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HYDERABAD – At-Large Leadership Working Session Part 8

Friday, November 04, 2016 – 15:15 to 16:45 IST

ICANN57 | Hyderabad, India

ALAN GREENBERG: Let us everyone, sit down, please. Can we please have the Work Stream 2 topics back on the screen? We are now starting almost 15 minutes into this session. We have another one afterwards, which we cannot delay. As soon as we have the Work Stream 2 topics up, we will start the discussion. Yes, Sebastien?

SEBASTIEN BACHOLLET: Yeah, can we just go to the meeting from 9 to 10:30? We will have the list. Because it's nothing but this timing, but it was of the previous meeting then, maybe it's the easiest way.

ALAN GREENBERG: We already talked about jurisdiction. The next one, I believe, is Reviewing the Cooperative Engagement Process. The Cooperative Engagement Process is a process of trying to bring together various parties prior to an IRP, if I remember correctly. The belief is that before you begin formal processes, it just may be possible to come to an agreement or resolve an issue. And this is trying to decide the guidelines for such a process.

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The group, I believe, has met once. There has been no substantive work done yet and I don't think we need to talk about it here, unless Cheryl feels there's something to raise. She says, no. F is now done, which is good because the next one is not going to be an easy one, SO/AC Accountability. Cheryl is one of the rapporteurs. Would you like to take the lead on this?

CHERYL LANGDON-ORR:

I would be delighted to do so, Mr. Chairman. Actually, I'm probably going to be able to give a relatively short update with something positive. Despite the fact that I did describe it in another meeting earlier today as a little bit like giving birth to an elephant, we have, in fact, managed to get sufficient consensus thanks to taking it to the CCWG Plenary on a set of questions for the community.

Now, when we say questions for the community, these are are a sort of questions that will be coming to the leadership of each advisory committee and support organization. And so whilst it was our intention to probably have the answers back by Hyderabad, we are hoping to have under the cover note of the co-chairs a letter with the questions going to each of the ACs and the SOs. How each AC and SO deals with those questions is absolutely and positively up to them.

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If you were to heed any of my advice, I would suggest that with your schedule being as tight as it is at this meeting, you may wish to bring it up onto the agenda as part of any other business in your leadership team meeting. Because, of course, you at least have your five regional balance representation there. And they may wish to deliberate and help you decide how you, the ALAC, not you just the chair of the ALAC, may wish to respond. But, Alan, I know you're very familiar with the questions and you probably already know how staff will be able to find the answers to a lot of them.

That said, the next step is going to be vital. And the next step will be the discussion on two things in particular. One will be when we get the feedback from all the ACs and the SOs, then what? And the "then what" should allow us to look at what parity and lack of parity in how accountable our component parts are to the communities they bylaw or believe they are serving. But also it brings us to the very thorny discussion of what do we do with that? Are there best practices that can be shared? Should we, in fact, be looking at some form or learnings or even sharings between what happens in the various ACs and the SOs?

That is going to take us on some very thin ice. It's also going to take us onto the points of what's known as the mutual accountability roundtable, which was a proposal out of Work Stream 1 by one of our advisors. It is mandated for our group to

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look at that. That is what we need to do as well. And we would really value wider regional leadership and At-Large structure input into that process, because there's some deeply held and widely diverse beliefs.

Other than that I would suggest we might make available a copy with Leon's permission for this group of all of the work topic report cards because I think that would be a useful reference set of materials for today's talks.

ALAN GREENBERG:

Thank you, Cheryl. If I may, as another of the somewhat active members in this group, a couple of other comments. Number one, from our perspective, answering the questions is going to be relatively simple. We have lots of rules. We have rules of procedure. We have operating principles for RALOs. We have all sorts of documents. And we can simply ship off most of the documents and get away with doing very little else. I'm not sure how effective that would be because that just shifts the real workload onto the working group who I don't think will be able to do an awful lot with them. So I think we're going to have to put some interpretation into them as well if we're doing our job legitimately.

The second thing or comment is the variability between ACs and SOs amongst them. I'll give you as an example the range from

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ALAC to the ASO. We're here to represent the needs of 3.5 billion users. We do that with a RALO ALS structure which how well it's working is an interesting question and we're in the midst of a review asking that. Some of us have some opinions. You've heard some of mine.

The ASO on the other hand is representing the five RIRs. Each RIR names the people to the ASO. If those people are not representing them well, then they can yank them back and replace them with someone else. The ASO is about as accountable as one could be because there are only five regions and they're all there, and the people there serve at the will and the whim of the region. Now, how accountable the RIR is to its own region, completely separate question and out of our remit. So the ASO is a piece of cake. We're at the other end of the extreme I suspect and other people are in between and all different from each other and that's what makes it sort of interesting.

The mutual accountability roundtable, I think that needs a definition if you haven't been engrossed in this process. That was a concept at which all of the ACs and SOs get together and perhaps trade information on how they do their job properly. You've just heard my opinion of how useful that would be. But the related concept is that ACs and SOs are accountable to each other. In other words, we are not only accountable to the users,

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the ASO is not only accountable to the RIRs. But the GNSO should be accountable to us and convince us they're doing a good job. I think that's a really nice idea. Other people say, "How dare you violate the sacredness of our own autonomy?" So we're going into this with interesting positions. Open the floor. Seun and then Tijani we have.

SEUN OJEDEJI:

Thank you. Thank you, Cheryl and Alan. Just a little bit of process question. Perhaps maybe it would have been also helpful if we had a general summary of what happened at the Accountability Meeting that held before we started the ICANN 57. So maybe I may be repeating a few things here. I wanted to know.

