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PANAMA – Navigating your way at ICANN: Joint NCSG-At-Large Outreach

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UNIDENTIFIED MALE: This is ICANN 62, Tuesday June 26 2018. It is 9:00 AM in Salon 9. This is Navigating Your Way at ICANN joint NCSG-At-Large Outreach.

UNIDENTIFIED FEMALE: Don't stand there. Just come to the table.

TIJANI BEN JEMAA: May I know why the room is so dark?

UNIDENTIFIED FEMALE: The room is not going to be dark all the time. It seems that the light needs some time to become brighter. It's just for now it looks like a cave, but it's going to get better. Just give it some time and patience. Thanks. I guess we are starting in a minute. I see that the first welcome and introduction speakers are here.

OLIVIER CREPIN-LEBLOND: First thing, I think we still have some spaces around the table.

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UNIDENTIFIED FEMALE: Yes, so please grab some.

OLIVIER CREPIN-LEBLOND: So, if anybody wants to be sitting at a table with power and feel really comfortable for these three hours of entertainment and fun, then please join us at the table.

Welcome, everyone, to this joint session of the NCSG and the At-Large, or At-Large Advisory Committee, ALAC, At-Large. The two communities coming together to bring you a little bit of an insight on what ICANN is all about and especially focusing on several policy topics. We've got some real hardcore people that have been here for many years and that know the ins and outs of what's going on in ICANN and who have been through many battles. I think that's what you can call them. Many battles for various topics over the years. They're here to answer your questions and to give you a little bit of a background as to what really is happening because there's always, as usual, the stuff that you find on the website, but then what really happens in the working groups and how things work out. This is an opportunity for you to interact with them, to ask questions. So, don't feel scared about raising your hand. There's no such thing as a stupid question. There is a thing as being stupid as to not ask a question, so please don't hesitate in asking.

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I'm Olivier Crepin-LeBlond. I'm with the European At-Large Organization, the European part of At-Large. Next to me is ...

TATIANA TROPINA: Tatiana Tropina, a member of Non-Commercial Stakeholder Group and elected representative of Non-Commercial Stakeholder Group on the Generic Names Supporting Organization Council. And here comes the first rule. Those of you who attended some of our outreach events know this already. Do not use the acronyms. If you are going to use – Oh, my God. I feel like a one-man show, one-woman show.

OLIVIER CREPIN-LEBLOND: You've already dimmed the lights.

TATIANA TROPINA: [inaudible] someone give us the light.

UNIDENTIFIED MALE: It's more romantic.

TATIANA TROPINA: Without any due delay, although I would ask everyone again, those of you who are speaking, please remember that some of the attendees do not know what GNSO means, NCSG means,

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EPDP means. I think that many even of long-term members of this community still don't know what EPDP means. So, please don't use acronyms. We are going to fine you. If you use too many of them, you will be probably expelled from this room. And now, without any delays, the first session, Swimming in the Acronym Sea, introduction to NCSG and its constituencies and At-Large. Do we have Farzaneh remotely and can she connect to say a couple of welcoming words from NCSG, Non-Commercial Stakeholder Groups? Okay. If we can set it up, it would be cool.

For those of you who are sitting at the table or on the chairs, there are brochures of NCSG, but while we are waiting for [inaudible], I will give the welcome to Bruna Martins.

OLIVIER CREPIN-LEBLOND: And just before, we actually also have brochures of At-Large over there and we'll be distributing some and we can probably send someone across to grab a few outside and bring some more if we run out. Anyway, let's go.

BRUNA SANTOS: Good morning, everyone. Bruna Santos speaking. I was invited to start before [inaudible]. Welcome, everyone. I am very, very personally happy to be here. This is the first Latin America and

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Caribbean meeting in two years. It's very nice to see some faces around.

I'm going to start talking a little brief introduction to NCUC, Non-Commercial Users Constituency. We are one of the groups inside ICANN that you can consider that is a place for civil society. So, we tend to work on end users interest within the domain name system, policy making work. We have been so far advocating for a lot of principles and values such as freedom of expression, participation, and broadening participation from the civil society in a more broad way.

We also advocate for data protection, human rights, and all of this inside the ICANN scope and wherever else is inside the domain name system.

UNIDENTIFIED FEMALE: I believe that we have Farzaneh Badii, the chair of the Non-Commercial Stakeholder group on the phone bridge. Farzaneh, please jump in and tell us.

OLIVIER CREPIN-LEBLOND: The tech staff are praying that it works.

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FARZANEH BADI:

Hello. I am going to be very brief because I don't know how the audio is. Welcome, everyone. Thank you for attending the Non-Commercial Stakeholder Group and its constituency as well as At-Large outreach.

The Non-Commercial Stakeholder Group is the umbrella organization or the stakeholder group of two constituencies that you are going to hear about. From the name, you can judge what we do. We advance non-commercial interests in ICANN in domain name policy. And as you will hear from the speakers throughout the sessions, we are going to tell you how we do this, [inaudible] non-commercial values are. I'm just going to stop there and pass the baton to Tatiana and NCUC and NPOC to continue. Thank you.

UNIDENTIFIED FEMALE:

Thank you very much, Farzaneh. It's really sad that you can't be with us, but you are totally with us in spirit. Just a small, short note. So, Non-Commercial Stakeholder Group, for those of you who don't know, includes two constituencies. One of them, Non-Commercial Users Constituency. Bruna Martins spoke on behalf of NCUC. I'm not using acronyms which I didn't explain. I'm going to pass it to Joan Kerr to talk about Non-Profit Operational Concerns Constituency, which is also a part of Non-Commercial Stakeholder Group. The floor is yours.

JOAN KERR:

Great. Thank you. Good morning. I'm so happy to be here. I'm Joan Kerr and I'm representing the Not-for-Profit Organization Constituency. These are my committee members. I'm very happy that they're here. I would like to introduce NPOC, which is the other constituency of the Non-Commercial Stakeholder Group. Our mission is to – I have to read this because I'm a little bit nervous and we're doing our charter and I have to make sure I use old charter information rather than the new charter information.

