

**ICANN Cartagena Meeting
GNSO Meeting with the ICANN Board
TRANSCRIPTION
Sunday 05 December 2010 at 1430 local**

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Man: ...let an application go through the entire process and be approved or rejected without having to have 21 randomly selected members with randomly selected skills than an incentive of us here debating the separation for each and every one of them.

So, it was a bit worrying when one reading of the recommendation of the working group seems to suggest that the Board would absolutely have to consider each and every single TLD separately - individually, and at length. We would much rather be in the position where if the Board discovers that process has gotten so clear - it has done something so clear - bizarre, the Board has the overarching authority to step in. Of course, the Board is responsible - has fiduciary responsible - responsibility for ICANN separation - to separate. We are responsible, but we do not want a situation where we are forced to intervene on each and every matter, no matter how obvious the answer is.

Man: ...very much. Mary.

Mary Wong: Thank you (Harold), and again please jump in, other members of the Council and the working group, on this speaking. That clearly was not the intent, and I think the reality was that the expectation is that the number of disputes of this

nature, they would escalate into the phrase dispute resolution are not likely to be large.

But having said that, I think the fundamental consent - going back to what I said earlier is that when the Board consults the experts, and in this regard, let's separate out the question of which center - which provider is being used. So let's just say experts are brought in, that when the expert decision is rendered one way or the other, that the Board would at least deliberate on that decision, and in its deliberation, decide whether to accept the recommendation or advice or not.

Again, our expectation is that it probably is unlikely for the Board to go against the recommendations or advice of the experts, but I think the community would like to at least see that there are those deliberations upon receipt of the decision of the experts, if that's helpful.

Man: Thanks, Mary.

Dennis Jennings: Thank you. Dennis Jennings here. I think we need to look carefully at the role of the Board. And, the role of the Board in my view in this regard is an oversight role. It needs to oversee the process and to ensure that the process is being carried out carefully, correctly, and completely, and if so, to approve the outcome of the process. It is not to relitigate, to reopen, to rediscuss the merits of the case, because that isn't - the Board doesn't have the expertise to do that. But, it is to oversee the process.

Man: Thanks very much. (Rita).

(Rita): That Avri (unintelligible).

Man: Okay. Fine. Avri.

Avri Doria: Thank you. Speaking as someone who was a member of the group, and I think I wanted to respond to the two issues dealing with the Board having to review every proposed TLD or the Board is only in the oversight mode. I think on the (Rec 6) issues, there was sort of a threshold concern that when a decision was being made of something that was actually a form of restricting expression - it wasn't just that practically it didn't work, (unintelligible) wasn't right, or there was a technical or financial issue. It was specifically objecting to language. It was specifically restricting on that basis that that kind of decision rose to the level of only the Board being in the position to make such a decision.

Now obviously, there was the recommendation of the jurist that said that. But when something - and no one expects there to be any, let alone very many that rise to that level. But if it comes to the point of sort of saying this language must not be used in a TLD, this string is against the principles of international -- and we've been told by international law -- then that's something that can only come from the ultimate authority. It's not a due - was the process followed correctly? It is a monumental decision. It is a huge decision, and that's why it was a Board level decision. Thank you.

Man: Thank you very much, Avri.

I would ask people speaking at the open mic to identify themselves before they speak, please. Dennis.

I'm sorry. I forgot. (Rita).

(Rita): Jennings is always trying to take my spot.

So, I just want to maybe level set where are as a - at least myself on the Board in respect to this (Rec 6), because I'm a little confused. This was probably one of my least favorite -- as an attorney -- recommendations, and I can remember having many discussions with (Susan Crawford) and (Peter). How do we understand what is offensive to morality on a universal basis, right? I come from America, so we've all seen the terrible movies where you know sex, drugs, and rock and roll are king. But if I went to Iran, I suspect it would be a different story.

So, I think that in looking in the early days at this recommendation, the Board was trying to be as objective as possible, right? Because, we don't want to have applicants confused about what the standard is to have a TLD that's accessible. So, we sent staff to look at is there an international standard that we can try to judge this by? And, we came up with what we think is as objective and far reaching as possible. So, that was the first protection to make this as objective as possible.

