because this is very important.

So, I will pause here in the interest of time and hand over to my colleague, Maguy, for her part of the presentation. I'm happy to take any questions that you may have.

MAGUY SERAD: Thank you, Ergys. Hello, everyone. This is Maguy Serad, VP of contractual compliance. Thank you, Tijani, for the invite to join you on this webinar and join the At-Large community.

What we'd like to do today … You had asked me to join this webinar to explain how does our work contribute in this space. I'm happy to say that our work, as Jamie mentioned at the beginning, is the contractual compliance function helps ensure that ICANN Org's mission of security and stability in the domain name system is met.

I know many of you are looking in the Adobe room and you've heard me talk about it, talk about our compliance tools, and I want to emphasize the importance of having the compliance tools to enforce the agreement and the consensus policies and that is done via many ways. To be accountable to our enforcement, we have applied consistent compliance process and approach in our work. We have upped our game in the engagement proactively engaging and monitoring via the audit program or other engagement activities in outreach. We have

really enhanced our transparency and accountability in reporting and we hope that this group will contribute to this feedback on the enhancement and give us additional ideas about how you would like to see that.

Last and not least, we are also very active and participant [inaudible] we follow the policy working group and review teams.

JENNIFER SCOTT: Hello. This is Jennifer Scott, senior director with ICANN contractual compliance. I'm just going to do a little bit of a dive into some of the areas that Maguy just mentioned.

Regarding the agreements and consensus policies, as Jamie explained earlier and Olivier alluded to, the public interest is meant to be considered during the multi-stakeholder ICANN policy development process and therefore the enforcement of the policies that result from that process through the ICANN agreements is also meant to account for the public interest in that regard.

Additionally, many of the contractual provisions in ICANN's agreements are meant to serve the public interest while supporting the security and stability of the DNS.

This would include things like ensuring registration data is being escrowed for continuity purposes and publication of information by the contracted parties that is useful to the community such as abuse contact information and WHOIS educational information, and make sure that's being done as is mandated by the contracts and policies.

Likewise, the rights protection mechanisms and public interest commitments, have been put into place in these contracts and agreements to provide means for protecting various public interests including intellectual property rights and consumer and DNS safeguards.

Registrars also have additional required protections for registrants and DNS end users in the abuse reporting and WHOIS inaccuracy requirements which are all enforced through the ICANN contracts and policies by contractual compliance.

So, when enforcing the ICANN agreements and policies with the contractual parties, a standardized approach and process is used to hopefully instill trust by the public and community in the function and its predictability. This process validated third-party complaints or concerns as being in scope of the contractual obligations, and if necessary, allow for obtaining more information before sharing the complaint or concern with the contracted party.

Once that happens, the contracted party is then asked to address the complaint or concern, and if necessary, take action to demonstrate compliance with their contractual requirement.

In the absence of appropriate action, a contracted party may be issued a formal enforcement notice which, if left unaddressed or unresolved, could lead to termination of that contracted party's contract with ICANN including leading also to other things, at least for registrars, like a suspension period.

In addition, in processing third-party complaints, contractual compliance also enforces contractual obligations through proactive

monitoring. This comes from various sources such as technical monitoring and the review of community commentary and media blogs, as well as ICANN Org internally referred matters from other departments who have subject matter expertise, such as our technical services team or our office of chief technically officer.

This monitoring is subject to the same approach and process as the third-party complaint processing, and therefore it helps fill the gaps between the third-party complaints.

MAGUY SERAD: Thank you, Jennifer. I will continue with the proactive monitoring. Another aspect of compliance, to ensure that the agreements and the policies are being followed and our contracted parties are in compliance with, is we conduct many of you have heard us provide updates about the audit program. The audit program is another proactive effort by contractual compliance to take an initiative to review the contracted parties compliance with agreements.

Normally, we conduct two audits for registrars and two audits for registries. The other criteria when looking at how do we select to be part of this audit scope can be any one of those that are listed here on this screen. But what I want to emphasize is mostly the last bullet. We put a lot of emphasis on ICANN community concerns. As Jennifer mentioned in the previous slide, we stay on top of the different concerns. We are following the blogs, the articles, and also in dialogue with the ICANN community members and stakeholders.

