
MONTREAL – GNSO - ISPCP Open Session
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WOLF-ULRICH KNOBEN: Okay. Good afternoon from Montréal. This is the ISPCP Open Meeting in Montréal. Welcome to everybody here in the room. I am the chair of the ISPCP constituency. I would like briefly to go around the table to introduce everybody by themselves. Then we'll go through the agenda and so on. Please, go ahead. Maybe start on the right-hand side, with Marie for introduction, please?

MARIE-NOEMI MARQUES: Thank you. Hello, everyone. I am working for Orange.

UNIDENTIFIED MALE: [inaudible]

FIONA ASONGA: Afternoon. Tespok, Kenya.

CHRISTIAN DAWSON: i2Coalition.

LARS STEFFEN: Eco – Internet Association.

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CHANTELLE DOERKSEN: ISPCP secretariat.

WOLF-ULRICH KNOEBEN: DE-CIX and ISPCP share.

TONY HOLMES: BT vice-chair of the constituency. I don't know what's happened to this meeting because normally we're really cramped for space, with people behind us as well. I'm not sure what's happened here. I do have a proposal, and that is that we're going to talk about revising our charter. I think that we should immediately investigate having membership fees with a 100% discount if you attend an ICANN meeting. Maybe that's an idea for the future.

UNIDENTIFIED MALE: [inaudible]

PHILLIPE FOUQUART: I'm with Orange, thank you.

JENNIFER TAYLOR HODGES: BT.

SUSAN MOOR: CenturyLink.

SHIM YAMASAKI: Japan Network Information Center.

WOLF-ULRICH KNOBEN: We have attendance behind in the room.

[ERIC:] Hi. I'm just an interested party in the room.

WOLF-ULRICH KNOBEN: We have interested Eric, here.

[ERIC:] Thank you.

WOLF-ULRICH KNOBEN: And Ariel from ICANN staff, as well. Thomas, please introduce yourself.
You have just ...

THOMAS RICKERT: Sorry for being late, or just in time, whatever it is. Eco Internet Industry Association.

WOLF-ULRICH KNOBEN: Thank you very much. Let's briefly go through the agenda here and approve it. It was circulated in advance. Is there anything to add, anything to comment on? Anything you want to discuss? Okay, fine, thank you. Any statement of interest from the participating members here to disclose? No? Thank you.

Let's start with what is about the council activities, and if we have to chime in to discuss anything. I would like to hand over to our council members. Phillipe, are you prepared for that, together with Osvaldo? I don't know how you share that.

PHILLIPE FOUQUART: I think I circulated the agenda to the ISPCP exploder.

WOLF-ULRICH KNOBEN: Could you get a little bit closer? Take the microphone. You need that.

PHILLIPE FOUQUART: The agenda for tomorrow's meeting of council ... I think it's on Wednesdays ... Has been circulated on the exploder list. There's one item which is up for a vote, I think. The council vote is on the new template and guidelines for the GNSO as a decision participant for the Empowered Community. It's been around for some time. There has been no issue raised on this. My understanding is that we would vote for it. The other thing that I would like to point out is the one which I raised earlier this morning.

This is part of the PDP 3.0 discussion where there have been discussions about ways of avoiding legal assistance from people involved in a PDP. Two years ago, I think it was, there was some litigation on the output conclusions of the RPM PDP. It created some ... The fact that one of the plaintiffs, I think the right word is, resorting to external legal advice created some concerns with the GNSO leadership in terms of liability. As a result, there was an intent with these guidelines to try and avoid or discourage somehow people resorting to such external legal advice, while the conclusion is that the ways we're doing this are very limited.

Anyone can hire a lawyer at any time for that matter. There's just that language in the guidelines at the moment, which is just that GNSO discourages such practice. I wish there could be other ways of enforcing this but it seems that it's not feasible. Having been in that position in other organizations, of being considered liable for decisions made by a committee, it's very uncomfortable for the leadership. I understand that ICANN legal has been instrumental in helping with this. That's where we are at the moment on the PDP 3.0 discussion, on this particular item. Thank you.

WOLF-ULRICH KNOBEN: Okay, I have a question to that, Phillipe and Osvaldo. Is it helpful for you to have a statement from us here, or to see that there is support in your thinking, if it comes to discussion about that or that we have a ...?

PHILLIPE FOUQUART: Statement is maybe too strong a word. I would like to know whether my reading of this is correct. That is that we should at least try and avoid these sorts of things, and keep these interactions as simple as possible in the context of the PDP. If there's a disagreement on the outcome, well there are ways of appealing to the decision within ICANN. I think those should be exercised first. If you would disagree with the principle of trying to avoid resorting to external legal advice, I would like to hear from that. Other than general guidance, I don't think I or Osvaldo would need anything else.

WOLF-ULRICH KNOBEN: Are there any opinions out here in our group, or any kind of different opinion on that? No, it doesn't seem so. I think it's really the way to go in a discussion. That is what I would see here. Good. Other items to be discussed, or to [inaudible]?

UNIDENTIFIED MALE: The re-election of the chair and the vice-chair, but I think we had an agreement on that.

WOLF-ULRICH KNOBEN: Okay, we can do that right now. That is one point we should be clear for your voting. We had this morning a discussion on the CSG level with [inaudible]. Coming from that, from your impression from that, is there anything which would lead us to the opinion to say to our councilors we'll vote against those guys?

UNIDENTIFIED MALE: No.

WOLF-ULRICH KNOBEN: There is nothing. You have support in doing so. Good, done. Then, that is the overview of the council activities and what's going on with that. Tony, please.

TONY HOLMES: Just one follow up issue. I'm sure it won't get forgotten, but just to make sure. We had the discussion from Barbara earlier today about the appointment next time around, that it should be from our stakeholder group. There was an answer that that would be followed up by e-mail with our sister group. Just to make sure that happens, Wolf, that from the CSG there needs to be confirmation of that pertained from the non-commercials, that the next time around the agreement is in place. It's basically our turn to nominate somebody.

WOLF-ULRICH KNOBEN: You're referring to the vice-chair position? Okay, great. Yes, that's one I'm going to follow up. It's going to be one of my last duties to circulate and to contact the NCSG in this respect. That's our understanding. By the way, I had some exchange before with Stephanie Perrin, the chair of the NCSG. That was already agreed on their part. I'm looking for that e-mail. We can circulate that, then, to the CSG. I will make sure that is going to happen. That would be important for the next term, that

means in one year from now, to think about, in-between, who could be a vice-chair from our stakeholder group.

I think also a chair position will be also vacant because it's a second term for Keith, and he can't be reelected for that. Both things have to be thought about over the next year. Usually, I can say it seems to be one year is a long time. The coordination of these things have been very critical in former times. We have right now a kind of process in place we can rely on. Nevertheless, a timeline is not too long. Good. With regards to the council update, that was your part, thank you. Thomas, I'm asking you. Do we have time to stay here, as you have been on our agenda? At 16:00, is that, for you, okay?

THOMAS RICKERT: I'm all yours.

WOLF-ULRICH KNOBEN: Oh, yes. Great, thank you. Let's move ahead according to the agenda, about the guidelines and templates for the GNSO's role in the Empowered Community, an update. Did you find the presentation? So, that could be displayed, please? Why I'm putting that to our agenda is the following. I think it's needed that at least everybody in our group, and also throughout the entire community, knows something about the bylaws, and how our activities are related to that. As Thomas was years working on the new bylaws in the accountability stream, he has a lot of experience from that. He and his team imposed the new bylaws.

That means as a follow-up to the new bylaws there have been a bunch of activities to be done in order to implement that in the various parts of the community. This is one part here. The exercise went through with regards to responsibilities for the GNSO as a member for the so-called Empowered Community, and how the GNSO shall deal with these actions, with these items, with these tasks. The group was chaired by Heather Forrest, and there was participation from the ccNSO and from the entire GNSO as well.

There were lively discussions on that, especially ... When I show you what kind of task you had to deal with, I think it's on the next slide ... No, that is a description of the Empowered Community powers. Okay, maybe just being short, here. There are some powers with regards to, for example ...

THOMAS RICKERT:

It's a very quick point. Does everybody know why we have the Empowered Community? Why all this craziness has gone through? I always find it more gratifying to know why you're doing things if you have to work on something. When we were working on the IANA stewardship transition there was one big challenge. Previously, the US Government had the ultimate control over the root and the IANA functions. Basically, if ICANN, let's say, was captured by a single interest and gone rogue as an organization, the US Government could always say, "We're going to take back control from you and give it somewhere else."

That was the ultimate accountability mechanism. People have called the US Government’s role the “back-stop.” They could take away this function from ICANN and IANA. When the US Government was planning to step away from this role, they said, “Well, how do you guys ensure that ICANN can’t be taken over by certain interest groups, or that the ICANN Board doesn’t buy helicopters with the community’s money, or something else?” Then we said, “Okay, we need community powers where the community can come together to keep the board in check.” Those are what they have a say on the financial plan, the strategic plan.

They can remove directors if the directors do something wrong, and all those powers you can see listed here. Then, there is a big question. Who is the Empowered Community? The ISPCP is just a group of people coming together for meetings. They don’t have a legal status. In order to exercise those powers you need a legal vehicle so that these groups can actually have a say. This is why in the bylaws we have used a tool that is possible under Californian law. All the different component parts of the ICANN community, GNSO, ccNSO, ASO, we made them so-called “unincorporated associations” under California law, with the sole purpose of exercising the community powers.

A subsequent challenge, after we’ve put all that into ICANN bylaws, was that the individual groups needed to make sure that they operationalized that. How does the GNSO exercise these powers? How does the ccNSO come to a common position on how to vote within the Empowered Community? What you see here is actually the exercise within the GNSO to operationalize the requirements for the Empowered Community.

WOLF-ULRICH KNOBEN: Thomas, very helpful. That's really the outcome. There are how many? Eight or nine so-called powers of this community. Nine powers to ensure the accountability of the organization, here. For example, it contains important things like appoint and remove individual ICANN Board directors or even get rid of the entire board. The so-called "nuclear option," we had called that. Then also amendments, changes, to specific fundamental bylaws, or regex standard bylaws.

All these actions are in the hands of the Empowered Community to act on here. The question right now was, "How could that be implemented into the GNSO?" We have a tool to work on these things in case something happens here. That is what the drafting team was doing to develop processes on that, to develop timelines. To develop, also, draft motions to be taken by the council, and so on. That is all of that. Next chart, please.

There are several. Yes, mainly the so-called escalation process in working in implementing the AC powers in different steps, here. Starting with a petition from someone in a SO/AC going through the works with whom the SO/ACs would be accepted. Finding partners in supporting this petition, for example. Having talks and calls, and conference calls, with the ICANN Board, who may be involved to some extent here. In the end, finding a level of consensus where the Empowered Community could then vote on. Especially, also, the GNSO could find an opinion on that. Next slide, please.

These are all the actions and petitions the group has worked on. There is an approval action community form and decision on whether to approve an approval action. It sounds complication. There's a petition process for specific actions and a rejection action community forum. There is the three actions to be done with regards to replacing/remove a board director either coming from the Nominating Committee or coming through the SO/AC. For example, we have two board directors appointed through the GNSO. Last but not least also the board recall process.

Next slide, please. The next one. Next slide. Okay. There have been a full set of guidelines and templates developed by the drafting team. For example, guidelines on how to set up or how to fit a petition into the GNSO organization. Where are the entry points? Who is allowed/entitled to come in with a petition, and so on? All these processes have been put down to paper.

The accompanying templates to do so, and the accompanying timelines as well, have been worked on. Then, there is something which is to be done in coordination with the ccNSO, the CC. There are joint consultation guidelines on the initiation of a special IANA function review. For example, if that is outlined also in the bylaws, what is behind that, if it comes to that specific review? It has to be dealt with. It has to be sorted out where those organizations are agreeing to act on this special IANA function review, and so on. Next slide, please.

I swore I had something written into that. I don't know whether it's my presentation here. The question is with regards to a rejection action.

What does it mean? All the text is here referring to the bylaws. Annex D, article two, is describing all of what it is. I've given you some examples here. For example, the PTI governance, the ICANN budget, or the ICANN operating strategic plans. If there is an action taken by the board already, where somebody thinks, "Well, it should be rejected as well," then this process comes up. Then, it is described how this rejection action could be started, and who is doing what, and to what extent the different parts of the GNSO are engaged in this process.