The second was how do we have an objective entity make this decision? We've all seen what's gone on with XXX, right? To me that's almost a (mop) issue. Though is this offensive to a certain community? We know we've all gotten issues around that, and there was a debate about that. So what the Board said was we want to have an objective standard and we want an objective body to view this from both a legal perspective to protect (an organization), but also to make sure that it's fair and universally applied.

So, that's I think where we've been coming from on this reductive to discussing this part of the (Rec 6).

Man: Thanks very much. Dennis.

Dennis Jennings: Having done that oversight, the Board then ratifies the decision. The Board decides yes, but it doesn't relitigate. It doesn't debate. It decides.

Man: Christina.

Christina Rodriguez: I just wanted to note in the event that there is any uncertainty on behalf of the Board, that the GNSO Council has not yet taken any action to endorse the recommendations that came out of the working group (unintelligible). I just wanted to avoid any uncertainty on (unintelligible) where we were as a Council with that.

Man: Thanks. (Mike).

(Mike): Thank you. (Mike) over here. I think the Board is pretty clear that ultimately, we have to take the responsibility for decisions good, bad, or otherwise. And so, it's not our intent to relitigate. It's not our intent to go through our own analysis when hopefully better qualified than ourselves have been through that analysis. But, we will be not simply rubber stamping somebody else's decision because from a pure fiduciary responsibility, that would not be sufficient to (unintelligible) the requirement that as Directors, we exercise our abilities in the best interest.

That being said, I have a concern around (Rec 6) which is not about matters that are necessarily generally offensive. I think we clearly understand that when it comes as (Rita) was saying to sex, drugs, rock and roll, that may be very appealing to some people, offensive to others. And those generally are issues around which people can express their views.

To me, the issue is also for example, if somebody was motivating (unintelligible) gTLD which was offensive to a particular religion because it

specifically opposed that religion, I don't think that there would be any question. A bigger concern in my view is what we do when the promotion of certain cultures or religions would offend other people. So - I'm trying to think of an example that won't offend one particular constituency, or maybe thinking of a constituency that I don't mind offending.

I think that the current (Rec 6) process would handle any sort of racist remarks, but it doesn't necessarily deal with the question of .Nazi. If somebody wanted to register .Nazi to promote their particular views and their particular approach, and to bring content of that type under a single heading, I think that's something that we have to be more careful about, even more so.

Because, some names which are promoting a very valid community may be offensive to another grouping, and so offensive that that grouping might not be actually in a position to raise an objection. That's one of the questions that hasn't been adequately dealt with, which is where we are getting push back from the GAC in particular, which is how do we deal with the objection process? They have raised one issue which is the cost. To me, it goes beyond that, and that how do we deal with a community who cannot actually come up in public and object to a name because they don't recognize the existence of that community?

Man: Thanks very much (Mike). Any further comments on this topic?

If not, I suggest we move on to the next challenges of the new gTLD process. And, I'm also interested in talking about the outreach activities done so far, and I'm curious to know what the Board's feeling on those are. I'm not sure that actually, we're all very clear on what outreach activities have been done, but I was certainly curious to know what the Board felt - or was expecting in terms of outreach, and that might obviously become a lot more important

going forward as we move towards the final Applicant Guidebook, and then we have to start the communications period.

So, (Bruce).

(Bruce): Certainly, I think the Board, like the GNSO, is very keen to ensure that (they make) the best of the budget we have available for communication, and it is a limited budget. And, I think the staff would appreciate any ideas and ways of using that budget most effectively. You could probably spend it all in you know two full page advertisements in one of the big national newspapers in the world and then it's all gone (unintelligible). One of that is which direction to use the ICANN community itself.

Now (unintelligible) materials, and those materials can be used widely (unintelligible), and obviously, one (unintelligible). And, we've got quite a network already.