So, we represent not-for-profit and their operational concerns in the top-level domain space through PDP process, which is a policy development process – no acronym, right?

Operational concerns are defined as issues arising from the use of not-for-profits to achieve their missions. So, we look at things like cybersecurity, domain abuse, transparent registration, and continued use of domain names and cybersecurity. That's a quick and dirty definition of NPOC.

What is NPOC? Not-for-Profit Organizations Constituency.

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TATIANA TROPINA: Thank you very much, Joan. Next in line is Alan Greenberg who is going to talk about At-Large. Are you going to talk from here or are you going to dance for us?

ALAN GREENBERG: I'm going to talk from here if that's okay.

TATIANA TROPINA: Okay, so all the eyes over there, Alan, what is At-Large? Thank you.

ALAN GREENBERG: Thank you. I have a question. Am I supposed to just talk or is this a good time for questions about At-Large? Do we want to handle questions all at once at the end or as we go along?

TATIANA TROPINA: I guess that if there are any questions so far, we can take. Otherwise, raise your hand. I don't see any hands, so Alan, you talk and if there are any questions, we take them. Thanks.

ALAN GREENBERG: Thank you very much. I was asked to explain what is At-Large and how are we governed. As you 'll see, that's going to be an interesting question. What is At-Large? Well, the bylaws say that



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our role is to consider and provide advice on the activities of ICANN insofar as they relate to the interests of end users. It goes on to say that we should be involved in the policies created. And again, from our point of view, how do they impact end users? And anything else that's relevant. That gives us a pretty wide scope, far more than the GNSO.

It makes it an interesting challenge because at a meeting a few months ago, the question was: what is your list of activities you're working on? My answer was whatever anyone else around ICANN is doing, we have to look at. We don't set the agenda. We just basically react.

We are blessed in the bylaws with the most complex structure that anyone could possibly imagine, and that is there is sitting at the top of or the bottom of the pyramid, depending on how you organize these things, we have the At-Large Advisory Committee. That's 15 people, five of them appointed by the ICANN Nominating Committee and 10 appointed by various people around the world.

The next part of the structure is something called a RALO. I was asked to not use acronyms, but I'll have to use them and introduce them. A Regional At-Large Organization. So, we have five RALOs corresponding to the ICANN five regions that are reasonably autonomous. They have their own sets of Rules of

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Procedure. There are some overlap, but to the extent ... And we're talking about governance. They, to a large extent, are self-governing within certain constraints.

They, in turn, have At-Large Structures (ALSes) which are local organizations on the ground within different countries around the world. We currently have about 240 of them, I believe. These are organizations of people who are interested in the Internet and in ICANN. They vary from groups that may be five people, ten people, to thousands, depending on which group it is.

We also have individual members. So, you can be a participant in a RALO and At-Large by simply saying you are interested. You don't have to be part of a specific group.

Our challenge is to somehow convey to these people what it is that ICANN is doing, and as any of you have been to even a part of a meeting know, we are loaded with acronyms. We are looking at a technical area and a very constrained technical area because ICANN's remit is very, very narrow. It's not everything related to the Internet. And get the message out of what are we doing and try to get people involved. It's not an easy thing, as I'm sure you all know, but that's where our challenge is.

So, the governance, as I said, is a very distributed governance in that the ALAC sets some rules, RALOs set some of their own rules, and ALSes, of course, the At-Large Structures, each have

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their own rules because they're each an organization in their own right, other than being part of ICANN.

So, the governance is an interesting semi-matrix, semi-hierarchical structure. The overall structure is hierarchical. The terms At-Large community and ALAC are used and there is always a fair amount of confusion.

If you're familiar at all with the GNSO structure, there's a GNSO, which is the Generic Names Supporting Organization, of which NCSG and NCUC are parts. There's also the GNSO Council. That's 21 people who are selected by the rest of the organization to sit on that council. The ALAC is comparable to the council. The GNSO is comparable to At-Large.

I'm not going to speak a lot more, but if people have questions, comments, anything else, I'm happy to try to field them.

OLIVIER CREPIN-LEBLOND: I was going to add something. We do have brochures now with the different regions, the Asia-Pacific one, we've got the Latin America and Caribbean, we've gone one for – we don't have North America. We've got AfrICANN one and we've got general At-Large brochures. We've also got some participating in At-Large booklets. You can see them either here and if we run out, there's a booth opposite where there's plenty more. You'll notice

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they're all color-coded. So, we're over in Latin America and Caribbean and that's why we're wearing green today. That's it.

But, I do have one question, actually. Relating to NCSG, NPOC, and NCUC which has confused me for many years, even sort of up to about six or seven years after I was participating in ICANN. What's the difference between them? Why is there NCSG, NCUC, NPOC? Are they different? It's a bit confusing. How does that all fit together?

TATIANA TROPINA:

I think that we are lucky to have one of the veterans of the NCUC and NCSG, Milton Mueller. I would like to ask him to answer this question. You could have, actually, in all those years, [inaudible] didn't know. You could have always approached Milton and ask him.

OLIVIER CREPIN-LEBLOND: I don't talk to Milton and he doesn't talk to me.

TATIANA TROPINA:

You are going to talk the next time. Milton, please, the floor is yours. Why do we have two constituencies?

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MILTON MUELLER: It's good that we have a translator and a relay person so that Olivier can send messages to me.

One of the odd things about this meeting is that all the people I see in front of me probably already know the answer to this question and the people who don't are [inaudible].

TATIANA TROPINA: Milton, we can easily solve this. Just don't switch off your microphone. Stand up.

MILTON MUELLER: Alright. So, first of all, I want to apologize to you for the absurd complexity of ICANN structure and subjecting anybody to having to learn this is like worse than some of my most elementary undergraduate courses where we're trying to get you to learn obscure terminology for chemical formulas.

