ICANN71 | Virtual Policy Forum – At-Large Policy Session 1: End User Participation in ICANN PDPs and their Role within the ICANN ecosystem
Monday, June 14, 2021 – 10:30 to 12:00 CEST

GISELLA GRUBER: Thank you very much. Good morning, good afternoon, and good evening and welcome to the first At-Large Policy Session, End User Participation in ICANN PDPs and Their Role Within the ICANN Ecosystem. I am remote participation manager for this session. Please note that the session is being recorded and follows the ICANN expected standards of behavior.

During the session, questions or comments submitted in chat will only be read aloud if put in the proper format as I've noted in the chat. I will read questions and comments aloud during the time set by the chair of the session. Interpretation for the session will include English, Spanish, and French. Click on the interpretation icon in Zoom and select the language you will listen to during the session. If you wish to speak, please raise your hand in the Zoom Room and once the session facilitator calls upon your name, kindly unmute your microphone and take the floor.

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notifications. Please speak clearly and at a reasonable pace to allow for accurate interpretation.

This session also includes automated real-time transcription. By clicking on the closed caption button in the Zoom toolbar, you can view the real-time transcription. This transcript is not official or authoritative. With this, I will hand the floor over to Sarah Kiden, ALAC member and moderator for the session. Thank you very much for your attention.

SARAH KIDEN: Thank you, Gisella. Good morning, good afternoon, and good evening, everyone. I hope you can hear me. I would like to welcome you to this At-Large Policy Session 1 on end user participation in ICANN policy development processes and their role within the ICANN ecosystem. The objective of this session is to explore the weight and impact of Internet end users on ICANN policy development processes.

We have a great lineup of speakers and panelists, including Roberto Gaetano who will talk about Internet end-user participation in ICANN. Then we have a panel discussion that's moderated by Hadia Elminiawi and the panelists are Goran Marby, the President and CEO of ICANN, Leon Sanchez, the Vice Chair of the ICANN Board, and Jonathan Zuck, the ALAC Vice President for Policy. We hope that you will find the session useful. So, without further ado, I would like to invite Roberto Gaetano to give a few remarks. Roberto, you have the floor.

ROBERTO GAETANO: Thank you, Sarah. So, I would like to have a short introduction on the theme by telling about the user participation in ICANN. I will follow up on an observation that Olivier made in the previous session, noting that in the multistakeholder models that are certain stakeholder types that are participating to ICANN meetings in the framework of their work and that are other stakeholder types where they are taking time out of their private life and volunteering. And, of course, for this second group that is essentially true for plain Internet users, the participation is a little bit more difficult.

And I think that this has been an issue that ICANN has been aware since the very beginning. Let me just quickly remind that when the DNSO Domain Name Supporting Organization was created in Singapore at ICANN1, then the constituencies had to be formed. And there were seven and constituencies for the DNSO foreseen. And in ICANN meeting number two, in Berlin, six of them were successfully formed. Those were essentially registries, registers, business users, ISPs and a couple of others, ccTLDs.

But we couldn't manage to form the noncommercial user constituency because the wide difference of opinions among Internet users made it impossible to reach a consensus in Berlin and that was reached in Santiago a few months later. So, since the very beginning, the presence of users is well known to be at a handicap versus others.

Then the next step was to have the general assembly of all people interested in the domain names and that was a further step, just to try to be more inclusive because in that general assembly, not only people

who were in the constituencies were allowed to participate but also in some way At-Large participant. And as a matter of fact, I was elected the first chair of the general assembly for the simple reason that I was one of those who were outside any constituency.

Then came the Carl Bildt Study. Again, the problem was, to ensure user participation, better user participation in the ICANN processes. And so, that we are talking about a study that started in 2001 if I remember correctly. Then we had the reform, the so-called reform that gave birth to At-Large. And again, I think that the first meeting with the full ALAC participation, the full 15 members of ALAC, including the ones that were elected by NomCom, happened in Montreal in 2003.

And so, when ALAC was created, we had only organizations that were not-for-profit organizations or user organizations that were allowed to participate. One comment of the critics of this was that, basically, all the constellation of users, the problems were not solved about the participation. But ICANN has punted the ball to ALAC who had to organize itself in order to foster participation of the users. The optimists on the other hand took the opportunity of finally have a voice, have an organized possibility to participate and rolled up our sleeves and started working.

What ALAC has brought was a wider and more diverse user participation. That was true since the beginning but then with a larger influence and participation by individuals, instead of only At-large Structures members, we have widened very much the number of

people who are participating in the policy development process—in the so-called PDP.

What is the situation today? We have a wide participation of At-Large members and basically plain Internet users. As Maureen has noted in the previous session, there are At-Large people that are involved in every plenary in this ICANN meeting. So, it is a very important—how can I say—constituent of the ICANN constellation. We have inside ALAC, we have different points of views and that is of great help for the diversity of the policy development process.