The other thing which comes back to the point around what we wanted to measure, or what do we want as the outcomes of the program. How do we spread that thin (unintelligible) out to additional projects? You could say that the US for example was already well informed, and so you don't have to spend any money because the industry has done such a great job already that nobody (unintelligible). But, should we spend the money in Africa and Europe in the US? Or should we spend the same amount in each geographic region? Those are some questions that really, you need to know what your (niches) are. What are we expecting to get out of the program? Is it okay that we only get applications out of North America? If that's (okay), we should spend all our money on (unintelligible).

Those are the sort of things I think (unintelligible).

Man: Thanks. With respect to what you're expecting or what helps you might want from the GNSO on this. So if I understood what you're saying, individual groups that make up the GNSO obviously are able to have contacts and ideas, and you're looking for ideas in that regards. Is that correct?

(Rob): Green button.

Yes. First is - thank you very much for the question, and clearly communications is very important on such a large potential program. There has been some communication up to the present. It's been limited in part because the Board hasn't made a decision on the timing of launching the program. I think there's a tentative four month schedule for the formal communications plan globally, which definitely will be an international effort in all five regions.

We will need help. The officer - you know, or the Vice President in charge of this (unintelligible), our Vice President of Communications, and she and the group are actively working on preparing for that. They will definitely need community support.

We appreciate the gestures we've received already, and offers for assistance. If you have additional ideas, please feel free to submit those to me or to (Barbara), or to other people. But, we're going to need your help. It's a large world out there, okay, and numerous parties that could be affected. Obviously, ICANN's operating in 240 countries and territories, so we really would appreciate your help, both in terms of suggestions and which parties might be interested you know in assisting in that program. But, we take it very seriously and that has been under development for some time, will continue to be.

And thank you again for the question.

Man: ...very much (Rob).

Marilyn.

Marilyn Cade: Thank you. My name is Marilyn Cade.

Man: Oh sorry, but - can I get to you next, (Mike)?

Thanks.

Marilyn Cade: My name is Marilyn Cade. I'm the Chair of the Business Constituency, and I'm going to make a point and ask a question, and I think (Rob) will be particularly interested in hearing both.

I guess I'm a little concerned to hear the idea that we are taking a grass roots approach to education, awareness, and information about something as important as the new - of implementing the new gTLD program practically and thoroughly, and in a technically sound and stable manner. And, I am also concerned that we not take a "Yeah! Yeah! Bravo! I'd get yours here now," approach, okay. And, one of the problems with asking for volunteers is that very often in order for people to have time to volunteer, it's because they have a vested interest.

In the earlier discussion we held here with (Curt), everyone who went to - nobody who went to the microphone, including myself, declared whether or not they had any interest in the outcome. We owe it to the vast community of users - it's not our job to build markets, right? That's not what ICANN's about. It's the Internet users the stability of the Internet. It is the integrity and

resiliency of the applications and services that rely on the unique indicators. That's what we founded ICANN for, and that is what we entrust our Board to continue to remember.

So of course managed, responsible expansion of the space is very important. Expansion of IDNs is very important. But, it takes a neutral and deep understanding of the program to educate people about risks as well as benefits. And, I really don't think a grass roots approach is fair to either the people who are going to apply for the registry nor the people who are going to rely on their continued operations.

Man: Thanks. (Mike).

(Mike): I'm always happy to defer to Marilyn.

Just tying together this question of outreach was the - part of the topic that we didn't cover under the first item, and that is the significant work that was done by the working group regarding applicant support and support for needy applicants. I think there's been a great degree of misunderstanding around that process. It's something that's very close to my heart, possibly because of the region from which I originate.

At the same time, the Board's feeling was that the approach taken - and again potentially, we've given the wrong message when we've asked the community to go back and so some work on the issue. The response we got was wholly inappropriate for the nature of ICANN and the nature of the organization that is ICANN. You do recognize though that new gTLDs do present an opportunity for a number of communities, including communities who don't necessarily have the same economic wherewithal as some of us that

are fortunate enough to have, and that those communities shouldn't be penalized simply because of a lack of money.