So, what is the deal? Fundamentally, At-Large is an advisory committee and Non-Commercial Stakeholder Group is a stakeholder group. That's really the only distinction you need to know. The rest is a matter of personal preference and detail.

The stakeholder groups are part of the domain name policy making process and the At-Large, as Alan said very well, is concerned with the whole ball of wax. They talk about

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everything, IP addresses, domain names. Whatever is happening in ICANN, they can advise on it.

But, in the GNSO, we make policies that apply specifically to generic top-level domains. If you want to participate in that and you are civil society, non-commercial organization, or an individual who is not a commercial player, you want to join the Non-Commercial Stakeholder Group.

Now, within the Non-Commercial Stakeholder Group there are two constituencies, one of them very new and one of them very old. The difference is something that you should talk to those people about and see which group you want to get involved with. Really, there's no fundamental difference. Again, I hate having to explain this. It's not that important. If you want to get involved in non-commercial activity in the GNSO, you join the NCSG, figure out what constituency you want to be a part of later after you know what's going on here. Thank you.

TATIANA TROPINA:

Thank you very much. Just following up, you can either talk to Joan Kerr, make yourself visible; or Renata Aquino, who is the chair of Non-Commercial Users Constituency; or to Bruna. So, just come to us, talk to us, figure out for yourself and the beauty of all this outreach is that you can actually be a member of At-Large and NCSG at the same time.

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But then the question is how we are different – oh, do we have a remote question? Super, thank you. Thank you very much Farzaneh for answering to the question since I cannot connect to the Adobe room.

So, what are the differences? Why do we exist in all these environments differently in parallel to each other? I think we have 7-10 minutes left for these discussions, and Olivier Milton are going to lead this one. Milton, would you like to come so you can share the microphone with Olivier?

OLIVIER CREPIN-LEBLOND: We're going to share something, Milton.

TATIANA TROPINA: We are going to see some battle now. So, what are the differences? Who is going to go first?

OLIVIER CREPIN-LEBLOND: I was going to comment on what Milton said earlier. Milton mentioned supporting organizations and advisory committees, and I think that's one of the first things that people get confused about. Certainly, I was confused thinking what is the difference between a supporting organization and an advisory committee?

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The supporting organizations, there are several of them in ICANN, are the organizations that basically make policy. That's where the policy is being made, specifically in the GNSO, for the Generic Names Supporting Organization. And the Country Code Names Supporting Organization is a little bit different because they actually have more of a coordinating thing. They sometimes do global policy, but not that often. And the country codes do their own policy at national level. But, let's not go that far into it.

NCSG and At-Large, what is the difference between them? So, if a supporting organization makes policy, an advisory committee – how would you call it? Your nose neighbor should I call it? It looks at what policy is being made, of course takes part in the policy development process that takes place in the supporting organization, but then also has the ability to comment about it later on.

At-Large, as Alan Greenberg mentioned earlier, doesn't only comment on Generic Names Supporting Organization policy, but also can comment on anything related to ICANN as it relates to end users. That's one of the things.

Now, of course you can make policy, but you can also have different types of membership and there is a difference with



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some of our members and with the point of view of some of our members.

For At-Large, it's end users in general. End users, we might have some academia and we might have some civil society, but there are also commercial organizations that actually relate directly to end users, as such. So, we sometimes have points of view that are a little bit different.

I'll give you an example, the one on WHOIS, the WHOIS debate which is basically the registry of – the people who own the registries, of people who own domain names with their full details being in there and this changing at the moment.

For At-Large, for an end user, some of our members wish this to be more private. Others wish this to be more of an exact register of who owns the domain because they're actually using e-commerce sites and they need to find out who are they actually dealing with. So, this is the view that we have. In NCSG, I think the view might be slightly different because there's more of an emphasis on privacy, isn't there?

MILTON MUELLER:

Again, the NCSG, the stakeholders make DNS policy. Now, from the beginning ... Domain name system policy. Okay, very good. From the beginning of ICANN, there was conflict over domain

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name policy. The trademark owners wanted to have very strong trademark rights protected and then there were people like the ones who formed NCUC a long time ago, the Non-Commercial Users Constituency, who said, “Wait a minute. We’ve got to pay attention to rights, we’ve got to pay attention to freedom of expression, we have to pay attention to privacy, we have to pay attention to due process.”

So, we tended to attract rights-oriented advocacy groups and public interest groups. Our take on domain name policy is very much focused on protecting the individual rights of the registrants. Now, in some sense, this is end users. We’re taking an end user approach because we are in the user side of the house. However, there’s an important difference in the sense that we represent a certain perspective or interest in usage.

The concept of an Internet user is kind of an incoherent one.

OLIVIER CREPIN-LEBLOND: Open.

MILTON MUELLER: Open, yes. Open. I wouldn’t say empty, but very open. Because everybody is a user. The US military is an Internet user. They use the Internet. Olivier is an Internet user. Trademark owners are Internet users.

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So, what happens in the GNSO is that you create separate constituencies or groups, stakeholder groups, that represent different parts of the policy interest in domain names.

So, let us just tell you our take on the WHOIS issue. We have a long history of saying to ICANN, “This WHOIS policy you have, it’s actually illegal according to most data protection laws.” We told them that since 2004 or actually even before that. They ignored us until the European Union passed a law that made them pay attention.

So, now, we’re working out the legalities and adjustments that have to be made in our policy. And because most of us are privacy advocates, we think this is great. It’s kind of fun to see ICANN having to respond to privacy concerns and not being able to ignore it anymore.

OLIVIER CREPIN-LEBLOND: But in At-Large, of course, we do have a concern that you could have an increase in all sorts of malware and rogue sites and whatever. Alan, you wanted to just add a couple of things. Alan Greenberg?

ALAN GREENBERG: Thank you. Well, you just added part of them. Milton and Bruna before him made I think the ... We’re often asked and often

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approached by what's the difference between At-Large and NCSG or NCUC and which one should I join?

