ICANN Costa Rica Meeting

Intellectual Property Constituency- TRANSCRIPTION
Tuesday 13th March 2012 at 14:00 local time

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Steve Metalitz: Good afternoon, everyone. Why don't we get started? It's about 4 minutes after 2.

I'm Steve Metalitz, President of the Intellectual Property Constituency. I want to welcome you to our open meeting here in Costa Rica.

I'd like to invite all IPC members to come up to the table please so we can see you and we can call on you. And any other observers, you're welcome to come sit up on the side here. If you want to say something, I would recommend that because you probably won't be recognized if you're sitting behind.

I passed around a couple of sheets like this for signup. And please do so. And indicate if you're an IPC member. I guess we didn't have that call.

We already have a volunteer, (Nick Wood), to be our scribe. So we're completely set in that regard. Do we have people who joined us on the phone or in the Adobe chat room?

Man: Yes.

Man: Yes.

Man: Yes.

Woman: Yes.

Steve Metalitz: Could they identify themselves, please?

(Fabricio):   (Fabricio) from Time Warner.

Eugene Pak: Eugene Pak from Wendel Rosen in Oakland, California.

Steve Metalitz: Okay, welcome.

Eugene Pak: Thank you.

Heather Forrest: Heather Forrest from University of New England.

Greg Shatan: Greg Shatan from Reed Smith.

Steve Metalitz: I'm sorry, I couldn't hear that.

Greg Shatan: Heather, why don't you go first?

Heather Forrest: Sorry about that. Heather Forrest from the University of New England.

Greg Shatan: Hi. Greg Shatan from Reed Smith in New York.

Steve Metalitz: Great.

(Ashley Dumouchel): (Ashley Dumouchel) and (Jonathan Cohen).

Steve Metalitz: Okay. (Nick) is getting all this, right?

Man: (Yes).

Steve Metalitz: Okay. Did you get the people from Oakland? Okay.

Okay, welcome. And then I don't know if there anyone's else - we do have an Adobe chat room, so people may be on there as well. And thank you to (Natalie) for running that remotely.

We passed around copies of an agenda that is almost up-to-date. And I think it's up in the Adobe room.

So I guess the first order of business, if we could just quickly go around the room and introduce ourselves. I'm Steve Metalitz, the IPC...

Stacey King: I'm Stacey King with Richemont and Secretary of the IPC.

Kristina Rosette: Kristina Rosette, IPC Vice President.

Russ Pangborn: Russ Pangborn with Microsoft.

Anne Aikman-Scalese: Anne Aikman-Scalese of Lewis and Roca.

Ken Taylor: Ken Taylor, Marksmen.

Paul McGrady: Paul McGrady, Winston and Strawn.

(David Tedahogan):   (David Tedahogan), (Levels and Gensa) counselor for IPC.

Dennis Prahl: Dennis Prahl, Ladas & Parry.

Jonathan Zuck: Jonathan Zuck, the Association for Competitive Technology.

(Phillip Marano):   (Phillip Marano), Steptoe & Johnson.

Faisal Shah: Faisal Shah with MarkMonitor.

Fred Felman: Fred Felman, MarkMonitor.

(Jas Jarvis):   (Jas Jarvis), (unintelligible) on behalf of (IPO).

(Kieren):   (Kieren) (unintelligible), Silverberg, Goldman, & Bikoff.

Jim Bikoff: Jim Bikoff, Silverberg, Goldman & Bikoff.

(Sam Hasid):   (Sam Hasid) (unintelligible).

Michael Graham: Michael Graham, Marshall, Gerstein & Borun.

(Luca Berra):   (Luca Berra), (unintelligible) (Berra).

Claudio Di Gangi: Claudio Di Gangi, (ITA).

Nick Wood: Nick Wood from (MARQUES).

J. Scott Evans: J. Scott Evans, Yahoo.

(Laura Covington):   (Laura Covington), Yahoo.

Steve Metalitz: Could those in the audience identify themselves just so we know who you are.

                    Okay, I can't hear that (unintelligible).

Man: (Unintelligible).

Steve Metalitz: Anybody else?

Man: (Unintelligible).

Man: (Unintelligible).

Man: (Unintelligible).

Woman: (Unintelligible).

Steve Metalitz: Anybody else want us to know who you are?

Man: (Unintelligible).

Steve Metalitz: Thank you. That would be helpful (unintelligible).

Man: (Unintelligible).

(Jim Prendergast):   (Jim Prendergast) (unintelligible) (Strategy Groups).

Woman: (Unintelligible) (Johnson) (Mira).

Steve Metalitz: (Johnson), okay. All right. As I said, (unintelligible). Thank you.

                  Okay. For those of you on the phone, just so you know we're - unlike usual
                  we're in a very large room. We're usually very packed into a tiny room. But
                  also unlike usual we're not actually in a room, we're in a tent. So you will hear
                  some - you may hear some ambient noise. But I'm sure you'll...

Man: (Unintelligible)

Steve Metalitz   Okay. Let me ask if there's any - people having looked at the agenda. And I know it's up on the Adobe room and we're in the process of getting it up on the screen here. But I think most people have it in hard copy. I've just got a few more copies here.

J. Scott Evans: I would like to add something to the agenda.

Steve Metalitz: Okay.

J. Scott Evans: We need direction for our GNSO counselors with regards to the (IOC RCRC) motion. And I just want to put that on the agenda please.

Steve Metalitz: Okay, thank you. I think that's a very good addition. We'll put that in the discussion of issues at Costa Rica meeting, which is now set for (2:20).

In fact, let's make that any other GNSO counsel events. Because I understand there'll be motions on thick Whois and other things. So let's put that on there.

I think we're going to be joined -- if she's not here already -- by Susan Kawaguchi from the Whois Review Team. And I said we would devote a few minutes to that and getting her impressions of what she's been hearing on the Whois Review Team.

Are there any other issues that people can identify for the agenda?

Okay. Then we'll proceed ahead. We have two - actually three briefings - four briefings. Starting at 3 o'clock we will have guests. So we need to do as much as we can by 3 o'clock before the guests arrive.

Anne Aikman-Scalese: Steve, I'm sorry. It's Anne. In terms - I'm right here. In terms of added agenda items, I was trying to see if (Brian) is here or if we could get an update on (IAG).

Steve Metalitz: On what?

Anne Aikman-Scalese: (IAG) implementation on trademark (unintelligible).

Steve Metalitz: Okay.

Anne Aikman-Scalese: Is that on the agenda at all or...

Steve Metalitz: It's not on the agenda, but can we get a - is there an (IAG) update we can
                    provide? Okay.

Anne Aikman-Scalese: Thank you. Thank you.

Steve Metalitz: Thank you. Anything else?

                    Okay. On the Leadership Report, I just wanted to put a little placeholder in
                    there. We usually try to, you know, we have some business items and
                    approval of new members. And I figured because this is an open meeting and
                    we have all the issues that are happening in the ICANN meeting we would
                    (dispense) with that.

                    But let me just give you a preview that we are working on a budget proposal
                    for the IPC for this year. It does not -- at this point -- contemplate any
                    increase in dues, which I think will be good news.

                    We do have an application in for support from ICANN, which we have not
                    ever received before. But now they have a process for applying. Last year we
                    applied and got nothing. This year we're applying and hope to get something.

                    There's a meeting here on Thursday about that, so we'll be reporting out
                    about that. So those are a couple of things that will be coming up.

We do have some people working on possible amendments to the IPC bylaws. Number of issues have arisen, so you may be seeing that in the near future.

And I think if I could just say from my perspective, one of our big challenges is to activate more of our members, getting them more actively involved in commenting on things that are happening at ICANN, participating actively in the constituency.

We have a bylaws position set in our bylaws. And I know I don't have the title right, but it's really a participation coordinator and encourager and we're working on a job description for that and need to appoint somebody to that post.

So we will do that. But I'll just say if we are to be effective in advancing the interest of your companies, your clients, your organizations, we're not going to be able to do it without a higher level of participation because right now same names that are coming up over and over again and people are just spread too thin to really be as effective as they should be.

So I'd like to make that the Leadership Report because I think it's a viewpoint that's unanimously shared among the leadership of your constituency. J. Scott?

J. Scott Evans: And I have to say that we are going to need to be giving more help to our GNSO counselors. They need us to assist them. There is just so much going on right now, it's so busy. And they have day jobs too and we need to help brief them and get them ready and not expect that they are responsible for wading through all the paper by themselves and being prepared to speak out publicly on our behalf.

So we need you to participate. We need you to assist the GNSO counselors so we can be effective in the GNSO.

Anne Aikman-Scalese: Steve, it's Anne Aikman-Scalese again. (Unintelligible) I met this morning for the first time the secretariat for the B2B. So they have (staff) support that they (run). And I'm wondering how that came about and whether we've considered it.

I know I'm really new to this organization. But...

Steve Metalitz: Yes, that - let me say, the situation we're in right now we have to get a budget for this year. Once we have a budget for this year we will know how much we have to spend on things like a secretariat. And we also have asked for support from ICANN for a secretariat, that's one of the things we've asked for.

But I think as soon as we have a budget approved, I'm certainly going to propose that we use some of that - of our funds for a secretariat. Because I think it's - just too many things are falling through the cracks and people are - I just think we would be much better off if we had someone whose job it was to keep track of some of these things.

So I think the - we have a budget proposal now that our treasury's drawn up and the leadership is going to go over that very shortly. And I hope, you know, at this end of this month we'll have a budget. That I think is the key to actually making some progress on this.

Anne Aikman-Scalese: Great. Thank you.

Steve Metalitz: Okay. In that case, if there's nothing else for the Leadership Report, let me - we have 3 items in the next 40 minutes or so. And one is the Whois Review Team. And I see Susan just joined us. Two is the (IAG) update. And three is guidance to our counselors on matters coming before the GNSO counsel.

I guess I would suggest since Susan has joined us as a guest -- she's not a member of the constituency -- maybe we should do that issue first.

Susan Kawaguchi from Facebook -- who many of you know -- is serving on the Whois Policy Review Team that was established as part of the Affirmation of Commitments. They've issued a draft final report. The IPC has commented on it. And as she knows and all of you know, we're quite supportive of their recommendations and of all their work on this very critical issue.

So we would certainly like to thank them and thank Susan for all the time and effort she's put into this. But I think we'd be very interested in hearing her sense of, you know, what she's hearing because the Whois Review Team is getting input from all other parts of ICANN. And like to know what she's hearing and whether she thinks there are particular areas where there's more that we could be doing to support the Review Team and their recommendations.

So let me just ask Susan to address that briefly and then we'll open the floor to comments and questions.

Susan Kawaguchi: Well thank you for having me come. And also (Seth) is a member (also). Put your hand up (Seth). And please chime in, (Seth), if there's anything you'd like to say.

So we've had some interesting meetings. I think the report has been well received. I was a little bit skeptical when we went into the open forum yesterday for the community, but I think they were reasonable responses and comments. So the registrars all seem to be busy, so I think we may have fared a little better because they were busy.

So we definitely confused the community a little bit especially on the Web interface for the Whois. So we will be redrafting that just for clarity.

I would imagine - you have a whole working day tomorrow and I would imagine that most of the recommendations will stay the same. We have been

hearing from the community though that the privacy and proxy recommendation should be the same and not a - privacy is an accreditation, the proxy, the only thing we could really come to terms and agreement on was the best practices. So we're sort of talking about all of that.

There's little pushback on the international domain name Whois recommendations too. But other than that we've had - I must say the community's been very generous and giving us wonderful feedback. And I'd like to hear which, you know, I have read your comments and I appreciate all of those. I think you're right in line with...

And we did work hard. So I don't know, maybe this is better just to ask questions then.

Steve Metalitz: Great. Let me ask if there are questions or comments for Susan or (Seth).

Is there anybody on the phone that wanted to make a question or comment at this point?

(Fabricio):   Yes, Steve, can you hear me?

Steve Metalitz: Yes. Go ahead.

(Fabricio):   Hey, it's (Fabricio) from Time Warner.

So I had a quick question. What are we doing - this may not be the right context. But what are we doing to make sure that whatever work happens on the Whois level that the pass-through requirements from registry down to registrar are actually ultimately enforced by ICANN?

Because one of the things that worries me over and over again is that we get the right things in contracts or the right things in motion, but ultimately the registrars get to say, "Well we did what we had to do, which is we put it in our

agreement." And the registrant did what they were supposed to do, which is that they represented and warranted when the clicked through that they were going to have accurate Whois or what have you. And that seems to be where the conversation ends.

And we've heard from ICANN's compliance this morning. But is there anything in your discussions that's going to make it so that it's obvious and nailed down that ICANN has to enforce compliance against those registrars who don't enforce those provisions?