Let me just mention one thing. When we talk about users, there are two distinct classes of users. For instance, the domain name registrants and the interplaying users who are not domain name registrants. Those two categories have two different problems, for instance, related to the WHOIS. Related to—how can I say—privacy versus security issue. So, the question of making public most of the data about a), the registrant of a domain name and, consequently, most of the time of a website. And that is for who is using the website to know more about who is managing that. And on the other hand, to protect the privacy of people who have a website but could be facing different drawbacks—let me say this mildly—from authorities and/or wrongdoers who might not like the content of the website.

So in ALAC, we have those both at the represented. That made it a little bit more difficult for us to come to a consensus position. But in this way, when ALAC speaks, it provides a solid overview of what the At-Large

community thinks. And that's also reflected in the participation in the PDP, Policy Development Policy.

I'm not mentioning all the working groups where At-Large participates in the policy development but one, I have to. And it's the Comprehensive Policy Working Group that is a sort of an internal coordination about all the policy activities that At-Large members are engaging in. And that is a very important weekly meeting and sharing of information that makes everybody aware of what is happening in the policy and that supports, then, the ICANN multistakeholder model.

So, in summary, ALAC is, in my opinion, a fundamental element of the multistakeholder model. It makes it also global, because ALAC is global, and a little bit more equal than it would be without ALAC presence because of the way of allowing participation for people who would not have otherwise a voice in the ICANN process. I think that's it. That's all what I wanted to say. Of course, there's many more to say but there will be other sessions. Thank you.

SARAH KIDEN: Thank you very much, Gaetano, for giving us this history and background of end-user participation in ICANN and thank you for highlighting that diverse voices are useful in contributing to better policy processes. I believe it offers a good starting point for the panel discussion. Leon has now joined us. Welcome, Leon. So, now I will hand over to Hadia Elminiawi who will invite the panelists and moderate the session. Well, back to you, Hadia.

HADIA ELMINIAWI: Thank you so much, Sarah. And welcome to our panelists. Thank you for being with us today. So, At-Large represents the end-user community and by representing, we mean advocating for their interests as it relates to the use of the Internet, the services they use, and the functions they perform over the Internet.

So, end users actually establish a quick reaction loop to the policies established by ICANN. And policies that actually do not take into consideration end-users' common sense will not succeed. And so, for example, I would say if there are policies—if the end user thinks that their privacy is not taken into account, then they will not use the Internet. If they think their security is at risk, they will also think twice before using the Internet.

So, the reason of having this session and this discussion is to understand how end users impact ICANN's PDPs and decision making and also in order to try to explore what the At-Large community can do better in order to improve its impact and its participation in the ecosystem.

So, it's good today that we have with us Goran and he will be speaking from an ICANN Org perspective, and Leon, of course, from the ICANN board. And then we have Jonathan, who will be speaking about how At-Large can effectively gather opinion about the end users' interest. So, welcome to Goran, Leon and Jonathan. And I will start with Goran and

ask you, how do you see end users' impact on ICANN's PDPs and decision making from an ICANN Org perspective?

GORAN MARBY: Thank you very much for inviting me to this, I would say fairly important handle because I think it's extremely important to raise the questions you're raising. But I also think that it's good to remember that, from an ICANN Org perspective, we also look into the actual bylaws of this. And in short terms, you know this but sometimes it's good to repeat it. The bylaws more or less say that ALAC is the primary organization within ICANN for individual Internet users. ALAC should be considered to provide advice of the activities of ICANN insofar as they relate to the interest of the individual Internet users.

This includes policies created through ICANN supporting organizations, as well as many other issues for which community input and advice is appropriate. And the ALAC, which plays an important role in ICANN's accountability mechanisms, also coordinate some of our ICANN's outreach to individual Internet users. So, why do I say this? It's because if from my perspective, we don't take what ALAC says into account where we make decisions or the board makes decisions, then we're actually not fulfilling the bylaws.

So, but I would like to add to that question, is that, if you turned it around, how is ALAC, as a part of the ICANN institution, fulfilling its bylaws mandate? Over the years, I had with both Alan and then with

Maureen a lot of discussions when I sometimes even called up and said, "Hey guys. We need your input on this. Make sure that you're engaged."

I know we talked about the WHOIS system. I was very much engaged to make sure that we … Do you remember we didn't even have a process for handling GDPR so we invented one with the fantastic [inaudible] process, which was what … During that time, I actually called around to different [heads] and said, "We need your input. We want you to be a part of that," which included to make sure that the At-Large has a say within the structure of doing that.

So, I don't have … Don't [inaudible] it's a fairly big thing to be a representative of all Internet users of the world—5 billion, all of them—with all the enormous diversity that exists for all that Internet users. You have not an easy job and how do you avoid being hijacked? How do you avoid special interests going through your structure? How do you put in safeguards so just because someone has a strong voice and shouts a lot becomes the voice of what you represent? That's not an easy job at all.

My job, at ICANN Org, is to facilitate the discussion. And I think that I gave you an example of that, how we do things. One of the things that I have asked David Olive to do is actually something that maybe sometimes things—people start thinking about things at the same time because it's a need for them to be thought. And one of the things I asked David Olive to give a proposal to you and the board, how to—mechanically, how do we handle the ALAC advice? How do we formally make that process better so you know that how the board actually

handles your advice, which was this an important part of structure, in a better way going forward?