The focus of NCUC certainly has long been, as has been said, focusing on privacy, freedom of speech, human rights, a number of things like that. Those are certainly of a concern to At-Large, but we also have concerns that go far past that. So, if you look at the last gTLD round when new top-level domains were introduced—

OLIVIER CREPIN-LEBLOND: Generic Top-Level Domains.

ALAN GREENBERG: Generic Top-Level Domains, what the GNSO is involved in, we were very concerned about user confusion, that when all these top-level domains, the things after the last dot come out, are users going to be confused if they look the same, if they're similar? So, there's a lot of issues other than just the privacy, human rights, freedom of speech. So, the answer to the question, "Which should I join?" If you have a narrow focus on certain areas that NCUC or NCSG has looked at from a point of view of users, then that's the right place. If you have a wider perspective, then At-Large is the right place.

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MILTON MUELLER: But you could join both. You can be an At-Large person advocating a privacy rights perspective within At-Large, but if you want to focus on the actual domain name policy making process more narrowly, you probably would want to spend most of your time in one of the NCSG constituencies.

ALAN GREENBERG: Yeah. And as Tatiana has pointed out, we have lots of people who are members of both.

OLIVIER CREPIN-LEBLOND: And over to Tatiana.

TATIANA TROPINA: Thank you very much, Milton and Olivier, for your [inaudible]. I think we got a very good segue to the next part of our outreach, but just a couple of words. What can we do together? As several of us pointed out, you can be a part of both, of At-Large and NCSG, like me for example. I'm a member of regional structure At-Large EURALO and I'm a very active member of NCSG. What can we do together?

In the next two hours – don't worry, there will be a coffee break – you will hear about different policy topics and issues which are very important for us currently now.

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I see a question here. One moment.

ROXANNE JOHN:

Good morning. This is Roxanne John from St. Vincent and the Grenadines. I am a fellow, second time attendee at ICANN meeting. My question is really before you move on to the second part on the Non-Commercial Stakeholder Group.

Now, when I attended the meeting in Abu Dhabi, which was a first, and I'm also the President of Internet Society, St. Vincent and the Grenadines Chapter, I decided [inaudible] to the board to join the ... I guess I could say NCSG now, right? Good.

I [inaudible] applied and we were accepted, which [inaudible]. We got acceptance notice from the Non-Commercial Users Constituency. I must commend [inaudible] the chair and the group. It's a very active group.

It's two questions I have. One has to do with when you apply for the NCSG, if you are automatically part of the two, the NPOC which is not profit [inaudible] and the NCUC if it's automatically?

The other thing, I was [inaudible] the NCUC [inaudible] here at Panama in April and I observed that the NCUC has a lot of persons involved in Latin America and the Caribbean. I just want to know what is membership like in the region for NCUC and also for the NPOC?

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TATIANA TROPINA: Thank you very much. To your first question, once you apply for Non-Commercial Stakeholder Group, you choose which constituency you want to be a member of. So, you choose during the application. But, as far as I'm aware, some of our members are members of both NCUC and NPOC. Or neither. Some of us are just members of NCSG, but not of the constituency.

As Milton said, we are very sorry for all this complex, monstrous ICANN structure.

As to Latin America region, Renata or Bruna, could you please say a couple of words on this, about the membership in the region and activities?

UNIDENTIFIED FEMALE: So, Latin America, we have around, I don't know, over 100 members, right? We are almost at the hundred members point from Latin America. We're around 70. We were all saying NCUC is also rather complex. We can also have both organizations as members and individual members as well, so it's been rather a complex environment as well.

OLIVIER CREPIN-LEBLOND: Okay, I think [inaudible] just add and then we have to move on.

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UNIDENTIFIED FEMALE: Let me just complement. ALAC has the RALOs, has the Regional At-Large Organizations. NCUC also has an executive committee, regional divisions. So, we do have a lot of members in the Latin America and Caribbean but you can always interact with both the leadership of At-Large or NCSG to find out about members in your region.

OLIVIER CREPIN-LEBLOND: Okay. I think we have to move on because we've been talking a lot about our own organizations and how confusing it is. If you're completely confused now, there's only one solution. Join everything. Just join everything.

UNIDENTIFIED FEMALE: And talk to us.

OLIVIER CREPIN-LEBLOND: And talk to us as well, yes. So, that was the answer. We could have actually dealt with this in 30 seconds and just joined the whole lot.

Now, next thing that we have is the policy discussions. The first one that we're going to talk about is the GDPR. Yes, the General Data Protection Regulation, something really exciting. It's all



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related to WHOIS and it's related to privacy and it's related to a whole number of things. We have some experts on this. Two speakers, Holly Raiche and Ayden Ferdeline. It's great. They're sitting not far from each other with someone in the middle to keep them apart, just in case it gets a little dangerous. We'll start with Holly Raiche who has come in all the way from Australia, and in Australia they do not laugh about these things. Holly, go on. You have the floor. And please keep it civil, please.

HOLLY RAICHE: We laugh a lot.

OLIVIER CREPIN-LEBLOND: Holly has got a little presentation for us.

HOLLY RAICHE: Yeah. Who is actually changing the slides? Because I can't.

TATIANA TROPINA: Miriam. You can just say, "Next slide, please."

HOLLY RAICHE: I will do that. For those who hate acronyms, I'm going to explain what all of the acronyms are. May I have the next slide, please? And we'll start.

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WHOIS actually is a term that goes all the way back to 1982. There used to be a protocol, one of those RFCs (Request For Comments) developed as part of the very, very early days of the Internet. The WHOIS protocol was the way in which the geeks that were actually developed the protocols that makes the Internet work communicated. It was a protocol, but it also became involved in the terminology of identification, the name, and how do I contact somebody, which was all fine because everybody knew everybody. It was the days of Steve Crocker and Robert Kahn and Vint Cerf and everybody else.