There is guidance provided to the GNSO concerning how an individual submits a rejection action petition. This way, how that is going to be done. What is the GNSO community doing, under which timeline they should reach on that, and how to come to a decision on council level to either accept or to reject such a petition?

As I said, there are other participants in the Empowered Community, the so-called "decisional participants." They may also put in a petition to a certain action of the board. That is described in our process here, how that fits into it, and how in case another entity, another SO/AC is coming up with a petition, how the GNSO can work and can cooperate with that, to find an opinion on that.

In any case, the GNSO Council takes decisions either to accept, reject, or abstain from a rejection action. All that is described in this more or less handbook with regards to that. The details are written in these outlines. Next slide, please. Phillipe, begin. Or, if there are questions or comments to that in between, please come back.

PHILLIPE FOUQUART: Thanks. Yes, just on that slide, and just for you to be aware. As I said, this is up for a vote tomorrow. If you look at the procedure, it's likely that once this is approved some language will be added by ICANN legal to clarify the word "individual," there. There was clarification given by Heather Forrest on Sunday. The word should be taken literally. It can be someone within the organization. It could be someone outside the organization. It could be someone representing a constituency, or instance. It could be anyone, basically. It should not be construed as something that would describe a constituency or a part of ICANN, or anything. It could be anyone. There will probably be legal language added to this to make it fair. Thank you.

WOLF-ULRICH KNOBEN: Thanks for that, Phillippe. There was an extensive debate on the drafting team because when we started the discussion about who is entitled to bring in a petition it was written "an individual." Most of them were thinking about, "Oh, it should be an individual coming from the organization, or coming from this community, within the community." Further on, we started thinking about that.

The word individual, per se, doesn't say anything with regards to relations of these individuals. I wonder ... Thomas, that might be also a question to you, coming from your debate you had on the accountability team. We understood in the end that the intention of that was it should be open for anybody. It shouldn't be just coming

through the silos, you know? Anybody within ICANN, or outside ICANN, could come. If he's of the opinion, well, there should be a place and a petition with regards to these actions, it could come up.

THOMAS RICKERT:

To be quite honest, I tried my best to forget everything surrounding this project in order to overcome the trauma. If memory doesn't fail me, we said yes to the idea. It may well be that some individual that is not in one of the silos thinks that something outrageous, or something that is not within ICANN's bylaws, or where the board infringes upon the bylaws. We then concluded that this individual needs to find one of the component parts of the ICANN community to tell them, "Okay. You now please propose that the escalation path has started." Standing, if you wish, for initiating the escalation procedure, is only with the Empowered Community.

Again, if you find something, I would go naturally to the ISPCP and say, "Well, there's something wrong. If you guys agree, then you can start the process." Not every individual can trigger the process by themselves without having the buy-in of one of the groups.

WOLF-ULRICH KNOBEN:

That's clear, so thank you very much for that. There are some entry points needed into the organization. Well, how to place it? Usually, it depends on cases, I would say. Entitled is anybody to do so. The organization, the constituencies, or whoever it is, will channel it to the right place here in the organization.

THOMAS RICKERT: Formally, let's say somebody approaches you and say, "Okay, I get the impression that board members are being bribed in order to make certain decisions." You would bring it in front of the ISPCP. If the ISPCP thinks, "Well, there's something to that, we should bring that up," then it would be the ISPCP initiating the process, not the individual. The individual can trigger a discussion within any of the groups of the Empowered Community.

WOLF-ULRICH KNOBEN: That would mean that in the end the petition would be transformed to a constituency, to a petition.

THOMAS RICKERT: I would need to refresh my memory on that, but I guess that is the case. Otherwise, you would have potentially ICANN or the community being forced to deal with thousands of complaints triggered by people that are unhappy with what ICANN is doing.

UNIDENTIFIED MALE: What's at issue here was the difference between the collective rights to the community institutions and individual rights that are owed by ICANN to individuals. There were, remember, two separate pillars by which ICANN is held to account, here. One is the collective action through the Empowered Community. The other one is the individual action through the IRP. If an individual believes that ICANN has acted

outside the bylaws, they have the right individually to bring an IRP case. They do not need the support of a community institution, a constituency, anyone, an SO, an AC, or anything like that.

Anyone can bring an IRP case. They do, in order to have standing, have to have been materially affected themselves. That is to check on that for the IRP. They do not need anyone else to support. The Empowered Community mechanisms are conceived as a collective defense of the community as a whole. I don't know whether an individual can directly petition GNSO Council, but if I remember correctly from the way that we approach this within the CCWG, as we were constructing this, we did not actually want to reach down into the processes of the SOs and ACs to determine how they will exercise their functions. As I recall it, we considered it a matter for the SOs and ACs, in this case for GNSO to decide whether it would require such processes to be initiated by a constituency, by a stakeholder group, by a house or an individual within it.

I don't remember that we ever thought to regulate that. Again, like Thomas, I would have to go back and refresh myself. The basic concept there is that this is a collective right. Even if it were initiated by an individual at this point, you still run straight into the roadblock that this is actually the GNSO that needs to trigger this. It's not the individual. The individual is merely triggering a discussion within the GNSO.

WOLF-ULRICH KNOBEN: I think we're on the same thing. If you could go back a few slides, where we have the escalation path, the legend should actually speak to that. Everything starts with a petition. It's too small a font for me to read from here, but whether ...

UNIDENTIFIED MALE: Yes, it says there, I believe, a petition ... There you go, you see. The petition is accepted by the SO or AC. At that point, immediately, it becomes collectivized. At that point the petition essentially becomes the SO or AC's document, rather than the individual's document, which is a different model from the model in the IRP, where an individual, which may be a single human being or it might be a single company, or something like that, or a single NGO, brings that case and has charge of their own case against ICANN. These two things essentially must be ... To really understand the ICANN accountability process that we constructed properly, you have to understand that there were only two pillars.

WOLF-ULRICH KNOBEN: Okay, thanks very much for that. The intention in this debate in our group is to ensure that the individual is protected as much as possible, not to exclude individuals in the sense that there must be a fixed relationship to an entity, here, inside.

UNIDENTIFIED MALE: The Empowered Community process isn't really trying to vindicate individuals' rights. The Empowered Community process is trying to vindicate the rights of the community. For individual concerns, you want to be looking at the IRP instead.

WOLF-ULRICH KNOBEN: Ariel, you wanted to ...? Ariel was helping us in the entire work of that. It was tireless working on all these things. Just briefly for that, it would be very helpful. Please, go ahead.

ARIEL XINYUE LIANG: Thanks, Wolf-Ulrich. I'm supporting the GNSO drafting team for developing all these guidelines. I just wanted to make a clarification for the guidelines. When we say "individual," it's really just individual. The petition needs to go to the GNSO Council. That's when the process starts. That's when the clock resets. In terms of how the petition gets submitted to the GNSO Council, it can be any way. It could be directly through the GNSO Council. It can be through SG or C, or through other channels. The guidelines were not very prescriptive about that. I just wanted to make that point.

UNIDENTIFIED MALE: Nonetheless, ultimately it's going to go to GNSO Council, and GNSO Council is going to decide whether to accept it and take it forward or not. After that, even when GNSO Council takes that forward, it then goes to the other stages which are further collective decision-making

processes, in which there are votes. This is not about defending an individual right that allegedly exists, and it just does, and you have a right to defend it. It's about people's opinions as to whether or not they wish to support this petition. It's essentially a political process on the Empowered Community side.

Whereas, the IRP side, which is protecting an individual right, even if the whole of the rest of the community is against it, if the rights of that entity have been breached as a result of a breach to the ICANN bylaws, then they have a right to defend that and be heard before the IRP. Even though the whole of the rest of the community is cheering on ICANN in its breach of the bylaws, if a breach of the bylaws is found then the claimant will be found [for] by the IRP. That is not the approach in the Empowered Community, where the Empowered Community may decide that they are happy with whatever the board is doing. They may just simply decide that they do not wish to exercise these functions. They don't have to have any reason for that. It is a choice of the Empowered Community.

WOLF-ULRICH KNOBEN:

Okay, thanks very much. I just wanted to give you a flavor of all the lively discussion we had on the team on that. We went through all these different views, here. It led us in the end to that, as you mentioned, there is something coming into that process from the legal side. Referring, in the end, to whether we are coping with the bylaws in this regard. Good. At the very last, I think we have three remaining ones. This is all the process about the board director removal. That is the one for

the GNSO seat. The next slide is for, I think, the entire ICANN Board of directors, to get rid of them. It's also in a package of paper. Do we have other additional ones, or not? Okay, that was the details, here, about the IRP and to implement that here on the GNSO.

My question is to our council members. Were there any other concerns, or any other questions on council with regards to when Heather presented that?

UNIDENTIFIED MALE:

Thank you. Not that I'm aware of. Not that I remember. There was that one legal point, which was just clarification and a heads up that there may be changes down the road. Other than that there were no concerns expressed.

WOLF-ULRICH KNOBEN:

It is expected that it is on the agenda of the council tomorrow. From our point of view what I can say, well, there could be an agreement to that. I think it was diligently worked on these processes. It has just to be seen in case there is coming up something. I think yesterday morning, wasn't there a kind of community action forum? What is that? There was one for one IRP.

UNIDENTIFIED FEMALE:

That was Sunday morning.

WOLF-ULRICH KNOBEN: Oh, that was Sunday morning. The community is already implementing these kinds of process, and working on that. We have a little bit to learn by the way it sounds. I think that's all. Is there any further question to that? No. Thank you. Then, let's move over to the next item, ePDP. We have two items to cover this, here. One is the ePDP discussion itself, to get an update from your side, Thomas. Then, something which we discussed this morning here with regards to Whois.access requirements, and a potential position here from this constituency to that. Please, Thomas.

THOMAS RICKERT: Thanks very much. Chantelle, you can't put the slides on screen, can you?

CHANTELLE DOERKSEN: I need a moment to prep them and put them into the Zoom.

THOMAS RICKERT: Perfect, because then I think it will be easier for everyone to follow. Well, this has been a busy week in terms of the ePDP already. We had three out of four meetings, already. 10 hours on Saturday, 2.5 hours or so on Sunday. When the opening ceremony starts, you think, "Okay, this is the beginning? I'm already exhausted!" I'm sure you know the feeling.

I'd like to start this little report to you by again asking for volunteers that are willing to act as an alternate for this exercise. I tried to get Malcolm on board but he so far was too shy to say yes. I have to

apologize for not writing to you periodically to give you updates, as I should have. It's actually a lot to read, a lot of calls to participate. I should improve on that. I'll try to find a way with Fiona to provide more information to this constituency.

As I've outlined in the last call when I gave an update, you might remember that our group has worked on a couple of use-cases. Basically, the use-cases were there in order to make sure that we cover those scenarios in which data disclosure requests are being made. When it comes to this group, I should point out that whilst we have not provided our own use-cases, we have use-cases that actually cover the needs of the network operator.

There is one, for example. This investigation of criminal activity where domain names are used. Typically, an example is phishing. That is the so-called SSAC3 use-case. Then, we have another one when a network is under ongoing attack involving a domain names, and the operator of that network needs to contact the domain owner to remediate the security issue for DDoS attacks or botnets that might affect the networks, and a couple of others that are not very much in the core, but that also allow for requesting disclosure of registration data.

I had encouraged you earlier to take a look at the ePDP Wiki, where all these documents are listed. Please do go there. I can share the link again. Double-check whether you think that the use-cases adequately address the needs that we have in this community. I do think that we have the typical scenarios in which network operators need to find out more about Whois data, that we have those covered. Actually, we're

now taking things a step further, even, by trying to find ways for reverse lookups. In case you have reason to believe that there is a pattern going on where multiple domain names are used for abusive behavior, you often see that the same e-mail address is used for registering multiple domain names, but all the other Whois data is different.

If you want to find commonalities, what domain names are involved in a criminal scheme, then we're now working on the feasibility, legally, whether you can file those requests and say, "Okay, I need to know what domain names are associated with this e-mail address, or with this phone number, or with this postal address," so that you can then kick off investigations that ISPs and others might need to conduct.

Basically, do check the use-cases, if we think that there is something missing. The phase that we're in at the moment is to translate those use-cases into policy. Concrete use-cases don't make a policy. A policy is like a law. It should be abstract and general to cover a multitude of instances. This policy document will consist of various building blocks. Chantelle, if you could be kind as to move the slides forward? Exactly.