So, that selection criteria applies and we publish about the audit program all on an audit page. We have a dedicated contractual compliance audit page that we continue to enhance and bring transparency, not only to the audit plan or [touch] cases, but also we publish an audit report that summarizes the audit scope, who was part of the audit, what were the deficiencies that were noted, and what enforcements took place as an outcome of this audit. So, it's another way of proactively addressing and ensuring compliance with the agreement.

You heard me talk at the beginning about enhanced transparency. That is a big part of accountability. It's one thing to speak and report in the dashboard. It's another to bring forward additional granularity. Over the past year or so, we have taken a lot of effort to enhance the reportings that are published on icann.org. This was an outcome of different sources of recommendations, consistent with – you heard Jamie talk about the feedback from the competition, consumer choice, and consumer trust review team, the CCTRT team. We also have had recommendations from the GAC and other stakeholders about how we improve transparency in the public-facing data that compliance puts out there.

We have added a lot of data, as you see on the slide, and I would encourage the participants on this call, on this webinar, to take a look at it and please send us any other opportunities you find appropriate in enhancing the transparency. We have added the granularity at the level of complaint types to provide more specificity on these issues, but we also have added a lot of reports on the quarterly and annual aspects to provide a full picture of beginning to end of a complaint lifecycle, how

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it's closed, the closure notices, what type of closure reasons and also who is reporting at a generic level. Who are the reports to ICANN? Whether it's an internal referral or external and how do they go through the process. So, we have – and I highly recommend that you please take a look at it. It's all published on icann.org.

The last aspect here is to talk about, from a compliance perspective, is the full lifecycle of policy development. We touch on it from beginning to end. The contractual compliance team actively follows all the PDPs and the discussions in that space and also we engage and help facilitate some of those processes. For example, when an issue arises in a PDP, they come to us and they say, "What kind of issues are you seeing?" We point them to the metrics that are published and it helps them make a determination. Is this an issue we need to follow? We answer questions that we receive from the working groups and review teams and help facilitate their decision-making and their review of these issues while they are driving these discussions.

If a request comes through these policy working groups or review teams that we don't have already published, we take on the initiative to work through and try to make this information published, so that all of the ICANN community is aware of what's going on. This is only a subset of the activities that we are currently working with or engaged or facilitating or providing data and questions to.

With this, I'm going to hand it over to Bryan from consumer safeguards.

BRYAN SCHILLING: Thanks, Maguy. Thanks, Tijani and ALAC. I appreciate the opportunity to speak with everyone again. This will be the third time to have a webinar. The first was on the 25th of September for community-wide open discussion on safeguards and contractual compliance with Maguy. Then had a separate ALAC-only webinar on the 14th of December.

Going back to the 25th of September webinar, we introduced at that point in time a summary of safeguards that we compiled by going through ICANN's various documents of authority, our bylaws, our articles of incorporation, and the agreements that we have with contracted parties and that document can be found through accessing the hyperlink to the blog that is listed under the dates of the webinars.

But, that document in there, we paraphrased and looked at public interest in three instances. Olivier already went over the number of times public interest comes up in various underlying documents, so I'm not going to go back over those. Ergys also touched on them a bit.

But, you did notice that, within that summary itself, there are a few instances. It was also that summary that was designed, as Jamie mentioned, to start a discussion about safeguards. I think this role, which was the consumer safeguards director, which is largely attributed to the ALAC's efforts, we're still in a developing stage and we very much need community input. I would say there are some that say this role is here to help facilitate public interest, but I've also heard from others in the community who think that having a safeguards role within ICANN, given our remit, could be a threat to other aspects of public interest. So, going back to that point that Olivier raised that sometimes some interests are coming with a certain perspective or bias.