So, it was a service whereby they could contact one another when there were hundreds of them, and eventually with the growth of the Internet, thousands of them.

It was a protocol that was then adopted by ICANN when ICANN was formed. That actually changed everything, because instead of the protocol that connected a bunch of people who knew each other or who were involved in the same enterprise, it became a protocol that actually identified the registrant, which is the term meaning the person who actually has the domain name.

There is, on the ICANN website – and that’s a link to it – there’s a long history of WHOIS and there’s no way I’m going to go through all of it. But, it’s pretty thorough. In fact, if you go

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through Google, you can get about 17 versions of the same thing. Next slide, please. Thank you.

When we look at WHOIS – and this is the term for the protocol – in fact, the requirements ... These are the requirements. They're spelled out in the contract between ICANN and the registrars, and ICANN and the registries. Essentially, it means that for registrars provide one or more gTLDs (Generic Top-Level Domains) they have to provide an interactive webpage [with a] Port 43 service that provides public free query-based.

In other words, when we're talking about the implications of WHOIS, one of the requirements is this information must be free and public. It's written into the standard, what's called the RAA, the Registrar Accreditation Agreement. The latest version is 2013. It's also written into all of the ICANN contracts with the registries. Next slide, please.

Now, you probably can't read this, but this is what is the WHOIS information and this is contained in [inaudible] of the RAA.

OLIVIER CREPIN-LEBLOND: Holly, I was just going to jump, actually. You mentioned registrars and registries and I think some people might not know what is the difference between a registrar and registry. Could you just give us the 20-second tweet on that, please?

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HOLLY RAICHE: Okay. The registrars are the ones that actually – registrars and the resellers actually are the link between the registrant, who is seeking the domain name, and the registrar who is actually managing the domain name allocation.

OLIVIER CREPIN-LEBLOND: Registry. You're getting confused.

HOLLY RAICHE: No, no. The registry is actually the database itself. The registries are the ones that manage the database. The registrars manage the registrants. You'll learn. Believe me, long enough, you'll learn the terminology.

The list there is taken from clause 3.3 of the RAA and that's all of the information that is required to be available, publicly available, at no cost. You'll notice, if you read it, that there's a lot of personal information. That is information that includes name, address. Believe it or not, there used to be a fax number, if you remember what that used to be. In other words, in privacy terms, this is called personal information. Next slide, please.

I put this slide in there just to remind people that in 1983 the OECD came up with privacy principles. Essentially, most of the

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privacy protection, which is encapsulated in privacy legislation by probably over 100 countries, has the same basic principles which are about essentially if you are collecting data, including personal information, from people, you should limit what you collect to only what is necessary. You actually are responsible for the quality of the data. You have to specify why you're collecting the information, because when you tell people and get their consent, you have to tell them why and you only use the information in accordance with what you've said and what you've got consent for.

That's really the basis on the basic principles of privacy legislation globally. I make this point because so often people think the GDPR – this is the General Data Protection Regulation – the latest thing to come out of the EU in terms of privacy, that it makes Europe as the odd man out. In fact, if you look at the privacy requirements globally, probably the people without privacy legislation, and I include the United States, are the odd people out, although I would say in the defense of the United States, they've had some very interesting, very recent Supreme Court decisions that suggest they're going in another direction, which is very important and hopeful. Next slide, please.

Essentially, what had occurred in ICANN was a growing realization. And remember, I just said 1983 was OECD principles. There were a lot of global response in terms of privacy

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legislation, a growing awareness within ICANN that the WHOIS requirements were in violation of a lot of privacy legislation globally.

So, what ICANN did was, amongst other things, commission what's called a WHOIS report, which reported on a number of things. It reported on, first of all, the protocol itself, which is the management of the information, the accuracy of the WHOIS information that was held. And looking at the final report of the WHOIS, which identified not only that the protocol was out of date, but that the WHOIS information required under the Registration Accreditation Agreement was actually inaccurate.

What they discovered was part of the reason for the inaccuracy is people actually didn't want to have their private name, address, contact details made public for whatever reason. Most of it legitimate, some of it not.

It began the, if you will, beginning of ICANN saying, "Maybe we have to look at the issue of WHOIS." The response was to establish what was called the Expert Working Group. The mandate from the board and the Expert Working Group was to reexamine and define the purpose of collecting and maintaining that registration data and how to safeguard it. That was the mandate for the Expert Working Group. Next slide, please.

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The Expert Working Group was a cross-community working group. It had representatives from every constituency. It took, gosh, almost two years I think, but came up with a couple of really important findings.

The first finding was a unanimous finding to abandon WHOIS, to abandon the idea that every user gets the entirely anonymous public access to registration data.

The second was, essentially, a paradigm shift. By the way, the terminology changes at this point. Instead of WHOIS data, which is that data that's required under the Registration Accreditation Agreement, because the terminology of WHOIS was used for many things, the terminology becomes registration data. Instead, the EWG (the Expert Working Group) recommended a shift to a next-generation registration data service that actually collects, validates, and discloses the generic top-level domain registration data for permissible purposes only.

This is the beginning of the shift to tiered access. The people who get access to data are only those who are entitled to access to the data. Next slide, please.

That was out of the EWG report. It basically says whoever sits on the outside asking for access to the registration data – that is the data, the personal information about the registrants, the people who own – own is the wrong term – who have the license to use

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the domain name, when they query a database, they may or may not have rights to a little bit of the information, some of the information, all of the information, depending on who they are, what their status is, and what purpose they have for access to that information. It's a very significant shift from the old WHOIS structure. Do I have one more slide? Next slide. Let's see if I do. Okay.

Once we got the Expert Working Group report, the board said, okay, what we have is a cross-community, well thought-out report that says we have to change. At that stage, basically saying what we need to do is we need to replace, if you will, the policy of WHOIS, or registration data, with a new policy that defines, that redefines, the purpose of collecting, maintaining, and providing access to the registration data and looking at the safeguards for the data and for who has access.