ALAN GREENBERG:

The very simple answer is we spent the day doing exactly what we're doing here in a lot more detail, reviewing the statuses of each of the groups and in one or two very small examples asked for some input from the group. But, in general, it was a review of the status, update on where we are.

SEUN OJEDEJI:

Alright. Thank you. So my question – and, Cheryl, I'm also a member of the group – but I just wanted to know because you

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are saying that we could actually start responding, does it mean that the questions are being forwarded formally to the leaders of the various SO and ACs? And then, is there a timeline that has been attached to get their feedback? Thank you.

CHERYL LANGDON-ORR: If I may, Mr. Chairman. To answer your last questions first, Seun. I believe in the debrief we will be having with the leadership at 4:30 today, that is one of the actions that will be happening. That will be sent. I have seen and my co-rapporteurs have seen and approved of what the leadership will send. But I have seen no evidence of it being sent, so I would suggest watch this space for the next 12 to 24 hours and the answer will be yes. And to the answer of the timeline, the answer is yes. And it is a date in mid-December. The exact date escapes me.

Seun, the reason I asked that we include as reference material the scorecards, the update from each of the teams that was presented in the face-to-face, is to also help answer your first part of your questions, which is to give you an idea of where each of the topics are in terms of update for all of this community. Thank you.

ALAN GREENBERG: Tijani next, I believe.

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TIJANI BEN JEMAA:

Thank, Alan. Two remarks. The first one is that I can give you in my experience for the African region for the AfriNIC. The representative of AfriNIC and ASO is elected by the whole community. Even if you are not a member of AfriNIC, and I wasn't a member of AfriNIC. In Gaborone I participated in the election of the representative of AfriNIC and the ASO. So I do think that it is a pretty good representation. It is not as you presented it, perhaps, not too representative. That's what I understood.

The second remark, to be accountable to each other, the SOs and ACs, it would be something very good. But who will be able to set this kind of accountability? How we will do it? So I prefer to ask for something that is possible than to ask for something that will not happen. We need to be accountable to our community, and this thing we can think about we can say how we can do. But to accountable to the GNSO and the GNSO to be accountable to ALAC, I don't know how we can do it. Thank you.

ALAN GREENBERG:

Just to be clear, as with things like diversity and human rights, this is on our list of things we must cover and we will cover it. We have not discussed it. It may be tossed out the window once we cover it. Sebastien next.



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SEBASTIEN BACHOLLET: Thank you. Two things. The first one, yes, and she's not here anymore. But I asked her to have the document ready to be put on the pod exactly the one asked by Cheryl, because I think it's a document we need to have and I was thinking to discuss that after we go item by items.

Now, coming back to SO/AC Accountability, it's a very important topic from my point of view about mutual accountability. I am not sure that we need to talk about one-to-one accountability. Mutual is not the same thing. From my point of view, we need to think about that as an organization, as a group. It may be a little bit easier than to think, are we accountable to the GNSO? But are we ALAC Accountable to the other SO and AC as a whole? It's a little bit different from my point of view, and that's something we need to discuss. May I suggest that at the next call of the group for Internet ICANN Evolution, we take this as a topic to discuss to be ready for the discussion at the level of the subgroup led by Cheryl? Thank you.

ALAN GREENBERG: Thank you. I think that's a good idea. Can staff make a note of that, please? That is at the next ICANN Evolution meeting, talk about the issue of accountability amongst the ACs and SOs. Thank you. Thank you, Sebastien. Next?

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UNIDENTIFIED FEMALE: You.

ALAN GREENBERG: Oh, next, me. Just in response to Tijani, if I made it sound like the ASO reps were not accountable to the RIRs, I said they're fully accountable to the extent the RIRs want them to be. If the RIR chooses to pick a random person and put them on the ASO and never care what they do, that's their job, their business. If they want to monitor carefully and pull someone back if they don't like it. That's their business. It's out of our domain. But the ASO as such has representatives of all of the RIRs, only five. And to the extent the RIRs want them to do anything, that group is fully accountable. That's all I was saying.

Next item. I thought that was going to go for longer. Staff accountability. Do we have anyone who would like to talk about that? The staff accountability, the title is somewhat deceptive in that it is largely focused on things relating to disclosure, document disclosure and a number of other related issues. Seun? Cheryl? No one has any interest? Sebastien?

SEBASTIEN BACHOLLET: Sorry.

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ALAN GREENBERG: Did I miss one?

SEBASTIEN BACHOLLET: No, I guess, what you are talking about the document, it's about transparency, one, I guess. Then the one about staff accountability, I will not talk about because I am not member of the group, but I think it's something different topic. And just to add one point, it's where with the Ombuds group and maybe others, we will need to discuss about the complaint officer. Thank you.

ALAN GREENBERG: Sorry. This is my lack of sleep at this point. You are correct. And if someone wants to take me out of my misery and talk on my behalf. Leon?

LEON SANCHEZ: Thank you, Alan. So on staff accountability on a very high level bird's eye view, I can tell you that it refers to, to whom should staff be accountability on their actions or inactions? There is the group that believes or states that staff should be accountable to the community directly. There is the group that says that there should be a hierarchy in respect to staff accountability in that

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staff should be accountable to literally their boss. So their boss being the CEO, of course, and ultimately the Board, and the Board being accountable to the community. So in some ways, this is the discussion that is taking place in the staff accountability. But it refers pretty much to both staff actions or inactions that in a certain way could have some effect on the community. And Alan, back to you.

ALAN GREENBERG:

Thank you. Now that my foot has been extracted from my mouth, which is an English expression for those of you unfamiliar with it, we'll provide a Wikipedia entry. This is an interesting issue because I believe the wording confuses the issue. Staff are clearly accountable to their hierarchy within their organization. So there's no way that we can take one of our staff and say that they are accountable to me because I cannot set their salary. I cannot fire them. I cannot give them a prize for doing a great job. Well, I can give them a prize outside of ICANN, but there's nothing within the organization I can do. So there is a clear hierarchy there.