But I also think that we should continue to the discussion? How do we, as ICANN Org facilitate the work within your structure to make sure that you feel that you actually do represent the Internet users of the world? And how can we make sure that your job, which is built on volunteer work, is done in such a way that you feel confident—that you come up with an advice that have defined an opinion that is based on the needs of so many? I want to stop there but I got really inspired by the questions and I'm looking forward to hear what the other one says as well. Thank you.

HADIA ELMINIAWI: Thank you so much, Goran. And I think from your last sentence, how could we actually make sure that we are actually gathering opinions that represents end users' interests? And again, we specifically talk about their interests in the service and functions of Internet because sometimes people tell us, "You are representing four billion users. How can you know what this one wants and what this one likes?" And it's not about what someone likes to eat or not. It's basically about functions, and services, and how the services and functions can actually serve the Internet users successfully.

So, I will go to Leon and ask him also. To what extent does the board rely on ALAC's advice in making its decisions?

LEON SANCHEZ: Thank you very much, Hadia. Hello everyone. Can you hear me well?

HADIA ELMINIAWI: Yes. Thank you, Leon for being with us.

LEON SANCHEZ: Thank you, Hadia. Thank you for inviting me. It's always a pleasure to be here with you guys. As I always say, it's always good to be home. And if you hear a little bit of background noise, that is because I am at the airport about to catch a plane. So, please. My apologies for any background noise. But going to the question that you raised, Hadia, I would like to make a difference. So, you asked how much does the board rely on ALAC's advice when making decisions? And the other part of the question that I would like to address is how much does the ICANN Org rely on end user opinions or input to make its decisions?

And I made the distinction because I see there is a subtle nuance in differentiating both. Of course, the board relies on ICANN advice for making decisions, as Goran was saying and highlighting. Bylaws, we are obliged to take into account the influence that the ALAC remits to the ICANN Org to the [inaudible] submitted to the board during the policy development process. So, there are some of us … I cannot speak for everyone, of course, but there are some of us that do dive into analyzing the comments that come from the end user community in the different public comment periods.

So, I think that if you ask me how much does the ICANN Board rely on end user input, I would tell you that the end user perspective is at the very center of what we do at the ICANN board. And again, it's not only the ALAC advice. It's input that we receive from the different parts of end user community. [Inaudible] again, we might have input from end users in other constituencies as well. In the end, in some way, everyone ends up being an end user of the Internet so [inaudible].

HADIA ELMINIAWI: - that actually can demonstrate this but I will go now to Jonathan. And so Jonathan, here we have this big question. Do you think we have been successful in gathering opinions that represent the interests of the Internet users?

JONATHAN ZUCK: Thanks, Hadia and thanks for inviting me to be part of this session. I think it's just the beginning of a much longer conversation, obviously. And we do have a rather daunting task because as many have said, the billions of individual end users have a wide and varied opinion on a variety of issues. And we are tasked with trying to advocate for the interests of individual Internet users, as distinguished from business users, for example, but individual users. And so, I think it's a multi-tiered approach in some respects.

At the top of the list, it's a logic exercise. And I that that's okay. In other words, there's some common-sense component to what we do because individual Internet users are not necessarily an identifiable group of

people but really more like a bounded set of activities on the Internet. End user Internet activities such as making restaurant reservations or buying airline tickets or doing email, these are the activities of individual end users. And as Leon said, we are all those types of user most of the time in fact, right? And so, there's a logic exercise very often to try and identify what the interests are of individual Internet users and use that as the basis of our representation.

That said, the At-Large community itself is one of the most diverse and heterogeneous communities within ICANN. In other words, the predictability of those outcomes is a lot less than it is, say, within the Intellectual Property Constituency. And there's a real wide variety of voices, both in terms of background demographics and geography, within the At-Large community to help to feed that voice.

And so, the next tier, if you will, beyond logic, is trying to get as many of those people involved and aware of the conversations that we're having so that we know that we're actually engaging in some rigor, if you will, to obtain consensus within those even that are involved because we have such a broad group of people.

And so, we do use to CPWG meeting. We use our LISTSERV for a lot of conversations. I would really love to use some better consensus building tools that would even allow for greater participation by broader aspects of the community. It's often difficult to sort of take the temperature from the email list, compared to doing a poll or something like that on a call. And so, we continue to try to figure out the best way

to gain an understanding of what the temperature of the room is with respect to emails.

At the next tier, we've actually done some polling in order to sort of drill deeper into an issue. One of the best examples of that was on the issue of geographic names because as we had our own conversations that began at an ICANN meeting, it was clear that the opinions of the At-Large participants of the meeting were all over the place and that we didn't have a consensus position.

And so, we developed a video kind of explaining the basic issues behind geographic names and then formulated a survey that we then had the RALOs push down to the ALSs etc., to try and get as much feedback back as possible from as many—what shall I call them—ICANN aware participants to gain a sense of what folks felt around the world on the issues of some of these geographic names.