So, we'd like to continue working with the (unintelligible) constituency working group, and I think there's been some useful indicators given in terms of the direction we'd like to see some of that work proceed. What we don't want to see are lower barriers simply because you don't happen to have money, because we know that those are going to be (gained).

We also don't think that creating you know, first and second class new gTLDs (unintelligible) of any real benefit given the nature of the process going forward, that it's simply (lock it) to need through a second class gTLD failing. What we'd rather see is meaningful mechanisms to support those gTLDs in the application phase, as well as going forward.

Man: (Rob).

(Rob): Sure. And just to expand on some of the remarks regarding communication plan. Grass roots is one way to communicate, and I think in a bottom-up community, it's very understandable a lot parties view bottom-up approaches as being a part of the solution. And, it was specifically in different public sessions in the past, the community urged the ICANN staff to take advantage of the community to work on sharing information. That will not be the exclusive means.

Clearly, risks will be disclosed to the extent there is consensus on how those risks can be portrayed to parties. But, the goal is to share information equally or as fairly as possible to as many parties as possible. So for example when our Director, Katim Trouray, suggested that we communicate more in Africa about the new gTLD program, he kindly offered to speak at some of the IGF

meetings in Africa -- two of them -- and specifically presented on new gTLDs, and that was because Katim shared that there was a need in that geography for more communication. And, that's exactly the kind of thing we'd be looking to do with not only our Board, but other members of the community, as well as with other outreach.

We want to - we also feel there's a need to share with brand owners the issues involved here, so at least they can take an informed consideration on the decision, but again, if and when the Board approves the program. All these comments are conditioned upon that, but the communication plan is being developed. And as always, we look forward to advice and ideas. So, thank you.

Man: Thanks very much, (Rob).

I have Jeff, (Jamie), Edmon, then Adrian.

Jeff Neuman: Okay. My question's not on outreach, so I don't know if you want to - if other people have outreach or...

Man: No, go on. It's on this topic...

Jeff Neuman: Yes.

Man: ...the second topic, so go ahead please.

Jeff Neuman: Okay. Yes, my question is on - you know hopefully, getting towards final on this Applicant Guidebook and moving forward, as a lot of us have an interest in doing. So, I have a question - in September, there was a resolution passed on searchable - well, there was a resolution creating a Data Committee. I'm

maybe getting the wrong name of it. And then, there was a resolution passed that said - it was referring to the Board Data Consumer Protection Working Group to study issues and provide information to the Board relating to access and privacy to develop recommendations for possible inclusion in the forthcoming version of the Applicant Guidebook.

The final - the proposed final Applicant Guidebook came out, and all it said at that point was that this issue was referred to it. And so my question is you know, who - is this working group working - is there going to be any recommendations? If so, when are they going to be provided? Or, are we scrapping the working group and just hopefully move forward without any additional things on WHOIS?

Man: Dennis, I understand you're the expert.

Dennis Jennings: Oh, no. Oh no. I am not the expert, I just happen to Chair the working group. That certainly doesn't make me an expert.

The working group has met a couple of times. It has made some recommendations to the Board, which the Board will consider this week, and it has recommended to the Board that the working group be (unintelligible). More than that, I wouldn't want to say. I don't think you'll find it anything particularly significant there, but it's for the Board to receive those recommendations first, if you don't mind. But, I don't believe you'll find anything particularly obnoxious.

Jeff Neuman: So I guess the follow-up though would - I would assume that if it goes to the Board and the Board says okay, it will go out for comment? It's not just going to be included in a final - I mean I don't know what's in there. Maybe it's nothing, so...

Man: (Unintelligible).

Jeff Neuman: Okay. I then withdraw. It sounds like we can move forward then.

Man: Okay. (Jamie).

(Jamie): I would like to come back to the outreach issues. I don't know if I understood well, but I would like to bring my experience in regions like Brazil, you know where I come from. Well, it's a large country and community work (doesn't through the working) make the awareness of the potential risks to the many companies of many sizes that there is in this launch in the amount of gTLDs and the possible defense.

And I would say many of you don't know many of the brand names that are local but that they are companies of the \$1 billion range.