Susan Kawaguchi: So that is a constant theme of discussion for us too. Our scope was simply to review the Whois and make our recommendations. Unfortunately we can't actually implement those. But I think one of our first recommendations is to have someone strategic either in the board or senior person in ICANN to take responsibility. And then I think the only thing we can do as a community is hold ICANN responsible.

So many members on the team do not feel like our work is truly done after this report - final report is submitted. That even though the team will no longer be in existence officially, that you've worked so hard, we want to see this be pushed all the way through. And it's not just another report to be filed and said, "Oh, that would great (unintelligible) nothing really happened."

And so I think there's quite a commitment on the team to continue the work and hold ICANN responsible. We can't do it without the rest of the community.

Steve Metalitz: Thank you. (Fabricio), any follow up on that?

(Fabricio):   No, no. Thank you very much.

Steve Metalitz: Claudio?

Claudio Di Gangi: Thanks. Susan, I was wondering if you guys had any engagement with anyone on the board either here in Costa Rica or during your work, have you guys been engaging with the board members? Have you gotten any feedback from them?

Susan Kawaguchi: Probably not as much as we'd like. But we've definitely gotten some comment back from the board. (Steve Crocker) actually went through the report pretty thoroughly. And we do have another - we have a meeting tomorrow with the board, so we'll get a little bit more feedback.

Individual members of the team have talked to the board. The individual board members, not the board as a whole. So I think there is quite a few board members -- in my opinion at least -- that really believe in this process and want to see a change. And so hopefully we'll be able to make a difference on the board and get the other board members inline to vote appropriately.

Steve Metalitz: Kristina? I think probably people should identify themselves for those on the phone.

Kristina Rosette: Sure. Kristina Rosette. And just following up on the recommendation that the team made with regard to making Whois a strategic priority. And if memory serves, our comments indicated that we thought that that priority and responsibility should rest with the CEO.

And I think what I'm concerned about and what I'm wondering whether the Review Team has given any thought to or whether we would be (procumbent) in order to specifically have it responded to.

I think there are some -- and I include myself in that group -- who have viewed that the function and implementation of compliant functions has been significantly impaired by having that function report through Legal to the General Counsel.

And while it would seem to me that because of the reasoning that ICANN utilized in (placing) it that way would also suggest that Whois compliance should go there too. For the same reasons I'd be very reluctant to see the strategic priority rest with the Legal Department. I was just curious as to whether that had come up or not.

Susan Kawaguchi: There's been long discussions about that. And I agree with you.

The team in general probably would agree too, you know. I couldn't give you a, you know, team member, IT member. (Seth)'s been on that, but...

We've had a lot of interaction with the Compliance Team. We went down and spent a couple days in Marina del Rey to talk to them and get a sense of what they do.

And even though we did not describe it in this way, you know, I'd have to pull it up to quote it. But, you know, we sort of went back and forth. Should this be a board member? Should this just be somebody senior in ICANN? And at the end of the day we, you know, the wording sort of leaves it to ICANN. We're not proscriptive in exactly, you know, in the recommendation. But I would definitely agree that it should either be the CEO or someone on the board, Board Committee maybe, that was one of the discussions.

It has to be somebody extremely high level that can circumvent all the noise at working levels of things.

Did I answer your question?

Kristina Rosette: You did. I guess where I'm going with this is that, you know, if I could write a sentence in the final report it should be, you know, whatever the language is for the strategic priority be that, you know, it be a function of somebody responsible on the Executive Team, provided however that it should not be

within the General Counsel's office at a Legal Department. Something like that to make sure that absolutely - they can put it wherever they want in the Executive Team, just not in the Legal Department.

Steve Metalitz: J. Scott?

J. Scott Evans: I just wanted to echo Kristina's comments. Because we had (Maggie) in today and apparently she has all the support and money she needs to get the (contract) compliance done, but it's just not getting done.

So I'd like to know exactly who's responsible for that. And it looks like it must be her boss because her boss - so we need to get her a new boss.

And we also - I would like it to say that it's tied - I'm not saying get rid of the General Counsel, I'm saying get her a new boss within the organization that it's also tied to his performance requirements. That if he doesn't do what he's been told to do, the lucrative bonus that we have for years given to the ICANN CEO should be treated as a benchmark for him.

Susan Kawaguchi: Put that in your comments.

Anne Aikman-Scalese: It's Anne Aikman-Scalese. I guess we could throw in things we'd like to put in your final (draft) report or have your team consider.

One might be a topic that I think came up in the compliance meeting with (Maggie) is the appointment of a Compliance Officer as a registrar and registry level who's responsible for Whois would be a terrific thing. And just, you know, pulling an example - and this goes really to (Fab)'s comment earlier I think. Who's responsible? Where does the buck stop? Compliance Officer.

Susan Kawaguchi: I was here during that presentation when that recommendation was made. And, you know, we always get - when we've been talking to ICANN

staff and others is that, you know, it's not in the RAA. And that is what (Maggie) - I think what's here response too.

But maybe that's a recommendation we should put in.

Steve Metalitz: Other comments on the Whois Review Team? Or on compliance. I mean, I'm happy to take other responses to what we heard this morning in the CSG (meeting) people. Kristina?

Kristina Rosette: You know, I'm not a technical person. But I, you know, candidly I'm on the verge of going out and getting like HTML for Dummies and figuring out how to write my own program that's going to let me report more than one domain name at a time.

I've asked for this for 18 months. And we were told this morning, "We've agreed to do it but I don't know when. And I can't tell you what the priority is." And at a certain point you just have to say enough is enough, this is getting (ridiculous) and I'm there.

Susan Kawaguchi: I have that same need. I mean, if I'm (going to) report (inaccurate) Whois. And this is not necessarily a Whois Review Team speaking, this is me and my job at Facebook. You know, if I'm going to report 1 I'm going to report 100 or 200 or 1000. So we do need that desperately.

They also need to have a better system of realizing that you have submitted them. Because lately about 50% actually go through in my opinion.

Steve Metalitz: Yes. I wouldn't think that is too difficult to do. Claudio, did you...

Claudio Di Gangi: Claudio Di Gangi. Susan, I was just wondering, what are the next steps? So you guys are going to review the comments that come in. And then what are the next steps after this comment period closes in terms of completing the report and then what happens from there?

Susan Kawaguchi: So we're very hopeful that we will have this report done by April 30. We will have received all the comments hopefully by March 18 or soon thereafter. And we have - there's definitely portions of the report that could be cleaned up a little bit. We were such on a mad dash to finish it that, you know, it may not be the most well written report out there. But it does have a lot of content and good content I think.

So we hopefully will iron out any revisions to the recommendations tomorrow because we have - well we're meeting for eight hours tomorrow as a team. And then look at the rest of the, you know, the comments and use those in the next month and hopefully April 30 is the target date.

Now what happens after that I can't answer because there's not really a, you know, what is the (ATRT). We've sort of been looking at how they held ICANN responsible.

And so we haven't really developed a plan for after submitting the final report.

Steve Metalitz: Well, this is Steve Metalitz. The one thing that we know is that under the Affirmation of Commitments the ICANN board had to act on the recommendations, I believe it's within six months after they're finalized.

So if you get April 30 and October 30, they will have to act on them. That doesn't necessarily mean they will accept them. But it did accept every recommendation of the (ATRT) and I think we probably should be pushing for that as a precedent.

But I'm glad you raised that because that gives us a very helpful timetable and certainly by - after the report is finalized we will be pressing the board to act on it as quickly as possible.

Are there other compliance or Whois Review Team -- because they do kind of meld a bit -- issues that people would like to raise at this point? Okay, if not thank you, (Susan).

You're welcome to stay as long as you wish and we'll move on to the next agenda item which is to give guidance to our Council representatives, particularly on the IOC/RC issue before the Council but also anything else that's coming up before the Council that we may not be focused on.

So do you want to start with the Olympic/Red Cross?

J. Scott Evans: Is Greg Shatan on the phone? Did I hear him?

Greg Shatan: Yes, I am.

J. Scott Evans: Greg and I are both serving on behalf of the IPC on the drafting team. And Greg, you've been following the email string a little closer than I have today because I haven't been as linked in as I could. So could you do the favor of sort of bringing us up to speed on where we are in the drafting team?

Greg Shatan: Certainly, at this point there is a - J. Scott, should I go over what the basic proposal is first?

J. Scott Evans: I would do that and then talk about the one issue.

Greg Shatan: Yes, the proposal that is currently out there and that includes being out there for public comment as well as for approval by the GNSO is that the applicant guidebook be revised at the top level.

Currently the applicant guidebook has certain Olympic and Red Cross/Red Crescent names as non-delegable, which means that they're prohibited from registration as a gTLD even by any Olympic or Red Cross organization.

Their recommendation would be that these instead be modified reserved names which could be delegated unregistered by the appropriate IOC or RC organization. And that if third parties were to apply for them a string similar review would take place. If the strings were identical to the strings listed in the applicant guidebook then the strings would be blocked from delegation.

If the string was similar but not identical there would be the possibility of the third party seeking a letter of non-objection from the relevant IOC or RC organization. If the organization declined to give the letter of non-objection the third party could put forth basically an argument that they had a - some form of legitimate right to the string and that they would - were going to run a legitimate domain.

And then that would go to a yet undetermined body, perhaps a string similarity review panel for a final decision on whether or not they would allow the delegation of that string.

The - up until yesterday the proposal by the GAC was that - the proposal that the GAC had us review was that the languages would be as many - would be all the languages on the Internet. The proposal that we came back with from our drafting team was that it would be basically all of the languages that were feasible to collect and since it would be a string similarity review there would have to be a list assembled so that the algorithm could run.

After a list - some lists were circulated discussion ensued and then there was a meeting between the IOC and RC representatives to the drafting team where they revised that proposal and proposed instead that we should limit ourselves for the first round in this proposal to just the languages that are listed in the applicant guidebook.

And the last piece of the proposed proposal is that this would be subject to review after the first round. This is all at the top level. We are - the drafting team has really just begun its work with regard to what protections there

should be. At the second level, at this point the applicant guidebook has no protections at the second level. So they are treated no differently than any other brand owner.

J. Scott Evans: Thank you, Greg. And so as the IPC members we have basically been very supportive of this on the drafting team. And my recommendation would be that our GNSO representatives vote in favor of the motion. I think that we saw considerable moment and concession from both groups on the language issue.

And of the drafting team, about 75% or 80% of the members on the team all agree with this motion and feel like it is the proper compromise. The only people who disagreed are a block of people come from the non-commercial stakeholders group. And while they try to negotiate on details they vote no every time.

So I think we should support it. I think, you know, Debbie has done a very good job along with (Jim) and (Karen) of being reasonable and trying to sit down and have reasonable discussions. I think it is also - in my opinion, the politics are the GAC has asked us to do this.

And I would suggest that it is going to look very poorly on the GNSO and especially the IPC if when the work's been done and it does have a reasonable solution that most people think are reasonable and acceptable if we don't give the GAC what they ask for, that's just my personal opinion.

Steve Metalitz: Thank you, Greg and J. Scott. So what Greg - what you described is, just to clarify this, that's what's in front of the - will be in front of the GNSO Council tomorrow, right, whether to approve that.

Greg Shatan: That's correct. Again, I would just point that given the compromise that was supported by the IOC or initiated by the IOC and RC groups, the only difference between what is in the applicant guidebook now and the proposal

is that if the IOC and RC groups were to want to actually register Olympic, Olympia, Red Crescent, Red Cross in the languages listed in the applicant guidebook.

And I guess that would probably also include Red Crystal and Red Lion and Sun, they could do so, which seems fair and seems also to have been an unintended - the prohibition against doing it seems to have been unintended or at least misunderstood consequence when that was initially - initiated back in the middle of last year.

So in a sense we're - we believe what we're doing is correcting a drafting error by allowing those organizations to in fact, you know, register strings, which are their names. And then to create kind of a - some form of a process by which other brand owners or third parties with other legitimate rights could seek to register those strings if in fact they had a claim to do so. So kind of an appeal process for those third parties.

Steve Metalitz: Okay, thank you. Could we - let's take a queue on - who wants to comment on this? Jim Bikoff, who else wanted to speak? (Nan), David? Jim, (Nan), and (David).

Jim Bikoff: I just wanted to make a point on the language concession. We were doing this for expediency purposes and to be cooperative on questions of languages. But our intention was to do this only for the top level since we haven't started the discussion yet on the second level. So it was without prejudice to raising new languages on the second level of discussion and other rounds.

David Taylor: Yes, thanks. I was just going to say thanks to Greg and thanks to J. Scott because neither Brian and I are on that working group so it's good to get the feedback and have it hot like that. And I think the second level is really the battleground and that's where we're going to see where things end up.

Steve Metalitz: Let me just remind people to please identify themselves before they speak.

David Taylor: David Taylor.