And we have as a challenge, I think, the same challenge that ICANN as a whole has, which is trying to figure out how to boil issues down to something that's digestible by people that haven't made participating in ICANN into a second job, right? Even the business community, I think, has a challenge of trying to get wider feedback than the standard constituencies because of the complexity of the issues that we put forward.

And so, in the case of geo names, we boiled it down to two different issues. One was like, what level of protection did we think were necessary? How deep into the 11 million geo names should that

protection go? And the other interesting question that came up as we discussed it is, were we more concerned about the rights of government and sovereignty or more concerned about communities, indigenous communities and others and what their interests were in the geo names?

And it was some interesting results. It turned out that we, while there are those who are very aggressive in their desire to protect geo names within the At-Large, it wasn't the majority of you. And while there are those who are staunch advocates for sovereignty related issues, it turns out the majority were more concerned about community. And so, we learned some things, even by doing some polling into our own membership.

Finally, we have an out-of-budget request that we made to do a pilot project of polling through a professional pollster with a random sample and the other sort of rigorous techniques that those firms use in the next fiscal year. And so, we're just about to embark on the process of figuring out what that pilot should look like and what kind of a question might we get a decent answer from a survey of people that most of whom are unaware at all with some of the issues that we address. And that again, will come down to asking questions in such a way that they're able to relate it to their day-to-day activities, as opposed to the work of the CPWG. So look forward to that.

But we continue to experiment with getting deeper and deeper into this population, if you will, of individual Internet end users to try and understand their interests and their behavior because sometimes their

behavior dictates their interests more so than their answer to questions about topics that they hadn't previously considered.

So, I guess I'll leave it there. We hope that through number and rigor, is how we deal with the issue that Goran mentioned in terms of takeover. There have certainly have been takeover attempts inside of the At-Large by [inaudible] in the ICANN community. We have an open door policy. But I think our numbers help to squelch the efforts of one or two people that are trying to sway the group in a particular area.

I actually think that the public comment process has historically been much more susceptible to that type of campaigning than the position around the process within the At-Large. And I think that some of the coming modifications to the public comment process will go a long way to address that. If that's helpful, I'm happy to talk about it further. Thanks, Hadia.

HADIA ELMINIAWI: Thank you, Jonathan. And so, I will move—

GORAN MARBY: [That is] if the ICANN President and [inaudible] is very, very serious when it comes to impacting the outcome of your opinions. And I really have to debate you when you asked my opinions about something. We talked about WHOIS earlier. I've been engaging with you guys and telling you how the law works and the structure and [inaudible] and all of those things. But my job is also whatever results you come up with,

I'm going to defend it because that is the structure. So, it's hard for you to ask me what I think you should do better because that reflection—the responsibility of that reflection—lies within your mandate.

With that said, I have a great [inaudible] Maureen talks about that you should make more advice. I'm not surprised when I heard something about [inaudible] because I said that ICANN is 80% bureaucracy and 20% insanity. And we have structures and the community has come up with those structures because this was a way to do our business, transparent with the accountability and predictability.

And you have this in the bylaws. You have this special status with board representation, the possibility to give advice. And advice is with a big A. The board has to take that into account. I think that that is something that you should not forget about. Use the structure. One thing that we talked about before about before many times is also this notion of ICANN, as an institution, is a technical organization [inaudible] based around our work that IANA is a part of ICANN. And that gives us a context of what we do. And that gives us a responsibility and obligation.

And I think that the public interest part—to talk about what is the ICANN part that in public interest, sometimes gets caught in all this bureaucracy. So, I hope that I don't say too much as an idea but incorporate more about public interest parts and I think it's going to be easier not to end up with two different positions. Because the public interest should be at the heart and soul of everything we do because it's sort of the existence of ICANN.

Remember that every time anyone goes online, regardless of which time and which device, they actually hit upon something that starts with ICANN. And your responsibility is to represent the ones who are not represented. Evolution is always going to be something that we talk about during this. But the public interest part of that, I think it's … I personally think it's one thing that should be a concern for everybody.

HADIA ELMINIAWI: Thank you, Goran, for that. And for sure. So end users' participation counterbalance the effective participation of the private sector and this is certainly to the public benefit because it ensures competition and freedom of choice. And speaking about the structure, the structure certainly works well. And what we're trying to figure out, what can we do better within this framework—within this structure—because this is one thing that I think we all agree to, that this structure does work.

I will go now to Leon, if he can hear us. And so, I would ask you the same question. What can At-Large do better in order to have an impact on ICANN board of directors' decisions? Leon if I may, I just see a hand. Jonathan has his hand up. Jonathan, please go ahead.

JONATHAN ZUCK: Thanks. And I guess it's related to Leon's comments and so it makes sense to add to [inaudible] in the interest of individual Internet end users. What are the circumstances under which we would enact that policy anyway? I know it's a fantasy.

LEON SANCHEZ: It's a very hypothetical question.

GORAN MARBY: Can I … ?

JONATHAN ZUCK: It is but when you talk about the board being put in a position of trying to balance those interests, it feels like there's something else being discussed in a way because if you knew that those were the interests of the individual Internet users, do you feel that the board is still in a position of having to balance those interests? Goran, I think we should hear from you as well.