Janis, our dear leader, has suggested to call our policy, or the component parts of our policy, the "hamburger model," where you have the top bun, which is the demand side, the request source, the typical Whois customers. Then, you have the burger patty, which is the intelligence in the middle, where decisions are being made as to who is an eligible requestor. Who can be accredited for making requests? The decision is being made whether or not data can be disclosed. Then, you have the bottom bun with the supply side. That would be registries and

registrars that ultimately need to disclose the registration data that is non-public.

As you can see on the right-hand side, those are all the building blocks. For each of those building blocks we have a document in our EODPD Wiki. They describe in more detail what shall go into the policy. For example, if you look at C, the user groups, who can be an eligible user that can be accredited for the SSAD? We have network operators in there. Network operators explicitly are mentioned as those who can make requests.

Again, I can only encourage you to take a look at those documents. Some have not yet been discussed because we haven't moved, there. Some are relatively stable. They will be put together at some point, and then we will get an opportunity again to review everything before we object, or approve, the initial report.

I think it will take too much time to go through all those documents and describe those, but you can see that what we're doing here is actually to go systematically through the various paths that need to be present in order to make an SSAD work. We have the purposes for which data can be requested. We have an acceptable use policy that needs to be accepted by every requestor. We have a policy that explicitly states how long data can be stored, what data can be stored. We have the topic of accreditation and who can be accredited, and what are the parameters for accreditation? We have response requirements.

That's basically an SLA for both the central unit, the burger patty, as well as the contracted parties, to make sure that if you file a request as an accredited party, that you don't have to wait for a response for years. We set clear expectations with the service-level agreements. Then, there's a query policy which describes what the data flows are for queries, and how a query shall work. Receipt of acknowledgment, I think, is not too important here.

Then, we have terms of use. Every accredited user needs to accept terms of use in order to be a part of the system. Things like, "We will only use the data that we get for the purposes for which I've asked for the data." If you say you want data to pursue civil claims then you can't publicize that data on your website for other purposes, or for marketing purposes. We make sure that we set up the rules so that those participating in the scheme play by those rules.

Then, financial sustainability. All of this needs to be financed. We will need to have a discussion, and we didn't yet have a full discussion on that. How is this going to be paid for? Do we ask for accreditation fees? Do we ask for fees for individual requests? Is it going to be a flat fee for requestors, and then they can make as many requests as they want to? That, I think, is also the place where we need to do a proportionality test.

At the moment the overall volume of disclosure requests that are directed at registries and registrars is very low. It's only a handful of requests with some contracted parties. I think Tucows is the second biggest registrar in the world. If I'm not mistaken, they've recently

reported that they got something in the area of 400 disclosure requests over the last six months. If you take a look at that, if we have to build a system that is really big, the question is, is the cost and the effort justified? We will need to make that determination at some point.

Then, we'll talk about automation. There's a big discussion still going on whether or not disclosure requests always need to be dealt with manually, whether there needs to be manual intervention, or whether you can apply automation to a certain extent. I think this is going to be very difficult. I think that there is only a very limited set of use-cases where you can do the decision making in an automated fashion.

A typical use-case that I think can be automated would be requests for registration data for trademark infringements. Then, you need to say who you are. You need to say that you own a trademark. You need to say what the domain names is in question that you ask the registration data for. That is quite binary. You can then say, "Okay, I can verify with pinging the trademark databases whether a trademark with a particular string exists. I can then check whether the domain names for which the registration data is asked for contains this domain names as a prefix, infix, or a suffix." How do you do that for consumer protection issues, or for allegations of fraud? I think that those cases will likely need manual intervention and also manual application of the balancing test whether or not a disclosure shall be made.

Then, we have audit requirements. It's good that we establish rules for those that participate in the SSAD. Somebody needs to make sure that these rules are played by. Somebody needs to check whether the

parties are playing by the rules. That's going to be in the auditing section. Then, we have logging requirements. Basically, all the parties log every activity that's taking place in the SSAD. Also, to detect patterns of abusive behavior, if people want to game the system to get non-public data.

Then, we have rights of the data subject. Data subjects, as you know, have the right under the GDPR to exercise certain rights. This is the place where we deal with those. We have some general policy principles. Next slide, please, Chantelle.

UNIDENTIFIED MALE:

Just a question, Thomas. Did I understand correctly? You have a list of eligible persons, entities, or whatever else they are, to who is allowed to get accessed, and under which conditions? Does that describe what is going to qualify them?

THOMAS RICKERT:

Those are different building blocks. Building block C deals with the eligible requestors. For this group I think it's important to note that we have network operators provide us with online services. [They know if] Internet users, consumer protection organizations, messaging services, search engines, certification authorities when it comes to certificates, operational security practitioners, anti-abuse authorities, digital crime investigators, and others. We have listed all those who we think might have an interest in participating in this system.

That's this building block that deals with the user groups. Then, we have other building blocks that describe how, actually, disclosure requests need to be formulated, or what criteria they need to fulfill in order to be considered.

I think we can go through these, briefly. For some, it looks like our group doesn't come to any conclusions. Actually, we have some provisional agreements on a couple of points. We want to make sure that the SSAD is providing a predictable, transparent and accountable mechanism for access disclosure of non-public registration data. The SSAD must only accept requests for access disclosure from accredited organizations or individual.

However, the accreditation requirements must accommodate any intended user of the system, including an individual organization who makes a single request. I think it's important to note that we're just dealing with an ICANN community-wide system for access and disclosure. That will only work for accredited users. That doesn't prevent law enforcement or others to go to an individual registrar, or an individual registry, and file a disclosure request with them. In fact, we know today that registries have individual agreements with their local enforcement authorities, granting them access to the full database under certain circumstances. That will still be possible, but this is just dealing with the industry-wide solution, if you will.

Then, next point. The ePDP team acknowledges that full automation of the SSAD may not be possible, but recommends that the SSAD must be automated where both technically feasible and legally permissible.

Where automation is not technically feasible and legally permissible, the ePDP team recommends standardization as the baseline objective.

There are some parts, as I said, where automation can take place. I think we can also do certain automation when it comes to the identification and the authentication of the requestor. Identification means, “Who are we actually talking to?” Authentication means when an individual request is fired, we need to make sure that the requestor is actually the accredited entity. Those things, I guess, can be automated.

Then, accreditation of users within the SSAD does not equate to the automatic disclosure of non-public GTAD registration data. I guess that’s important to note because you hear over and over again that people think that once they get accreditation status, they get access as they previously had to registration data. That, in fact, is not the case. That only qualifies you to file requests to the SSAD that will then be dealt with according to the rules applying to the individual disclosure request. Next slide, please. Sure.

CHRISTIAN DAWSON:

But that’s one of the biggest areas where I have questions. Before, when we were in here, we were talking about whether we were doing enough to defend the rights of ISPs. We were starting to take a look at the use-cases that we put forward. I was pretty reassured that a lot of the things, that ISPs are going to have access ... If you’ve got a binary situation where you’ve got somebody who is spamming, or DDoS, identifying a

single threat actor is not going to be a problem under the system, from what I've seen so far.

A lot of what we end up doing is correlation analysis when we're running an abuse desk. What Whois provided was unique identifiers that could be used to identify, like you were saying, areas of fraud, or somebody who is abusing a series or a pool of resources, and building correlation analyses using these unique identifiers. Will we have any ability to do that kind of correlation analysis in that type of model?

THOMAS RICKERT:

That's going to be difficult. There will be no bulk access. You can't get access to all registration data across all TLDs, across all registrars. That is legally not permissible. What we're trying to help with is what I mentioned earlier, with reverse lookups for individual data elements, so that you can make these correlations. That's likely going to be a staggered approach. I've been working with the BC and the IPC in a breakout session only over the weekend, where we tried to come up with a proposal for the entire ePDP team to flesh that out. I think it would be premature to say that it's going to be exactly like that, but the intention at the moment is ... The BC folks, the IPC folks, and I, were on this drafting team.

We were happy with this approach of ... Let's say you have an e-mail address that you think was involved in multiple domain names registrations that are used for illegal activities. Then, you would be able to file a request and say, "I have evidence that at least two domain

names are involved in illegal activity. Is there smoke, or is there fire?” Then, you would be returned a number. The idea is you would get a total number of domain names that have this e-mail address in the registration data.

The problem is that at the moment RDAP doesn't support that type of query. We're waiting for that to be implemented. Ideally, you would then get a figure only. Let's say, if there are no domain names associated with that except for one, then you can rule out that there is a wider pattern. Then if you, let's say, get returned, “We have 25 domain names associated with this e-mail address. Those are distributed over five TLDs and seven registrars.”

Then you can say, “Okay, this is something that we might want to look into.” Then you would ask again, and say, “Okay, I need the domain names themselves.” Sometimes, domain names themselves are personal information, which is why we have to be cautious in just disclosing those. Then, there would be a manual review of your request. If, let's say, you are an ISP that wants to check whether there's something that you can investigate and take counter-measures against, you would be given the list of domain names. Then, you can ask for the registration data subsequently for the individual domain names.

Let's say it's the religious police that wants to find out the names of political opponents, where even the domain names themselves might in combination help identify an individual, and put that individual in prison. You would be denied access. I think that the chances are good that we can make this fly for folks like CERTs, ISPs, and others, and law

enforcement. Only law enforcement that is from jurisdictions that are “okay,” let’s say, that have ...

CHRISTIAN DAWSON:

That’s reassuring. It’s a far more belabored process of determining the kind of correlation analysis that we’ve been doing regularly in ISP abuse desks for years. It’s something. I think there’s not been a lot of hope that we’re going to have something. The one thing that I would say is that I hear a lot that there will be tools that are available for cybersecurity research. I just want to make sure that as we’re advocating for ISPs, within the ePDP too, that we are pushing an understanding that within ISPs, what they do is cybersecurity research.

THOMAS RICKERT:

We have a huge challenge with the entire arena of cybersecurity researchers. That’s a discussion that’s ongoing. The question is how do you determine whether somebody is a security researcher or not? A proposal was made that we take the language of ... I think it’s SSAC101, but I might get the number wrong ... Where there is a definition of a cybersecurity researcher. That definition is so broad that everybody who has an interest in ensuring the delivery of e-mail would qualify for that.

Then, I think nobody would ever try to qualify for the system as a trademark owner or as law enforcement. They would all say, “I’m a security researcher. Here I am, give me access to the data.” It is very difficult to check, verify, the integrity of those, or the profession of

those, who claim to be a security researcher. I think we don't have the perfect solution for that at the moment. If you have ideas to define that, to sufficiently narrow down the eligibility criteria to cut out bad actors, please let me know.

For the entire security arena, what I've been advocating for from day one, or even pre-ePDP day, but it doesn't seem to get too much traction, is that we need to be innovative and think about methods of pseudonymization of data. For certain types of research you don't need to know who the individual is. You can correlate without the name of the registered name holder, for example.

CHRISTIAN DAWSON: You can pivot on anything, as long as the correlation data is there.

THOMAS RICKERT: Exactly. You could potentially take a two-step approach. Do your research with the pseudonymized database. If you have reason to believe that you have narrowed down sufficiently who you need to go after, then you can file a disclosure request for specific domain names.

UNIDENTIFIED MALE: But isn't #PII still PII?

THOMAS RICKERT: You have to take measures to mitigate the risk of the data being abused. I think you need to be smart about how you apply methods of pseudonymization. I think it would be something.

WOLF-ULRICH KNOBEN: We have to come to an end with that discussion. We have to cover also our interests with regards to Whois, and how we are going forwards with that. Before that, there's one ...

UNIDENTIFIED MALE: Maybe just for experience sharing for you, I happen to work with the government in India. This is an experience related to the mobile call details accessibility to the people who are looking for investigation, who are looking to find relationships, who are looking to find business contacts. In India, the mobile data is not accessible to anybody at any price, not even to myself if I am holding a company and my team members are using it. Companies do not get access to the data unless no objection has been given. That's one point that I want to make.

The second is related to Whois owning that vehicle. Somebody is speeding, somebody has crossed the red lines, somebody has hit and run. Then, how do you find out who actually owned that vehicle? Of course, you can go to the transport department and the police can find that out. Now, the government of India has released a mechanism where if you are identifiable by a national identification number, which is [a hard] card in India, now, you can install that app and you can register. In that app, you have been given that power to search the

name of the owner. Only the name of the owner. The address is not given, even in that. The contactability is not given in that. I just thought maybe, these are the two ideas, it is useful to frame something out of you. Thank you.