(Ann Eastman): (Ann Eastman), (unintelligible) and I guess these are more questions than comments. I'm not sure I understand entirely the number of languages issued but I do remember a discussion in a GAC meeting about top level protection for the languages in - that are covered by the treaty name protection, which was not one of the things that Greg just mentioned on - that's gone, that's completely gone.

Okay.

J. Scott Evans: That's a - yesterday the Red Cross and the Olympics conceded to only seek protection in the languages that are identified in the guidebook.

(Ann Eastman): Okay, thank you J. Scott, appreciate it. Second question is, I do remember an issue coming up in GNSO Council from a BC member regarding the Sun and the Red Crescent - and talking about perhaps not a great deal of willingness to support the extension into all kinds of names that they'd never heard until the day before yesterday.

J. Scott Evans: Again, that was another languages thing because what - he was saying was when you talk about all the translations that you've provided and it was the Red Cross, I live in Pakistan and I've never seen some of the translations that you do. Those issues are all gone now because it only relates to the languages that are in the guidebook.

(Ann Eastman): That's great, so everybody - it's uniform, everybody is on the same page.

J. Scott Evans: Well, let's put it this way, the people that we conceded to are never going to vote for this anyway. So it was basically done so that the GNSO as a whole could feel more comfortable with it but the concession was made to a group

of people by block in my opinion, personal opinion, wouldn't vote for this no matter what.

Greg Shatan: This is Greg, I share that opinion.

Steve Metalitz: Okay, all right. Kristina then David.

Kristina Rosette: Brian and David, this is Kristina Rosette for the transcribers. Brian and David, is it your sense that the contacted party house is going to vote to support the motion?

David Taylor: That was exactly what I was going to pick up on because you saw an email this morning from (Jeff) and the registries saying that they didn't want to second it because they may not be voting for it. My feeling is that they are voting for it but that just threw an element of doubt into my mind when I saw that.

Steve Metalitz: Other comments on this? Kristina?

Kristina Rosette: Not to get too far into the weeds but if the registrars don't can it still pass?

David Taylor: I don't know, you've been on this longer than me.

J. Scott Evans: This is J. Scott Evans. I don't care whether the - it's going to pass or not. I think we want to be the constituency that when the GAC asks us to do something we worked on it, we came to a solution, and we delivered what they wanted. If everybody else wants to make the governments angry let that be them but my counsel to this group would be we need to support this motion.

David Taylor: I was just - David, find that (unintelligible) while it was interesting that when we're in the Council workshop I saw Wendy at one point said that she didn't want to necessarily vote against it. She'd like to push it off and delay it but

she doesn't necessarily want to vote against it. So again, I presume they're going to vote against it but who knows.

(Ann Eastman): (Ann Eastman), (unintelligible) again, I know that the - that Steve Crawford stated that regardless of GNSO passing such a motion that it would not - the Board would not consider it at this meeting. So is there any sense of when they might do so? Or what other considerations exist for them?

J. Scott Evans: I know we were pushed on time because they say they needed this before the round opened. Once again, just like we do at the IRT, we delivered exactly what they've asked for. What the Board does with it is their business. And I - you know, if you see a GAC member walking around just remind them we did what they asked and it's their job now to get the Board to pass it.

Steve Metalitz: Okay, is there any other comments on this issue? Sorry, Claudio.

Claudio Di Gangi: Claudio, I just had a question for Jim. In terms of what the process is for the second level, is the drafting team continuing their work? How is the second level issue going to be addressed?

Jim Bikoff: My understanding is that the drafting team is going to start on the second level discussion right after we get back from this meeting.

Greg Shatan: This is Greg Shatan. I would just add that Jeff Neuman, the Chair, circulated what he called a straw man spectrum of potential responses at the second level before the - everyone left for Costa Rica.

Steve Metalitz: Thank you. So we have a recommendation from J. Scott that we support this motion or our Council representatives support this motion. Is there any objection to that recommendation? If not I think you have your guidance on that point.

Let me ask about other issues coming up before the GNSO Council. I noticed that the final issue report on thick Whois is also up before the Council. And my recollection, correct me if I'm wrong, is that this was not acted on last time so it was held over. So it now will be acted on.

And the concern that we had about it, this - the thrust of this motion would be to set up a policy development process on thick Whois. Every registry has thick Whois except for three. One of those in the contract ICANN has the authority to impose thick Whois and that contract is expiring before the end of this year.

So - and that's the largest of the three. So our - my concern was if we have a policy development process launched on thick Whois will we then hear from VeriSign and from ICANN - well, we can't change this in the contract because it's under consideration as a policy development process, a refrain we've heard many times in other areas regarding Whois.

So I don't know where that quite - that was the concern last time. I don't know quite where that stands. J. Scott?

J. Scott Evans: I would - I support you fully. I think that's exactly what they're going to say and so I think we need to be very clear that we want it in the contract.

Steve Metalitz: David?

David Taylor: Yes, I'm David Taylor. That's exactly, it was deferred from the - by the NCSG at the last meeting. And there is that friendly amendment which we're hoping is going to be considered friendly which I put in exactly saying that that this motion is intended - nothing in this motion is intended to prejudice migration to thick Whois through contractual means which is what we put in.

There's still discussion as to whether they consider that friendly or not but it was (Mason) confirmed in the workshop on Sunday I think it was that

distinctly and Jeff was saying the same thing that, you know, basically it is without prejudice to that. So if they don't put it in we know they're up to something.

Steve Metalitz: Okay, so I think we still have our position that we want that amendment in. I guess if that amendment is not friendly and it is not adopted what would our position be on this motion? I'm told by the way that the registries will be against this motion. It's - I hear that and, you know, I always hear VeriSign saying we'll do whatever the community wants. So - on thick Whois.

David Taylor: And that's a great question because it's exactly what happened on the UDIP PDP where we proposed a friendly amendment and then they took the friendly amendment out. And then we split the vote, I voted against the motion and Brian voted for. So I mean that's exactly - would be great to have guidance. If they take that out do we back off and vote against?

Steve Metalitz: That's - I think that's the question on the floor. J. Scott, did you have something?

J. Scott Evans: Well, I mean, how do you feel Steve? What do you think?

Steve Metalitz: I don't - I think that if they're not willing to put that in then the scenario will happen that we won't see thick Whois in those three for two or three years. And this way we at least get a chance of seeing it this year.

J. Scott Evans: Can we vote against the motion then?

Steve Metalitz: That would be my recommendation.

J. Scott Evans: Mine as well.

Steve Metalitz: And just explain why. I think with that amendment we would be fine with this motion, in fact we would like to see recognition that thick Whois is important but I just think it's a delaying tactic. (Jonathan)?

(Jonathan Koen):   Is the contract update going to be sufficient for that to be operational if there isn't some requirement imposed on the registrars to provide that information? Is providing an empty vessel going to be sufficient because that's all we can accomplish via a contract vehicle, right?

Steve Metalitz: Well, I think that's a good point and I think our position was in the contract they should start them on the path to thick Whois. I think everyone recognizes that it doesn't - it can't happen overnight.

(Jonathan Koen):   I guess this speaks towards the preference of the amended version of the PDP rather than the brinkmanship because it might need the PDP to bring about the changes to the registrar behavior was (unintelligible) to Whois in Dot Com, right? You know, I don't know the answer to my question but...

J. Scott Evans: My answer to your question would be we get the amendment put into this and it's okay if they won't put it in we vote against it. And then we just keep pushing. Once they do put it in the contract then we can pass a motion about a PDP. But I don't want it to be delay, delay, delay. We were promised this in 2000.

In fact, we were promised universal Whois by the ICANN Board in 2000 and here we are. So I'm just saying we're not going to play the game. Either they get - approve it so it goes into the contract because that's, you know, the same game that Kristina was worried about this morning when she brought it up.

Why are we going to have discussions about how the entire organization's going to look before we get all the new folks in? So I think it's the same game.

Steve Metalitz: Any further discussion on that item? Okay. Are there other items - Brian or (Dave)? Are there other times that are coming up before the Council in which you need guidance? I think some of them are fairly routine but please let us know.

David Taylor: I think - yes, there's the two of the motions for the approval of a charter for the locking of a domain name subject to UDIP proceedings, and that's to approve a charter submitted by the drafting team and to appoint a liaison, so I don't think that's controversial at all.

And then there's the other motion to approve cross community working group principles, which again is approving some principles. I don't have anything controversial there.

J. Scott Evans: Has anyone talked to WIPO about that?

David Taylor: Shall we?

J. Scott Evans: I think we should. Before we give you any direction I think we need to sort of see whether they're coming out on that. That would be my advice.

David Taylor: Happy to, yes.

Woman: Can I propose to (unintelligible)?

Steve Metalitz: Go ahead.

Woman: I think that's an excellent idea. This is something that came up in Senegal that prompted quite an outburst by Mikey O'Connor and given that we do in fact have the two gentlemen from WIPO sitting here, if they would be willing to be put on the spot, I think it would be helpful to have a sense just to kind of - where you all are on that.

Is it something that is viewed as inevitable then we need to make sure that we're staffing it up appropriately.

Steve Metalitz: (Eric), would you identify yourself?

(Eric): I'm very happy to come to the microphone to say that I don't - that I would not like to be put on the spot to use those words but I don't see it as such nor do I think that this very minute this is the one where I think the WIPO would come out with some sort of position on this. I appreciate that you ask.

And the reason also why I say that I appreciate that you ask is that I think there is a range of - in this case, possibly connected issues where I think it would be appreciated by us and hopefully by you if we could wait in a little bit.

And the one that I would like to mention before pushing that microphone button again is the lock situation, which obviously also has a connection to the Whois. It's a very complicated issue. I think it's one that should be led by - with expertise in the room as opposed to too much ideology.

And would be very happy to contribute especially to that effort instead of reading about it in the papers later and then having to implement it when you can't.

Steve Metalitz: Well, on that issue, which - that was the one that before the cross constituency working group, that one is for - also for approving a charter if I'm not mistaken so there would be further opportunities to get the expertise from WIPO and others that's needed. Is that correct?

David Taylor: Yes, they need to appoint a liaison and direct further works, I mean that's the point at which we're at so if we can try and get that in.

Steve Metalitz: Good. Any other GNSO Council issues that need to be discussed? David?

David Taylor: Did we want to (unintelligible) anybody for the liaison or start putting some names forward immediately when they're off the GNSO meeting?

Steve Metalitz: A liaison from WIPO? Or from...

David Taylor: From us with WIPO in the background I would have said.

Steve Metalitz: Are - won't there be some - maybe I'm confused here. Won't there be someone from - ordinarily wouldn't there be someone from our constituency on that drafting team or at least we would have that capability?

David Taylor: Yes, I think so, just thinking of names so we can get people in there quickly rather than have them sort of on the shelf.

J. Scott Evans: How about (Luka)?

David Taylor: (Luka) nods.

(Luka):   I'll be happy to accept.

Steve Metalitz: So we put somebody on the spot anyway, thank you. Great. All right, Kristina?

Kristina Rosette: I seem to recall seeing or hearing something at some point that there was a final report - the final issue repot on RAA amendment. Has that been delivered to Council? And if so is there a motion pending?

David Taylor: I think I saw it on the Council list. I think I forwarded it to the IPC list but I'm not sure what the status is.

Steve Metalitz: Yes, I'm looking at what Glen sent around before we got here and it just says, update on RAA final issue report and status negotiations. I think - my

understanding having looked at the final report is that it recommends that the PDP not be commenced until the negotiations are concluded and they know what issues haven't been addressed, which I think is a reasonable position.

We may be unhappy with which issues haven't been addressed or whatever but we can deal with that then. So I - I've never quite understood this because apparently under the bylaws if the Board asks for a PDP the Council cannot disapprove it, launching the PDP.

So would there even be a motion? Or I don't even know how that would work. But it's all put off, I think, until after the RAA negotiations are completed. We can maybe - well, can maybe ask one of our guests about this but nothing - you know, we could ask Margie but my understanding is that that's just going to be a status report and there won't be a vote.

Mike Rodenbaugh: Just a quick question, it's Mike Rodenbaugh. Is there any timeframe associated with the RAA negotiations intended or firm deadline at all?

Steve Metalitz: Well, I think we need to ask our guests when they get here because they will be briefing us on this. The only deadline was set by the Board and the Board said they would have to complete their works so there could be draft amendments for consideration at this meeting.

Okay, so I think our guests have not arrived yet but in any case we have one other item that was suggested on our agenda, added to our agenda, which is an update on the IAG.

And before we go to that I want to give the people behind me a prize for having completed their signup sheet first but if the other signup sheets are still working their way around please make sure everybody signs them and gets them back over here. Thank you.

Brian, do you want to fill us in if there are any developments on the IAG that we need to know about?