But, that being said, in those webinars, and what I want to raise again with this group in particular, some of the questions that we raised back in September and in December in the webinars, and also questions that I've raised one on one with many of you and other members of the community at meetings, and that's really to trigger this discussion about safeguards. Are there gaps within our capabilities to address DNS abuse? What are the various forms of abuse that we should be looking at as a result of community input? I think there are some that are a little bit easier to align with our mission of ensuring the security and stability of the DNS, but then there are other forms of abuse that some in the community would say are things that ICANN should be addressing but might be on margins of our mission for security and stability. So, we're very much seeking input from the community on not necessarily defining abuse, but perhaps working on a list and the prioritization of areas to focus on.

I think the other thing we're looking for, as we certainly saw with and are still seeing with GDPR, is are there any particular other governmental regulations or movements afoot around the globe that would fall into a safeguards area that could have a negative impact on the security and stability of the DNS? Anything that could lead to some type of fragmentation and more of a geographic divisiveness of the Internet. So, we're seeking input there.

Then, last, just to highlight on not always seeking input, but a little bit of starting to partner with OCTO. They are getting closer to publishing a domain abuse activity report which will largely be providing a number of metrics on abuse activity and working with OCTO to see are there areas where we might be able to facilitate some individual action or group

action on addressing DNS abuse that is something that we don't have the power to address. So, seeking some input there, but that will I think be a bit more easier to discuss once the DAR data is being published on a regular basis.

But, I'll end it with that so that we're right at 50 minutes for hearing from ICANN staff and look forward to any questions and the quiz. Thank you, everyone.

TIJANI BEN JEMAA: Thank you very much, Brian, and thank you all. Thank you, Maguy, for inviting all those people to help us and to make this presentation, and also to answer questions.

Before that, we will go to the pop quiz questions. So, Andrea?

ANDREA GLANDON: Thank you. We will start with the pop quiz questions from Olivier. I will put the polling box over to the right under the agenda and participants. It will be just a moment.

Okay, the first question from Olivier. Question one: Since when was the general concept of the public interest defined? A) since antique Greece and Rome B) Since 19ᵗʰ Century Europe C) Since 18 September 1998, the foundation of ICANN or D) Since public interest commitment PIPs were published.

It looks like most participants have answered A. Is that correct, Olivier?

OLIVIER CREPIN-LEBLOND: That is indeed correct, yes. It's the general concept of public interest, not the public interest commitments in ICANN.

ANDREA GLANDON: Thank you. Give me just a moment for question two.

Okay, question two for Olivier. What is the pursuit of the public interest on the Internet? A) A user-centric network that is neutral and free B) a domain name marketplace that generates at the same income while still being affordable C) Weighing of interests or how best to serve the interests of the general public and by which means or D) An online survey to find out what topic end users are interested in.

It looks like most participants chose C.

OLIVIER CREPIN-LEBLOND: Most participants were correct.

ANDREA GLANDON: Great. Just a moment for the third question.

Okay, the final question from Olivier. From at At-Large perspective, generic top-level domains should serve A) end users B) domain name registrants C) communities that would like to apply for a domain name or D) all of the above.

All of the above is the answer that most people have chosen.

OLIVIER CREPIN-LEBLOND: Yes. Thanks, Andrea. Indeed, end users are just a superset of all of the people that are listed here because some end users are domain name registrants and some end users in fact within our community are communities that would be interested in the future in applying for a domain name.

ANDREA GLANDON: Thank you. We will now move to the first question from Bryan. Give me just a moment.

Okay, the consumer safeguards is part of which department at ICANN? A) Global Domains Division B) Complaints Officer C) Contractual Compliance D) Global Stakeholder Engagement or E) None of the above.

It looks like most people have chosen C, Contractual Compliance.

BRYAN SCHILLING: Yeah. Thanks, all. The answer is none of the above. Consumer safeguards is a separate department within ICANN. Even though Jamie has purview over contractual compliance and consumer safeguards, it's an independent department of two, Jamie and I. We collaborate internally across the various org departments, GDD, office of Chief Technology Officer, contractual compliance, as well as across all aspects of the multi-stakeholder community. Sorry for that trick question.