WOLF-ULRICH KNOBEN: Okay, thanks very much.

UNIDENTIFIED MALE: Tony had [your address] as well, didn't you?

THOMAS RICKERT: Coming to the end of that. I understand there are several filters in accessing that data in the future. That means, for example, you have a list of companies or entities qualifying for that. That's one thing. Also, they may need to explain the purpose of their research. That comes down even more. I think that fits into what we have been discussing this morning. We are looking around, whether we have still requirements not [coped this] or how to fit in that. That is now Fiona's task to set out the frame for that here, on our list.

I think that that fits together. If you could mirror what we have discussed this morning with what is in the ePDP already done, then we have a better picture on that and can think about whether we should come up with a statement from our side whether we are satisfied or there are additional requirements. The only question is, what is the timeline for that? How can that fit together? Tony, please.

TONY HOLMES:

Thanks, for that. It's been really helpful going through that. I have a couple of questions just for clarity that I caught everything that you said. As far as ISPs are concerned we're okay. We're an accredited party. Or we will be an accredited party. That's fine. On your earlier slide I think you outlined a couple of instances where ISPs as accredited party would have access, on the earlier slide set.

Can we just go back to that? It was before this, I think. Oh no, that's ... Maybe you can just explain to us, then, while we're looking for the slides, from an ISP perspective what is there no question about us having access for? What were the circumstances? That's my starting point. Because they're the use-cases that was ISPs ... And I assume we have put forward to qualify for that.

THOMAS RICKERT:

We need to make a distinction between the use-cases and the policies. The use-cases that are described are just an illustration of the real-life cases that we need to cover in the policy. The policy will be abstract. It will not be an exact mirror of the use-cases. We had use-cases for identification of registration data to find bad actors and for phishing/DDoS attacks, botnets, and stuff like that. Whether that's a security researcher or an ISP asking the question will be irrelevant. You will have the possibility to get accredited if you fulfill the eligibility criteria.

After accreditation you can file individual disclosure requests. You have to say, “I need to know who’s behind this domain name.” You will then be granted the data if it’s a case where so-called Article 61f is concerned, where the balancing test is in your favor. I.e., if you have been able to demonstrate that your interest in obtaining the data outweighs the right of the data subject, and the privacy of that data. I guess for those cases, it’s relatively easy. What will likely not see is that every ISP is automatically accredited. Every ISP needs to do that for themselves individually. Also, they will need to file individual disclosure requests whenever they need to know who’s behind certain domain names.

TONY HOLMES:

Okay. They’re both things that we’ve traditionally done in the past anyway as ISPs. They’re the types of uses that we’ve always looked to resolve that way. In addition to that, as ISPs, certainly for the large [inaudible], they’ve always gone further than that with Whois. They use that as a lot of other companies do in terms of protecting their IPR and tracing bad actors that challenge that IPR. The fact that we’re going to have accredited access as ISPs, my understanding of what you said is that doesn’t give us any beneficial rights for maintaining the approach that we’ve had before, for chasing bad actors who infringe our IPR. Is that correct?

THOMAS RICKERT:

You mean the trademark?

TONY HOLMES: Yes.

THOMAS RICKERT: Well, we have use-cases for trademark infringements. You would be perfectly eligible to ask for who is behind a domain name that infringes upon the right of, let's say, an ISP. Let's say if I registered OrangeFr doesn't really work in the gTLDs. Orange.io, let's say. If I was making offers that looked like they come from Orange, then you would say, "I file this request in pursuit of civil claims for trademark infringement."

That may be difficult to process because this use-case so far has been a trademark owner use-case, and not an ISP use-case. If you are a trademark owner and an ISP at the same time then you can certainly get accreditation for intellectual property violations and file a disclosure request for that. That's perfectly possible. All instances in which the SSAD can produce results are open to those who can make a case for it.

TONY HOLMES: Do we have to get accredited as something additional? Where accreditation is an ISP under the current approach give us access to ...

THOMAS RICKERT: We don't yet know, is the straight answer. We have some general criteria that are required for accreditation, but we have not clustered

types of disclosure requests and matched them to types of requestors. The way I see it, and I stand to be corrected if Fiona has a different recollection, the accreditation part is the part where you are identified that you exist, that you are doing certain things, but then I would think that from an operational point of view you would tick the box and say, “Okay, I need my accreditation to pursue trademark infringements. I need to do it for network security purposes. I need to do this and that,” so that you don’t have to manage multiple accreditations.

That’s too far down the line. That would be my take on it, my approach to it. What we want to prevent certainly is that with an accreditation you get a blank check for everything. If you say you are a trademark attorney, then you shouldn’t be authorized to file requests that are reserved to the law enforcement community. That’s a different type of request and requires different action by the burger bun intelligence in the middle.

TONY HOLMES:

My understanding of where we were today, when we were talking about use-case, and I welcome input from others, was it was exactly the way you described it, as a cluster. As ISPs we use the existing Whois system in a multiple number of ways. What we don’t want to do is lose those ways of operating because of the restrictions we have.

Neither do we want to go through having to get accredited, accredited, accredited, for every different approach. It was that, for me, that was driving the thought we had this morning that we need to get in use-case

which are ISP specific, which I think you're describing as clusters. If that understanding is right, the sooner we do that the better. Otherwise, life can get increasingly difficult. Fiona, was that your answer, too?

FIONA ASONGA:

Yes, actually. When we had the discussion on the purposes, you are supposed to put forward a request. When a requestor does that they state the purpose for which they want to have access, and can only use the data they get for that purpose only. My understanding is, maybe legally [admit I've not got it correctly], but that means then that you're going to want to have various purposes. You're going to have to seek accreditation for each of those purposes to be able to get done what it is you need done.

You cannot go in and request for one purpose, have the data and access to the system, and use it for other purposes, as well. Because of the purposes and the section that controls how you deal with a purpose for which you're having access, then that means you'll have to keep getting accreditation.

UNIDENTIFIED MALE:

Can I ask a question, here? Let us say I accredit in the system and I have a DOS attack. I get the file, the papers, and I get the data. The data is with me now, and the data is good for me. I suddenly realize that I have a trademark issue with this [issue]. What stops me to use that data? How do you determine that I have used that data?

THOMAS RICKERT: Certainly, you don't know. If you are found out you will likely be sanctioned.

UNIDENTIFIED MALE: The data is gone. The data has gone out of my control. The moment that I investigated, this data no more remains private. It may go to law enforcement agencies. It can go to anybody else.

THOMAS RICKERT: We have a principle, or a couple of principles, in the GDPR. One is purpose limitation. Purposes need to be very narrow. We certainly need to make sure that if you are given data for the purpose of pursuing civil claims, let's say a trademark infringement, that you don't use that data and sell it to an online advertising agency. Certainly, a data element can be used for different purposes. Then, you file your request for using the data for multiple purposes.

Let's stick to the example of Orange.io. Orange.io is used for trademark infringement. Let's say they operate a website where people are ripped off. The same data might be used for a fraud investigation. If they are using that domain name to DDoS Orange's system, then you also have a component of a security incident. In that case, you only need to claim that you're asking for the data for these three things. You say, "I have a DDoS attack. I need to know that data. Also, it's a trademark infringement, I need the data for that as well." I'm saying that a

disclosure request can be made for different purposes, cumulatively, but then you need to ask for them cumulatively. If you are only asking for one purpose, your contractual permission to use the data is limited to the purpose that you've asked for.

TONY HOLMES: Please, isn't it better if we band those things together? For example in [inaudible]?

THOMAS RICKERT: As I said, that's an operational detail. I think it is very well possible that when we operationalize this you can have those clusters. From a legal point of view, these are different purposes for processing and we need to individually handle those. To give you an example, it may well be that you're granted access to the data for one purpose, but that you haven't made the case for getting the data for the other purpose. You might be granted the data, yes, and you might be denied for another purpose. Therefore, we need to logically separate the purpose for the disclosure request.

Again, in practical terms, I'm all for. We didn't yet have that discussion. We can put a stake in the ground, as you said, and say, "We need that." I think our group hasn't thought about this earlier, that we say, "Okay, some of these things will naturally be groups. Therefore, let us do accreditation for groups of things, operationally." I think that's perfectly feasible.

WOLF-ULRICH KNOBEN: Okay, thanks for that. I think we're running out of time. It's an important item, here. We started well to put that to paper thinking about. Fiona is going to start with that. I think we should take an eye on that and really ... This is more complex cases. Bring it up as well. Then, we can circulate with you, Thomas. We can have a look, and see from the lawyer's aspect, or whatever it is.

What are really the issues with that, so that we can try to solve that, or otherwise bring it up on other levels? That's what I wanted to suggest, and we wait for that paper, starting with that paperwork at first. It was Jenn and Philippe as well, and you three. We are running out of time here, really, so that is a big problem. If you have new aspects, please, then come in with that.

UNIDENTIFIED MALE: Yes, thank you. In terms of action points, and before we get that paper, would it be possible for us to have a pointer to the use-case document that you referred to? Either the Wiki or for us to review these and make sure it covers the concrete ...?

WOLF-ULRICH KNOBEN: I'll resend the list to the ePDP Wiki. That's where you'll find all the documents.

UNIDENTIFIED MALE: Okay, yes, please. Thank you.

WOLF-ULRICH KNOBEN: Christian or Jenn?

JENNIFER TAYLOR HODGES: I am going to ask really quickly. Do the clusters apply, assuming they are different, to the disclosure requests, or accreditation, or we don't know? Does that make sense, or am I misunderstanding it entirely? In which case, I apologize.

WOLF-ULRICH KNOBEN: Based on our discussion, we do not have clusters yet. I would suggest that we recommend to the ePDP team that we have clusters both at the accreditation level, as well as when you file individual complaints. That you say, "Okay, I tick on this box, and then the disclosure request covers different purposes.

JENNIFER TAYLOR HODGES: Okay, thank you. I would love it if maybe you could join our next call for even five minutes so I can ask questions that I'm sure I'll have before then.

WOLF-ULRICH KNOBEN: Christian? Last ...

CHRISTIAN DAWSON: We had talked about writing a paper. I had not known when we had that conversation that the use-case document was as far along as it is. There are definitely areas that I could see where we could contribute possible holes there, particularly with regards to some of the correlation analysis stuff that I was talking about before. Like you said, if we have that pointer back, taking it back to our abuse desks and saying, “Does this cover it?”, is probably what we need to do next.

WOLF-ULRICH KNOBEN: Thanks very much for this. [inaudible] follow up with that. Thank you. Looking to our agenda. We are a little bit, 20 minutes, behind. We have invited, here, Jan Aart Scholte and his team for the presentation of the ICANN legitimacy study, and for so-called first results. Personally, I was taking part in that study. I'm curious about what is ongoing, here. Welcome here, Jan Aart.

JAN AART SCHOLTE: Thanks very much, Wolf-Ulrich, and thanks for having us here. I'm going to do a few introductory remarks. We actually have to be at the next place at 17:00. I will hand over to Hortense. Be nice to her, because she's then going to be doing half of a presentation that normally I would do. No, just to say thank you very much. Thanks all of you who also participated. Wolf-Ulrich, you just surrendered your anonymity. I there are others here who did this under anonymity, and I just wink at you across the table, and thank you very much. That was really good.

If we move to the first slide, we're going to introduce the study a bit. Again, it's academic and independent. We weren't commissioned by anyone. It's funded by the Swedish Research Council. We're going to give you some data about what people outside the ICANN sphere think about ICANN. We'll give you some data about what people inside the ICANN sphere, so community, board and staff, are thinking about ICANN's legitimacy.

Then, some notes about what your constituency, and here we mean business/other, so it's going to be you together with the IPC and the business constituency, BC. What you find most and least important at ICANN, and what you think ICANN achieves best and least. This is probably the smoothest moment to hand over, so I'm going to do that. I look forward to talking to you on other occasions.

HORTENSE JONGEN:

Great, thank you. If you could go back to the previous slide, please? Thank you. There are two main messages from this presentation. First of all, as we'll show you in a moment, average legitimacy beliefs towards ICANN are neither high enough for complacency nor low enough for alarm. The overall verdict is "moderate" and "room for improvement." We'll show you there is a substantial share of respondents to the survey who indicate to have very high or high confidence in ICANN, but the results owe substantial share to those who have only moderate and less confidence in ICANN.