Brian Winterfeldt: Sure, Brian Winterfeldt. On Thursday, March 9, the IAG had its last call. They were looking at Issue N5 for those of you who are tracking the individual issues.

And so essentially they're going to be working on a final report now to compile all of the comments that have been put in both in writing and on the various calls. And that's supposed to be issued I believe later this month.

So right now we are just in a waiting pattern.

(Ann Eastman): (Ann Eastman), (unintelligible). Brian, I'm sorry, what is Issue N5? Did you say N5?

Brian Winterfeldt: There were two tracks for the IAG and they - as usual in ICANN world they had to have - they couldn't have normal names that would help anyone identify them so they were given different numbers.

This was basically about identical matching and whether the domain name that would be identified would go beyond just the exact mark that was in the clearinghouse.

Woman: Okay, also a brief follow up question because I see our guests are here. But any developments you can report for those of us who need to alert our clients regarding proof of use?

Brian Winterfeldt: No developments at this time but we can definitely wait and see what ends up in the final report.

Steve Metalitz: Okay, any other comments on that? Our guests have arrived. I see Kurt and Amy and Karen.

Man: I don't bite.

Steve Metalitz: And I think we have enough sits. Thank you, welcome. I could scoot over if you need me to.

Okay, I want to welcome our guests who are among the busiest people at this entire meeting so we really are pleased that they have taken the time to come and join us here at the IPC.

Kurt Pritz, Amy Stathos, and Karen Lentz to talk about new gTLD implementation issues and we identified in particular the trademark clearinghouse and URS but other issues could certainly come up.

So do you know that these are issues of great interest to the IPC? And I know Kurt, you gave a - and Karen as well, a rundown on this at the - in the preliminary yesterday at about the status of the trademark clearinghouse and the URS, but that might be a good place to start if there - when you anticipate announcing the trademark clearinghouse operator or operators, where things stand on the URS RFP.

And I'm going to try to use at least five more acronyms in that sentence. And just any other issues, comments on that issue. So we'll start with that but then the floor will be open for other questions.

Kurt Pritz: Hi, welcome. Was it yesterday? I had a meeting in this room yesterday or the day before and we moved it out and moved it into another place. So I apologize for the noise and the environment and appreciate the spirit in which you're evidently coping with this environment.

It's good that, you know, ICANN worked to ticked you guys off before I walked in here. (Unintelligible) other way.

So with regard to the trademark clearinghouse, we're marching down a project path that we could share with you that's, you know, a milestone path by date.

And now we're in - at this step we're engaging with clearinghouse provider or providers. And so I'll tell you where we are and to the extent you want to know why we - how we got here, I'll flush that out but you don't want to know that's fine.

So we've selected one provider as service provider and we're not signing - we're not negotiating an agreement right now to enter into a - it's not a final agreement as the clearinghouse provider but rather it's a bridge agreement so that we can work out the operating details for how the clearinghouse is going to operate with the goal of then signing a long term agreement as a clearinghouse provider.

What's not certain is that this entity - and because we're in negotiations we're not making it public yet because then we would lose leverage, including leverage in price for registering trademarks, but it's not clear that this will be the only entity with whom we contract. We might contract with this entity to be the validator or we might contract with this entity to be the validator and the database administrator.

And in turn that entity might contract with another entity to be the database administrator. And so we're dealing with this entity to ensure that the database administration function is secured. We're confident that the validator function is secure.

And so we expect to conclude that bridge agreement within a couple weeks. And we're already starting to work so we need to start paying them. And it's really just a time and materials contract.

And then the goal is then to finalize that agreement and then finalize an agreement with a database administrator.

Steve Metalitz: So let me open the floor to any questions or comments on the trademark clearinghouse first if we could and then we could move along?

Kurt Pritz: So Steve, I'm really sorry, but there's two things we're doing. One is securing the provider, the other is building the process by which the whole thing is going to work. And I think many people in this room participated in the IAG, the Implementation Assistance Group, which is building the set of rules among people, registrars and registries, that work is essentially concluded, 13 conference calls.

And I said in the session, I think is a really success for ICANN that all these people come together in the middle of the night and constructively contribute to these rules. It was robust, really good discussion. ICANN plans to publish the results of that as a straw man model at the end of this month.

And then work with the clearinghouse provider to then finish the set of rules and procedures by which the clearinghouse operates. So we're fleshing out the set of rules and procedures by which the whole will operate using the work of the IAG, publishing that, and then working with the clearinghouse and the IAG members - IAG members to finish the rules and operating procedures.

And then there's a - in the project plan there's quite a long testing period and implementation period once that's all settled.

Karen Lentz: So this is Karen Lentz. I had the privilege of working with the IAG. It's a kind of a new - fairly new model for ICANN when you think about, you know, the number of people who wanted to be involved and the complexity of the processes that we're trying to create involving registries, registrars,

clearinghouse, potential domain name registrants, how are they all passing data back and forth.

So as has been mentioned already, we're close to the end of that process of collecting all the input and I just wanted to highlight a couple of the issues that were discussed that I believe would be of most interest to this group.

And this is all, you know - all of the IAG materials are publicly posted, all of the call recordings are available so I'm just, you know, highlighting some things from that here. But one of the things that we talked about were the authentication criteria, what does the - what standards does the clearinghouse use when it's, you know, getting submissions and deciding whether they should be recorded in the clearinghouse.

And, you know, the obvious goals here to have, you know, clearly specified standards that are available upfront and to have, you know, a fairly streamlined approach, not to create a burdensome process that will involve several staff then - and so forth.

So the model that we've built is really for the clearinghouse to be administratively focused. So their job is not to, you know, provide legal determinations. Their job is not to, you know, agree or disagree with what the authority and the jurisdiction said. Their goal is to, you know, review this - the documentation that's submitted and make sure that it does meet the requirements.

So you're talking about things like does the - you know, when their registration number is provided does it match something? You know, where there are - or that data's available online. It's a fairly simple check and where it's not, you know, there may be some additional steps but either way it's intended to be fairly lightweight.

The second thing that was asked about earlier was the validation for proof of use and that we worked on as well. The - following the guidance that had already been established that it should be potentially a declaration plus a specimen of use.

So we have a draft of the declaration and some lists of things that could be acceptable as specimens which are kind of grouped in what we put out as, you know, yes, no, or maybe this would be acceptable, this would not, and these - you know, perhaps.

And then the third thing I wanted to bring up was the issue of data location which was kind of grouped under the technical headings in the IAG discussions but received a lot of feedback from (unintelligible) that, you know, expressing concern about the aggregation of data in the - and that would be in the clearinghouse and whether - for example, registries or registrars would have access to the whole set of data or how much, under what circumstances, and what restrictions, etc.

So, you know, those concerns have been, you know - came out really strongly in the group and are certainly being taken into account in the technical model. There was kind of a principle adopted of minimalism so you only get the data that you actually need for the purpose to, you know, perform the function that it's intended for.

So those, you know - those issues have been discussed quite a bit and we have those in mind as we're, you know, working out the straw man model. Thank you.

Steve Metalitz: Thank you, let's take a queue for questions or comments on the trademark clearinghouse. I see Claudio, (Mike). Let me just ask, is there anyone on the phone that would like to ask a question or make a comment? Okay. Claudio, go ahead.

Claudio Di Gangi: Claudio Di Gangi, Karen, one question - concern the proof of use issue, thanks for that input on that. One question is how might that be challenged? So that seems like - that could be more subjective in terms of the criteria in terms of what you might lay out. I would definitely pay attention to that as well because what constitutes use in one country is different.

So there's no global standard in terms of what type of use supports a registration or could be sufficient to support a cancellation procedure. So there's just different standards in different countries. So that's just something I wanted to draw your attention.

And then also in terms of the straw man proposal, is that something you guys are going to put out for public comment?

Karen Lentz: So the intention right now is to, you know, provide it to the IAG, that's essentially a review of the input that we received from them and also, you know, put that out for, you know - the model out for comment from the group members, that will also be publicly available and certainly we expect feedback on it.

Claudio Di Gangi: Do you have any sense of how the objection process might work for proof of use? Is that something that the trademark clearinghouse itself is going to be deciding objections?

Karen Lentz: So despite resolution was one of the topics that we raised and the IAG then spent a while talking about there are - we kind of came up with a table of here are the - and all of the things that the clearinghouse does and all the processes where it's involved. These are the things where there could be a dispute. And these are the types of disputes that could occur.

So I would have to go back and look at what we talked about on that one but certainly one of them was someone wants to challenge the decision that was made by the clearinghouse in terms of the validation.

Mike Rodenbaugh: Mike Rodenbaugh, my question goes to the costs or fees that would be charged by the clearinghouse provider. For those of us that are trying to draft up TLD applications, that's kind of an unknown as to what the provider - or even a range of what the provider may charge, number one, the registry to make a query against the clearinghouse database, and number two, trademark owners to put their records into it.

Both of those figures could affect the financial models that are required in the application. And we simply have no guidance whatsoever from ICANN on those numbers. Has there been any work, any chance there might be some guidance in the next couple of weeks?

Kurt Pritz: I don't know. So when we interviewed each of the companies that applied to be a clearinghouse provider they were - those applications were weighed on, you know, global reach, ability to perform, you know, the bandwidth, and also of course, price or cost to the trademark owners who register trademarks and the registries who will use the clearinghouse services.

And so that was one of the evaluation criteria. What we used implicitly was - sort of going through the public record, and I was asked this question here so I can't give you the link, but there's mentions in the public record about what trademark clearinghouses generally cost.

And we had sketched out what some of those costs are to ensure that we were in the bandwidth of what was suggested. And if anybody here wants to now or later share what some examples of clearinghouse costs are and - as a yardstick for us to use that would be terrific.

We met with this company just in the last couple days to discuss how we're going to move forward and during that meeting we mentioned this very question that people are very hungry for this type of information so we need

to as a first part of our discussion get out there with what we think - at least a range of costs are.

But I'll say that we think anyway looking at the proposed costs that they're well within what people have discussed here.

Mike Rodenbaugh: What do you mean people have discussed here? I'm not clear what you're talking about.

Kurt Pritz: Yes, so what people here or what we've heard discussed as typical cost for registering in a trademark clearinghouse, how much registration costs.

Mike Rodenbaugh: Could we maybe just make that an issue in the IAG or something and get some sort of clarity from ICANN on a range of costs that we could plug into our applications and our models?

Kurt Pritz: Yes, so I don't think it's an IAG issue. It's an issue for the clearinghouse provider to publish their costs. And as I said, when we met with them in the last couple days we raised this as a very important issue, something we need to get information out right away about.

Steve Metalitz: Paul McGrady, does anybody want to be in the queue for a question or comment?

(Jonathan Koen): Yes, it's (Jonathan).

Steve Metalitz: Who? Somebody on the phone?

(Jonathan Koen): Yes, (Jonathan).

Steve Metalitz: Okay, we'll do Paul and (Jonathan) and then Kristina. So Paul, go ahead.

Paul McGrady: So you sort of touched on - everybody sort of touched on what my questions were going to be and specifically - I guess drilldown on a couple of things. One, is there going to be an appeals mechanism because the clearinghouse is going to get things wrong. One of the things that we learned from the .XXX rollout is that, you know, the clearinghouse is going to get things wrong, right.

And so - and if there is going to be an appeals mechanism will it be an independent appeals mechanism or will it be an internal appeals mechanism within the provider itself or will it be heard in - with WIPO and Geneva. Who's it going to hear it?

And lastly, who's going to bear the cost of that appeal? So I'd like to hear some thoughts on that.

Secondly, back to Mike's point which is, you know, the application window effectively closes in two weeks. It's - I understand that we could all try to dig through the transcripts and try to guess but to the extent that ICANN's not prepared to give us any guidance could we at least just get a representation that no application will be rejected because it doesn't adequately guess what ICANN is thinking about the cost of an application.

And I'm not trying to sound flippant about it, it's just an important point and, you know, we want to give you guys applications that you look at and say, that's a no brainer, off it goes. But we don't want to be penalized for guessing wrong because we didn't know how to guess.

Karen Lentz: Okay, so I'll answer the first question which was about an appeals mechanism.

So again, there are a number of types of cases that might come up. So I'm kind of assuming from your question you mean appeal of something not being accepted into the clearinghouse, right. So - and this really goes to, you know, the types of determinations that the clearinghouse operator makes.

You know, if they're making simple administrative comparisons, does this match here, does this - the correct, you know, does the contact information work, etc. It's really a sort of administrative, you know, complaint process or, you know, a customer service issue going back to, you know, the operator with questions and working out those issues.

Then there's the - you know, there's the case of a sunrise registration for instance, which was relying on, you know, information that was in the clearinghouse. So there's a whole - you know, there are several levels.

So I think what we've contemplated in the table here is, you know, there's this type of complaints that would be, you know, most likely handled in-house. A very small - you know, working out the details type of complaint.