ANDREA GLANDON: We will move to Bryan's pop quiz question two. ICANN has the ability to suspend access to or terminate a domain name that is engaging in abusive activities? Yes or no?

It looks like most of the participants chose no.

BRYAN SCHILLING: That's correct. I'll let Maguy or Jennifer chime in here if they want to at all in terms of that, but ICANN doesn't have the ability to suspend or terminate a domain for abusive activity. It's up the registry or registrar to take action on that in response to a complaint directly provided to them from someone in the public or a particular registrant, and then secondarily, through contractual compliance, someone can file a complaint with ICANN that a registry or registrar isn't taking action, but at the end of the day, it's up to the registry or registrar to take action on an abusive domain if in fact that domain is determined to be engaging in abusive activity.

ANDREA GLANDON: Thank you. That concludes the pop quiz section. Tijani?

TIJANI BEN JEMAA: Thank you very much, Andrea, and thank you all for those pop quiz and for attendees for participating in this exercise. Now questions. Do you have questions to the speakers? If you don't have, I will be very sad. So, I will start.

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It is not exactly a question, but let me say that Olivier and Ergys, do you think that one day we will have a defined definition of global public interest in ICANN?

ERGYS RAMAJ: Go ahead, Olivier, please.

TIJANI BEN JEMAA: Olivier, go ahead.

OLIVIER CREPIN-LEBLOND: I'm not sure I might have the same answer as you.

ERGYS RAMAJ: Okay, I'll take a first stab at this. Given where the conversation has been heading over the past few months in couple of years, I would say that the answer is probably no because most of the community, at least those who have been actively involved in engaging in discussions, feel that a strict definition is not necessarily useful.

Where the conversation is going more towards is potentially coming up with something along the lines of a framework or a set of principles to guide any decisions that are made in the public interest. Olivier, you may have a different answer.

OLIVIER CREPIN-LEBLOND: Yeah. Thanks, Ergys. I've got a similar answer to you, actually. I think that you actually touched on this earlier and you said as long as you take decisions in a multi-stakeholder way and the multi-stakeholder model is upheld in ICANN, the public interest is served.

The concern with putting a definition on the public interest, as a technologist, I'd say the problem with a definition is the moment you define something, that definition becomes obsolete because the Internet keeps on moving, ICANN keeps on evolving. Everything changes.

So, the public interest in itself with a definition of a public interest then defines more what is not the public interest than what is the public interest and I'm always a bit weary about it.

TIJANI BEN JEMAA: Olivier, I don't hear you.

OLIVIER CREPIN-LEBLOND: You don't hear me?

UNIDENTIFIED FEMALE: We were hearing you.

OLIVIER CREPIN-LEBLOND: It was only Tijani that missed me. Sorry.

TIJANI BEN JEMAA: Now it's okay, Olivier. Go ahead.

OLIVIER CREPIN-LEBLOND: Thanks, Tijani. I think everyone else could hear me. You were the only person who didn't hear me.

TIJANI BEN JEMAA: Okay. Did you finish your answer?

OLIVIER CREPIN-LEBLOND: I did, indeed. Yes.

TIJANI BEN JEMAA: Okay. Thank you very much. I have another answer to this question. My answer is no as well. The reason is not the same. I think that since inside ICANN there is different interests. There is the political interest from governments. There is commercial interest for the private sector, for the business, etc. And there is the public interest.

But nobody wants this public interest to be fixed and defined because nobody wants us to go only for the public interest. Everyone wants to have his own interest also lobbied for and defended. So, as it is constituted now, the ICANN community cannot agree on a common definition of the public interest simply because the interests are not the same and simply because nobody wants to lose its interests when it comes to … Because, you know in the bylaws of ICANN, ICANN is working for the public interest and the board is taking decisions because

of the global public interest sometimes. So, it is very important to know what is this animal, but nobody will tell you what is it because nobody wants it to be defined. This is my own understanding of the issue.

Any other questions? If you don't have, perhaps I will ask Maguy. I will ask Maguy about the public interest and the contractual compliance. I heard you. I understood what you said, but do you think that this contractual part for the new gTLD of 2012 of public interest commitment, do you think that it was for any interests for end users? [inaudible]?