On the other hand, the community should be able to have certain expectations and have recourse if they're not being met. The transparency of staff in doing its job I think is something that we should be able to ensure. If someone doesn't do

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something, who do we go to, to complain? Right now it's, in ICANN, it's opaque. We just don't know the answer to some of those questions. So I think that by saying who is staff accountable to, on a legal basis the answer is moderately clear. But on a conceptual basis it's a much more nuanced thing, and I think that's what we're going to have to somehow work out. Thank you.

I think we have Sandra next and then Seun. No, Seun and then Sandra, my mistake.

SEUN OJEDEJI:

Just to note that the group also have developed a set of questions. And some of the questions that were being asked also seem to be touching or trying to verify if indeed staff should be accountable to the community.

So, I think, even though Alan said the title is misleading, it looks like there's still some level of intent or expectation that staff needs to be accountable to the community. Whether it's the right thing or not, I guess it would depend on the responses we get from the various SOs and ACs.

This also brings me back to say here that we have these questions now. I really don't know whether this particular one has been forwarded officially to the SOs and ACs leadership. I

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heard Cheryl say the one for AC and SO will be done later today. But it would be good to have an update on when are those questions, what is the process? Is it that it is just the rapporteurs that would determine when to send these questions formally, or are they going to be sent by the co-chairs of the CCWG? Are they going to be sent together? It looks like the questionnaires, it's not clear who is sending it, at what time are we responding, and so on. Thank you.

LEON SANCHEZ:

We're going to have a debrief session as Cheryl stated at 4:30 today, and many of these questions will be answered in that debrief. But the process normally is that we get the questions from the subgroups to the co-chairs, and the co-chairs in turn forward them to the SOs and AC chairs so they can distribute them within their communities. So that will be the process.

ALAN GREENBERG:

I think Sandra's next.

SANDRA HOFERICHTER:

Thank you, Chairman. I would like to make a proposal regarding staff transparency. It would be helpful if the organizational chart of the staff [inaudible] would be somewhere available online so

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that we all know who is reporting to whom, who is responsible for what, who works in which department.

I know some of these charts have been available on PowerPoint or so, but I've never found them easily on the website. I also found them somewhere in the deep dive of my documents. And also now with quite a lot of new positions being taken after Fadi's departure, after Fadi left and also some of the people which left with them, it would be really helpful to understand who is working under whom in which hierarchy. I think that would be something the community would appreciate.

ALAN GREENBERG:

Thank you, Sandra, and that's a personal thank you. It's been something I have raised with now the second CEO in a row that I would like to know who people report to. When I get a random email from a name I've never hear before asking me for something, it would sort of be nice to know what department they work for. I can now generally go to either the staff list, where it will tell me nothing about them, or the ICANN wiki sometimes will tell me that they were hired in January. And after that, who knows?

So, yes, there are org charts for the executives and senior management. There are not for the rest of the staff. I have had various excuses cited, ranging from privacy to it's too hard to

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maintain. At one point, I was told internally staff got a message when people change departments. I was also told that that was stopped at one point. So it's not even easy internally to find out. That's really moot whether it is or not. I strongly agree that that would open things up a little bit. Who else is next? Seun, go ahead.

SEUN OJEDEJI:

Just a follow-up on a comment on what Sandra said. Thank you, Leon, for that clarification. I was initially thinking Cheryl was referring was referring to just the one for SO/AC.

To what Sandra said, I'd just like to note that, that is actually one of the questions that has been asked. It's one of the bullet point questions that has been listed on the list of questions from the group.

And perhaps this should also bring me to wonder whether really the SO/ACs are supposed even be the actual recipient of these questions. Because it looks like some of the answers we definitely may not have the response to them. It's looks like it's more a staff question and it needs to be responded to by the staff themselves. So perhaps during the debrief, it may be good to – also I like that even though if you're sending to the SO/AC, we probably may need to send these questions to staff to respond and see where it goes. Thank you.



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ALAN GREENBERG:

I'm not sure if you're talking about the staff accountability or the AC/SO accountability now, but it doesn't really matter. The requests are going to the AC/SOs. What they do with it is up to them, and different ones will do different things.

For instance, within the GNSO, there basically is no GNSO accountability. It's accountability at the levels below them, at the stakeholder group and constituencies. In the ALAC, it's a mixed bag. There's some RALO accountability. There's some ALAC accountability. So, it's a combination of things.

Staff will certainly have a hand in doing this, and perhaps there may be things that will be purely staff. Although if the answers come from us, they have to be satisfactory to us as well.

Who is next? We are empty. Last item then is staff transparency, the one I introduced before incorrectly. Is there anyone who would like to speak to that?

I will do a little bit. And to be honest, there are three different parts to it and I'm having trouble remembering what they are, which again is perhaps a sleep issue.

There are a number of places where it is important that the community understand what is going on within ICANN. And whether it's a disclosure of documents in response to a request

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or simply the process that goes along with it has to do with things like redaction of document or documents. All of this it says that there should not be secrets from the community unless there is some particularly valid reason.

Obviously, ICANN signs contracts which may have confidentiality clauses in them. Those are expected and there's not much we can do about it. On the other hand, there was some concern expressed among members of the group that ICANN not insert confidentiality just so they can hide things. There was a perception certainly among some people that, that was something that one could imagine happening if one's not careful. So it largely focuses on an access. It's an access to information act for those of you in countries that have something similar. Vanda, go ahead.