Then, I would like to underline that in this presentation we're only presenting the descriptive data. We only show patterns and levels of legitimacy perceptions toward ICANN. At this stage, we haven't explained them yet, and we do not present any data on statistically significant differences, for example. In this regard, the results need to be used with caution. Next slide, please.

When we talk about legitimacy ... It was asked several times during the interviews, what do we mean with "legitimacy?" At that stage we couldn't tell, yet, because we couldn't influence the results. In academic terms, when we use the term "legitimacy," it means to believe that a governor has rightful authority and exercises it appropriately. More plainly, it is the belief, and a perception, that ICANN has the right to rule.

Legitimacy, it refers to deeper confidence in ICANN, as well as approval of the workings of ICANN. It is more than just mere support for ICANN, but it actually refers to deeper confidence and trust in ICANN.

Legitimacy does not only interest us as academic researchers, but also in the survey we asked respondents, "How far do you think legitimacy is important for ICANN?" The large majority of respondents indicated that they find legitimacy extremely important for ICANN, and then an already quite substantial smaller share of respondents indicated that they just find it quite important for ICANN.

Why is legitimacy important? It might help a governing institution to secure its mandate, to obtain resources, to attract participation. If an

institution doesn't have legitimacy, most likely nobody would come to ICANN to help take decisions and achieve compliance, and hold off potential competitor institutions. Next slide, please.

Evidence-based. For the past one-and-a-half years we have been interviewing both insiders and outsiders. When it comes to the insiders, we've interviewed the entire board between 2015 and 2018. These are 30 past and current board members. We have a response rate of 100%. Then, we did 305 interviews with community members. 132 interviews with ICANN staff. As you can see, since there's a large share of the respondents amongst insiders that are staff members and board members, we actually will present to you the weighted results. Communities are weighted four times as high as, for example, staff members, so that it reflects participation in an ICANN meeting.

We also interviewed several outsiders in Internet governance, so people who participate in Internet governance institutions but not in ICANN, to see how they perceive ICANN. Jan Aart Scholte has been involved in another research project where they surveyed general elites around the world in different countries and from different elite sectors, and also asked about their confidence in ICANN.

We didn't do a public opinion survey because generally awareness of ICANN seems to be very low. We would be investing a lot of time and money in doing a survey where the large majority of respondents would indicate that they actually do not now who ICANN is. This is not part of our outsider sample, so to say.

UNIDENTIFIED MALE: Sorry, could you expand on the concept of general elite?

HORTENSE JONGEN: Yes. These are people who are in leading, influential positions, and in this position are able to influence political decisions in their country. This is from Jan Aart's other project. On top of my head, as I'm not involved in that particular project, it can be partisan, political, government, media, academe. They surveyed ... I think I have it here. 160 elites from six different countries. Philippines, Brazil, Germany, United States, Russia. I'm missing one, I think. Maybe it'll come back later. Yes.

UNIDENTIFIED MALE: Just to make sure I understand the figures on the slide. If you say non-ICANN Internet governance response rate is 34% ... Although 62, so you received 20 responses. Is that the way we should read this?

HORTENSE JONGEN: No, sorry. We received 62 responses, and 62 is 34.4% of the total population.

UNIDENTIFIED MALE: Thank you, that was worthwhile asking then.

HORTENSE JONGEN:

Can I see the next slide? Great. Here, I'm presenting the data from this general elite survey that Jan Aart and his colleagues conducted. This is a 0-3 scale. It asks these general elites about their general confidence in this host of different global governance institutions. What we can find here is that confidence in ICANN is generally at a similar or higher level compared with 10 multi-lateral institutions, as well as national and regional governance. It is just to show that there is some variation.

ICANN attracts the highest confidence of the four non-governmental global regimes considered. It receives a higher average score than, for example, the Kimberley Process, which you can see more towards the left. Also, the G20, and also higher than the Forest Stewardship Council, for example. ICANN is shown here with a red bar. It's also slightly higher than the national institutions which are indicated in green.

It depends on the way you look at this, from the glass-half-full, glass-half-empty perspective. From a positive perspective, we can see they actually do seem to be quite well compared to these other institutions. On the other hand, a score of 1.7 on a 0-3 scale is just above average. There seems to be in general some skepticism and just very moderate confidence in these global governance institutions, or in any governing institutions.

In addition, I would like to mention that when it comes to ICANN 49.7% of the general elites that were interviewed did not know of ICANN, or did not answer the question. This is a very large share of respondents. In addition to that public awareness of ICANN, is quite low. Next slide, please.

Here I'm presenting some results from the survey that we conducted both with the insiders, so ICANN Board, staff, community, as well as the informed outsiders, participants in other Internet governance institutions. Here we found that ICANN falls somewhat in the middle. The weighted average for the insiders is 3.54, which indicates it falls between moderate and high confidence. Respondents have higher confidence in ICANN than in the ITU and international government than in the IGF, but less so than in the IRs, and than in the IETF.

This seems to suggest one way we could interpret these findings is that levels of confidence are generally higher in those institutions where the state is less involved. This particularly applies to the ICANN insiders. Because they inform the outsiders, they deviate a little bit from this pattern. Can I see the next slide, please?

Here I'm presenting the distribution of responses to the question, "How much confidence do you have in the current workings of ICANN overall?" A positive interpretation of these findings is that when it comes to the insiders, the board, the staff, and the community combined, we can see that more than half of them indicate to have high or very high confidence in ICANN overall. That's a good thing.

On the negative side, looking at it more from a glass-half-empty perspective, when we look for example specifically at the ICANN community about half of them indicate to have only moderate, low, or even very low confidence in ICANN. This share of responses is even higher when it comes to the informed outsiders.

What we did next is that we converted the responses to this question into numerical scores. Respondents who indicated to have very low confidence in ICANN received a score of one. Respondents who indicated to have very high confidence in ICANN, they got a score of five. Based on that, we could calculate the mean averages for different groups in terms of their confidence. Next slide, please.

On a 1-5 scale, we can see that the ICANN staff generally has the highest confidence in ICANN overall. They report a mean average of 4.11, which means it falls between high and very high, leaning more towards high. Then, the ICANN Board report a mean average of four, so high confidence in ICANN overall. The ICANN community falls between moderate and high confidence. Then we show the total insiders again, so the first three groups combined and weighted. Then again, the general elites that I was talking about earlier, converted to a 1-5 scale, they report a mean average of 3.27. Finally, the informed outsiders said they had the lowest confidence in ICANN, which is closer to what's moderate. These findings suggest that the closer you are, at the heart of the ICANN regime so to say, the higher your confidence in it. Next slide, please.

Here, I'm presenting a breakdown of confidence in ICANN per stakeholder group. We asked questions about confidence in ICANN overall, confidence in the ICANN Board, confidence in a multi-stakeholder community, and finally in ICANN staff. We do not find a large variation across stakeholder groups, but we do see that academia in general have the highest confidence in ICANN, followed by the government stakeholder group at an average of 3.58.

Then, when it comes to confidence in the multi-stakeholder community, we can see that the business/other stakeholder group, which you are a part of amongst our survey respondents, report the lowest confidence. Interestingly, the government stakeholder group report the highest confidence in ICANN staff. Their confidence is not only higher than the other stakeholder groups, but they also have more confidence in ICANN staff than in the community and the ICANN Board. Next slide, please.

Here, we represent a breakdown of confidence in ICANN for different regions. First, again, we showed a weighted average. Then, we can see that respondents from Russia and Central Asia, they report the lowest confidence in ICANN overall. Although, I should say that it's based on a relatively small number of respondents.

Then, when it comes to respondents from East, South, and South-East Asia, they report the highest confidence in ICANN overall. This comes closer towards high confidence, a score of almost four. This is quite a large difference of almost 0.18 between the lowest, Russia and Central Asia, and the highest. What is also very interesting about these results is that we cannot speak of a so-called global north/global south divide because if anything we can see that respondents from Latin America, the Caribbean, Sub-Saharan Africa, and Asia report slightly higher mean averages than, for example, respondents from Europe and North America. Next slide, please. Yes?

TONY HOLMES: On that last one, where is China on this?

HORTENSE JONGEN: China's completely on the right. It's part of Asia. We couldn't ask respondents to indicate their countries because then we would compromise their anonymity. Yes, they are amongst ...

TONY HOLMES: They're on the right block. Okay, thanks.

HORTENSE JONGEN: It would fall in that group. Then, we also looked at different social groups. Again, I would like to underline we only looked at these patterns. This doesn't say anything about causality or about statistically significant differences. We found hardly any variation between men and women in terms of their confidence in ICANN, as well as when it comes to different age groups or different English language skills. Also, when it comes to self-reported race or ethnicity we found rather little variation. White participants report the lowest confidence. Hispanics, the highest. Again, I would like to underline that there does not need to be a causal relationship between these factors. These are just patterns. Next slide, please.

Now, I'm presenting to you specifically the data for the business/other stakeholder group. We asked a question. "In principle, regardless of whether ICANN achieves the matter in practice, how far do you find it important for ICANN to ..." Then, we presented a list of 15 aims which

you could rank on a scale of 0-5. Not at all important to extremely important. First, we show you the four aims that respondents from the business/other stakeholder group commonly found the most important for ICANN. We see that the business/other stakeholder groups mostly follow the same patterns as other stakeholder groups.

Then, we show you the first results of the four aims that respondents found the least important for ICANN ... Like, stakeholder group. This pertains to, for example, promoting human rights in ICANN operations, as well as promoting democratic values in wider society. The ranking of these four aims is even lower than was reported by other participants in ICANN. Next slide, please.

What we show here is how far ICANN is perceived to realize these 15 aims in practice. Again, this is the data of the business/other stakeholder group. Here, we can see first the four aspects that ICANN is perceived to do best. Again, this follows more or less in line with what the other groups have reported. Also, the four aims that ICANN is perceived to do least well. This pertains, for example, to promoting human rights and democracy, as well as taking decisions in a timely manner.

Now, to what extent is this problematic, that ICANN is not perceived to do less well when it comes to achieving these four aims? As you could see on the previous slide, the “in principle” question so to say, a lot of respondents from this particular stakeholder group also reported that they found promoting human rights and democracy less important for ICANN.

Other stakeholder groups report different scores on that. For example, among civil society constituencies, these aims are rated higher. In this group, it's considered less important. Then, it also does not need to be necessarily problematic that ICANN is not perceived to achieve this in reality.

This cannot be said when it comes to taking decisions in a timely manner, because business/other group actually reports the highest score in terms of importance of all stakeholder groups. It's not the most important aim, but they report the highest score in terms of importance when it comes to taking decisions in a timely manner. As you can see here, a score of 2.30 on a 1-5 scale is very low. They actually report the lowest score in terms of realizing this. Yes?

UNIDENTIFIED MALE: Do you have the average score across stakeholder groups for the importance of taking decisions in a timely manner?

HORTENSE JONGEN: You mean for this constituency, or also the other groups?

UNIDENTIFIED MALE: Actually, either or both, whatever you have to hand.

HORTENSE JONGEN: Yes, I have it right here, so I would be pleased to show it to you afterwards.

UNIDENTIFIED MALE: If that's being rated as a four or above in salience, but as low as that in achievement, that's striking.

HORTENSE JONGEN: Well, the business/other stakeholder group was the most extreme. It has the biggest gap between "in principle should ICANN do it" and "in practice." I see here, the business/other group reported in terms of importance a score of 4.64 in terms of importance, the highest. 2.30 is the lowest. Also, several other stakeholder groups indicated that they gave taking decisions in a timely manner the lowest score in terms of practice. Not all groups, yes.

UNIDENTIFIED MALE: Actually, ranking these by the difference between the two would be an interesting table.

HORTENSE JONGEN: Yes. I could prepare those data, and I could send them around. I'm also happy to show them at another meeting. This data, we have them, yes. Of course.

WOLF-ULRICH KNOBEN: Are decisions also including policies?

HORTENSE JONGEN: Yes.

WOLF-ULRICH KNOBEN: We've had the discussion about the speed of ICANN's policy development processed many times. I'd like to see that covered by maybe some future research. It's interesting. Everybody is complaining about the speed of policymaking, but you see very little criticism of the quality of the policies that are the outcome. We can make a choice between quick and high quality, and I think even though it takes long usually the quality is very good.

HORTENSE JONGEN: I think you're mentioning a valid and important point. Even though many stakeholder groups indicated that they think ICANN is not very successful when it comes to taking decisions in a timely manner, several groups also indicated that they do not expect this from ICANN, that they do not find this very important for ICANN, and that they would rather see, for example, seeing other stakeholders the opportunity to participate, rather than being fast.