All the way up to, you know, the sort of sunrise challenge that's described in the guidebook where somebody actually registered the domain name based on rights that, you know, turned out to be - or information that turned out to be incorrect or invalid.

And there's - and the guidebook - I think says that the clearinghouse would be the one hearing the challenges. We had a bit of discussion about whether that was the right model or not.

But, you know, basically there's a graduated process so that, you know, whatever types of situations the cases - within reference to the - there isn't a mechanism for that. And that will be in the model that we publish as well.

Paul McGrady: And just a follow up comment on that, which is having your mark rejected as invalid for inclusion in the clearinghouse is every bit as substantive and important as having a sunrise challenge. And so the notion of that just being handled by the person who just rejected you or their boss, I think, is insufficient.

And I - again, I didn't get a response on who's going to bear the cost of that part of the question but I think that we need to be thinking about that. I mean if the clearinghouse clearly gets something wrong they should have to pay instead of having the brand owner have to pay their lawyers essentially to correct the clearinghouse.

Karen Lentz: Okay, so you're right, and I didn't mean to suggest that the - you know, the admission into the clearinghouse was trivial. You know, but there will be these sort of - you know, things were admitted in error, rejected in error, you know, and being able to fix that.

So, you know, in the - as far as who bears the cost I don't think that's really been discussed and it will depend on what, you know, level of resources are needed to, you know, consider the facts and what experts (unintelligible) needed to make a judgment.

Steve Metalitz: And Paul's second question about guessing wrong on the cost?

Kurt Pritz: So the guidebook - and I think especially the financial measurements are based on a reasonable test. So we'd expect applications to estimate what costs are. We will endeavor to get information out as quickly as we can to provide some guidelines. But anyway, a reasonable approximation of cost is what the goal of all financial - part of the application (unintelligible).

Paul McGrady: Thank you for that. Like the continuing operations instrument essentially that guidance was extremely helpful because it gave us a sense of what you guys had in mind and so to the extent that you can tell us what you have in mind, that would be great. Thanks.

Steve Metalitz: Okay, I think (Jonathan Koen) on the phone had a question.

(Jonathan Koen): Yes, I'm going back to the declaration for getting into the clearinghouse and remembering what Claudio said, which we all know to be true, and that is that there are different standards internationally for what constitutes use or what's token use as opposed to ordinary use, etc. And I wondered is the declaration going to be a simple declaration or will it be a statutory declaration that is something under oath.

The - who's going to work out the questions that need to be answered basically by the declaration. It seems to me that with some care and maybe the assistance of a few trademark people from different countries you might be able to come up with a set of simple questions that are answered in the declaration that will avoid exactly what Paul is worried about and that is getting it wrong or the necessity of appeals in a number of cases.

Steve Metalitz: Responses?

Amy Stathos: So we are - sorry, this is Amy Stathos. We are looking to have a declaration that does in some way - from a point of view be under penalty of perjury. It is not necessarily going to be based on statute or anything along those lines. We haven't identified the specific language yet and we are open to any recommendations that anybody would like to make in terms of what should go in the declaration.

You know, there's been some discussion about it in the past but there's nothing been finalized yet.

(Jonathan Koen): Well, that's hopeful. It seems to me that the IPC should be considering getting a few people from two or three different countries including some non-use ones to come up with some suggestions that would help you and us. That's it for me. Thank you.

Steve Metalitz: Okay, thank you, (Jonathan). We've got Kristina and J. Scott in the queue and then we're going to have cut off the queue because we're almost out of time for this item. So Kristina?

Kristina Rosette: Paul actually asked my first question but my second question is is that does ICANN currently anticipate that the agreement - whether it's the final agreement or the bridge agreement with the trademark clearinghouse provider contain a provision prohibiting it or its affiliates from being a new gTLD applicant? And if not why not?

Kurt Pritz: No, so I think we - conflicts need to be addressed but I think it might be impossible to find a firm with the right bandwidth and size to do what we want to do, that we don't want to fail at. And have it precluded from using its brand and as a new gTLD.

                    And so what's in place instead and what we're willing to discuss is a really careful set of conflicts rules to govern that. And conflicts is a big part of the - our RFI that we sent out. We think it's very important. But it - so anyway, we did that balancing and we're going to find that large, reputable firm to conduct this operation.

Steve Metalitz: J - J. Scott?

J. Scott Evans: I just want to say that, you know, I think we need to be careful with some of the language we use and the word appeal kind of inflames a lot of people because they think it's some sort of legal thing. So I would like to say reconsideration or something like that should be used because I don't want them to think it's some sort of - the trademark lawyers going off the rails again. It's more of a customer service issue, correct.

                    And we know it's happened before. And I would also ask Karen - (Edward) and .Asia, I think, took in and did something like this and so did .EU. And I

think I would talk to them, you know, on what the error rate was. And that may inform how you want to go about doing your levels of escalation.

Steve Metalitz: Okay, thank you. We - the other item we had teed up for this section was on the URS and the status of a vendor for that and the procedures for that. So Kurt do you want to - Amy? Amy.

Amy Stathos: This is Amy Stathos. So we are very close to publishing an RFI or an RFP for URS providers. We are anticipating that the requirements will be very much the same as that for a UDRP provider. And with some - of course, specific issues that are related to what's in the URS, some of the requirements for training that's being called for in the procedure.

We are hoping to get that out soon and at that point we are looking to engage the community significantly in working up the set of rules that will go behind the procedure. Similar to the UDRP, there's the policy and then there's the rules that support it.

We have some very, very difficult goals to achieve in the URS. Speed and low cost, and sometimes those two collide in terms of the mechanisms that people wanted to input and that has resulted as part of the URS.

So we are - we're talking to some folks and we're going to open it up for some community input to help us develop those because we want to make sure that all of the goals are achieved in the best way possible.

Steve Metalitz: So let me open the floor for any comments or questions on URS. We'll take a short queue. David, J. Scott, go ahead.

David Taylor: Thanks a lot for that, David Taylor. When we were back on the - in the IRT days and looking at the URS and that dilemma of cost and speed and who would pay for it and how to make it cheap, etc.

One of the things raised at that point was would ICANN ever consider paying for the URS themselves as a provider. (Unintelligible) does this for the (unintelligible) or UK. I'm assuming which (unintelligible) would look good on ICANN.

And if not then how are we going to juggle this problem of trying to do something for $300 when providers can't do it for $300 and panelists wouldn't do it for $300.

Being a panelist myself, by the time you've done any conflict searches, gone through everything, if you're getting $150 for something after tax, $275, it's really not worth doing it. So you've got a problem then of whether panelists - or good panelists will do the work.

J. Scott Evans: And what would be the funding model to come out of the registry fees essentially?

Kurt Pritz: Yes, so I think there are several aspects that need to be balanced. We're also concerned that the URS is burdened administratively, that that is going to increase the cost, too. There's an appeal process. Now we'll add administrative costs to whoever the URS provider is, and some other things that have been hung on it as it's been developed.

And, you know, as we get what the costs are and try to balance how to get to our goals with suggestions such as yours, we also want to work with you on, you know, maybe tweaking the URS model so we can get the costs down, but have a community discussion about refining the model a little bit to make it more lightweight.

Steve Metalitz: J. Scott?

J. Scott Evans: I'm sure I don't need to put this on the record, but I just thought I would. You can't fail us on this one, guys. You think they're burning the house down

now? This has been promised by your board of directors to vote the GAC and us as a solution. That is the reason we shouldn't be panicking. We shouldn't do any of that.

So, you know, we're here to help you; help you do it right. We want it to work. So please reach out to us. Former IRT members are willing to serve. We want to help. We want it to be a success, because if it doesn't, it's not going to be a pretty scene. And I, you know, you're good people. We're trying to make this work. Let's work together.

Steve Metalitz: Before I call on (Russ), I thought J. Scott was going to just point out that he and I were half of the team that wrote the UDRP rules, and we might be available to help again. Those worked okay, I guess.

(Russ): You can just volunteer for everything. No, I just want to second what J. Scott said, and then also reiterate this has to be faster and cheaper. If it's not going to be any faster and cheaper, it's not going to be used. And then it will have been all for naught. So you really have to find a way to make this (unintelligible) faster and cheaper than the UDRP. Thank you.

Steve Metalitz: Are there any other questions on URS? Or on the phone about URS?

(Fabricio): Pete, it's (Fabricio), if I could get in the queue.

Steve Metalitz: Okay, you are the last in the queue.

(Fabricio): All right and thanks everyone. So thank you guys for being there. You know, I obviously echo what J. Scott said. (Russ) as well.

And I just want to mention that to (David)'s point, as far as helping pay some of this stuff, maybe the model would be that this URS, just like all the other RPMs and objection procedures in the new TLD program, become a loser pays system. And then where somebody does not pay, then ICANN can

actually put the money in to cover the registry's, registrar's, whoever along the way you think pay.

The reason - this has been brought up actually since the IRT days. We had a discussion with Doug Brent about it back in the day. The discussion there was that using the eBay VeRO program as an example. eBay pays out of its own pocket in order to make sure that their ecosystem is clean and that participants in that ecosystem have trust in the system and continue to come back.

I think that ICANN would want the same of the new TLD system. Since then, this was brought up at a recent trademark symposium we had in New York, and we raised the same to Steve Crocker. And I think he kind of shook his head and nodded, I should say, in a way that said, you know, I've definitely heard this before.

And I guess this ultimately answers the question of what is ICANN going to do with all the money, something that we've heard ICANN say they're going to try to figure out a way to reinvest back into the community. We've heard plenty of the community asking what's ICANN going to do with all this money.

And this would answer it in a way that's very productive, meaning ICANN could submit into a process whereby ergo it makes the ecosystem a lot cleaner. So that's my suggestion, my two cents on that.

Steve Metalitz: Steve? Thank you for that. We're out of time here, I think, because we were eating into the time on the RAA discussion. So I'd like to thank (Karen) and (Amy). I'll thank Kurt, too, but we're not actually letting him off the hot seat, I don't think. I think we're just moving Margie up here, too.

But thank you very much, and we really appreciate your taking the time. And we know how hectic things are for you, but please, please count on us as a resource to try to help on some of these issues.

Okay, we're now moving on to the RAA amendments. And we have Margie Milam joining us. Welcome, Margie and Samantha Eisner. Is everybody ensconced there? Okay.

Again thank you very much. We've all seen the status report that was published, and we're not going to ask you what the text of the agreement or the proposed text says, because we know we're not going to get anything that way.

So but I would like to at least start by asking on a couple of issues that were brought up in the meeting with the GAC and the GNSO, I believe, which are when do you think a - what is the timetable and when can we expect to see actual texts of whatever amendments are going to be offered?

Kurt Pritz: Well let me tell you where we are, and then prognosticate where we're going to go. Where we are is that - very briefly, we've spent most of our time on negotiating text for the 12 law enforcement recommendations. But recognize that there are registrar asks and ICANN asks, compliance asks for better tools, and also the GNSO requests.

So we have constructed a complete draft of the agreement that incorporates all those requests and expect a registrar redline of the entire document in the next few days, so that we are now - so you're attorneys, so you'll understand that.

So now we're negotiating a completed agreement. I think - so this is a long sentence, so wait till I get to the end of it. So except for the issues that I'm going to talk about at the end, I think there's resolution of those issues in the next few weeks.

The issues that concern me are the important ones that are WHOIS validation, verification, authentication; and the capture and retention of data.

Steve Metalitz: What was the second?

Kurt Pritz: The capture and retention of data, registrant data. And they concern me because we want to meet the law enforcement and the IP (unintelligible) expectations with regard to those things.

And I'm not clear, the law enforcement request, whether it's like a complete authentication model. Yesterday they proposed a matrix. They proposed a matrix later again in a private meeting with registrars and ICANN. And so - and I want to get your advice.

We want to take the time to ensure that we have the law enforcement request accurate, so that when we publish a posted agreement, it'll be found acceptable. And so we're trying to figure out how to do that dance of posting drafts and getting public comment, not having somebody sit at the table, but getting some buy-in that these are requests.

So I think text will be available in a few weeks. I think working through those two issues, with law enforcement, you and other GNSO constituencies might take longer.

Steve Metalitz: Maybe I - I want to make sure I understand. Will text be available including on those two issues in a few weeks? Or you think on all the other issues?

Kurt Pritz: So I'm sure - I'm very - I'm not very certain. I want to be really careful. I'm assured that text on the other issues will be available. I want to understand. You know, I haven't sorted out -- and I'd rely on Margie and (John) and Sam, too -- about how to take a proposal from registrars about WHOIS validation, and then shop that around, for lack of a better term, to see where that stands.