VANDA SCARTEZINI:

Just a kind of suggestion. I do believe that for the staff, some proposals should come from the staff [to start] like a draft to debate about what we really understand as we need as be completely transparent. Because most of the things are published, and even contracts, a lot of published contracts and that.

But certainly there is a sense that some closed things inside ICANN. I don't know if it's true or not, but my suggestion is to

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receive from the staff what they believe and that we check against our [thoughts] to try to find the best solution. To not go like everything needs to be open or anything must be open. Just to make something basic on their point of view and then we can check with our point of view. So we need some kind of draft to start to define what we really believe that will be helpful to have it transparent. Thank you.

[LEON SANCHEZ]:

Just a quick follow-up to Vanda's comment. There were position papers drafted by staff for each of the subgroups, so we do have a kick-start based on work done by staff. And while now the discussion is centered on some aspects that you have described like, for example, there must be some public versions of contracts or confidentiality of issues to be solved, etc. But yes, staff papers were produced for each of the subgroups as a kick-start for the work.

ALAN GREENBERG:

Okay. One of the interesting things, of course, in documents is sometimes you don't know a document exists so you don't know to ask for it. It's an interesting situation. Sebastien?

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SEBASTIEN BACHOLLET: Yes, thank you. I don't know if you want just to stick on this subject or if you want to list all the items that the transparency have to do. If so, do you want me to list them?

ALAN GREENBERG: If you're in a position to do that quickly, go ahead. My brain has failed me.

SEBASTIEN BACHOLLET: That's okay. It's two second. I made a presentation two days ago on all the WS2 subjects. The second topic is transparency of ICANN interaction with government, the third one is improvement to the existing whistle-blower policy, and the fourth one is transparency of Board deliberation.

The only point I want to add, it's one of the few subgroups who deliver draft document, and I am sure that it could be very interesting to read it for the people who are interested in transparency.

We had a long discussion on 2 November, and I think personally that there are people who are willing to go very far into the transparency. I'm not sure that we need all that, but it's something we have to be careful in the future work of the transparency work from, once again, my understand and my point of view. Thank you.

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ALAN GREENBERG: I think Cheryl's next. Nope, Tijani.

TIJANI BEN JEMAA: Thank you very much. I think that for the accountability of the staff there is a new element that we have to take into account, which is the intention of the CEO to create this complaint officer. He says that the staff is accountable to him and he's accountable to the community, which is true. But if this project will be executed, it will be – if it is done in the right way – a way for the community to report any problem they face to the CEO directly so that he can [remedy] to it on time before it become a problem.

ALAN GREENBERG: Thank you. Tijani's making reference to an announcement the CEO made, which you may or may not have seen, to establish a complaint officer. The responsibilities are a little bit unclear because what he said in the accountability meeting the other day was slightly different than what he said in the blog that he issued.

One of the points of contention is that the complaint officer will report to ICANN Legal, and indirectly through Legal to him. Based on the history of lack of trust in the legal department of

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ICANN – which may or may not be valid, but nevertheless it is a history – there is some concern that, that may not be the right place to have that report.

His perception is that it ultimately reports to him so he's responsible. There is concern that perhaps people might not complain knowing where the department sits in the organization. So I think we're going to hear more of that as the week goes on. My understanding is he walked away understanding that there was significant concern in that.

The other part of the concern that was raised is he has said – and I understand he's going to be saying it in the opening session, whenever that is, tomorrow, I think – that he views himself as being the CEO of what I will call the staff part of the organization and then there's the Board and then there's the volunteer community.

He has chosen to call the thing that he oversees directly as the organization. There are many people in the community that think the ICANN organization is the overall body that encompasses the Board and the volunteers. So there's a little bit of miscommunication there. We'll see if he chooses to change the word or not. That's just a bit of history and things to watch during the opening session. Seun? Do we have a queue? Seun, go ahead.

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SEUN OJEDEJI: Yeah. Thank you. For the other groups, most of them are asking questions so they really don't have a recommendation yet. But, however, this particular one, this transparency, they do have some lists of recommendations that they've made. At what point in time do we as ALAC or At-Large intend to actually look at those recommendations and then provide our comments on them? Because I just opened it now, and I already find some that are of concern to me.

ALAN GREENBERG: The process we'll be using is similar to what we've used on the full CCWG Work Stream 1 and the stewardship. The prime group that we will be bouncing things off of is the group that was called IANA Issues, now called ICANN Evolution. Ultimately, things go to the ALAC for approval, but that work group tends to be the place that we draft our statements and formulate our positions.

I would like to think that most people in the At-Large leadership, that is the ALAC and the RALO leaders, are participating in that. That's not quite the case right now, but that is where these things in general are formulated and that's where you should be if you are interested in participating at that level.

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Of course, anyone is free to look at these documents and provide input themselves. That may be the right or wrong way, but that has been how we've organized it in the past. I see Cheryl, and I think Seun wants a rebuttal.

SEUN OJEDEJI: A follow-up. What I'm asking is, are we going to be discussing these things during the IANA Issue session? Do we have a session as such within the week?

ALAN GREENBERG: Are you asking at this meeting? This session is what would have been the ICANN Evolution session, except we explicitly said it is for the entire At-Large leadership, and we also invited other people to come along. But this is the super group that we are discussing it at. There is nothing else planned for the Hyderabad meeting, but there will be another meeting soon after online. Cheryl?

CHERYL LANGDON-ORR: Thank you, Mr. Chairman. Seun, I know it's an extensive and particularly well-written document on transparency going some 18 pages long. But it is nowhere near baked and ready for that type of review.