You're very right. We shouldn't immediately jump to the conclusion. This is also why I mentioned from the beginning, interpret these results with caution when it comes to implementing policy reforms. It doesn't necessarily mean we need to be faster. It can also mean different stakeholder groups have different perceptions about how important it is to be fast.

The next tabs. In this presentation we've only covered the descriptives, the levels and patterns of legitimacy toward ICANN. We will continue working with this data, and we'll actually start looking into causal explanations, and run more advanced analysis. Only when we have done these analyses, we can start thinking about possible reforms to raise legitimacy beliefs even higher. If you're interested in this we can report on these issues at ICANN67 in Cancún. Thank you very much.

WOLF-ULRICH KNOBEN: Thanks very much for that. Thank you. That's an interesting overview of that. One question is with regards to the follow-up, and what to do with that study. I understand this study is not ... Was it mandated by ICANN itself, or is it ...? It was.

HORTENSE JONGEN: No, no.

WOLF-ULRICH KNOBEN: No, it's not? It's by your own, you know. The question is are you also going to the board with that study? Are you invited by the board to give presentations on that? I think about what the ICANN management may say. Inform of the board, for example, could really draw from this. When I see the first figures where you have been showing the levels of confidence in that, in the various parts of the communities and so on, what could be drawn from that from the point of view of a manager of

ICANN? I don't think a goal could be to get the highest rates all over the organization.

There is lively discussion. There are different views, also. To some extent it's a question. Should there be taken more diligence with regards to improving the confidence to some extent in the community? How should it be done? That is the question. What kind of advice are you thinking about to give the board, in terms of what to do with that study?

HORTENSE JONGEN:

Thank you. Yes, indeed, we're giving these presentations to all constituency groups. We have offered to give these presentations. In addition to that, yes, we're also in contact with the board. At this stage in particular, we do not make any recommendations or suggestions on what needs to be done. As I mentioned earlier, with this kind of data I would also not suggest that already conclusions are drawn about what kind of reforms. The kind of conclusions that the explanatory analysis, at a later stage, could show is where do these perceptions come from? Are these characteristics from the individual?

For example, people's knowledge and experience with ICANN, or other aspects of their background. Does it come from the institution, its procedures, the way it's set up, the way it functions? Does it come from broader societal norms? We could give insights into which of these factors are most relevant in explaining legitimacy perceptions in ICANN, but it's not up to us to then say what needs to be done.

WOLF-ULRICH KNOBEN: Thanks very much. Any questions from further on, but not at the time being. Thank you very much for this.

TONY HOLMES: Is this report as a whole available to read and to make reference to in the future? Could you share a copy?

HORTENSE JONGEN: I would be very happy to send you the slides. We have the slides that include our commentary. Yes, I'm happy to share this.

TONY HOLMES: Thank you.

WOLF-ULRICH KNOBEN: Yes, thank you very much. Yes, please, Chantelle.

CHANTELLE DOERKSEN: Hi. The slides from today's presentations are posted on the session link, and are going to be circulated on the ISP list. I believe this one was circulated prior to the meeting.

WOLF-ULRICH KNOBEN: Thanks again very much. Thank you. Later on, we will have ICANN finance coming in. They've not arrived. They are supposed to be here from 17:30. Looking around, do we need a break? We have it on the agenda, a break. Nobody needs some, thank you very much. Then, let's continue immediately.

We have some internal work to do. We wanted to talk about the further progress on the ISPCP charter to be done. Tony and Jenn and I, we said together at the beginning of this meeting, we are looking for the mission principles part for that. I think we found a way. We are almost done with that from our point of view. This could be shared. I wonder, Tony, whether you would like to chime in here?

TONY HOLMES: Sure.

WOLF-ULRICH KNOBEN: There should be something to send, or ...?

TONY HOLMES: Well, we could show where we are with what we've presented. Send it to Chantelle.

UNIDENTIFIED MALE: I note that Malcolm has left the room.

TONY HOLMES: I think it was sent to Chantelle.

CHANTELLE DOERKSEN: We circulated it on the list.

TONY HOLMES: Just briefly, whilst Chantelle's getting it up on the screen. What we did was look at the original text and try and simplify it whilst making sure that it covered all the aspects that we felt should have been included. The next part of this exercise, now, is to cover the membership parts of the charter. The person that was charged with doing that is Mark McFadden.

I've gone back to Mark. He's agreed to get a draft together and offered to help with that. That will be submitted prior to the next ISP call. Hopefully, we'll be in a position to discuss that on the call. Then, I think the rest of it flows from there as an ongoing project. We should be in a situation where we put the text that we worked on here, and the membership part of the charter should be open for discussion. Hopefully, concluded on the next ISPCP call.

CHRISTIAN DAWSON: I just wanted to say that's tremendously exciting. I am really pleased to see this project moving forward.

TONY HOLMES: It's going.

CHRISTIAN DAWSON: That's great.

WOLF-ULRICH KNOBEN: Coming back with a question to you, Christian. If I remember well, we had put together some packages from the outset discussing the [ET] charter. One was mission and principles, which we will circulate this draft we have. The membership criteria, as Tony said, will come for the next call. Don't we have others?

CHRISTIAN DAWSON: We do indeed. I will go back and I will find out who is up next for drafting section. The reason that we had started with those is that everything flows from there. Talking about who we are and what it is we do is something that needs to be reflected throughout the rest of the document. I will go back, and I will figure out what next steps are, once these first two are in line. I will be in a position to outline what we had agreed to before, and get us the next-stage assignments that we can hopefully move forward on quickly by the time the next call rolls around.

WOLF-ULRICH KNOBEN: Any additional idea from the floor, here? Any further volunteers for that? Not. This is one about Tony, on the screen right now. You can see we have made several amendments on the basic texts we had so far.

We'll put it in a red line and in a clean version as well, and circulate.
Tony.

TONY HOLMES: The key thing on this section was if anybody has any comments on it at all, please let us have the input before the next meeting. It would be good if we get both this part and the membership part ticked off on our next call. Comments as soon as possible on the revised texts, here.
Thanks.

WOLF-ULRICH KNOBEN: I would suggest Chantelle to circulate both a red line plus a clean version. The red line version is really complicated to read. That may help also, then. Christian?

CHRISTIAN DAWSON: I just wanted to say that when Malcolm comes back in, since we had originally co-assigned this to Tony and Malcolm, let's see if we can nudge him to take a look at it, as well.

WOLF-ULRICH KNOBEN: Okay. Thanks very much for that. Are we almost with 17:30? As long as finance is not yet available, then let's discuss and talk about other internal items. For example, the COP program. Chantelle, could you help us with that? Do you and Christian, together, with that ...? Where

we are with the COP program, what we have to do with that? What our duty is?

CHRISTIAN DAWSON: We have not been using the CROP program to the level that we are authorized to use the CROP program. There remain available slots. Chantelle, you may want to talk about deadlines and things like that. I'll put an advocacy in there for why we want to use these.

CHANTELLE DOERKSEN: Thanks, Christian, you read my mind. The CROP requirements for FY19 were six weeks plus five working days. There's a series of processes that need to happen once an application is submitted. That's now been changed to just make it a standard seven weeks. That's a little easier to remember. That allows us to bring it so the vice-presidents of the region have the concurrence to ensure that it's fulfilling the goals and metrics for CROP. Then it goes to travel, because travel needs time to process it if there's a Visa requirement. There's all these levels. Seven weeks is the absolute minimum. ICANN is quite firm on that deadline.

CHRISTIAN DAWSON: The CROP program is designed to help us build our constituency. It's designed to help us do outreach. They've increased their flexibility over time so that it doesn't only need to be used to send us to a conference to talk about the ISPCP and try to get people in the door. Though, that's something that we can still definitely do. Now, we're allowed to use it

to bring somebody within the region into a meeting. We have not been using it now for a number of ... Gosh. Chantelle, do you know the last time we have used it? Was it me in Chicago?

CHANTELLE DOERKSEN: That might be. I know there was one slot that went unused for FY19.

CHRISTIAN DAWSON: If there are ideas that people have of how they want to use this to spread the word of ISPCP outreach, either by bringing somebody who wouldn't otherwise be able to get a chance to come and consider being a part of our community within a region to a meeting, or if you want to go to a conference within your own region, get on the agenda and talk about the ISPCP. We likely will have the ability to work with you, as long as we still have the slots available, and as long as we meet the seven-week criteria.

WOLF-ULRICH KNOBEN: Thanks for this, Christian. Phillipe.

PHILIPPE FOUQUART: Thank you. I should know that. Since it's FY19, the conference would have to be this year. We've got seven weeks. I'm trying to get my head around this.

CHRISTIAN DAWSON: I forget what the cutoff is for the fiscal year. Is it September?

CHANTELLE DOERKSEN: June 30th.

CHRISTIAN DAWSON: June 30th. We have until June 30th of next year.

WOLF-ULRICH KNOBEN: Let's ... Fiona, before me?

FIONA ASONGA: Just feedback. The application page on the Wiki doesn't work. I'm looking at it again, it still doesn't work. You can't submit an application. Okay, at least on my machine. It doesn't edit. Even when I follow the instructions to the letter. Maybe it needs to be looked at because it should be easy to use from anywhere. I wanted to submit. I kept on trying. I tried to do calls, and we never managed to get the tutorial between Chantelle and I to just get it working. If it doesn't work, then how do we apply?

CHRISTIAN DAWSON: That's a good question. Chantelle is a resource when it comes to dealing with the technical issue. I understand that if it is difficult to sync up, that ends up being a problem. Let me say that as the CROP

administrator I am also happy to submit on your behalf, if somebody wants to send me the answers.

CHANTELLE DOERKSEN: Christian, that's where it gets a little tricky. With the new GDPR compliance, it has to be submitted by the individual that is requesting it. I'm always available, but we need to have a call, proactively, before that seven-week deadline, to make sure that it's submitted on time. It's the individual's responsibility to make sure that those are met. We can always help, of course.

CHRISTIAN DAWSON: Since I now have the new information that I can't submit on somebody's behalf, we need to ... Fiona, could I ask you, even though we have missed that deadline, would you be willing to still find the time to do some troubleshooting with Chantelle to see if there are some way that we can try to solve that problem moving forward?

FIONA ASONGA: Yes. In fact, the page is open on my machine. I can give it to anybody who'll be able to figure out how the form gets filled out, including you.

WOLF-ULRICH KNOBEN: Okay, you're helping, Asonga, thank you very much. With regards to the next ICANN meeting then, the CROP program for the next ICANN meeting. We would a [float] as well, isn't it? For somebody from the

region, which is in Cancún, what does it mean? Latin America? Central America plus ours also? I'm not aware about this region exactly. We will find out who could be eligible. It may be that in that region there are more people available, and would have a request for that. Maybe Esteban could help?

ESTEBAN LESCANO: The definition is Latin American, the Caribbean. Maybe we have some other people that seem interested to come.

WOLF-ULRICH KNOBEN: Just keep that in consideration. There are also deadlines to use it. Did you already circulate that for the ICANN meeting, the opportunity for application through the CROP program?

CHANTELLE DOERKSEN: We had previously. We included the entire [cross talk]

WOLF-ULRICH KNOBEN: Okay, good. Let's come back, then, to our internal staff, in between, we have here in the background. We have the team from ICANN finance. Welcome to you guys. Thank you very much for sharing with us our meeting, here, and giving us an insight in the finance operating plans. Thank you very much. Hello, welcome.

BECKY NASH:

Hello. Thank you very much for having us from ICANN Org finance. This is my colleague, [Shawnie Quidway]. Xavier Calvez is here, available for any questions or comments. We have a short presentation that we can go over? Yes. We just wanted to cover these slides quickly. If we could move to the next slide? Just a quick introduction, as I just gave. There's three of us that are attending here today from finance.

The agenda. On the next slide, we're going to cover briefly the FY, or fiscal year, 19 financial results. Oh, thank you. The FY19 financial results. We have some slides about the Reserve Fund replenishment strategy. Then, we have two sections related to the planning process, and then the FY21 operating plan and budget, and the five-year operating plan and financial plan.

If we could go to the next slide? We would like to highlight while we're here that tomorrow on Wednesday we do have a public session on the FY21 annual operating plan and budget, and the five-year operating plan and budget. It will be a very in-depth presentation with lots of slides about funding and other projections for these two plans that are anticipated to go for public comment in December.