So, the board then recommended to the establishment of ... Have we defined PDP yet? The development process for a policy. GNSO, that's what you guys do. So, a working group was chartered. It's called the RDS, which is the registration data services, isn't it? Directory services, sorry. I always get RDS mixed up. Registration Directory Services.

OLIVIER CREPIN-LEBLOND: More crazy acronyms, isn't it?



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HOLLY RAICHE: I know. Even I'm concerned and I've been here for years.

TATIANA TROPINA: If we see people running out of this room, we will know why, just because they heard another acronym. For those of you who are new, it's impossible to operate without acronyms in this environment. It's just impossible. If you are going to stay, you better get used to it.

HOLLY RAICHE: I'm finished with this slide. What happened then was the board said, okay, looking at the report of the Expert Working Group, looking at the really important findings, number one that, the old system of WHOIS, of having public free access to all of the data about the registrants has got to change, and essentially saying we needed to have a system of tiered access, gated access, so that although information is collected about the people who have domain names, that information is not necessarily available or it's only available to certain individuals in certain circumstances.

To develop the policy, the GNSO – and you'd better learn that acronym – established the Registration Directory Service with the brief to look at, to relook at, and to form a new policy

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reflecting basically the new way of protecting data using the recommendation of the Expert Working Group’s final report as a new policy.

Some of us, particularly if you live in Sydney, you got up at 2:00 in the morning for years. I think Ayden will take over from what I can only describe as two fruitless years of 2:00 in the morning meetings.

AYDEN FERDELINE:

Thank you very much for that, Holly. Hi, everyone. My name is Ayden Férdeline. Thank you for being present and coming to our session today. That was a great primer, Holly.

The next bit I guess to finish Holly’s sentence, after two-and-a-half years, the Registration Directory Service policy development process working group crashed and nothing came out of it after two-and-a-half years. It was really just a waste of time and resources for everyone, which is really unfortunate, but that is ...

OLIVIER CREPIN-LEBLOND: So [inaudible] to do more of that.

TATIANA TROPINA:

That’s a very good advertisement, apparently.

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AYDEN FERDELIN:

But, it is what it is. We should also talk about what is happening now and also just a quick [inaudible] as to why did it crash? Within the GNSO (the Generic Names Supporting Organization) Council, we have been sort of discussing this informally. What were the factors that contributed to this working group not succeeding?

On one level, it could be because of the working group dynamics. There is this phenomenon called social [inaudible]. The larger a group is, the less effort towards reaching goals or a consensus that various actors are willing to put in. And the ability to frustrate the entire working group rather than working towards compromise to just waste everyone's time to maintain the status quo is a real phenomenon and it does happen. This working group had hundreds upon hundreds of participants.

It becomes very difficult for a leadership team to moderate that. If you are in a room and there are 60 people with their hands raised, you can't give people much time to speak.

The subject matter became really complex. Who wants to be following an issue at 2:00 AM in the morning for years upon years? It becomes really difficult. Even if you have that commitment, you might have to miss the occasional meeting and it's hard to catch up.

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What also happens is there becomes this tendency to break work down into smaller pieces and to have subteams working on issues. Then, you end up repeating the process, because once the subteam reaches a conclusion, you come back to the entire working group who has not really been following it because no one has the time and you re-litigate those battles.

So, all of that happened. Hard to keep [inaudible], hard to prepare, hard to reach compromise. We don't want that to happen again.

So, here's where we are today. As Holly mentioned, ICANN sets policy by contract. So, there are the contracts with the registries and the registrars, and until very recently, they demanded the publication of full WHOIS records, which is something that we think – and suddenly in the view of many of the contracted parties – would be disproportionate under the GDPR.

So, what many of the contracted parties were doing in the lead-up to May 25 which was the deadline for enforcement of the GDPR beginning was they started figuring out how to build their own systems or ways around making the WHOIS database, which is a fragmented system, finding ways to ensure that it would comply with the GDPR.

So, ICANN Org and the board being fearful of this fragmented WHOIS deployed this top-down emergency measure, a

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temporary policy in its contracts to ensure that there would be uniformity across all of those contracts.

So, this was this never-before used emergency mechanism intended to develop a new WHOIS policy. So, that's where we're at now. So, this temporary policy has been deployed. It will expire within a year. It does have to be readopted or reexamined every 90 days, I believe.

Now what the GNSO is trying to do is we're trying to come up with a formal consensus policy with all of the relevant stakeholders within a very short period of time. And even today we had five hours on the schedule where we're going to be trying to draft up a charter, hopefully, but it's early days.

From the timeline that we have, because remember we have only 12 months to work on this temporary policy, we need to have an initial report ready within three months' time. So, it's very ambitious. Please, go ahead, Holly.

HOLLY RAICHE:

Just to say that it's called a temporary specification. And what the temporary specification does in terms of the privacy protection is, first of all, to recognize and support the idea of tiered access, and that is a recognition that people have access to the personal registration directory data, whatever you want

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to call it, only based on, number one, their status. Perhaps law enforcement or whatever. And then in certain circumstances that, although the data is collected, there is a careful scrutiny. What data do you need? What data is published? Who published it?

In fact, what the temporary specification has done is go a fair way down the road of saying, in fact, the whole concept of open access to WHOIS data is going to be changed, an extent to which is going to be changed. First of all, it's temporary specification, but then there will be another PDP, but this is going to be an emergency PDP, different process, much shorter, probably a much smaller working group, because I take Ayden's point, there were hundreds of people on the RDS Working Group. It's impossible. It will come up with something that is differently structured, has different rules about access and so there are two issues. One is the extent to which the temporary specification is adopted, but the other is the access rules. Ayden, I'd love to hear what you think about the access rules as well. Thanks.

TATIANA TROPINA:

Sorry, one moment. We have a question from here. I will accept it. As we are running out of time, we talk about access [inaudible] the issue.