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It is important that we recognize that our opportunities, if you're not able to be active in the transparency group, is for regional leadership and people gathered around this table and in this room to let the members who are involved in the transparency topic know your opinion. A good way of doing that as Alan just said is the Evolution meeting, but you can always just send it to the list of us who you know are the formal members as well.

That said, it then would need to go, once we have it in a finally baked form, to the CCWG Plenary before it then would go for public comment. So we have several opportunities to influence the document. The most important one, and I think germane to your particular question, when will we formally discuss, may very well be when it is in a public comment form.

ALAN GREENBERG: Olivier and I thought I saw Sebastien, but he may have put it down. I'm not sure. Olivier?

OLIVIER CREPIN-LEBLOND: Thank you very much, Alan. I just heard Cheryl mention that if you have concerns and so on, you could send those concerns to the members of the working group that are working there. I'd rather say that, yes, do that, but also carbon copy the ICANN

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Evolution Working Group so as to be all in sync because we're doing this as a group thing. So that's all.

ALAN GREENBERG: Great ideas all. Sebastien?

SEBASTIEN BACHOLLET: Just because we left just four minutes, maybe a little bit more. I have suggested in the chat that we go through these documents and maybe we ask Leon to give us feedback on the scorecard and where we are in the process. Because I think it's also important for all the people here to know about where we are and which [tool] we will have to follow what it's done within the Work Stream 2.

ALAN GREENBERG: We have three minutes. Would you like to take us through it? Or at least show people what it is and we'll give them the URL so they can look at it.

SEBASTIEN BACHOLLET: Yes, we have the URL, but I would like us to go to next slide. At least, there are two documents I would like to see or two slides. One is the full agenda, I would say, which is mine. You have a monthly activity update where all the information and we have

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what we are doing and the timeline. That's a document. And go to the next one, I guess. That's the subgroup progress in one slide. Next one. We talk about budget, too. Next slide.

Here, for example, diversity. You have a certain number of information to follow what is happening and we have such a slide, scorecard or whatever name, to each subgroup. And I think it's very interesting [tool] to follow the work done and not done. If you want to know where we are, it's a dashboard that can be useful. Thank you.

ALAN GREENBERG: Thank you, Sebastien. And I trust staff will point people to it. Anything before we close?

LEON SANCHEZ: Just a note on what Sebastien kindly took us through. I think that a highlight is that the Work Stream 2 work is aimed to be concluded by June next year. So, of course, it is important that anyone that wants to feed into the process could do it at this point.

ALAN GREENBERG: Last comment to Tijani. Our next speakers are in the room.

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TIJANI BEN JEMAA: Thank you very much. Yes, we have more or less a deadline, but it is not a hard stop. I don't think it is. Because we have to finish the work. We don't have now a transition to accomplish. Everything was done, and now we have to do the work in the right way. And if some subgroups cannot finish their work, as Leon said, we will continue our work and finish our work. Thank you.

ALAN GREENBERG: Assuming the rest of us don't give up and just walk away. Olivier had a very brief comment.

OLIVIER CREPIN-LEBLOND: Yes, thank you very much, Alan. Could I just, you mentioned earlier, staff will point us to the right location. Could I perhaps ask that we add a local copy of this into our document store? I'm not sure what staff, who is supporting our working group, but we definitely need to have our own document store with this information in there, easily accessible and easy to find.

ALAN GREENBERG: That is an action item. Thank you. We will now transform into our second session on the CCT Review Team, and we have Jonathan Zuck.

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JONATHAN ZUCK: My microphone cut out.

ALAN GREENBERG: And we should have Kaili and Carlton here somewhere. I don't know if they're in the room or not. Kaili's there.

JONATHAN ZUCK: And you say your "second session." Did they already give a little bit of a...?

ALAN GREENBERG: We already had an internal review plotting against you. So we have to do our homework.

JONATHAN ZUCK: Do you want to just make this a Q&A thing? Rather than me doing...?

ALAN GREENBERG: No. No, I'd like a brief overview. You did a good one yesterday in the GNSO, and something like that, 10 minutes or something like that.

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JONATHAN ZUCK:

Good afternoon, folks. My name is Jonathan Zuck, and I'm the chair of the CCT Review on which both Carlton and Kaili are active participants. So you've gotten some kind of overview. What I've done is tried to take our 90-minute presentation from this morning and boil it down to a 10-minute presentation that'll take 15. Alright. Next slide, please?

So as you probably know we were asked to evaluate the impact of the New gTLD Program on competition, consumer choice, consumer trust as well as the effectiveness of the safeguards and the effectiveness of the application and evaluation process. Next slide. Our review team is diverse and comes from around the globe. Next slide.

We were trying very hard to make this a fact-based review and evidence-based, and so there were a number of studies. Some these actually predate the review team in were commissioned early on by a working group that involved both the GNSO and ALAC in terms of determining data that ICANN staff should begin to collect and studies that should be commissioned outside of the organization. That's includes two sets of end-user surveys, two sets of registrant surveys, and two economic studies done by the Analysis Group. And the Phase II Economic Study is currently up for public comment as we speak, so please do take a look at that.

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More recently, what we just received is a study on new gTLDs and the global south from AM Global. I'll talk about that in a few minutes. And in process is an applicant survey that Nielsen is conducting to ask applicants what their experience was like. We're just about to begin work on a DNS Abuse Study that will probably not be completely final until June. But, hopefully, we'll have some good interim results in time for the March meeting.

Then we're also waiting until, I think, February for a final survey that INTA is conducting with its members to try to get a better sense of what the expenses of defense have been since the defensive strategies of trademark holders have had to become a little bit more sophisticated in the New gTLD Program. Am I speaking too quickly. I'm sorry. It's at cross purposes. Next slide.