On the next slide, we'd just like to take this opportunity to highlight that the finance team and ICANN Org overall publishes several documents in support of our commitment for accountability and transparency to the multi-stakeholder communities. Throughout the year, on the left-hand side, we'd like to highlight on our website that we do have several publications. The first one there is the quarterly financial reporting, which is posted after each quarter ends. It's our unaudited financial

statements on a year-to-date basis, which gives a good view of the actual, for that fiscal year, as compared to the budget.

Then, on the right-hand side, we have several documents that we publish annually. The first one is our annual audited financial statements, which also includes the independent auditor's report. That was just recently published in late October, and is available on our website. The checkmarks indicate all of the reports that we recently published for the 12 months ending June 30th 2019.

In the next set of slides, we're going to go through the FY19 financial results. On this slide here, we have highlights for our FY19. Just as a reminder, ICANN's fiscal year starts on July 1st each year and runs for 12 months through June 30th of the following year. Our FY19 results are for the 12 months ending June 30th, 2019.

ICANN operations had actual funding of 136 million for the 12 months ending June 30th, 2019. This funding or revenue was three million higher than the previous year of FY18, and a million lower than the budget for FY19. Funding was lower during FY19, so actuals versus funding was one million lower, mainly due to slower than anticipated growth estimations in our budget for the new TLD registrations.

However, we were also successful for our expenses during FY19, of having our expenses come in a million lower than for the same 12-month period in the prior year. Actually, eight million lower than the budget. ICANN operation expenses of 130 million were eight million

lower than the FY19 budget. That was primarily due to lower-than-planned headcount.

The final bullet on these highlights is just reflecting that based on our revenue of 136 million, less the cash expenses of 130 million, ICANN operations generated an operational excess of six million for FY19.

We'll move to the next slide, now, which is just to break out more of the expenses for FY19. I'd just like to highlight that the table above has the expenses for FY19 compared to the budget by cost category. In the highlights here we have "personnel expense is lower than budget," and, as we indicated, "driven by open positions during the year." The end-of-period headcount is 36 lower than budget. The average headcount throughout the year is 32 lower than the average budgeted headcount.

ICANN's headcount is stabilizing. We've had good cost and controls regarding addition of headcount. We do have some slides later in this deck that have the trends of headcount over the last several years. That is contributing to the largest variance, as it relates to our budget.

The next variance we're highlighting is that travel and meetings expenses were lower by 0.6 million. That was primarily due to the fact that two of the budgeted meetings during the year actually were lower in actual expenses against the budget. That was ICANN63 and ICANN64. The final main driver of the lower-than-budget expenses is professional services, which were 1.7 million lower than the budget. This was just due to favorability across many functions, and for many different projects where we did come in lower in FY19 as compared to the

budget, and even lower than the same 12 months in the last year. If we could move to the next slide?

This is a table reflecting the trends in headcount at the end of each period that's listed here. This slide has headcount from FY16 through FY19. You can see that the headcount is stabilizing around 400 positions. That's really due to the controls that we've put in place to maintain a stabilization of headcount. You can see that, compared to the FY19 budget, that's where we were showing the positive variance. We'd just like to highlight that in FY20, which isn't on this particular slide, the budget is for approximately 410 headcount.

On the next slide, this is an overview of our funds under management. Funds under management at the end of June 30th, 2019, we have an increase of nine million overall to reach 464 million in total funds under management. That is on the right-hand side. We are showing the breakout by fund type, where we have the auction proceeds on the left-hand side, where we do reflect a decrease in auction proceeds based on the Reserve Fund replenishment strategy that we're going to go into on the next slide.

Before we move to that slide, we'd just like to highlight that we had the new gTLD application fees. Those are the funds relating to the application fees collected upfront in the 2012 new gTLD program. They decrease year over year based on the funds needed for operations for the program during each year. Then, we move to the Reserve Fund, where you can see the increase, there.

On this slide, we're highlighting the Reserve Fund replenishment strategy, which we are discussing here, the increase where the Reserve Fund, which did increase by 47 million, is now at 116 million. The Reserve Fund is a crucial component in ensuring ICANN's long-term financial accountability, stability and sustainability. Many of us are reminded that the Reserve Fund was depleted in recent years primarily for the expenses related to the IANA stewardship transition. During 2018, ICANN Org collaborated with both the board and the community to develop a strategy to replenish the Reserve Fund.

There was a public comment for that strategy. As a result of the public comment, which was reviewed by the board, the board of ICANN approved an eight-year plan to replenish the reserve fund to an amount that would equal approximately one year of operating expenses. ICANN Org has made significant progress in replenishing the Reserve Fund, and is actually tracking ahead of that strategy. Based on the fact that the Reserve Fund is now at 116 million, and again that was primarily based on the approved strategy which did result in a transfer of 36 million from the auction proceeds, but there have actually been contributions from operational surpluses, as well.

One key factor is that in recent years ICANN has continued to include in the operating plan and budget a planned contribution for the Reserve Fund on an annual basis. ICANN Org plans to continue to recommend to the ICANN Board to transfer amounts to the Reserve Fund based on operational surpluses and the fact that we're budgeting for a contribution each year. Next slide?

This just provides the trends of the Reserve Fund, where you can see we've listed the FY19 actuals based on that replenishment strategy and the transfer from the auction proceeds, and operational surplus contributions. Now, we're showing that for FY20 and FY21, we are expecting contributions to be recommended to the ICANN Board. If we could go to the next slide? Now, I'm going to ask [Shawnie] to cover the planning process.

[SHAWNIE QUIDWAY:] Thank you, Becky. Sure.

WOLF-ULRICH KNOBEN: Just one question to the last slide, with regards to the projection of the Reserve Funds. Which ideas so we have, or ICANN has, where the contributions will come from? The additional ones?

BECKY NASH: Yes, thank you for your question, there. One of the key points of the reserve fund replenishment strategy is that ICANN Org has started to budget for a planned contribution. What that means, and we do cover that a little bit later, is that we have planned that our expenses plus the planned contribution will equal the funding. The funds available for expenses are lower than funding because of a planned contribution each year.

WOLF-ULRICH KNOBEN: Additional questions. Tony and Phillippe, please.

TONY HOLMES: Yes, thanks. Becky, do you want questions now or at the end?

BECKY NASH: We can take questions now for the first part, and then we'll have some Q&A at the end.

TONY HOLMES: Okay, thanks. When we looked at the slide that had the travel expenses on for meetings, my first question was, "Does that figure include ICANN staff?" How can I differentiate that figure? I'd like to be able to understand how much of that budget goes on ICANN staff, and how much doesn't. Can I split that down? I've never been able to find how to do that.

BECKY NASH: Thank you very much for your question. The budget development includes all of the various cost components of what it takes for a meeting, meaning venue, logistics, funded travelers. Also, ICANN staff. At this time, we don't have a breakout that would show that breakout. We do have plans for a meetings' cost schedule to be published in the future, that we're working on.

be a more granular information than what we have produced in the past. I would suggest we would put that on our list.

We have a list of types of information that a number of constituencies or SOs and ACs would like to see, one of which is the costs by SOs and ACs as well, which I know is separately a topic of interest. We'll put that on our list, and see when we can produce that information. It's going to require a certain amount of work, which is fine. The raw data is available, it's just a matter of aggregating it in the right fashion to then be able to produce it. That shouldn't be difficult.

TONY HOLMES:

I really appreciate that. Thank you, Xavier. I will say that, having worked with you on the budget area in the past, I really appreciate your efforts. This has got so much better. I think with these constant requests you get, it will get even better, still. I really appreciate the work that you and the team are doing. Thank you.

WOLF-ULRICH KNOBEN:

Phillipe, please.

PHILIPPE FOUQUART:

Thanks. On a completely separate topic, and it's a very basic question. On the headcounts, the budget, etc., the components that are related to the PTI and IANA, are they included, separate?

BECKY NASH: Thank you for your question. Yes, they are included in these total headcounts, because this is total ICANN. PTI is a separate legal entity, but from our operational planning we include all of the components of the IANA functions in the consolidated ICANN.

UNIDENTIFIED MALE: It's about 16 people, from memory.

UNIDENTIFIED MALE: That comment transitions well into this next slide, in that we do produce a five-year operating plan and an annual budget. Oh, if you could stay on this slide for a little? We produce a separate document of a budget and a five-year plan for the IANA functions. That timeline starts a little earlier, and we'll go through that. The IANA process has its own budget documents, and that is a component of the ICANN budget. We do report quarterly on our progress against the budget. That was one of the reports that Becky had alluded to earlier. If we could move to the next slide?

Here, what we have is an overview of what the five-year operating plan and budget is, and the FY21 operating plan and budget. At their core, they're both very similar. They're both describing the work of the organization, the purpose, the activities, resources, risks, and things of that nature, that are within the plan. The key difference between the two is that the five-year plan is going to be much more high-level, whereas the FY21 is more detailed, given that it's a shorter time horizon, and we have more visibility into the phasing of projects, and things of

that nature. We can give more details on the one-year than we can on the five-year. If we move to the next slide?

Here's an overview of some of the key dates. We've already had one public comment completed for this five-year plan. We are planning to review the draft materials this month with the board, with the goal of publishing the five-year and the one-year plan in mid-December for public comment. That public comment would run through February.

One item that we don't have on this slide is that we plan to have a webinar with the community in early January to go through the budget documents, just to further clarify, as people have seen the posts, any questions about the structure or the materials that are in there, so that the community has everything they need to submit public comments.

From there, we will produce the public comment report and meet with any individuals, SOs and ACs, at ICANN67. All of this, with the goal of having the board approve and adopt the budget in early May. This is a very similar timeline to what we had for the FY20 budget. Moving to the next slide.

These are some of the key dates for the IANA budget process. The IANA budget starts about six months or so earlier than the ICANN budget. We are already in the public comment window. That started on the 14th of October, and ends on 27th November. There are still approximately 3-4 weeks left to submit public comments for the PTI and IANA budget.

From there, it's a very similar process, in that we will publish a report of the public comments and recommend to the board what the feedback

was, and any changes that are necessary for the budget. All of this with the goal of having the IANA budget adopted in mid-January. If you move to the next slide?

Here is just an overview of the additional budget request process. This is a process for the community to request for additional budget for things that were not included. This process is very similar to the prior year, in that we're launching the process shortly after ICANN66, starting 11th November with the submission period, and in on 31st January. There will be consultations at ICANN67 to review those requests, and we plan to publish the approvals early May, when the budget has been adopted. If you move to the next slide?

In this next section I'm just going to highlight some of the trends and assumptions that are going into both the budget as well as the five-year plan. You can see here that our funding has moderated over the three years. We're seeing growth of about 1%, or slightly lower. Moving to the next slide, you'll see that our base-case projections for the five-year period are very similar. In tomorrow's session, we will go through this in some more detail.

We have three different scenarios. We have a base-case, a high-case, and a low-case. The base-case is what all of the documentation and financials will be built off. The base-case is what we believe to be the most likely scenario. We expect the growth to be relatively similar to what we've seen over the past few years, growing at 1.5%. This funding growth has a direct impact on the financials and the resources that the organization has at its disposal. If you move to the next slide?

We've talked about this a little already, but this is just another highlight of the headcount, and that the organization and the community have taken a lot of visibility. It's been a big priority to control headcount growth. You can see here that we have seen slight declines over the past few years. Over the five year projections, we expect to see a relatively similar headcount, maybe some small, modest growth. Overall, in the low 400 range.

Here are some of the assumptions that go into the plan. In the budget and in the five-year plan we do not plan for any board work that has not been approved. All of the planning centers around board work that has been approved. We do acknowledge that there will be board decisions taken later that will impact the operations. We do set aside contingency funding for that unplanned work. There is budget set aside, but there is no specific planning for making an assumption that a board decision will happen at a later date, and it will lead to an outcome.

As Becky alluded to, there is a planned contribution for the reserved fund. Historically, our expenses and our funding equaled in the budget. That's no longer the case. We are now planning for less expenses than our funding so that we do earmark some funds for the reserve fund.

As I had mentioned, headcount is expected to remain relatively stable as the trends that we have seen recently were in about the 400 range. This was our last slide, so if there's any additional Q&A about the planning?

WOLF-ULRICH KNOBEN: Thanks for that. Are there any open questions to the planning cycle? Anything? Phillippe, please.