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CARLTON SAMUELS: Yes. I happen to have sat on board the EWG as well as the RDS Working Group. History has a way of repeating itself in ICANN. If you do the same thing the same way and expect different results, then you're qualified stupid.

Here's the thing. The Affirmation of Commitments ... It's two sides of the same dog. The Affirmation of Commitments compares in the bylaw now, compares ICANN to have a public WHOIS. The WHOIS record is defined in the contract, the RAA contract. So, we have a situation where the contract. They are contractually obliged to follow that and it runs up against GDPR. GDPR is fact. It's not going to go away. So, what has happened is that they spend a lot of time trying to square the circle. So, they go to court trying to redefine what GDPR means, although the DPA [inaudible] many times what it means. So, they are now in Berlin court trying to redefine that.

Secondly, they are also trying to have this [EPDM]. The [EPDM] is a very simple matter. It says if you are going to comply with GDPR which is the law, you have to make the contracts compatible in law. But, that idea is not there because we have something called how you handle WHOIS conflict with national laws. That idea still runs in ICANN.

So, what is happening now is that if you wanted to change to make GDPR compliant, all you have to do is look at the contract.

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When it suits ICANN, it says the contract is consensus policy. When it doesn't suit them, it says that it is just a business decision.

So, if I were doing it, strategically, making a business decision to comply with GDPR, you don't need [EPDM] to do that. All you need to is to modify the contract. That should take a lot less shorter time.

All that the registrars want is to reduce their legal [inaudible].

TATIANA TROPINA: I'm sorry, a bit of moderatorial here. We are running out of time. We will have 20 minutes for ICANN-related discussion later. I have to wrap up.

CARLTON SAMUELS: I'll say this and finish.

TATIANA TROPINA: Thank you.

CARLTON SAMUELS: If we want to conform to GDPR, the shorter way to do it is to look at the contract and modify the contract. Thank you.



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OLIVIER CREPIN-LEBLOND: Thanks very much, Carlton.

AYDEN FERDELIN: You are preaching to the choir, I'm afraid. If we could simply modify the contract, that would be great.

OLIVIER CREPIN-LEBLOND: Things don't happen that way. It's got to be bottom-up. It's got to start from the grassroots. It's got to go all the way up. It's got to last two-and-a-half years. And it's got to blow up afterwards.

TATIANA TROPINA: Carlton, Ayden, Holly, if you can stay for longer in the second part for ICANN-related discussion ... Ayden, I know that we on GNSO, we are supposed to participate in EPDP, but if out of some you will have 20 minutes when we will be at ICANN-related discussion. I think there will be many questions and many comments. For now, I really have to wrap this up and I really have to give the floor to Robin Gross from NCSG and Cheryl Langon-Orr – I'm sorry, I'm so bad with pronouncing your name. It's like death by name pronunciation. Thank you. They are going to talk about geographic names in top-level domains.

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OLIVIER CREPIN-LEBLOND: Another long process, the whole discussion of geographic names.  
You have the floor, Robin and Cheryl.

ROBIN GROSS: Hi, my name is Robin Gross. Can you hear me okay? It's low?  
Okay, that might be better. Thanks. Can you hear me now? Okay.  
  
Let me just back up a little bit and say, well, what is the new  
gTLD subsequent procedures working group?

CHERYL LANGDON-ORR: It's a whole lot of fun.

ROBIN GROSS: Right. Then we can talk a little bit about work track five. So, back  
in the last round, the 2007 round of new gTLDs, ICANN had a  
procedure where it came up with the rules for how that  
application process and evaluation of those applications and  
the rollout of those new top-level domains would happen. So,  
came up with a set of recommendations, policy  
recommendations, for how the new gTLD program would go  
forward.

As a result of that, some of the members in particular of the  
governments were not too happy with the outcome in that they

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felt like things called geographic names or geographic words should have been restricted in that round.

So, that's something that we're dealing with now in this round. Now we're coming up with the new rules and the new procedures and we're taking a look at the old ones and saying, okay, what do we want to do differently? What do we want to do the same? Where can improvements be made?

This is one of the areas, what's called geographic names, and also now work track five because there are five different work tracks in this new gTLD subsequent procedures that deal with a variety of issues from intellectual property rights, technical issues, all sorts of things.

Then, work track 5 is where we get down to what's called geographic names. You might say, well, what is a geo-name? Well, there really isn't a very official definition of it. It's really sort of this new concept of a word that refers to a geographic place.

A lot of governments, in particular, but not exclusively, feel like they should be in control of who gets to register these words with geographic meaning and the way in which they are used. So, that's what this work track five is about, trying to figure out the proper procedures, the proper regulations. Where can we find some agreement, find some compromise on this issue?

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It's a little bit different than the other work tracks one through four in that it's at a little bit of a different timeline. Work tracks one through four are putting out the initial report in the next week or so. Work track five is a little bit behind that. So, I expect that will report will maybe take another, I don't know, six months or something like that to put together.

In terms of what is a geographic name, some governments would say it's city names, it's river names, it's mountains, it's country names, it's streams. Literally the list is growing and growing in terms of what some people would like to include in what's called the geo-names. We've seen proposals for country codes to be included. We've seen proposals for things that are culturally sensitive to be included. Even though there really isn't a geographic meaning there, one of the concerns that I have is that we're using this sort of geographic names label to perhaps put a whole lot of things in there that governments want to restrict people from being able to register or at least control themselves in terms of how things can be registered.

So, the concern that I have and the non-commercial users have on this is about freedom of expression and the fact that people have a freedom of expression right to use these words, not only in traditional space but also on the Internet including at the top level.

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So, the perspective that we have is we're trying to push for freedom of expression protection in this policy, and trying to make sure that these rights, the right to refer to a name, the right to criticize, the right to talk about will still be allowed under these procedures that ultimately come out.

It's still pretty early. We don't really know where this is going to wind up. So, if anyone is concerned about this issue or interested in this issue, I would like to invite you to join work track five and get engaged. We're lucky to have one of the co-chairs here with Javier. He's actually a really good one to talk to about this.