Competition. This is an animated GIF, doesn't seem to want to animate today. This is a guy shrugging. The competition and choice, a number of very high level findings, so I'm just going to talk about this at a very high level. Everything has caveats associated with it. But the general indicators are good that there has been an increase in competition and an increase in choice and with less than predicted negative downside costs to trademark holders in particular. But again, that's something we don't have final numbers on.

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The industry structure is interesting because the fact that it's divided into registry service providers, backend providers, registries, and registrars means that what we call the minimum viable scale – in other words, the minimum number of registrations that a new registry would need to survive – is lower than it might otherwise have been given that they can contract with a backend service provider and that there's a distribution channel already available to them. So those things mean that we might see much higher survival rates than we would have predicted.

We haven't been able to do anything particularly interesting about pricing, largely because we were unable to get pricing data. The Analysis Group did some research involving basically screen scraping to get it, but the request for data from both the registries and registrars was rather anemic in its response. And so perhaps one of the most dramatic recommendations that my team will be making of ICANN is to take data collection more seriously. And so that's going to be something we're going to be talking about in some detail. Not today, but I mean generally on our team.

But so some positive indicators that are out there. One of them is that of the new registrations since the launch of the New gTLD Program have been in new gTLDs. So roughly if you normalize and look at the new registrations for the legacy TLDs and the



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new TLDs, they're roughly equivalent during the period of the New TLD Program. So that's a pretty positive statistic in terms of competition. And, in fact, in that time they've been able to acquire a 9% market share which, again, doesn't seem significant on its face. But when you consider that there's only about a 20% growth rate currently in the TLD space, getting half of it which results in about 9% a share is pretty significant.

Another significant thing, and Kaili has done a lot of work to bring this to our attention in the review team, is that there's been a lot of parking in the New gTLD Program. According to nLDStats, it's roughly 65% of the registrations that are currently parked. And so we don't have a good understanding of what that means and what implications that has for our competitive analysis. So that's something that's still under study. But that's a high enough percentage that it's worth remarking on and gives us some pause.

You know, looking at market definitions, it was difficult to settle on just one, so a lot of numbers we ran a lot of different ways. So sometimes when we're talking about just the new gTLDs, sometimes we're defining the market as the new gTLDs and the legacy TLDs and sometimes were defining it as the new TLDs, the legacy TLDs, and the ccTLDs. And so throughout the report we'll try to make it clear, but we do different measures using these different market definitions. Next slide, please.

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On trust and safeguards, the findings are again relatively undramatic. The Nielsen Survey reveals some interesting end-user preferences, but it didn't reveal a real high delta in consumer trust or perceptions of the DNS marketplace. So the hypothesis that our dumping all of these new TLDs on the market might confuse the public and get them concerned didn't seem to come to fruition.

And, in fact, there are some positive indicators in the consumer preferences suggest they like the idea of a taxonomy on the web, that they can get predictability associated with words that they recognize. And so there's actually an opportunity to build consumer trust with the expansion of the TLD space. It remains to be seen what we make of that opportunity, but that we regard as a good sign as well.

Trying to look at trust in a more objective form, we tried to look at the notion of trustworthiness, if you will. And so the safeguards were designed to address that. It's a little bit too early to assess almost everything that we're looking at but, in particular, it's difficult to assess the effectiveness of the safeguards. So what we did was look at whether they were implemented and whether they seem to be designed in such a way that they're enforceable, and both of those seem with some few exceptions to be the case. So again, we consider that to sort

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of be a positive indicator that the safeguards can play an important role in increasing the trustworthiness of the DNS.

The rights protection mechanisms, there have been some interesting results. For example, the use of UDRP has actually gone down. Obviously, the results of the URS has gone up because we started at zero. But there's still the notion that there's been less of a stress in that space than we anticipated. But we'll be focusing on the INTA survey to get more final results there. Next slide.

I think one of the biggest recommendations we'll be making is in some detail about more data that ICANN should be collecting along the way to facilitate reviews in the future. So I'm happy to talk about that in greater detail, but that's one of the biggest problems that we face as a review team. And so I think one of the biggest contributions we'll make is helping to define the models that we should be looking at and the formulas into which you'll be plugging in data to evaluate these characteristics on an ongoing basis and in future reviews. Next slide.

Finally, next slide, the application and evaluation process. There's a PDP going on right now on subsequent procedures that's sort of focused on generally making the application process a little more frictionless. And so what our team decided to look at more in particular is the ways in which that process

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seemed discriminatory. In other words, did it leave out people that weren't ICANN insiders? Did it leave out the global south? Why are there so few applications from the global south? And so we have two surveys there: one is survey of applicants and one that's sort of an interesting attempt to prove a negative.

We hired AM Global to go out and ask all the people who should have applied for TLDs why they didn't? So what they did was identified the characteristics of the people who did apply from the global north and try to identify sort of their cohorts, if you will, in the global south and then go out and ask them about the program. So there was a lot of findings about that in terms of lack of awareness, lack of understanding of the program, lack of understanding of what their business model might be for a new gTLD. And so we'll make some recommendations about trying to improve that.

So I think I'll stop there in order to facilitate discussion and answer any questions. Is that alright?

ALAN GREENBERG: Thank you very much.

JONATHAN ZUCK: I see some cards up. Should I manage the queue or will you?

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ALAN GREENBERG: Tijani's watching the queue. I think so far we have – I don't know the order – so I'll take Seun, Sebastien, and me. I can't really see whose card that is. It's Humberto's card. Thank you. And apparently, there's a right-hand side. Let's start with Seun and Sebastien.