MAGUY SERAD: Hello, Tijani. Thank you for the question. I'm not sure I clearly understand what you are asking me. Can you talk a little bit more about it? What do you mean?

TIJANI BEN JEMAA: Okay. You know perfectly that in the 2012 round there was added in the registry contract a commitment for public interest.

MAGUY SERAD: Correct. Yes.

TIJANI BEN JEMAA: Do you think that this commitment was for any useful … Was it useful? Was it really useful? If we didn't do it, would it be different from what is now?

MAGUY SERAD: Thank you for the clarity, for clarifying your question. If I may answer your question from this perspective. The way, from a compliance perspective, as you heard me speak at the beginning and you've heard me speak for the past seven and a half years, I look at the use of a provision or a specification or the policy is how are we able to enforce it? The first answer is the fact that it is in the registry agreement, there is use of it. We can refer to it and enforce it. The fact that we are receiving some reports, we're able to follow through and address the issue that comes to us from that perspective.

Tijani, I cannot put in my personal thoughts in it. I'm putting it from a compliance hat. If it was not in the contract, I think it would be bad because we cannot enforce it. So, I encourage all of you, as you have done in the past and continue to do, provide guidance, statements, and input into the policy development process, and especially with the new gTLD subsequent procedure. That's a great opportunity to voice, if you think there are some areas that you still have concerns about.

If you have very specific questions about areas that we can improve our reporting on or metrics in that space, please let me know, as I said and continue to say.

But, to answer your question, if it's an official question, was it useful, yes or no, the fact that it is in the contract, yes.

TIJANI BEN JEMAA: Thank you, Maguy. Thank you. Olivier, do you have thoughts about that?

OLIVIER CREPIN-LEBLOND: Yeah. Not specifically of this. I had a question for Maguy that was different.

TIJANI BEN JEMAA: Okay. Go ahead.

OLIVIER CREPIN-LEBLOND: Okay, thanks. One of the things which has often come to light has been this whole thing about rogue domains. Domain names that are using brand names that appear to be something that they're not, websites that are selling fake pharmaceuticals, things that are generally seen as something in the public interest and there have been some calls in saying how can ICANN allow such things to happen and ICANN compliance is useless, they're not doing anything about this. What are the limits by which you can operate in compliance to defend the public interest when it comes down to the legitimacy of domain names?

MAGUY SERAD: I'm going to say it to you in French. Merci, Olivier. No, on a serious note, you're right. This topic has been brought forward in many of our conversations in the past during the ALAC meetings. Thanks to the ALAC members, you had reported to us on many occasions some of those

areas, which we followed either individually with the registrar to ask them.

So, the limits here for us or the scope within the registration accreditation agreement we follow is we follow-up with the registrar as Jennifer was speaking to earlier, to say here is the compliant, here is the issue. Please, prove to us and provide us that you've taken reasonable steps to review and address this issue.

As we all know, content in itself is not specifically stated, but it still does not stop us from following up with registrars when issues are brought to us. We have also taken a different approach, what we call a more strategic approach. If we are receiving multiple complaints about a specific area or a specific registrar, we look at it and bundle it and work directly with the registrar about it via outreach or work effort.

Another area we have upped our game to help us look at all this area is in the space of DNS infrastructure abuse. That has been a hot topic. You've heard Bryan talk about it and I don't know if you've read any of Jamie's blogs or my blogs. That's an area of very high interest also by the community. We have increased our audit plans to drill down very much further into a registrar audit or a registry audit where we can do a full view from a registry perspective. What are the security reports you're generating that relate to phishing, botnet, and all these areas? And we loop this back and see from a registrar perspective what are you doing with those areas.

So, we are going to continue. You are going to hear a lot more about ICANN Org initiatives. You've heard Goran talk about it. The Internet issues from public interest perspective that you stated earlier are real.