GORAN MARBY: Leon, may I be so impolite?

LEON SANCHEZ: Do you have a question? Yes, sir. [Inaudible].

GORAN MARBY: Jonathan, I think that you're basing the question on a foundation that doesn't exist. So, let's first of all go through how a proposal for a PDP ends up at the board because that goes through the multistakeholder model that defines how we do things, where At-Large, for instance, often nowadays—which I congratulate you to—participates in the

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actual PDP. And then the GNSO Council, through its processes, decides on that one. And already at that point, there are many viewpoints taken into account. And sometimes At-Large agrees with them and sometimes At-Large doesn't agree with them. You definitely have been a part of the discussion.

And then sometimes you even lead that with people and then I look at the next round. You have very smart people participating in that. Or ATRT2—R2D2, as I call it—was very much done from people from your structure as well. So, it ends up with the ICANN board. Through the public consultation processes and all of that, the board has a pretty good view on the different parts of the community. And then you can comment in the advice about things that you might agree or don't disagree with.

And the board's role in that is … Yes, if the board doesn't agree with the recommendations from the GNSO Council, the board cannot make their own policies. That's not in the process. What it has to do is to bring it back to the GNSO. And you've seen that happen when reviews have been—where we've seen that recommendations have been wrong. You, Jonathan also know that … Let's take reviews as an example. What is it? 14 of the CCT review recommendations we actually have passed on to the GNSO Council because that's not something the board can act upon.

So, the board in ICANN doesn't have this, I would say … And you know this. I'm not trying to tell you how this works, just for the broader conversation at this group, that the board doesn't have that role within

the ICANN structure that you might think it has. It's not the single provider of making big decisions in the end. Yes, there's a great responsibility for the board but the multistakeholder model is built around a lot of structures to make sure that the board doesn't go and do what they want to because they are prohibited to make policy, for instance.

So, I want to add that to the conversation. That's why I agree with Leon that the discussion is not even a hypothetical question. I would say it's a question that doesn't exist in the ICANN framework. So, I'm debating you Jonathan, which I think very strangely at 2:30 in the morning. But maybe again I just misunderstood you because it is 2:30 in the morning. If I did, I'm really—

HADIA ELMINIAWI: So, Goran, I think what we can take from what you said that actually leveraging the structure is the key to enhance At-Large role. So, we need to make maybe a better use of this framework or structure and our position in it. So, Jonathan, can I go to Holly and then come back to you?

JONATHAN ZUCK: Of course.

HADIA ELMINIAWI: Thank you. Holly?

HOLLY RAICHE: Jonathan, it's one role I think I'd like to highlight and that is ALAC as translators because we go out into the community. Now, being part of the ICANN community, we gain a real understanding how things work. We're possibly not always aware of it. But just using the terminology, just listening to, heaven knows how many meetings, you get an understanding of how things work about what the real issue is in, say, a policy document that for a non-ICANN person would be opaque at best.

And our job is also therefore to translate back into the community, "This is the implication of what's being talked about," in their own language and then, in talking about the implication of that, bring that back. I just see that as something that kind of explains a little bit more of what we do and why, in fact, we can be seen as I suppose, the conduit for community input because we've actually been able to explain to the community some things that actually haven't been necessarily clear. Thanks.

HADIA ELMINIAWI: Jonathan, would you like to follow up?

JONATHAN ZUCK: Sure. And thanks, Holly. That's a good point. And thanks, Goran for the reminder about the role of the board. I think that's very important and I think sometimes the community sometimes abdicates its responsibility to form consensus and sometimes lays the role of

Solomon at the foot of the board when it shouldn't, right? And so, I mean, I think that there's a real responsibility in the community to prevent that scenario just as much as the board. So we definitely have to take that responsibility.

And so, I guess separate from the mechanics of that, which is that the board feels as though a balance of interest has not been reached and therefore needs to send a policy decision back to the community to address … If we say that that is the role of the board, what are the circumstances? And this is a question for Leon and also, Göran, because you straddle, in a way, the Org and the board by participating in both and see them operational.

But what is the context in which ALAC advice that's contrary to a GNSO policy—even one we've participated in but then got outvoted for example or something—what is the context in which specific advice on GNSO policy to reject it and be readdressed is not taken up by the board? What is it we should be doing differently so that if we see something is happening in a GNSO outcome, that the board does bounce it back, if you will, the GNSO to do a better job of finding that balance of interest? I don't know if that's clear or something like that. I don't mean to overestimate the value—the importance of the board but I don't want to underestimate it either.

LEON SANCHEZ: Thanks, Jonathan. I am not clear about the question here. Could you try to reframe it, please?

JONATHAN ZUCK: Sorry. Yes. I guess it's a little bit convoluted. Max, in the chat—I know you're not on the chat—said that, ALAC does not have a veto right in the GNSO process and that's exactly right. We don't have a direct veto right, although there are some who in some respects do have a veto process within the GNSO.