So these - there's a potential risk that let alone the community extends in Brazil to 60 or 50 people me, (Rhonda). And I don't know if we alone are able to do all the which that is that we should be done.

Man: I had Edmon, Edmon next.

Edmon Chung: Quick comment. Actually when I was sitting here listening to Marilyn and then (Rod)'s response wonder if the board or staff had considered actually using the - our ALSes from (Rolos) to conduct a lot of the outreach. That seems to be like a meaningful channel that is within our community which it's (grassroots) related to.

(Rod): Great idea. And I believe staff is already having some conversations. And to give an - people an idea of the magnitude of the budget that's available for this specific effort it's somewhere between three quarters of a million and \$1 million.

Okay, so that's how much is in the plan that's approved by the community in our current operating plan to work in this endeavor.

And I think the question is and as always is obviously we want to get the maximum bang for the buck. So to the extent we can partner as appropriate with (parts) community we're happy to.

We're partnered with others. Also governments, some governments have offered to help is in their geographies and regions.

A concrete example would be in Germany the government hosted a conference which I believe the name was (Noya Dressa) in Internet.

That was in Berlin last November and some of us spoke at that event which was heavily attended by different stakeholders in Germany. So that was organized under the auspices or in relationship with the government and others.

So we think governments can have a very helpful role as well. And we're open to working with those that would like to.

We will be formally informing all the governments we have relationships of the need to communicate this.

Man: Thank you. Adrian?

Adrian Kinderis: Thanks for the opportunity. Just by way of feedback with respect to outreach, in my discussions in Australia to various brand owners and trademark holders and (unintelligible) and so on and so forth, they've - once they've heard about the opportunity - and not all of them have, some of the feedback we've got about the web site, the information that was validated by ICANN I think's been very, very positive.

And I think ICANN should be commended on the initiative and information that they've put forward within that Web site and I think that's been fantastic.

And I think the only thing that I think would help more would be -- and I don't know how you would logistically do this -- but to make staff available to either whether face to face or in some way shape or form to get some granularity and also some authority to the process.

Because it's one thing, you know, I have a vested interest when I go out and talk to these folks and, you know, we always try to steer them back to the authority.

And I think it's great to get that direct voice, you know, where we can. So I think I would encourage, you know, whether it in some way shape or form staff to be represented or be available to be represented, you know, when required to these folks out at the perimeter. But some really positive things coming back from the folks, so keep up the good work.

(Rod): Thank you very much Adrian. That'll be part of the plan we work on. And I hope that you'll offer some of those suggestions to (Barbara) and others as well. Thank you very much.

Man: Okay any further questions on this topic? So moving to the - in the interest of time let's move into the AOC topic. And perhaps (Peter) I can let you introduce that one.

(Peter): One of the outcomes of course is it made me late for this meeting so I apologize for coming in a bit late. The information, you know, the ATRT's just been meeting with the GAC.

So the outcomes of the information commitments, I think you can probably divide them into sort of two parts. One is the - there's a tangible. That's quite easy to look at. We've got three review teams now underway.

The first one of those, the ATRT is reporting here they're discussing it's recommendations with GAC and to report those out to public comments including the very large Berkman case studies and other analysis.

And there was one on the security team. So those tangible results are visible if you like. Those review teams are (unintelligible).

Probably more significant I suppose is the intangibles or less concrete. And that's the effect of the information and the commitments that are contained is having on ICANN.

And anyways it's a crystallization and gives a whole lot of oomph to some of the early principles that are embedded in the green paper and the white paper about transparency and accountability and diversity et cetera, that basically leads to the formation of ICANN.

What it's done is it's created a whole new emphasis for those principles and preferably added (and changed) those.

But staff have actually prepared a very detailed paper which I'm not sure (Rod) if it's available. It was certainly given to the Accountability and Review Team listing all of the different activities that are underway.

(Rod)'s can to talk more about how he's taking this through because (Rod) certainly embraces this whole concept very, very thoroughly.

Staff are encouraged to in all of their instances of work to consider how the affirmational commitment is going to affect the output.