Today, we are talking to you as ICANN Org, but in reality, we re also public. So, we are also impacted by all this crime that you're describing. So, we have vested interest in both ways and looking at it. So, we do have some constraints from the registrars handling of an abuse because we do not validate that this is truly a fake [inaudible]. We depend on the registrar conducting their review. And the blog that Bryan put forward last year also highlights a little bit some of those areas.

OLIVIER CREPIN-LEBLOND: What about domains and their country code top-level domains?

MAGUY SERAD: Are you referring to domains and under the … When you say country codes, ccTLDs?

OLIVIER CREPIN-LEBLOND: Yes. That's what the acronym is. Yeah.

MAGUY SERAD: Thank you. I don't like to assume. You know me, Oliver. That's not a word in my dictionary. Yes. It is not in scope of the contractual compliance group, so we do not address those complaints. We refer

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them when we receive complaints of this nature to contact directly their ccTLD to address that.

JAMIE HEDLUND: Olivier, I just want to add to that it's not only not within the purview of contractual compliance. It's not within the purview of the ICANN bylaws and mission statements. Country code top-level domains [inaudible] policies and enforce them and do not do so through ICANN or through ICANN contractual compliance.

TIJANI BEN JEMAA: Thank you, Jamie. Any other questions? We still have 10 minutes, 12 minutes. Yes, Olivier?

OLIVIER CREPIN-LEBLOND: Thanks, Tijani. Sorry for continuing and extending this. I asked a question regarding country code top-level domains because end users in general don't know the difference between generic and country codes and all that. It's hard. We often get asked these questions and we answer by the very same answer that you provided here. I don't know if it's made clear enough to end users that the country codes really are down to the country where the country code … The country code operator, they have no specific contract and there's nothing that ICANN can do about those. It's kind of frustrating, I guess, in some way, for some end users to learn this and think that's just unbelievable. ICANN should have the power to get these people to do things and to comply,

etc. I don't know if maybe some paper has to be drafted about this or something to really explain the limits of what ICANN can and cannot do.

JAMIE HEDLUND: Just quickly, Maguy, [inaudible]. When we get complaints that are outside of our purview either because they're country codes or they deal with issues that are outside of ICANN's remit, we try not to tell the reporter or the complainant, "Sorry, not us, have a nice day." We try to direct them to the place, whether it's the Federal Trade Commission, CIRA for dot-ca or attorney general. Whatever the relevant organization might be, we do our best to try to direct people to where they might be able to get relief.

I agree with you 100% that sometimes these things are not always clear. Part of my other job, I work doing the US government affairs, and it's the same there. It doesn't matter how many times you can visit a particular office, they forget or they don't know and we have to explain it again. We are constantly at ICANN looking to improve our communication and look to the community where we can to help that and get input on what things we don't articulate well and where we can do better.

MAGUY SERAD: Thanks, Jamie. May I ask Tijani one more thing? Jamie summarized how we respond to complaint types. When we receive any complaint that is not within our remit, our scope of the agreement or policies, absolutely, we don't just say, "Sorry, we can't help you." We do provide some guidance to where to go.

But, in addition to that, on the complaint submission page, Olivier, to your point, the very first thing you see on that page is country code domain name because what happened in the past, when you close a complaint in the compliance department, we follow-up with a survey to the reporter saying, "I hope this was satisfied." In the past, thanks, [inaudible] in all this stuff. It was negative surveys. So, we upped our game in the communication but we also have published and learned more which is a full page under compliance, complaint submission, learn more, and it provides them a link to the ccTLDs and reference and different areas that they can have access to, like for lists of the agreements or the ccTLD managers. We provide this information and try to do the same when we receive any type of complaint that is not in scope.

We try, again, to put ourselves on the receiving end and what we've asked the team, we've continued to work on that is it's all about communication. When I speak to the team, I always ask them compliance's word is ask, our second word is listen. It's not just active listening while conversation, it's listening to the reporters. Try to be empathetic and try to provide guidance as much as possible.

TIJANI BEN JEMAA: Thank you, Maguy. Olivier, since ICANN doesn't have … No. Since the ccTLD registries are not bound to have a contract with ICANN nor the ccTLD registrars, how do you want the compliance department to be in charge of any complaints for ccTLDs? It's normal that they don't have it in their scope. So, you are asking that, in the future, any ccTLD registry should have a contract with ICANN. That's it. Okay, Olivier, go ahead.