I guess the question is, if the ALAC, in its advice, suggests that the GNSO has not reached a balance of interest that sufficiently incorporates the interest of individual end users, how better to motivate the board? Is it through consensus? Is it through better explanation, documentation, surveys? How better to harden your understanding that our advice is in fact reflective of those end user interests, such that the board would be motivated to ask the GNSO to readdress something that they may have reached consensus on too quickly—something like that. Sorry.

HADIA ELMINIAWI: Maybe Leon can give us a practical example.

LEON SANCHEZ: If I'm getting it right, what you mean, Jonathan is what it would take the for ICANN board reject GNSO policy in light of ALAC advice. Is that correct?

JONATHAN ZUCK: Basically. Yes.

LEON SANCHEZ: Okay. Well, again, as I started my answer in the first place, I think that's a very hypothetical situation that we have not been faced with to the best of my knowledge so far. And I mean if the board wants to reject GNSO policy, then there is a process here in the bylaws for that. And that could be not only because of ALAC advice but because of many situations.

So, if we hypothetically take this down to a situation in which there was evidence or—I don't want to use the word [controversial] because of course it will be [controversial]—but irrefutable proof that a GNSO policy would go against public interest and that would be in line with what the ALAC is advising the board, then certainly the board, I think, under that type of [inaudible] situation would be going back to GNSO per the established process in the bylaws and have the PDP review. But other than that, I can think of concrete examples which we could apply that hypothetically situation, Jonathan.

HADIA ELMINIAWI: So, thank you, Leon, for this answer. And I will leave you to think about a practical example where actually demonstrates that the board did take ALAC advice input into consideration when making a decision. But Alberto Soto had his hand up so, Alberto, if you still want to speak, please go ahead. Alberto?

ALBERTO SOTO: I'll speak in Spanish.

HADIA ELMINIAWI: Yes, please go ahead.

ALBERTO SOTO: I heard some things and at one point in time, we had a discussion with Fadi Chehadé because he said we are all end users and that's true, we are all—

JONATHAN ZUCK: Set up the Spanish channel so the translator can … The translators don't seem to be translating.

SEBASTIEN BACHOLLET: Jonathan, you need to—[inaudible] to hear in English. If you are not in the English channel, you will—

ALBERTO SOTO: I am on the English channel. Can you hear me? I'll speak in Spanish channel. Can I continue?

HADIA ELMINIAWI: Yes. Please, Alberto.

ALBERTO SOTO: Can I continue?

UNIDENTIFIED MALE: Can I settle with my staff what's happening?

HADIA ELMINIAWI: Yes.

UNIDENTIFIED MALE: Because I didn't hear any translation as well.

HADIA ELMINIAWI: So, Alberto if you … So please, try again, Alberto?

ALBERTO SOTO: Can you hear me? Can you hear me on English?

SEBASTIEN BACHOLLET: Alberto, you need to choose your language—your own language—because perhaps you are not on the Spanish channel. That's why we are not listening to you. To the right, you need to select your own language, the Spanish language. You need to try to help in the other language. And if you want to try me in French, I can do that when you want.

ALBERTO SOTO: Can you hear me? So, I'm not taking the floor. So please, Sebastien, go ahead.

UNIDENTIFIED FEMALE: - we figure out Alberto's situation. Thank you.

HADIA ELMINIAWI: Sebastien?

SEBASTIEN BACHOLLET: Thank you very much. I'm going to speak in French and I hope you can hear me on the English channel. Can you hear me, Hadia? Can you make a sign if you hear the interpretation?

UNIDENTIFIED MALE: This is embarrassing for me, to be honest.

SEBASTIEN BACHOLLET: Sorry. I will do it in English. I guess the translation problem is from one other language and English but the English is translated in French and in Spanish. But I will go in English.

HADIA ELMINIAWI: Vice versa, as well, is not working so if you can proceed in English, Sebastien, thank you. Sorry for that.

UNIDENTIFIED MALE: Sorry for that, Sebastien. I owe you a glass of wine.

SEBASTIEN BACHOLLET: Yeah. No. I don't drink wine but I will be happy to doing something with you, even if you don't owe me. It's a live system and that's okay. I want to just to say very few things and not speaking too quickly. The first one is that, I see … And it's very interesting that from when, I guess, from Roberto Gaetano was on the board of ICANN and when I was on the board of ICANN, many things have changed, for part in the good for the transparency of the board activities. And for some, not yet at the right level for the voice of end user within the board.

But one of the questions we are discussing here, I think it's important. It's that I think it falls, the discussion we need to have, within two processes. One is the multistakeholder model within the process of discussion and is the other one is a bylaw-mandated ATRT3 recommendation where ATRT3, with the agreement of the board, is asking for holistic review of ICANN.

The one done holistic review was in 2002. Therefore, we have almost 20 years not reviewing globally and we had the transition of the IANA stewardship that was also a very important point. Therefore, I think that this discussion could fall into these two tracks and it will be good to have the voice of all in those tracks. Thank you very much.

HADIA ELMINIAWI: Thank you, Sebastien. And yes, this is useful and this is what we need to focus on. How can we actually make better use of the structure and the framework and the model that we have in order to have this bigger impact that we are looking forward to? And Goran, do you have any comments?