I suppose I'll start there. There's tangible work going on in terms of the reviews. Public comment period is closed for the first one.

The team is meeting as I say here with the GAC and the board and will be finalizing this report so that it can deliver on time against a very, very difficult time table.

I think that team's done an extraordinary job and the boards looking forward very much to getting in the recommendation from that first one.

The other two reviews are coming along. And then this cultural change (unintelligible). And (Rod) perhaps that's the time to hand to you to talk about the way it's being built with inside the corporation by staff.

(Rod): Thank you very much (Peter). The affirmation has had I think a very great impact on the organization first starting with just the values, discussions and where it needs to internally in being - internalizes an organization and then driving out through quite a significant number of initiatives.

Soon within signing the affirmation of commitments we started a bottom-up process within ICANN with every department and group having a brainstorming session where each employee or staff team member would have to present part of the affirmation so that they all presented the whole document and debated and discussed it and discussed specifically what did the part of the language they were presenting mean to their team, what did it mean to them in their job, what did it mean to their team.

So whether you're looking at compliance or IANA or policy across the board this was done across the organization.

And that was to spread education. Because the key thing is obviously a very important document, a lot of language and many different ways to interpret how it could be implemented into operations. And what better way to do that in the organization that in a bottom-up fashion.

And so we did that. I think we completed that roughly within two months of the signing of the affirmation of commitments.

I then made an executive decision and took one of our very strong vice presidents with I think almost ten years of history at ICANN, Denise Michelle and asked her to become my advisor, directly advisor to CEO specifically on accountability and transparency.

She has worked full-time on that effort since then and has also beginning to support the new review team, not just the first review team.

One of the other actions that Denise has worked on over the past 12 months is documenting I mean where does accountability start?

Well part of where it starts besides the values and internalizing it is getting a baseline. And what's the baseline for the question of how we followed through on our commitments is to document all the board resolutions since our founding in 1988 and to take a look at how have we done in fulfilling those resolutions?

So Denise has been involved in putting every single resolution since the founding of this organization online in a wiki and with links to documents that speak to the resolution of those issues.

This was a very significant effort that took very large amounts of her time.

And in addition to Denise's support for the review teams of course there were other staff members that have spent very significant amounts of time on a fairly dedicated basis and out of our Brussels office, but much more broadly across the staff and management team there's been a very significant commitment to being responsive and setting as a top priority responding to the ATRT.

And I'm very pleased to, you know, to have heard a CEO numerous times compliments for how well the staff had done in supporting that team.

And that's as you know a lot of work, huge work for the team review team members and also very considerable work for the ICANN staff.

That's just the baseline. I mean I could go on and on. There's many actions that have taken place as part of this.

We also posted the present Strategy Committee recommendations on the same wiki with information.

One of the things that I feel positive about is you all know about the ICM decision. And that's gone on for many, many years.

So I got a call one Friday afternoon or evening from the general counsel saying, you know, we just lost the panel and they decided against us.

And my first question was I said well I assume this is a public decision. He said yes I said we need to put it online immediately.

Help me draft the tweet right now. And within 15 minutes of me getting the beginning of a call to be informed that we lost the decision we communicated to the world that we did. That's transparency.

It's not sharing the information that's always a good news. It's sharing information that's important and relevant to a community.

I then asked our general counsel, I said can the document be made public? And he said probably. We need to review it and redact it possibly. It may have some private information. We had the entire decision document posted within two hours, okay?

And so I think that we've done our best and there's always much room for improvement not only in that, in many other areas. So whether it was posting Nairobi event security risk, whether it was in conducting these very significant economic studies that have been done, the board approval for 24-hour posting of resolutions which we've implemented to employee training, the publishing of board papers, the responses to public comments.

Anyways so there's many actions. I'll make sure (Peter) that document's not already published that it is. But there's been a lot of actions throughout the organization.

Man: Thanks very much (Rod) for that thorough explanation. Does anyone want to comment? All right (Christina)?

(Christina): There've been a number of concerns expressed within the trademark community about the timing for example, of the close of the current public comment period on the guidebook happening on the same day as what is reported to be a scheduled board vote.