So, that's just a little background in terms of what the overall issues are and what the concerns are that our stakeholder group brings to the picture. Cheryl, what would you like to add?

CHERYL LANGDON-ORR: I'll add a couple of things. Cheryl Langon-Orr served in various guises in ICANN for more years than I care to publicly confess to, but the reason I'm talking to you today is because of our role as one of the co-chairs of the whole subsequent procedures PDP working group. Robin has given a great introduction now on the principles and practices that we're following in the work track design that we're doing.

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What I wanted to do is take you back to another founding principle, because I think this will give you an idea of if and when you get involved, what it is you might be able to contribute.

So, what we are trying to do is, out of the learnings and experience from the 2012 round of new names at the top level, some things went “eh” and some things went “ugh” and some things were not so shabby and we could live with that again. There’s a variety of experience from that round and we’re needing to look at that and analyze and take from those learnings into consensus-building discussion, what if anything can we improve? Are there processes that can be streamlined? Are there mechanisms we can agree upon which will make things more predictable?

And in the matter of predictability, geographic names, especially when we look at things that are not capital city names, but city names of different sizes, significant landscapes and culture, all the things Robin has just taken you through, then that becomes highly passionate and very contentious material to work through.

That is why work track five has a very unique design. It has four co-leads. Robin is a work track leader in the main PDP. She was appointed or wasn’t hiding that day, or perhaps you weren’t at that meeting and we just put your name forward, however the

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voluntelling happened. The voluntelling happened and Robin is one, and we like to have to co-leads on each of these. But, these were all internally active people in the PDP who then step forward to lead the other work tracks.

In the case of work track five, which is where the geographic names is being discussed, the design is very different. We have one from the GNSO, Martin. We have one from the At-Large Advisory Committee, Javier, God bless you. We have Olga from the GAC and we have Annebeth – God bless her as well – from the ccNSO. The advantage of people like Annebeth in this is that she’s been deeply involved from the dot in new names back in pre-2007 when these original rules were being discussed. And it took from 2007 to 2012 dealing with the development of what caused many of us many sleepless nights, the dreaded Applicant Guidebook. I think we are up to version 9,000. No, no. It was only I think version 29 by the time we actually published version 6, wasn’t it, Robin? I think it was about that. I mean, it was a ridiculous amount of time. But, these rules were put into place pre-2007. So, Annabeth has been [inaudible] from the government and the country code aspect. So, we have great access to history and great access to effective liaison and passion and smart thinking and intelligence from our design.

What you can do in work track five that will be far more difficult in any other work track we’re doing is get involved, as Robin

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said, because work track five only started at the beginning of this year. Their work is not even towards discussing what is consensus. They are just coming out of the beginning and foundation of where thinking is, what the issues are. It is not too late to become involved in work track five and to contribute meaningful either personal or representational opinion – I don't care what it is, as long as it's intelligent and thoughtful – that you can bring into our discussions and you can actually make a difference.

The other advantage in work track five is it's huge. We have like 145 people in it and another 200 observers. Whatever it is, it is a ridiculously large number of people. But, what that means is that we can find you peer support. If this is the first time you're dipping your toe into a policy development, which is an arcane and peculiar thing that ICANN does and GNSO does it different to ccNSO that does it different. This one is a GNSO policy development program. There are certain uncomfortable "how do I do this?" feelings that if you are new, we can help you through that because we can find buddies and peer support to help you make your input effective.

With that, I guess we should take questions or do you do want to embellish my embellishments even further?



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ROBIN GROSS: No, let's take questions.

OLIVIER CREPIN-LEBLOND: I was just going to ask because everyone is talking. Ayden was saying earlier it's taking years to do this, years to do that. You said it's also been a very long process for many things. How many policy development processes have you got under your belt? I'd like to ask Robin as well because that's quite a few. You're mentioning ... Start with your first one because it's interesting. It's one of these things we've heard how much time it takes. At the moment, we're not selling this thing too well, I can tell you.

But, there is one thing that is really important is that what we do here as a group, as this whole group of people that comes to ICANN meetings is, effectively, develop policy that will affect the 2.6 or is it 3 billion Internet users around the world? It will affect everyone. It will affect the way the Internet actually runs, and this is through our involvement, our collective involvement, that things do move forward. That's what the Internet is built ... That's how the Internet is build and it's built by people like us. I think that's really important.

TATIANA TROPINA: Yes, very important.

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CHERYL LANGDON-ORR: [inaudible].

TATIANA TROPINA: I'm sorry. It is coffee break time. I would like to ask if there is anyone who is a relatively newcomer – no, John, you don't count because you can participate in the ICANN-related policy discussion. If there is no questions from those who want to join, I will really let you all go to the coffee break and we will reconvene here in 15 minutes. But, one remark I want to make – not long. If you want to join or if you are interested in work track five on geographic names, talk to Robin or Cheryl or Javier. Could you please make yourself known? These people, talk to them. Ask them how you can contribute. Ask them for their help and you will get help.

OLIVIER CREPIN-LEBLOND: And just before we go for the break, you'll notice some people will leave the room. There are ALAC members that have a session that will start soon, so there will be some seats vacated at the table. Please go to the table. It's a lot nicer. I can tell you you've got the things to put your things on, you've got power, you've got everything. Come over to the table. Thank you. And

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we'll restart at 10:30. Alan Greenberg, last words before you leave the room?

ALAN GREENBERG: I will be leaving and I want to point out. Something we talked about where should you join, what should you do. Cheryl is an At-Large person who is co-chairing a GNSO PDP. It doesn't matter what you join. Work. Thank you.

OLIVIER CREPIN-LEBLOND: Just join. Thank you. And we'll start again at 10:30 for the next part of this. What's after 10:30? Human rights. Human rights with Colin Kerr and Bastiaan Goslings. Coffee is outside.

**[END OF TRANSCRIPTION]**