PHILIPPE FOUQUART: I can only commend you for doing this. I take part in a number of other organizations, membership and non-membership based. The degree of transparency that we get here ... Well, there is area for improvement, obviously, as we've discussed, but it's astounding. Thank you for this.

WOLF-ULRICH KNOBEN: Thank you very much. We are awaiting the request for input here for the additional [barter] request from our side. I think that, as usual, it's understood that we are coming to fill out our charts here, and our requests for the constituency and stakeholder groups additional request. Is that what is starting on 11th November? Yes, okay.

BECKY NASH: Yes. Just to confirm, it opens on 11th November and then closes in January, the submissions. Correct.

WOLF-ULRICH KNOBEN: Thank you very much for that.

BECKY NASH: Thank you very much.

WOLF-ULRICH KNOBEN: We are left with some further internal items. Thanks, Xavier. First, not to forget Esteban, here. Esteban is going to introduce to us a new entity, like an ISP introduction. Please, Esteban.

ESTEBAN LESCANO: I want to present to the constituency LAC ISP, which is the Federation of ISP Associations, an organization for Latin America and the Caribbean. LAC ISP was incorporated in past April. The objectives of this organization is to represent ISP's organization before public authorities in the region, and also to integrate these organizations and find a way to collaborate and incorporate.

Also, the idea is to cooperate with other institutions related with Internet governance, such as LACNIC, ICANN, ITU, NECO, IGF, and others. Also, to collaborate to review the digital divide in Latin America and the Caribbean. LAC ISP is based in Montevideo, Uruguay, in La Casa Internet. It's the House of Internet of Latin America, sharing the facilities with LACNIC, LAC TLD, ICANN, LAC, RedClara, and others. This is like a hub for Internet institutions in our region. The membership is open to organizations and associations from the region. Actually, we have 10 members from Brazil, Argentine, Columbia, Mexico, and Ecuador. With those organizations, we represent almost 3,000 ISPs in Latin American and the Caribbean. Well, I think that is good news to share with us. We also want to formalize our affiliation to the ISPCP. Let me know how I have to proceed.

WOLF-ULRICH KNOBEN: Thanks, Esteban, for that. Thanks. I think we have a very easy process to do so. We have an e-mail address from the secretariat.

ESTEBAN LESCANO: I was looking into the web page, and they said an e-mail to send. Before doing that, I want to present formally, here.

WOLF-ULRICH KNOBEN: Thank you very much, that's good to hear. To hear that, it usually ... The board or ICANN hears ... It would fit in our community, here. Last, not least, we have a formal way to do that. That is sending by e-mail your application. The first filter is here, Chantelle, looking for that, and then sending it to the so-called credential committee we have here. Then, a decision is being taken on e-mail, as well, whether that applies to our organization or not. Then, you will hear from that.

ESTEBAN LESCANO: [inaudible] which is an Internet association of Argentina that Tony Harris and I worked for. He is one of the founding members of that organization. He's like a [inaudible] for the region.

WOLF-ULRICH KNOBEN: Okay, thank you very much. Good. Next item. Coming back to the reminder of ICANN travel support for ICANN67. Chantelle, what is the deadline to come up with that? Do you know?

CHANTELLE DOERKSEN: The deadline is tomorrow.

WOLF-ULRICH KNOBEN: It's good, it's good.

CHANTELLE DOERKSEN: Sorry, we have an extra ... It's Thursday.

WOLF-ULRICH KNOBEN: Thank you, it's even better. Thank you. As usual, we have a commitment that those who have positions here and need the support for that, like council members, chair, vice-chair, so they get funds. If it is possible to share with slots, for example in travel slots, hotel accommodation, and so on, that could also be helpful to some of them. In addition, the same deadline applies for the CROP related to ICANN67, isn't it, Chantelle, the means ...? Travel support through CROP funding for ICANN67. It's the same deadline?

CHANTELLE DOERKSEN: That deadline's a little different. This one's for the GNSO-supported, and for the leadership development program. I'll bring up the CROP deadline in a moment.

WOLF-ULRICH KNOBEN: Thank you. Let's talk about that, to be aware, and think about who would apply for travel support for ICANN67. I would suggest to send an e-mail to myself and to Chantelle. Then the leadership can sort out over the next two days who could be allocated a slot. You reminded me to the leadership program, as well. We have to find, also, a volunteer for that. Usually the ICANN academy is getting funds for a leadership program which takes place in advance to the next meeting in Cancún. That is one or two days, I think, before Cancún. Some of you have been participating. I think, Phillippe, you participated once in that leadership program? Yes, you are also participating in that.

We should think about, in your environment, whether you see somebody from our membership who could apply for that. That would be helpful, so it's easier to get these people to the meeting. I think that program is very useful. It's well-received. Phillippe, you were convinced. If you can say a few words on that?

PHILIPPE FOUQUART: Well, it's great to learn a bit more about ICANN. Decision-making, how you deal with working group chairmanship, for instance. If we can afford to spend a couple of days there, I think that's time well spent. Thank you.

WOLF-ULRICH KNOBEN: Good. Do we have open here, still ...? Okay. At the end of this ICANN meeting there will be implemented a leadership change, which comes from the last election. That means we have to say goodbye to people,

on the one hand. On the other hand, people are going to be replaced, here. We had elections for the chair, for the vice-chair, for the ExCom representative and for the council, as well.

We will have for the new term two councilors, again, Phillippe and Osvaldo. You will have to live with me as chair for the next two years, as well. We had a change on the vice-chair position. Tony is going to be replaced by Jenn for this purpose. We have a replacement on the NomCom. Alain is going to leave the NomCom, and Marie-Noémie, who is not here, is the new member of the NomCom.

I would like especially to thank Tony in his capacity as vice-chair. At first, for his [most] transition from that time when I took over chair from him, and then supporting me as a vice-chair. I really do hope that he is not going to disappear fully off the scene here, because we have to rely, and we would like to rely, on your knowledge and your support in the future, as well. I welcome very much Jenn. I think we will be a good team for doing that. Yes, and Christian, as well. Thank you for doing that, for volunteering for these jobs. Thank you very much for your help in the past, as I said. We will rely on your support, as well. Thank you.

Definitely, we have to say goodbye to Alain, who was taking part the last time in that meeting. I didn't count your participation in meetings because you have already been here when I joined ICANN, 12 years ago. You have been participating a lot. You have been working in a lot of different capacities. Thank you very much, as well, for your support in our community. I hope you wouldn't forget us, and sometimes think

about maybe, if you come to Europe again, like Olivier did, we will see you. It could be. Thank you very much, Alain, for this.

Thank you, all. The very last points are the filling of the SCE, the Standing Committee on Elections, Election Committee. Think about who could be volunteered, or who could be voluntarily volunteering for that. This is a ... Osvaldo is not ...? Oh, he is. I thought he would like to give us a short insight for that. It's not too much work to be done. It's not comparable to something like ePDP, or so on, not yet. It's a committee which deals with selections of persons to be appointed for several positions in the council work, I think, if that is needed.

That is just coming together from time to time. Think about that. Osvaldo cannot be reappointed because of the charter of that team. Somebody else should take over. One message I would like, also, to take with me, is with regards to filling the position in the Auction Proceeds Working Group, which was done by Marilyn Cade, so far. We have got one application for that. That is a family name, I don't know, but Anne from IPC. She would like to stand for that.

I can say from my point of view I know Anne very well. I would like to support her, personally. That is my view on that. I didn't see any other application so far. If you could come to an agreement on her, that would be helpful. I would like to convey her name directly, put forward. Tomorrow morning, the Auction Proceeds is going to have a meeting. It would be nice to announce Anne as the successor of Marilyn Cade. Is there any question, any remark, any comment to that? Any other opinion? Okay, then let's accept that. I will put forward her name.

Good. Did I miss any point? Anything? Please.

JENNIFER TAYLOR HODGES: Just a question. I should preface, I am not volunteering. Could you take two minutes maybe to just explain the involvement as the alternate to ePDP? That is something that's vacant, right? In terms of time, workload, or whatever?

THOMAS RICKERT: It would be a few months of endless pleasure. In fact, when the ePDP call for volunteers was done, the expectation was raised that ePDP members should be willing to spend approximately 30 hours per week on this. Certainly, that is not necessarily expected from alternates. Just imagine, some other groups have entire teams supporting the members representing their SG, or constituency. They have additional phone calls, they write statements together, and all that. I understand that we can't pull that off.

I guess it would be extremely helpful if whoever volunteers to be the alternate could actually follow at least the output documents of the ePDP. Read through individual documents. I've presented some of those previously to this group. Read them and give feedback on whether something's missing, or whether we should propose additional things.

At the moment, we have one to two calls, with a duration of two hours for most of them, per week. Then, there are exchanges on mailing lists.

I understand if you can't attend calls, following things and reading output documents would be great to have some fresh eyes on the documents, and potentially replace us when we can't attend calls. For example, when I was on vacation it was just Fiona that could attend calls. We were down to one. If we both can't make it, we don't have anyone on the calls.

WOLF-ULRICH KNOBEN:

Thanks, Thomas. I do hope it makes it easy for you to come closer to a decision, and to a positive decision. We had several talks while here internally about that, and Thomas was coming up ... He's had missing fulfilment of that seat. It's critical.

On the one hand, we are seen as being very active, having very active representatives on that team. On the other hand, since we have this lack of alternate, this is something which we are approached by others, as well. "What are you doing here? What is your interest?", these things that are coming back.

At the time being, Thomas, I only can thank you both for this hard work, and doing this. Calls a week, twice, for two hours, or even longer, it's a hard work to be done. The additional work, as well. Thank you very much, for that.

THOMAS RICKERT:

One quick thing. We've had the issue in the past that the ISPCP was not in a position to really formulate policy positions on certain things. I think that the ePDP is not the only area of work in the ICANN community where this is true. The main theme for my or our participation in this is that we are looking for ways to keep the Whois data as accessible to those who have a good reason to get it as possible. At least, my intention is to be as liberal as possible, while being compliant with the law. It still might seem too restrictive, for some.

We've had a lot of discussions about GDPR, even in this group. You might remember that I explained some of the aspects of the GDPR domain industry playbook that [eco] authored. I was one of a team of six people that wrote that thing. Well, when we put it out almost two years back, everybody said, "You're so restrictive! You can't do that."

Bit by bit, letters from the European Data Protection Board and others have proven all the assumptions that we made, and they're right. So far, nothing in what we wrote way back then has been identified as incorrect. I do hope that even if we don't have mechanisms to bounce back and forth every micro-decision that is being made in the ePDP, that it's compliance, and be as liberal as possible. Those are the main principles. This is why I'm working with the BC and IPC colleagues on certain things that go above and beyond what others would permit in order to make those things work.

WOLF-ULRICH KNOBEN: Thanks very much, Thomas. It's always the same thing. The intentions are good and well-received. The confidence increases as we go further with the implementation, and understand what's going on. That's the only thing which is our ... Not concern, but is our request, and why we are discussing and trying to get closer to that, and to find ways. Thank you very much. Thanks.

The last thing is the next meeting. My suggestion is the next call, beginning of December. I think it's Monday 2nd December. Usual time is 15:00 or 16:00, I think. Chantelle knows exactly around that. She shall circulate an invitation for that. That's the next date. Phillipe?

PHILIPPE FOUQUART: Just a small point on the AOB. For those of you who weren't there with the meeting with the board, the question on DNS over HTTPS, I think the feedback we had was quite positive, I would say. There's certainly an interest more than this, and they were quite aware, I felt, of some of the positions which had been issued on the topic. I think there's going to be an avenue for more work on this.

WOLF-ULRICH KNOBEN: Thanks very much for that. With this ...

JENNIFER TAYLOR HODGES: Just back to the previous topic. Being well aware of how many calls you guys are on every week, if you two agree, maybe it would be good to just have one of you two on for five, 10 minutes on the December 2nd

call? Whether we have an alternate or not, it would probably be helpful just to have a top-level update from where we are here so that we can possibly be more able to provide feedback and help engage a bit more as a wider group. If that's possible. Sorry, not to make another ask, but it could be helpful.

WOLF-ULRICH KNOBEN: Pardon? It's very good. There's no issue to do that. With that, we're coming to a close of that meeting. Thank you very much for participating. Thank you for this whole day, for supporting me and the others for these meetings. Thank you very much, and we'll see you around. Thank you.

[END OF TRANSCRIPTION]