SEUN OJEDEJI: Thank you the presentation so far. One of the things that you mentioned in terms of the fact that half of the new [TLD] registrations [are actually new gTLDs]. One of the reports that I was hoping to see is the market index, the gTLD market index that was presented yesterday. So it means that you actually have data for this report.

I mean, my question then would be based on the data that you have, these new gTLD registrations that happen to be 50-50 now which sounds like good news, are they actually gTLDs that are actually from a particular company maybe [just in it] for their internal second-level domains. Or are they actually registered by a customer, a registrant to better speak? Just like for instance, if it is .GOOGLE, they may have a lot of subdomains, but [it's for their own. It's not like it's really a] customer-level TLD. So the 50%, where does it come from?

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Second question is in relation to parking. Is it a parking of the new gTLDs or the second-level registrations [that have happened]? So from the 50%, are the parkings affected, I mean, are they from the 50% that have been registered. I mean, I'm trying to be more coherent here. When you say there are lots of parking, what do you mean by that? Is it in terms of the second-level parking or in terms of the actual TLD being parked? Thank you.

JONATHAN ZUCK:

Thanks for your question, Seun. First on your first question about who's doing the registering, the huge majority of them are individual registrants that are registering these domains. The actual registrations in brand TLDs are actually quite low, so they aren't the ones making these numbers. But as I said there's certainly some amount of speculation that's going on, and so there's some high volumes of TLD registrations that are particularly happening in China. And so in some of the more Chinese-oriented top-level domains, the parking rates are as high as 90%.

And so, again, we don't want to say that all parking is speculation. And so part of what we need to do is kind of parse and try to better understand what parked domains really imply for the competitive landscape because it could be a number of

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different things, including people just not being ready yet to release a new website or to migrate their business cards over to a new domain, right.

So on the parking question, again, we're talking about second-level domains. In other words of these 50% that you're talking about, the registrations that have been made, a relatively high percentage of them, 65% are currently not active. You can't get to them. And in the huge majority of the cases, you simply get an error when you try to navigate to them. So that's what we mean by parked. And we don't know what that means, what to interpret that, we just know that that number is big enough that we need to take that into consideration.

ALAN GREENBERG:

Thank you. We currently have four people in the queue. We have a very hard stop in about 13 minutes. So I ask people to try to be very concise. There will be a timer going for questions. We won't have a timer for Jonathan, but we ask for a self-imposed one. Next?

SEBASTIEN BACHOLLET:

Thank you. I don't know if what I would say you know already. But [inaudible] about biggest recommendation data was the same recommendation in 2003, after the first round of new

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gTLD. The reason why we had the second round in 2004 was exactly to allow ICANN to gather data and we are still in the same place today. Then I think it's not just a recommendation. We need to find a way to impose that somebody take care of collecting data. I don't care if ICANN is not able, if staff of ICANN is not able to do it, they need to commission somebody to do it. But more than [13] years after the first round 2000, we are still in the same situation.

And the second point is that I hope that you will be able to do not just a snapshot – it was done in 2003, for example, but never published – but you will be able to do a film. Because what is important is not too much of the image we have today but how it has evolved. Because the parking we saw in 2003 was decreasing amongst time and the domain names [that were] going to older TLD [in fact to the .COM] we're also decreasing over time. And it's something important not to stay with the snapshot but see the evolution. Thank you.

JONATHAN ZUCK:

Thank you for your question, Sebastien. I feel exactly the same way you do about data, and if you've ever heard me come to talk to the Board in a public forum, you know it's something that I have expressed my opinion about with some regularity. And so I



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tend to use the pulpit of the CCT Review to make this as strident a request as possible.

And thus far, the Board has shown great receptiveness to recommendations by review teams, so I'm hoping that there's an opportunity for change. It's also my understanding that Göran is trying to work on more trend-oriented data in the DNS marketplace, and so I think there's a receptivity of the organization to do more data collection. But I agree with you completely.

As far as transition over time, our mandate really has to do with exploring the impact of the latest New gTLD Program. So we're looking basically at the trends of just the last few years in our analysis. But certainly trying to keep them in the context of the overall program, but we aren't making a comparison to other launches of new gTLDs at this time.

ALAN GREENBERG: All right. I'm in the queue, but I'm going to skip my position right now. I'll go back to the end. Who's next after me?

HUMBERTO CARRASCO: Thank you very much. It's a quick question: in some slide you say there is a 9% of market share. So my question is you consider that the market is not concentrate?

JONATHAN ZUCK:

So, concentration is an economic measure, one of the important measures that are used to look at competition. And it has to do with how few providers there are providing the majority of the product. The gTLD marketplace is highly concentrated without question, and it remains highly concentrated even after the New gTLD Program. There's no question that that is the case, but the new gTLD markets taken by themselves are far less concentrated than the legacy gTLDs and they've begun to have an impact on concentration in the overall market.

And so the fact that they're having an impact I think is significant in the fact that it has resulted in a 9% shift in overall market share in such a concentrated market feels like a positive indicator. But I don't mean to suggest that there's been a huge disruption in the gTLD marketplace at this point. There hasn't been, because we're only looking at about 20% annual growth. And so part of what we're recognizing is there really wasn't a lot of demand for all these new TLDs to begin with, right. I mean, it's not as though the world just suddenly went out and started buying them all up.

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ALAN GREENBERG: Thank you. I'm closing the queue and we'll keep the two-minute timer, but if everyone uses it we'll run out of time. So please don't. Next. Holly?

HOLLY RAICHE: Just a couple comments, Jonathan. Yesterday we discussed the possibility of some of the underserved areas, particularly the Pacific Islands, Africa and the comments were made is that the areas just aren't ready, there is not the expertise. And if we're having as goal a geographical distribution, it may not be an appropriate goal in some areas. So I think probably we need to think about what we do with underserved areas and whether, in fact, it's appropriate.