And understand the problem, too, that the reason this thing that we posted is so vague is because nobody, you know, the registrars, for example, don't

want to say, "Okay, we're going to make these changes on the developed law enforcement request. There's changes on them all. And then in the next go round we'll talk about our asks," because they've given up leverage.

And so that's why this is so vague. That's why this took, you know, three or four weeks to negotiate just this document. And so that's not a good answer to your question.

Steve Metalitz: Oh, no. It clarifies what we can expect to see publicly. And, you know, I think we understand the constraints that you're under. Several - (Kristina) and others can certainly testify that the issue of transparency in these negotiations was a huge problem, and the reason the GNSO - and one of the reasons the GNSO council could not really act on this.

So but, you know, there was obviously a sense of urgency that's come from the Board. I hope they will maintain that sense of urgency, because I think it was a useful spur to action.

And, you know, if they don't maintain it, then, you know, I know there's a lot of optimism around from people that know a lot more than I do about what's going on in these negotiations. But I think we could turn very pessimistic if we don't see that urgency maintained.

Kurt Pritz: And I'll tell you that the Board just reiterated that sense of urgency with the registrars 30 minutes ago. And ICANN's negotiation position so far is that if you don't meet the law enforcement recommendation head on, then we don't have agreement yet. So in each one of those we haven't agreed to a term unless it fully meets the law enforcement recommendation.

Steve Metalitz: Well let me take a queue from people that may have questions or comments. I have some, but I think there may be others as well. Any questions about the RAA amendments, including from those on the phone?

If not, then I will ask about a couple of things that I don't think I saw in the status report. And you pointed out, and I think it makes perfect sense, that your first priority was to deal with the law enforcement recommendations. And on the other hand, there's also a lot of topics identified by the drafting team that some of us worked on; and some of those, of course, originated from this constituency.

So I guess I'd like to ask in particular, one of the high priority items in the drafting team report as a topic to be addressed in RAA amendments, was to define the circumstances under which registrars required to cancel registration for false WHOIS data, and set reasonable time limits for registrar action.

And as you know, under the current agreement, there are certain times when a registrar may suspend or cancel the registration, but not when they must. So I didn't see that in the chart. Maybe it was just there in different form. But I wonder if you can explain where that high-priority topic from the...

Kurt Pritz: Yes.

Steve Metalitz: Perspective stands.

Kurt Pritz: So and Margie's going to answer that question with specificity, and I'll say that I don't think this is necessarily one of them, but there are topics that are not included on that chart because we couldn't get agreement in the negotiation to put them on the chart.

And we said well we'll leave them off the chart in writing, but we're not giving up. This is still on the table for us. So the chart isn't complete with all the ICANN requests, and there's certain others that we've requested that are still on the table. But with respect to the drafting team requests, Margie has more specific...

Margie Milam: Yes, with respect to that request, it's still on the table. As Kurt indicated, the priority's been the law enforcement ones first. And so we haven't worked out all the details on those, but it is on the table.

And as is requested by the GNSO council over the weekend, after Costa Rica I'll put together a report that itemizes each of the high- and medium-priority topics from the RAA drafting team, so you can see what their status is.

It's just that the status report that was delivered before Costa Rica didn't really identify which ones came from the drafting team and which ones, you know, did. But there are certainly some in there. And the report, as Kurt mentioned, is not comprehensive.

Kurt Pritz: And when Margie says on the table, that means the draft of the agreement that the registrars have that they're redlining back to us has that provision in it, although I can't tell you what the wording is.

Steve Metalitz: Okay. (Christina)? Does anybody else want to be in the queue? Go ahead.

(Christina):   Can we get any kind of assurance that going forward the transparency is going to be an improvement of what we've seen since Dakar?

Kurt Pritz: Yes, so what specific improvement - oh. What additional detail would you like to see? And I'm asking that for the very reason that when we published, when we wrote our first report, it was highly detailed. And then we got into a - we sent it to the registrars and said, "This is what we're going to post." And they redlined it severely. And we redlined it back, and so we wanted to spend zero time on that.

And so really what I'd like to do is either talk to you here and get some specific recommendations, or talk to you after this with Margie and (Tim) maybe, and talk about how we can augment the detail in a way, you know,

coming from a contract negotiation background, that would be meaningful for you that would also be acceptable in a contract negotiation.

(Christina): Yes, absolutely. I'm happy to do that, and in fact I think there's probably enough ITC members that would be interested in that that we may just kind of circulate something internally.

And obviously it gets - I admit it certainly gets trickier when you're talking about substantive reporting as to where things stand. But there are some really non-substantive, basic things that could have and should have been done. We met on this day. Here are the minutes. Or here's a report. We are next meeting on this day.

Now that we have this matrix, perhaps it will be possible, you know, once you get to the point where you have a yes agreement in principle, yes agreement in language, that you post that. I'm not necessarily saying that it would make sense to release the language on a rolling basis, but at least give us those updates. But in terms of the other more sensitive points, then, yes, absolutely I'd be happy to get back to you on that.

Steve Metalitz: Let me see. Claudio? Does anybody else want to be in the queue? I'm sorry. I'm sorry. And then we'll...

Woman: Sure. And I realize that the wiki took longer to update than we expected, but if you look at the wiki, there are meeting reports for every meeting now, including every issue and the dates that it was discussed.

But I understand that it was delayed in posting because of all the back and forth. We had a tremendous amount of documents we were working with, and so the update of the wiki, when we're trying to get registrar approval of the language in addition to circulating drafts and developing negotiation positions, took time.

But, you know, we'll certainly take that back as an ask to be more prompt in our updating of the wiki, because it does have that information on there, and that was the intent when we started the project.

Claudio DiGangi: Claudio DiGangi. I guess it's sort of a process question. One of the issues - I think the whole debate which was clearly very important to the registrars was this would be a bilateral negotiation between ICANN and the registrars.

So I'm not really clear just in terms of how things move forward. How will public input be brought into this process, you know, in terms of the output of your negotiations? Is there going to be an opportunity for the public to influence what happens? Or how's that going to proceed? Thank you.

Kurt Pritz: Well I'll answer and then Sam can correct me. So the current agreement spells out the process for amending it that requires what was called a consensus policy at the time, but it pre-dated the PDP, but it calls for a two-thirds GNSO vote before it's submitted to the Board.

And that vote has to be accompanied by reports of those supporting and not supporting the changes. And so the Board will necessarily see the report, you know, the reports, this (unintelligible), and the others as part of that consideration. So we see a pretty robust ability, a pretty robust public comment process is part of it.

But and still we see the sense of urgency to get the thing done, right? So, you know, besides (DRS), it's another opportunity for us to collaborate maybe, you know, between meetings in a session, so we can understand what constituency input is.

Steve Metalitz: Any other comments or questions?

Claudio DiGangi: Just a quick follow-up.

Steve Metalitz: Oh, I'm sorry.

Claudio DiGangi: So have you guys also discussed the (unintelligible) going forward? Have you talked about how - if they're going to be an agreed-upon process for amending the agreement in future rounds?

Kurt Pritz: And that's why the topic's being negotiated, and it's fairly difficult. And so yes, I think the new agreement has to be clear on that, and I think that's a reason for publishing it for public comment, too. So there's input on that, to ensure there's safeguards.

Steve Metalitz: I'll put myself in the queue unless there's someone on the phone that wants to ask a question. Okay. Margie, I will await your matrix, because we had some other high-, medium-priority items that we didn't see in there. But we'll wait and see what you say. So it's heartening that they're in there somewhere, but we haven't seen them.

So but really following on to Claudio's last question, part of the urgency could be served by some method that gives registrars incentive to sign a new agreement before the expiration of their old agreement. And we have proposed - and obviously the number of incentives floating around, are those incentives also under discussion? Or isn't that something that ICANN could decide unilaterally?

Kurt Pritz: ICANN could decide those unilaterally.

Steve Metalitz: So I don't know what the process would be for making those decisions, but we have made a couple of suggestions. One, of course, is that anyone who wants to continue under the old agreement can continue to take registrations in the legacy gTLDs, but not in the new gTLDs. Is that an incentive that's under - can you say that that's an incentive that's under consideration?

Kurt Pritz: That's been discussed by staff members and Board members. You know, I don't (unintelligible).

Steve Metalitz: Okay, all right. And we had some other suggestions as well. It seems to me that while we might - I think I understand a little bit about the dynamic of the negotiation, but I think this is an issue -- in terms of incentives for quick sign-up -- where ICANN has a lot of leeway, it would seem. And I hope that (unintelligible) will be exercised very vigorously.

Kurt Pritz: So this is a poor question, but can you point me to those who sent them so I can find those suggestions?

Steve Metalitz: Yes, I can. Okay, let me ask if there are any other comments on the RAA amendments.

Man: Steve, (unintelligible).

Steve Metalitz: And if not - go ahead.

Man: Thank you. So (unintelligible), this is a recurring theme throughout the week so far, and I think Steve touched on it a little bit. But can you give assurance that what's being negotiated now, whatever the outcome is, that this all ties in to a strong contract compliance team and program? And maybe that you guys are in sync?

I know that we asked compliance earlier if they were part of these negotiations, and I think they said no, but they were part of earlier negotiations.

And I think that for any of this to not be a wasted effort, it needs to be one, nailed down that any obligations aren't just pass-through obligations where, you know, anyone can say, well I put it in my agreement and the registrant said yes, go ahead. And they went ahead and checked off on it by registry, and that there's real teeth to this that compliance has the tools it needs to enforce when you hear from us.

Echoing a little bit of what J. Scott said earlier, you know, we're here to help you guys to a large extent as well, and make sure that this isn't a wasted effort.

And we want to make sure that when we deliver -- as you probably heard from many of us for many years, you know, different compliance issues on people not following the terms under which they agreed -- that you guys have the tools baked into all these agreements to actually enforce and do some compliance.

So I know that we can't be part of the discussion, but is that an assurance that you can give us here now? Or if it hasn't been part of the discussion, can you give us the assurance that it will be?

Samantha Eisner: So this is Sam Eisner. When we first started planning for the negotiations, one of the things we did was to bring in the compliance team to help us identify additional ICANN asks that we would have. We wanted to make them a part of the conversation from the outset, and we've been negotiating to those positions.

In addition we've taken some very close looks at the contract to see what we can do to help clean up and strengthen the compliance terms that are in there, as well as ICANN's ability to take action and to enhance some of our compliance rights. And those have all been part of the negotiations. I think that many of those have been topics that we haven't gotten much resistance on.

And while we don't know what the outcome will be, we can assure you that we have been working with compliance, and those types of concerns will be reflected in what will be posted.

Man: Thank you.

Steve Metalitz: (Ann)?

(Ann):   Probably at this point in time I'm becoming a broken record on the subject of compliance officers.

But it does seem to me that in terms of engaging best practices from other industries and given, you know, potential for abuse -- particularly in the proliferation of top-level domains -- that it would make a good deal of sense for registrars and registries to have designated compliance officers whose contact information is registered with ICANN, and who are responsible not only for knowing the obligations, but for being the point of contact and undertaking any enforcement.

Seems really, really obvious and simple. I mean, any chance?

Kurt Pritz: So we're taking a note. I agree with your suggestion.

Steve Metalitz: Okay. Other questions or comments? Well we have guests that are supposed to be arriving in 60 seconds, from the nominating committee. And I don't think...

((Crosstalk))

Steve Metalitz: Okay, great. All right. Well one of our guests has arrived, so and (Karen) is still here. We could probably bring her back up and ask some more questions about implementation.

But I appreciate your time. I think that we definitely -- as you know, Margie well knows -- that we are quite engaged on this issue and would like to be involved. I think it has been, you know, the cone of silence that has descended over the negotiations was very disconcerting to us.

I think part of that is unavoidable, and maybe some of it was avoidable. But I appreciate your asking for input, and we're prepared to give it as, you know, promptly as we can. We want to see this attempt to renegotiate the RAA, which we've been pushing for for years, to succeed.

And I believe this is a good opportunity, and it's clear that you have strong support from the Board to do this, as well as from governments. So we want to be part of that process. And if you can help us figure out the best way to do that, I think that would be good -- perhaps a better experience than we've had over the last few months on this issue.

All right. Well thank you very much. We appreciate your time. While our next guess is coming up, we have these other sign-up sheets. Please write. We need to know who's here.

Man: (Unintelligible)

Steve Metalitz: Okay, you've got them? All right.

Man: (Unintelligible). You want to get started?

((Crosstalk))

Man: Yes.

Man: All right.

Man: Let me get people (unintelligible).

((Crosstalk))

Man: (Noah), do we have - do we show slides here?

Man: They probably have (unintelligible) capability.

Man: No worries.

((Crosstalk))

Man: The people actually (unintelligible).

Steve Metalitz: Okay, what - our next agenda item is a presentation from the nominating committee, and we have the vice chair of the nominating committee here, Rob Hall; and the chair is on her way. And our nominating committee delegate was sitting right here, but seems to have gone out for a breath of fresh air.