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OLIVIER CREPIN-LEBLOND: Thanks, Tijani. I'm not asking any of this. I know how touchy these issues are when it comes down to country code top-level domains including some that don't even recognize that ICANN exists.

I do have another suggestion now which came to me just as we were thinking here. We always see the compliance department, the one with the big stake, and that basically reports on all the registrars and registries that have been – that have had some breeches, etc. Surely, there must be some kind of a [leak table] as to the worst registries and registrars and the worst players in the market. Is there a [leak table] of the best ones? In other words, could one reward the contracted parties with those that have the best record for contractual compliance and hence we could say they're the ones that are most in line with acting in the global public interest.

JAMIE HEDLUND: It's an interesting idea and one that, if it came from the community, could be really helpful. I don't think anyone would be excited about ICANN deciding who is a good actor and who's not. But, ICANN, doing that based on particular criteria, that might make sense. But, what we know from the DAR reports which we hope will be published soon, is that a relatively small percentage of registries and registrars are responsible for the vast majority of DNS infrastructure abuse. So, phishing, malware, botnet, the spam you know is controversial whether or not it's within our remit, that there is spam that's used as a vector for other types of abuse.

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So, with that, my hope is that the contracted parties will see that this is an opportunity to distinguish themselves by showing that they are not in that group and that these are the things that they do and act on in order to mitigate, [inaudible] DNS abuse. So, my hope is that with the CCT Review Team report and with the DAR report getting published in the fairly near future that there will be more comm discussions about how to really distinguish the vast majority of actors who are … They have a handful of abusive domains here and there, but for the most part, are "clean" versus the small handful who don't come to ICANN meetings, who aren't active in ICANN policy development or stakeholder groups and figure out how to put pressure on them to stay clean after that.

Again, that's probably naïve and it's a longer-term thing, but I do hope that ALAC will engage on those questions, whether in the review team report, in calling forth community discussion, in pushing forward a dialogue with registries and registrars to stand up when they should stand up as good actors and take action to really put pressure on those that are not.

TIJANI BEN JEMAA: Thank you very much, Jamie. Andrea, shall we go to the evaluation questions?

ANDREA GLANDON: Yes. Give me just one moment.

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TIJANI BEN JEMAA: Please.

ANDREA GLANDON: Okay. I will place them over on the right side where the pop quiz questions were. Give me just a moment to pull up the first.

TIJANI BEN JEMAA: Okay.

ANDREA GLANDON: Okay, evaluation question one. How was the timing of the webinar, 21:00 UTC? Too early, just right, or too late.

I'll move to question two. How is the technology used for the webinar? Very good, good, sufficient, bad, or very bad?

Question three. Did the speakers demonstrate mastery of the topic? Extremely strong, strong, sufficient, weak, or extremely weak?

Question four. Are you satisfied with the webinar? Extremely satisfied, satisfied, moderately satisfied, slightly satisfied, or not satisfied at all?

Question five. What region do you live in the moment? Africa; Asia, Australia and the Pacific Islands; Europe; Latin America and the Caribbean Islands; or North America?

And the final question. How many years of experience do you have in the ICANN community? Less than one, one to three, three to five, five to ten, or more than ten?

Thank you, Tijani. The survey has closed. You may continue.

TIJANI BEN JEMAA: Yes. Thank you very much, Andrea, and thank you. I'd like to thank especially Maguy Serad because she managed to bring all this team, very, very kind people who demonstrated a real will to explain and to make the presentation for you. So, thank you very much, Maguy, and thank you for all the speakers. Thank you for our interpreters, and thank you all for participating to this webinar. This webinar is now closed.

MAGUY SERAD: Thank you, everybody.

OLIVIER CREPIN-LEBLOND: Thank you, all.

ANDREA GLANDON: Thank you. This concludes today's conference. Please remember to disconnect all lines and have a wonderful rest of your day.

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