Second comment, we will be presumably responding to the draft report that's coming out in December. And I think the concern that was expressed around this table was there's going to be a lot of data we don't know. So our comments are going to have to be framed based on what we know, but we would still like to know. And if that can be accepted, that would be good. Thank you.

JONATHAN ZUCK: Thanks, Holly. I don't know if your first statement was a question. But the review team certainly took it on to look at

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whether or not the application evaluation process had been effective for lesser developed economies because there were so few applications. And there are a variety of things that appear to have led to a paucity of applications from the global south. But a big part of that was insufficient information and bad information about what resources were available, the deadline were too tight.

And so I think we need to divide those barriers into two different buckets, things that we ought to do to avoid discriminatory aspects of the application and evaluation process. Things like the letter of credit and things of that sort that at least create a bit of a level playing field to the extent that we can. And then as a separate question is whether or not we want to take it on as an objective to try and get more applicants from the global south and what do we need to do that. And that would involve a little bit more aggressive outreach. But at the very least, we ought to do whatever we can to make sure that the system isn't rigged against players in the global south.

ALAN GREENBERG: Thank you. We have Andre.

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[ANDRE KALASHNIKOV]: My question do you coordinate your researches with regional clubs, let's call them clubs, like CENTR and APTLD? My recommendation, of course, will be for the close cooperation with the ccTLDs because actually when you calculate the impact of the new gTLDs overall in a market, especially, on the end-users you have to consider ccTLDs because, I mean, it's a real factor of the impact. So do you work with the CENTR and the APTLD?

JONATHAN ZUCK: I guess my answer needs to be a little bit nuanced. The CENTR released a study recently and we did reach out to them and got the data, the underlying data they used. There was a number of sort of model-driven results that were not strictly data, but driven results in a CENTR report that made it difficult to integrate into our research. But we are getting whatever data we can on ccTLDs and, again, that data is just as difficult, if not more difficult to get. But we are getting the data that we can.

And as I mentioned, in many of the calculations within the market share definitions we incorporate as one of the takes on the data includes ccTLDs. So, for example, my 50% number that I'm putting out there is roughly a third when you incorporate ccTLDs. So if you look at new registrations it's about a third, a third, and a third, and we report on that as well.

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ALAN GREENBERG:

Thank you. I think we're through the queue we had queued, except for me. I'll have a couple of comments. Can we start the timer, please? You made a comment, a couple of comments about users and you said that the new TLDs had been well received by users. I must admit as a user— no? Okay. I must admit as a user I've never seen a new gTLD live as a result of a search or a company that I'm looking for or something like that. That's not a scientific study, but I don't think I've ever seen one.

The second thing is I think you said that there is some indication that people may like the concept of new TLDs because it tells them something about the owner and therefore there's a level of trust. That, of course, has a two-edged sword. If, indeed, they start believing that as in the case of .BANK that you can trust that's a real bank they may make that assumption about .DOCTOR where it's an open playing field if that TLD ever gets delegated. [You spin .DOCTOR.] So, yes, some of them, it's a little bit scary.

The last question I have is the concept of competition, one of the issues that is not really within ICANN's scope is concentration of power not in a single TLD, but in owners of TLDs. And right now we have a situation where there are one huge owner and at least three other that are significantly larger than the competition. It's

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not clear we have any ability, we're not an anti-trust organization, but is it being looked at all and is there any feeling that we should be at least commenting on it if not doing anything?

JONATHAN ZUCK:

Thanks, Alan. So to clarify, all we could really conclude from the Nielsen surveys of end-users is that there wasn't a level of mistrust that had been created thus far. And so, yes, the awareness issues that we got out of the survey are all somewhat suspect because people tended to believe that they knew about TLDs because they were familiar to them. So sometimes when we were asking locally, we would put out a city TLD or something and say, "Do you trust this?" And it would be one that didn't exist, right. And so you're learning more about what leads to trust than about awareness.

So I didn't mean to suggest that everybody is happily using them. And my wife, for example, has a .GALLERY and half the websites she goes to doesn't accept her email address still, so universal acceptance is still a challenge for her. I thought I was being so hip getting her a new TLD, and now all I do is hear complaints about it.

And so the second question you asked, I was, in fact, trying to say that in maybe too subtle a fashion that there's an

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opportunity in front of us in that consumers, I think, are ready to embrace a kind of taxonomy in the web and do have the expectation that .PHOTOGRAPHY will have photographers in it or the .DOCTOR. And so I think it remains to be seen what we do with that opportunity. And so that's more what was revealed in the survey is that they're receptive to that kind of taxonomy, but there's an equal opportunity to undermine trust as there is to build trust as you say, and I agree with that completely.

And then the third question was about concentration, and that's why we are measuring it. That's one of the things that we're hoping to promote the measurement of ongoing because we had economists that were part of our group that talked about what type of measurements we should do that were a little bit more sophisticated than what we as a working group and ALAC together came up with in terms of metrics and a little more sophisticated, frankly, than what they're doing currently in the health index. And so concentration, I think, is an important measure of competition. There's been a positive impact on concentration, but it is still what economist and anti-trust enforcers would consider to be a highly concentrated market.

ALAN GREENBERG:

Jonathan, thank you very much. I wish we had a bit more time, but we are completely out of time. We are on a 15-minute break



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right now and will be meeting with the ccNSO afterwards. Is that in this room? Okay. In this room, 15 minutes. Everyone's on break. Please be on time because some of us have another event almost immediately after the ccNSO thing, and we can't run over that one very much. Thank you, 15 minutes, please be back.

**[END OF TRANSCRIPTION]**