                So, okay. So I'm glad, you know, if anybody - I think we should probably just get started, and when Vanda arrives we'll hear from her as well. And we have somebody else coming right after you guys. So let me just turn it over to Rob, who is the vice chair of the nominating committee. Take it away.

Rob Hall: Thank you. My name is Rob Hall. I'm actually chair-elect of the nominating committee, which is a slightly different position than vice chair. Vanda has the whole presentation that she'll go through when she gets here on what we're looking for and what feedback we need from you.

                My role's a little different on this year's committee. So I'm the first chair-elect ever. This is a new position they created. So in the past it used to be you had a chair and then a past chair that kind of tried to help the new chair, that was dumped into it with both feet, learn what they were doing.

                The (HCRT) said, "No, let's create a chair-elect that learns it before he actually chairs." So my focus is on next year's, which will sit for the first time in Toronto. What does that mean? It means I've been going through budgets

for next year, and so I've had opportunity that chairs typically didn't have. The previous chair would have to do it.

The other change it means is I'll be coming to your group. I'm writing to Steve very shortly after this meeting asking for your candidate for the next Nominating committee starting in Toronto.

So normally this would happen just before Toronto. And I'm going to ask that you identify the person around the Prague timeframe or shortly thereafter so we can start to get ready for that candidate...

Woman: (unintelligible).

Steve Metalitz: ...and start to get the group together and start to see what work we can get done beforehand.

A lot of the initial work is simply informational for new members and there seems to be no reason to wait until we actually sound the gun to get that out.

The other thing you'll see that I've been working quite hard on is there is a veil of secrecy that seems to extend over the Nominating committee and what we are and what we do and how we do it.

I think that comes out of the fact that the candidates' identity, as well as the discussions around the candidate and their personal information, must remain confidential. But I think its' been applied far too broadly to everything else about the committee.

So I've been undertaking -- on behalf of the board this year -- to write a bit of a procedure and policy manual so that each new NomCom doesn't need to learn how things were done the previous year, because there's really no documentation going year-to-year.

The other thing we're doing -- and then Vanda supports and you'll start to see more from this year's NomCom but certainly next year's -- is we're starting to look at documents a bit differently and say, "Why can't we release this?"

So in my opinion, there is nothing about policy or procedure or how we do things that can't be released to the public. Our agendas when we meet -- none of that should be confidential.

The only thing that should be confidential is the candidates and the discussion around them. So you'll start to see us try and push out more and be more transparent around what we do and how we do it, while just keeping the actual discussions and candidates confidential.

So I hope that any who have done a disservice in the past to ourselves by people fear what they don't know -- I think if we're open and transparent about it, there is really nothing to fear and we can move forward.

So I'm happy to answer any questions. And Vanda has a presentation of...

Vanda Scartezini: (unintelligible).

Steve Metalitz: ...I think she should go through and then...

Vanda Scartezini: (unintelligible).

Steve Metalitz: (unintelligible).

Vanda Scartezini: Thank you for (unintelligible).

Sorry to be late. We are - we are running from one community to another one. But the idea here - I understood that we don't have connection for this, but I'll send to you this presentation, no problem.

It just finish here. You're going to have it in your computer.

So the idea here is to come back to you from last year. We had a meeting with the group and the whole community and trying to collect the information about their thoughts/their ideas about the best profiles from the - they expected for the board member to have.

So that's the idea here, is bring back to you what we collected for the whole community and - we made a resume about experience and skills that we believe community as a whole wants to see in the - in the board.

And the task here is watching this, we would like to have from you status reflect or not your thoughts, it's necessary to add something, it's okay, or we need to withdraw something.

So that is the general idea, because in the end of the year, the ATRT demand us to go public and demonstrate that the people we have selected in some way match the profiles we have release them from the community.

So that's our task now. So it's starting just to remember that we have three members to select this year -- two ALAC member; one for Europe and another for North America -- and one from ccNSO, one for the GNSO.

So that's our task. More important is that the - in that region is that we need to select our one board member at least from this region -- Latin American and Caribbean area -- because in the end of the year, we only representative of these region ends this Fall -- his term.

So the bylaws demand us to fulfill this position with at least one person and of course not more than five in the - in the region, but at least one. So we cannot go out with zero positions from these regions.

So it's a very huge task to have a very good pool of candidates to select one of the back -- not just because they are from that region, but because they belong to one of the back.

So - and we have here this timeline that we going to post and send to you, too. So April 2nd will close the window for applications, so it's a very tight schedule for us. After that, we start to select the applicant and to go to a small amount, you know, half of the -- something like that -- you - we go, you know, (unintelligible) the people from the (unintelligible) they are, blah, blah, blah.

So we have to fast forward. So we have a third part contractors that we have to help us analyzing for this select - pre-selected group, their human skills, the capacity to manage the history and those kind of things -- check those things like any headhunter used to do, because we inside the board are not expect - experts on that.

We are more - we have knowledge about the community, about the ICANN, about the Internet, but not about human behavior. We are not qualified, so we got some outside feedback for that.

So we compared those with our pre-select and then, you know, we go deeply on that, make (unintelligible) to this. And through the end of June - through the end of May/begin of June, we need to finish this pre-selection in order to invite the small amount of people that we considered that fulfill the requirements to be in Prague to be interviewed face-to-face with all the whole committee.

And after that, it's during the meeting in the - in the - so they have also the chance to circulate around to see all the face, see how its' things are, the dynamic of the ICANN meeting.

So in - and during this time, they are interview by us. So anything they think on Friday, we go out and we receipt. And so we have two or three days to - in - find consensus about who is going to be the best-selected candidate.

So we have a final decision after - just after the Prague meeting. Then, we go public and that's finish our job. So what we expect from you now is some feedback from those informations.

So what do we (unintelligible) at least a little bit with some (unintelligible) experience -- technical experience. The community believes that they needs to have an idea - general idea about what this technical issues we talking about -- DNS and all those things. But we don't expect expertise in that.

So policy. They need to know what kind of policy we are talking about, but also they need to know that it's not their job to do policy. Policy comes from the community, so it's not for their job to do that.

Governance -- we don't need only a skill manage capacity, we need some board experience. To know how to draw the lines between board, the staff and community, not to, you know, go to the others or, you know, go over other's task and make conflict in the - in such a way.

So we also heard from board experience to similar or large experience. At same time, we heard now as a feedback from some of the others that we already made this presentation that maybe large organization is not the best reference, because they are use to deal with another kind of demands from the community and maybe let's stick with the board experience.

More open international or, you know, professional, but not necessary to be like, I don't know, Chevron or something big enough. I know IBM or Bank something like -- it's that knowledge about how deal with the community is quite important for this.

So ability to easy communicate in English, but more and more other language are becoming more and more important. So to have the ability in many areas of the world to address in other language to have some of those excuse around the people (unintelligible) in the board, you know, it's good for the image for the organization.

So general skill set. This is human behavior. So it's ability to listen, capacity to building relationships with the community, has diplomatic attitudes to be able to face any debates with the governance without, you know, lose elegance or make some not comfort position for the - for the governance is in that, executive mind, decision-maker capacity, capacity to assimilate quickly all the information and make decisions with that information at same time.

So integrity, (unintelligible) and mind independent. So be independent -- that mean - it didn't means that you are not connected with the community, but you have an independent mind. You can make decisions without be influenced by all the (unintelligible) around.

So confidence, but not arrogant. We don't want people, you know, community don't want people that sit in the stage and look to the community as its' enemy over there. So respect to this community.

So accept public criticism with some elegance. So all the communities allow us to criticize on the board -- any statement on the board. And any person sitting there needs to accept, to respect that opinion and its' (unintelligible) it with elegance and respect.

So ability to delegate. It's important to have capacity to delegate. It's not board job to execute anything. So a strong understand and belief in the ICANN (unintelligible) model.

If you don't believe in the mission and the vision of the organization, how can you defend such a organization around the world? It's impossible. So you need to have this belief as a principle.

So understands that a clear communication with the community is an important part of the consensus building process. So it's all about respect, it's all about to listen, it's all about this relationship with the community.

And, of course, ending this list is time available to do the job. It's not, you know, good if small amount of time. It's a large amount of time each week and demand, you know, intention to serve in that position.

So that's the general. What we ask for you - from you if this list reflects your thoughts or not, we should add something else, we should (unintelligible) it off because it's not important, please comment.

Thank you.

Steve Metalitz: Thank you very much, Vanda.

And we will be - you'll be sending us this presentation and we'll...

Vanda Scartezini: Yes. (unintelligible). Yes.

Steve Metalitz: ...we will circulate it to the IPC and ask people to get back to you on those questions about whether...

Vanda Scartezini: (unintelligible).

Steve Metalitz: ...these are the right...

Vanda Scartezini: Okay.

Steve Metalitz: ...anything missing, whatever.

And what would be - by what date would - should we do that? What would be the deadline?

Vanda Scartezini: Well, now we have this - is starting this process.

So I would like to go public on Friday, of course, saying that I have listened the community and that, you know, we have present that and that some of those things that the people would have said during the meeting, we can add or withdrawal.

If they don't give a direct response, I will also go public and say, "Well, any other comments will be, you know, well-accepted and well-coming." And we will consider that, because we going to start. After April 2nd we're going to start so we need guidance to then, because after that we need to have in front of us the line, the guidance.

We need to find people which match some of those criteria across. Beside those criteria, we need to analyze what is lacking in the - in the board.

Steve Metalitz: Right.

Vanda Scartezini: Okay.

Steve Metalitz: Okay.

We'll endeavor...

Vanda Scartezini: Thank you.

Steve Metalitz: ...to get you feedback on that as soon as possible -- by the April 2nd deadline.

Obviously if people have other thoughts, I'm sure they will...

Vanda Scartezini: Yes.

Steve Metalitz: ...communicate with you directly.

Vanda Scartezini: Yes.

Steve Metalitz: We're fortunate to have in our constituency a former member of the board and I think we're going to be very eager to get his input on some of these issues. So we appreciate your presenting the list here.

(Rod), did you have something you wanted to...

(Rod): No.

I was just going to say that the deadlines are April 2nd. We start weeding out candidates, we start interviewing them in Prague during the week of Prague and we start deliberating the two days after Prague.

So any time up until that point, but if - certainly before April 2nd would be preferable.

Steve Metalitz: Okay.

That's great. That's really good to know. And we appreciate your...

Vanda Scartezini: Yes.

Steve Metalitz: ...taking the time. I know you're doing this to every other constituency and every other group. So thank you very much.

J. Scott Evans is our delegate to the Nominating committee and...

Vanda Scartezini: Yes.

Steve Metalitz: ...we're...

Vanda Scartezini: And have - and thank you for the presence of, you know, Scott Evans.

It's much (unintelligible).

Steve Metalitz: Thank you very much.

Man: Okay.

Vanda Scartezini: Thank you. Thank you.

Steve Metalitz: For our last agenda item and by popular demand, we have Steve DelBianco to give us a brief rundown on a public comment period that is open now.

And to me it's one of these more opaque titles as to why this is important, but I think Steve does a very good job of explaining why this is important and why we need to pay close attention to this.

So if you're on the Adobe chat room, I think the slides will be up there momentarily. I think Nathalie has got that under control. Unfortunately we can't show them here.

So Steve, let me just turn it over to you and ask you to talk to us about the Consumer Trusts and competition, et cetera of a comment period.

Thanks.

Steve DelBianco: Et cetera, et cetera.

Thanks, Steve. And I know I'm standing between you and the board/GAC bullfight in Orcades bullring, coming up at 4:45 so we'll try to get through this quickly and I'll take your questions.

The good news is that a deep dive on this will happen tomorrow between 11:00 and 12:30 in Heliconia Room, which is right before Orcades -- that's 11:00 to 12:30 tomorrow, but it'll be a lot of questions.

Let me try to cover things that I think would be relevant to the IPC. What you have on the - on the chat room when it brings it up is slide number four, which talks really about where this comes from.

This entire thing comes from the Affirmation of Commitments, which calls for a review to be - examine the extent to which the expansion of gTLD's is promoted -- competition, consumer trust and consumer choice -- as well as the effectiveness of the program.

So those words -- consumer trust, consumer choice and competition -- first appeared in our - in our constitution, if you will, when the Affirmation locked it in and said we had to do a review. And this, of course, is the fourth Affirmation review.

And because it was one that didn't occur until a full year after new TLD's were delegated, that gave ICANN an opportunity to think ahead to try to figure out what those words would mean when the Review team sits down.

Know what, (Jessie)? If you're controlling it, would you go - would you go to slide five? Thanks a lot.