GORAN MARBY: What Sebastien made a lot of sense to me because we often have this discussion and more and more … I sound very bureaucratic when I talk about the structures, and the processes, and all of that. Not my intent but that's respecting the ICANN community who actually set up the structure. The way we work together in the ICANN institution is something that we collectively, or you collectively, decided upon. And until you change it, I'm going to be the guardians of it.

But I agree with Sebastien. Maybe there is some thoughts to do, how to do this better because I see this … Maybe it's just so easy that we've forgot some of those. And I can see Olivier suddenly, lying on a beach. We see, for instance, coming to the board a lot review recommendations that definitely doesn't belong at the board. Like I mentioned with CCT review, 14 of them, we had to pass over to the GNSO because they belong in the multistakeholder model and not with the board. We see that in other reviews as well.

And then we enter this dialogue. We start talking about it. What is the remedy and such? And I think that maybe leaning on what Sebastien said, maybe we should have more conversations about the structure

because the structure, I think, is there for transparency, for accountability, for predictability and also to produce a result, if the result's to be reached. Because not every …

One of the things with the structure is also that it should be very, very important for ICANN to engage as an institution. And yes, it's hard. Not every … Because the impact of what we do is so big, it should only be the fundamental changes we actually do something about because the important ones that we should do. So, I find myself, as often, to agree with Sebastien with a lot of words.

HADIA ELMINIAWI: Thank you, Goran. So, Alberto, would you like to try again? The translation is now working.

ALBERTO SOTO: Okay. I'll try speaking in Spanish. In some part of the word, we discussed with Fadi Chehadé about end user. And he used to say that we are all end users and I told him, yes, of course, but we have some differences. An ISP for example, has a commercial interest and that is different from the interest of an end user who has no knowledge about this. And we are focusing on them because we do have knowledge to defend ourself and to create PDPs.

So, how can we improve ourselves at ALAC? I'm going to give you a brief example. At some point in time in LACIGF, we had two speakers. I was talking about end users at that point in time. And they told us, "Okay.

That's good. We would like to be part of your team, of your region." And then the representative of that ALS came to me and they were members already. And they came to me asking me how to participate but they didn't know that they did belong to an ALS in LACRALO.

So, this means that the bottom op system is not working well. The LAC members, the ALS representatives are not the contact point. We have to go even deeper and see those who have issues. Sometimes, for example, they told us we have connection issues. That is not the only issue that they have. Sometimes they have net neutrality issues or sometimes we know that they do not have a DNSSEC implemented and this has a very strong impact on end users because this is translated into security. So, this means that the bottom-up system is not working very well and we need to reach end users in a better way—to those who have no knowledge to defend themselves. And in that way, the bottom-up system would be better and would be useful to create PDPs. Thank you.

HADIA ELMINIAWI: Thank you, Alberto. And indeed you highlighted one more point on how to actually make better use of the system. And you pointed out the bottom-up system, it needs to work better and definitely outreach is crucial. So, and again, I guess, this also has been recognized by the At-Large community and for that to have been where we've seen a change in the bylaws of the RALOs, where now you have individual users and not only the ALSs. But again, maybe that's not enough and that's an area definitely that I think also we need to focus on. So, it's good that

we start identifying which parts need more attention so that actually At-Large can do what it needs to do better.

Jonathan, I'll come back to you now, again, in relation to At-Large's role and how can we do things better.

JONATHAN ZUCK: I'm sorry. What was your question to me?

HADIA ELMINIAWI: We heard different interventions from Sebastien and from Alberto. And so, do you have something to add in relation to At-Large's role and how can we actually work—which parts of the model needs special attention from us so that we can have a better impact? So, how can we make better use of the structure and which parts need special attention from us to improve so that we can improve with it?

JONATHAN ZUCK: Thanks, Hadia. There's lots there. I think that there's always more that we can be doing in terms of forming consensus and sticking to it. I think sometimes we fall into the trap of just bringing a lot of disparate voices to the discussion. Not to disagree with Holly but I feel like our opportunity to impact decisions within the ICANN community are negatively affected by those instances in which we haven't reached consensus, in which we're representing multiple views, because in those contexts, it's not easily to identify what the interests of Internet end users are. So, I think we have a responsibility there to form

consensus and then to all speak from that consensus as much as possible, both in policy development and in our advice and in the hallways and everywhere else.

I think the second area that we can always be improving is that virtuous feedback loop through our RALOs and ALSs so that even among our own aware participants, we're making sure that we're getting as broad spectrum of input prior to reaching consensus as we possibly can. And then finally, I hope that our ability to be a vehicle for doing research in the form of polls or behavioral research on the part of the Internet using public can be successful and expanded upon so that even more, so we come prepared with a strong as possible notion of what actually are the interests of these individual Internet end users.

HADIA ELMINIAWI: Thank you, Jonathan. Goran, I'll go back to you and also ask you the same question and maybe you have some comments in relation to the discussion?