And in particular the concern is that that timing suggests that they're - the timing leads to a greater concern about whether or not some of the responsibilities under the affirmation commitments are really becoming institutionalized such that they had (real) meaning.

And I was just wondering what the board's view is or response to that concern?

(Rod): It sounds like the board would like the staff or the CEO to respond. So I'm going to have (Kurt) help me because he's involved in all the details of that process.

(Kurt): Well, you know, I think you're right. The attempt was to - part was to budget model and budget as a model be able to take comment on the very latest in the guidebook up to a board decision.

The board's going to listen to the community (unintelligible) and if it (unintelligible) that, you know, the community (unintelligible) meant to -

exactly that. It's meant to provide the opportunity to comment on the very latest guidebook up until the moment (unintelligible).

(Christina): So am I correct in understanding from what you're saying that the stated intention of staff to be providing the board with updates on public comment up to and including literally (unintelligible)?

(Kurt): Yes.

Man: (Rita)?

(Rita): I'd like to just make the comment (Christina) that that does not seem to me like that's...

Man: (Thank you) very much. Marilyn?

Marilyn Cade: Marilyn Cade my comment is probably a follow-on to (Christina)'s because on Friday we received the community page. And I assume the board also received the phase two of economic analysis. That is new information.

Mention of significant (unintelligible) of any previous information and I would say it's new information. I think it would be - we'd be pretty hard pressed not to say there's information in there.

So that's new information has to be I would think understood and analyzed and looked at against existing content in the DAG and has to be I believe, put into our bylaws new information needs to be taken into account. So I think we've got a timing problem.

And my second point would be I don't see a comment period on that. So I'm mystified on how the new data, the new information gets taken into account even if the staff is iterating on a 24 basis between now and the (10th).

And I'm also interested in the comment period and why there wasn't one associated in the announcement?

(Rod): You know, I - well I spoke to this earlier right. And - okay. So I think it's the same thing that the board is reading the economic study now and is in fact scheduled their own briefing on it for Wednesday to discuss it.

The board is going to listen to the comment here about initial reactions to the economic study and then, you know, taking into account that public comment and responding to it, you know, react in a way that, you know, published, you know, decides to open up a public comment forum so it can understand the community's interpretation of the study or not.

Yes so I what I said and, you know, it's for clarification by (Peter) but the board's going to listen to what everybody here has to say during the week as far as making all decisions associated with the guidebook and opening up new public comment for a (unintelligible).

Man: I'll just make a personal suggestion because I've been approached by others saying they would like to comment on that report. And I think that is appropriate that we receive comment on that report.

My personal advice to people has been to (raise their) comments under the applicant guidebook section which is generally a currently open comment forum.

If another forum gets opened up fine, but practically if you've get a comment to submit today I suggest you submit it there because that's where I will be reading.

Man: I just want to echo what (Rita) said and to say that this is a matter of real concern for the board Marilyn and (Christina). The ability to make a properly informed decision obviously is very important to us and hear all the comment on all the material.

And we are frankly struggling exactly how we're going to manage this, so just to acknowledge this is a genuine concern that we share with you.

Man: Thank you very much. (Tim)?

(Tim): Just a personal comment or observation that there's always going to be more comment that could be made. It'll become ending, we know that.

So but at some point I think that we're starting to see certain parts of the guidebooks, some comments and concerns beginning to diminish.

And at some point, you know, I would hope we could start seeing at least parts or some of this guidebook begin to get closed off so that we can start moving towards that ultimate goal of having this thing completed and released.

So I don't think we have to have this unending comment going round and round on every part of the guidebook.

Man: (Tim). (Harold)?

(Harold): Speaking for myself only. We have been working on this stuff for ten years and during this week I will be listening for exactly 2 kinds of comments.

It's comments that say we disagreed with you last time. We disagreed with you the previous time and we still disagree with you.

And there's comments of the form there is new information available which makes me change my mind about something.

The first class of comment I don't see a reason for letting that delay the decision process. Because no matter how much we delay there still the same comments are going to be made.