So in Cartagena -- this is December of 2010 -- there was actually talk of forming a Consumer Trust Stakeholder group -- yet another stakeholder

group; another box on the ICANN org chart where folks would get their travel paid and they would represent the interest of consumer trust.

Fortunately Bruce Tonkin, the board member at the time -- as he is now -- sat in on a few of those meetings and I think he detected the fact that things like consumer trust, choice and competition need to be baked in across everything ICANN. They can't just be the purview of a single constituency.

So at the meeting in Cartagena, Bruce introduced a resolution -- and that's what you have in front of you on slide five -- to ask for advice from ALAC, GAC, GNSO and ccNSO on getting up definitions, measures and three-year targets for those three key phrases.

The idea here was to cut off the notion of having somebody define it, but let the community define it. And then Peter Dengate Thrush named it the Jonathan Zuck Resolution at the time, in honor of the fact that this guy had been standing at the microphone talking about metrics and measurement and the accountability.

(Jessie) and Naela, would you jump ahead to slide seven?

So the working group that came together had been meeting since last May every week and put through seven drafts of advice to try to come up with definitions and measures.

And we're very clear about the limitations of what we can do. We're going to produce advice from this working group and hand it over to GNSO, to ALAC - - hopefully the board - the GAC will look at it.

And we hope that they'll endorse the advice and send it on to the board. But as a working group, as you know, we can't send something directly to the board.

We also hope to provide guidance to ICANN so that they can manage the new gTLD program to achieve the targets, because we have explicit three-year targets in here for 40 different metrics.

We don't intend to limit the scope of what the Review team will do, because you know how these Review team men work. They'll put together - a year after the new TLD's are launched, they'll put together the Review team.

And that Review team -- well, I guess they could disregard all the work that's gone into this. But hopefully if the board endorses and bakes in some of those metrics, it'll become the foundation that that Review team will use.

Comments are going to close by the 17th of April, so it's time to really start thinking about getting your in.

Naela, would you jump to number nine real quick? And I'll just cut to the chase and give you the actual definitions and the summary of the measures of each of the three terms.

The first was consumer trust, which is on slide nine, (Jessie), if you could bring it up. Consumer trust. Thanks a lot.

So first thing we had to do was define consumer. And you'll be glad to know it doesn't include any reference to contract parties. We said a consumer is the actual and potential Internet users and registrars -- actual and potential users and registrars.

Consumer trust, we said, is the confidence that a registrar and a user has in the consistency of name resolution -- which is sort of just availability of the DNS -- and the degree of confidence amongst registrars and users that a TLD registry operator is fulfilling the proposed purpose.

That's the key, because if somebody stands up a .bank TLD with a proposed purposed of only admitting chartered banks to the left of the dot, the degree of confidence we have that that is in fact what they're going to do will reflect on consumer trust.

And there's a third element. We said it's also complying with ICANN's policies and applicable National laws. And it wasn't easy to get applicable National laws into this definition in a way that we could achieve consensus in a multi-stakeholder group, but it's in there.

Next slide. And Naela, you should be on slide 10, which should be the consumer trust.

Consumer trust metrics -- I'll give you an example. Uptime, survey of consumer trust to see whether folks feel it's trustworthy. We would keep track of the number of complaints and adverse decisions for violations on registry agreements.

We'd count the number of UDRP and URS complaints as well as adverse decisions, because those are more important. And we'd measure them -- not in raw numbers, but as a percentage of the registrations in the new gTLD zones. And we've put together metrics in there for what that should be three years out.

We did want - we want ICANN to keep track of Law enforcement and GAC complaints over registries and registrars who might fail to comply with applicable National laws.

Instances of domain takedowns, phishing and fraud in the new sites -- we're going to rely heavily on APWG for a lot of that -- and of course complaints about inaccurate Whois in the new gTLD space.

That's the consumer trust definition. Almost done, Steve.

Consumer choice is the next one. Again consumer we already defined, though consumer choice, we said, was the range of options available for registrants and users when it comes to the domain scripts and languages -- so right away you're hearing IDN's for global Internet users -- it's an important part of the global public interest -- and -- this is an important one -- choices among TLD's that offer - they offer choices as to the proposed purpose and integrity of the domain name registrants.

So what is this about? The notion here is that if we're going to really have choice, it's not just moving from one generic name like Com to another generic name like .web. It's about having a choice to say if I'm - if I'm a bank, I'll have the choice now to move into a .bank that is a special purpose TLD.

If I am a bike shop, maybe I want to move into a .bike. If you're music, you might want to look at the several different varieties of .music.

See, choice to a registrant, as well as with a user, is a - is - it comes down to whether there are special purpose TLD's or TLD's that proclaim they will serve a certain market. And that gives a registrant an opportunity to move or a brand new registrant an opportunity to select among different ones.

Now, in the - in coming up with what is consumer choice, our metrics -- which we got on the slide in front of you -- is that we'd - we said it's really not an exercise of choice.

If a registrant jumps into one of the new gTLD's strictly for defensive purposes, it's really not a choice. There might be incremental traffic from type-in. I know that for sure.

There might be some incremental traffic, but we wanted to try to draw a distinction between choices exercised to be associated with a TLD versus

choices that were exercised mostly to defend the purpose and redirect that traffic to your existing TLD.

So the metrics we've come up with is that they certainly ought to be able to -- registrants and users -- they ought to be able to read and understand the registry restrictions and terms of service and then make the decision to register -- that's pretty clear.

They ought to have choices among IDN's and non-English scripts.

Different National laws -- this is something the NCUC was strong about. They said that if a registrant or - wants to be in a domain that's very strong on privacy -- very strong on proxy -- they ought to have that choice.

On the other hand, registrants may want to choose registries that are in a regime that is going to be extremely tight on Law enforcement or to Whois accuracy.

With respect to defensive registrations, you'd be amazed at a few of the details we put in there. But we did try to estimate, one of the targets being that three years out, the new TLD's should have at least 85% of their registrations to be post-Sunrise.

So we were to come up with this. We had a number of different percentages, but the idea was to say that during Sunrise period, trademark owners who are jumping in to get their trademark domain names -- so just for the sake of argument, consider those to be somewhat defensive in nature and if they are defensive the day after Sunrise is over, that you have non-trademark holders jumping into the space.

Well three years out, you would think that certainly at least 85% of the total registrations would have been post-Sunrise, representing the fact that

somebody made a choice that exhibits a little bit more than a defensive registration.

It's a very imprecise measure, as you well know, and I'm sure this is going to generate the most Q&A not only tomorrow but in the comments that come back.

That's consumer choice. And then finally turning to competition. The competition definition is the quantity, diversity and the potential for market rivalry among TLD's, registry operators and registrars recognizing the supply side, because prior to this, everything we've talked about is on the demand side of the ledger for consumers.

Competition's a little different, because it talks about a pure look at the supply side. Did we get a lot of diversity in the suppliers? And the supplier could be the TLD applicant, the operator could be the backend registry operator, then the registrars that distribute them.

And on here we did talk about metrics. Next slide, Naela. The metrics for competition.

Well, it's pretty simple to say we ought to have growth in the number of TLD's -- growth in number of operators and registrars -- but we did put in some metrics in there -- where there ought to be a doubling, for instance, in the total number of - we came up with metrics on the number of gTLD's, the number of TLD's, because we represent those as choices.

We talked about growth in the supplier's share of new entrants. The new entrant might be a TLD operator or a registry backend or registrar that wasn't in the Legacy gTLD space in 2012. And that would be a new entrant.

And you'll see in here we have actual metrics for what we think the new entrant's share of registrations might need to be in the third year. I shouldn't

say what they need to be, it's more a normative to say what we think they ought to be if we really achieving high goals on consumer choice, consumer choice and competition.

I'll give you a quick look at the next slide, which talks about where we go from here.

All the drafts are up in multiple languages. We're going to try to incorporate in the working group the comments to come back and then we're going to hand it over to council, to ALAC, ccNSO and GAC so they'll consider whether to forward that advice on to the board.

The next slide shows, I think, a timeline, Naela.

And the timeline on this is pretty tricky, because if in fact the four ACSO's get the advice to the board, the board will take a few months to digest. But hopefully, they get it done by the end of the year.

The staff's in a position, then, to begin measuring the metrics we have in here and we have 40 different metrics. And if they measure them, they'll be able to produce annual reports on how well the new TLD space is doing on these metrics.

If they do that the review team which doesn't kick in probably until January of 2014 (you can) see that on the chart that review team will be able to take a look at the second year and maybe even the third year worth of results against those targets when it tries to report back to the community on whether the new gTLD program is achieved a high bar in improving consumer trust and consumer choice and competition in the domain named space.

So Steve that's all I've had in terms of slides. I've got all the metrics in here but it looks like I'm on time and ready to take your questions.

Steve Metalitz: Thanks very much Steve we really appreciate that and I will open the floor to any questions or comments. We have I think until April second is April 12th...

((Crosstalk))

Steve Metalitz: ...when they published the other languages.

Steve Metalitz: Yes to make our comments on this Paul I think you had.

                    At least there are nothing else is due on April 12th so that's good.

Steve Metalitz: And I misspoke Paul it's April 17th they just extended it.

((Crosstalk))

Paul McGrady: Well I was wondering what I was going to do if my week off between when the applications are submitted and then all hell breaks loose on May second or whenever they're going to publish them but now I know.

                    How are we handling and I apologize for being ignorant about what you've done so far.

                    How are we handling the fact that the dot brand is not even an apple or an orange it's a pear and none of the close sunrise 85% registrations and all that stuff are really going to that's stuff's not going to pan out.

                    The dot brand applications are for completely different purpose. Are we calling out that data? Are we doing a different data set for those? Are we addressing the issue that maybe competition is not really a consumer choice level?

It's not a question of whether or not the consumer has more options from where to register the second level but that perhaps the dot brand enhances a brand owner's ability to compete?

That the gTLD program has been one (site) fits all and I'm curious about whether or not there's any thinking about at least for the analysis of it (were not going to) have a (unintelligible) success that we're going to move away from the one (site) fits all model.

Man: Steve did you (want to) respond or get other questions first?

Steve Metalitz: Why don't we get all the questions out at I still have -- did you okay (Mike), (Jonathan), (Mike).

(Mike Rodenbah): Steve just generally curious to speak and describe briefly fundamentally where are you coming up with these numbers? I just don't see how you -- there's no baseline for it obviously.

There's no real past history that's still applicable it seems to me and I would just be very concerned that you said targets that are too high not just the slide and then in three years everything looks like a failure.

Steve Metalitz: Okay (Jonathan) did you have a question or did you have an answer?

(Jonathan): I was going to (pretend) to address Paul's question which is the beauty of data is that it doesn't judge. (But) the one thing we will know about all of them in terms of metrics is whether or not they're dot brands or not.

And so a decision about whether to exclude them or treat them differently in analysis of the data doesn't need to be made up front is the point.

I mean I -- we'll be able to slip them in or take them out and assess them separately as part of an assessment if we get to the point where we're actually tracking the numbers.

That's really the critical thing.

Steve Metalitz: Let me just get (Ann)'s question out too and then we can respond to all of this.

(Ann): (Was) just a comment that in connection with who is review team there was a survey that was done of consumers and I wonder whether that survey could be repeated as a metric given the work that they did which was pretty extensive I guess and pretty informative if that would be a suggestion for metrics to run that survey again.

Man: Any other questions or you want to dive in?

Man: Great. I think (Jonathan) addressed Paul what we came up there because the notion of dot brand is two ways to look at it. If everything in here is relative to the total number of registrations and there's a very small quantity of registrations in the brand and then statistically they actually won't matter in terms of coming up with the percentages.

Alternatively if it looks like their data's very different then the generic open to the public TLDs it'll be trivial to exclude those and measure them against the targets that are in here.

So I do think that that's (is) the data issue. The second half of your question Paul was is there a level of relative importance between competition and the consumer metrics I think you asked.

I wish there were unfortunately the board just simply charged us to take the three things out of the affirmation to come up with definitions so we didn't add the notion of value judgments between them.

But I think you'll see in our report we devoted quite a bit more attention to the first two -- consumer choice and consumer trust then to competition in terms of number of metrics we came up with.

Man: My only concern about data agnosticism is that then we're setting ourselves up to statistically declare every dot brand registry a failure by which, you know, in this model.

And then we have the unhappy news to deliver to everybody else who didn't apply in round one that ICANN's determined that the dot brand application process was a failure.

So I see the train it's 15 miles away and it's moving at 27 miles an hour and we've plenty of time to jump out of the way but instead I'm afraid we're going just going to stand in the tracks and scream ahh until it hits us.

Man: Okay well on that note I'm afraid so much of my surprise there actually are is another group that really wants to meet here in this tent it's such a good venue.

So thanks again to Steve thanks to everyone for their participation. Thanks to all of you on the phone. And we will adjourn this meeting. Thank you.

END