GORAN MARBY: I have so many here. But Avri said something/ I want to highlight something. Sorry, Avri, for first pointing at you. I'm probably now going to misrepresent what you said in the chat. I'm going to go back to the public interest. And I think it goes to the, I'm much more … First of all, I'm an optimist when it comes to multistakeholder model and how it works because I see it works all the time. Where I hear people complaining about the model is when they complain about the model

where their point of view was not accepted by others. That probably sounded more frank than I wanted it to do but often that's if you can't get what you want to [out of] the processes.

But I want to go back to the … What Avri says there is important to me because the better the advice is, the better it is for everyone [inaudible], not only about the board. And really to take in and have a good motivation for the public interest is very important. So, I think that maybe that's something that could be enhancement of the working [model] because that also makes it … I think that becomes a benchmark for how we do things.

I see At-Large impact. I see it in the PDPs. I see it at the board level. I see At-Large impact a lot and I think that's positive. So, maybe I'm defining the problem slightly different. If the problem is that you can't reach an agreement about something, maybe it's really so that it shouldn't be something that you've agreed upon because there is no common position. And should we make decisions about things that is not a common position? Is that what ICANN should be doing? That would be much more easy to hijack us.

So, I'm going to stop there before I just continue my ramble about it. But have a look at Avri Doria's post in the chat. I think that summarizes what I'm trying to say much better way. Sorry, Avri for copying you.

HADIA ELMINIAWI: Thank you, Goran. And thank you, Avri for your comment. So, we have a question here in the chat. Could you read it, please? It's from … Yeah,

here. So, it's from Pablo and Pablo is saying, "To follow up on Mr. Zuck's question, according to the GNSO, a position where only a small minority disagrees but most agree … What if most working group parties do agree but there is still this small minority of the ALAC members who disagree? Can it be considered as a consensus decision that can be adopted later on by the ICANN board?" Jonathan, would you like to take that?

JONATHAN ZUCK: Me? Maybe. I don't know if I'm the most qualified.

HADIA ELMINIAWI: It's for you.

JONATHAN ZUCK: I don't know. I think he was just following on something I said.

HADIA ELMINIAWI: Yeah. It's just a follow-up on your thought.

JONATHAN ZUCK: I don't know if he was asking me that question but I think it's a difficult one because, I guess, what I was trying to get at is whether, in fact, it is possible. And I know this becomes hypothetical but is it, in fact, possible for the individual Internet end users to in fact be a minority view? And that's what I was trying to get at because to treat the

representatives of those interests as a minority, I think is in and of itself problematic. And that's the question we have to get to. So then, it becomes a question of credibility or structure at that point. So, I think that the answer to the question is somewhere in there but I'm not positive.

HADIA ELMINIAWI: Okay. Thank you, Jonathan. Cheryl, please go ahead.

CHERYL LANGDON-ORR: Thanks very much. I'm hopefully going to pick up what Jonathan was referring to and what Maxim was also referring to in chat. And just to respond to the question then. There are very clear guidelines about how one designates a degree of consensus or not and what we call consensus in the GNSO policy development process guidelines. What Jonathan is referring to is the ability for the At-Large community, through our various processes—and one of the key ones, of course, is CPWG process that goes on … Shall we be able to declare a consensus or even a [bifurcated] view? Don't want to argue that.

But regardless of whatever that is, consensus or otherwise, that with the power of that ground-up, bottom-up influence, that the ALAC then can take that material and give advice to the board but should have carriage and influence. That is a different situation to influencing the consensus designation of a PDP, whether it's in ccNSO or the GNSO. So, we've got to be careful we don't mix up our issues here.

But what is important to recognize is even if the participants of let's use, for example, a GNSO PDP, have not been influential enough, have not been able to carry their argument with sufficient power and influence to have the majority of that PDP Working Group agree with them and so it doesn't make a high degree … And there's a bunch of levels of consensus according to GNSO. Wait a minute. That—

HADIA ELMINIAWI: Cheryl, I just wanted to say that it's two minutes past the hour. So yeah.

CHERYL LANGDON-ORR: You shouldn't have given me the floor.

HADIA ELMINIAWI: Please wrap up. Thank you.

CHERYL LANGDON-ORR: We always have the opportunity to give, as members of the PDP, a minority report. Sorry. I wasn't watching the time, Hadia.

HADIA ELMINIAWI: Thank you, Cheryl. This was actually very useful. Thank you for your intervention. And so, we are three minutes past the hour. Thank you so much for this discussion and for this session. Thank you, Goran, Jonathan, and Leon, and to all the participants. And hopefully we can

arrange more discussion sessions like this one. Thank you and this session is now … I'll hand it to Sarah to close.

SARAH KIDEN: Yeah. Thank you, Hadia and thank you everyone. This was a very good session. We've run out of time. So, I think it's a conversation that we have to continue having because I feel that this is … It feels incomplete, really, in my opinion. So, I will hand over to staff for conclusions on the next session and thank you everyone for joining us.

CLAUDIA RUIZ: Thank you all for joining the call. This meeting is adjourned. Please enjoy the rest of your day. We can now—

[END OF TRANSCRIPTION]