The second kind of comments that there's new information available, my mind might have changed or might change. That's important because it leads to change in how we perceive the - what the community position is.

If there is no change in the community position there's no reason to delay. If there is change there might be.

Man: Thank you very much. We're nearly out of time and I did want to get to the last topic which was more a question that the board was asking that GNSO on what - I didn't want to put you on the spot okay, but a taunting question about how we would measure the success of the success of the new gTLD program.

And I guess one of the, as far as the GNSOs concerned one of the criteria could be how close the final product is to the original recommendations.

But (Elliott) is your question on this or on the previous topic?

(Elliott): It was on the economic study. I'm happy to be very brief or to defer.

Man: Try and be very brief. I'd like to see that.

(Elliott): I would continue to play straight man for you for the rest of the week.

I mean I do want to say that the second economic study I found interesting in that did a lot of work and really reinforced the primary conclusion from the first economic study which I thought was a very positive one. You can't know the future and you can't study it based on the past.

And but I think it was strong work. I do encourage people to comment on it. But I want to say I felt that study did a great job of taking the box and setting us up to go forward. Thank you.

Man: Thank you very much (Elliott). So does anyone from counsel want to speak to what measure of success, what - how we would measure the success of the new gTLD program? We have about 1 minute left so Adrian, (Christina)?

(Christina): This is not a positive suggestion but more of a negative namely I don't think that one accurate indicator of the success should be the number of applications received.

Adrian Kinderis: I think maybe how much of the budget is used on lawsuits and then work back from there. That's just...

Man: So just to set context I think one of the strategic objectives that ICANN has is to introduce through competition consumer trust and consumer choice.

That's one of the commitments we have under the affirmation of commitments we have (unintelligible) that the new gTLD program is being talked about as one of the activities to improve that area.

But ICANN as an organization does have - has - does not have measures on any of the topics of competition, consumer trust, or consumer choice.

So we have no measures today. Have no measures in the strategic plan. We have no measures for the new gTLD programs.

But what we have committed to do also is to review ourselves against these things. And I as an engineer don't see how you can review something if you haven't actually defined what the measures are that you're being reviewed against.

And (Christina), I completely agree with you. I don't think the number of DODs on its own is a measure.

The sort of measure I would be encouraging but I really want to get input from the GNSO is measures such as things that relate to cultures outside of the, you know, the North America, strings that relate to new languages, strings that relate to new applications. So those are the sorts of things I'd hope to be seeing around the topic of consumer choice.

Competition, maybe we're looking at competition perhaps in the available of organizations that can provide DNS services. It could be a number of different measures of competition.

But if we don't define what those measures are I don't see how you can successfully do a review. So I'd just encourage and seek advice from the GNSO on what these measures should be.

Now that when the review happens in a year's time we've actually get something substantial to review against.

Man: All right I'm going to have to cut it short here because the board members have to go and we're out of time.

(Andre) I know you had a question and Adrian as well. I'm sorry. I apologize to both. We've run out of time.

I just wanted to thank all the board members for coming to what I thought was a very interesting and fruitful session under this new format just maybe (Rod) if you want to make some closing remarks?

(Rod): Sure and I think maybe we should (follow-up). But just wanted to mention the document here you referred to regarding many of the staff projects to uphold the affirmation of commitments is posted online on the ICANN Web site. If (Stefan) wants me to send him a (link) I can do that. But it's quite a detailed document. It's there.

One other small note is just I mentioned sharing some of the risks of the new gTLD programs. Clearly we - ICANN can only share what's legally cleared on that topic, you know, and what's legally appropriate in our position. So I just wanted to mention that.

But thank you very much for the constructive feedback. At least I learned a lot including good suggestions on the communications program. Thank you.

Man: Thanks everyone. The next session will be - we have a break now, half an hour until 4 o'clock.

The next session will be a working session on the RAA. That will be chaired with Steve Metalitz. And then we will have from 5:00 till 6:00 we will have our joint meeting with the GAC. And that will be chaired by Olga. Thanks very much.

END