

CARLTON SAMUELS:

Good morning, everyone. We would like to get this ball started rolling. If you could take your seats, please.

Thank you very much.

Come, come, come.

Good morning, everyone. My name is Carlton Samuels. I'm a member of the ALAC from Latin America and the Caribbean, specifically Jamaica, and I'm the co-chair of the -- what we call the JAS working group, and we're here to tell you a little bit about the work that we have done in this very important subject for us.

It's about supporting applicants from developing economies to start registries in the new gTLD program.

I have a few members of the working group up here with me who have played very significant roles in developing the report and making the recommendations. Starting from my left, we have Tijani Ben Jemaa, who is a member of ALAC from the African region with Alan Greenberg, who is a member of the At-Large and the GNSO liaison. We have Avri Doria who is formerly in the GNSO and now a member of the At-Large constituency.

To my right is Andrew Mack, who is in the GNSO constituency. And there is Evan Leibovitch, a member of ALAC from the North American region, and of course Cheryl Langdon-Orr, member of ALAC from the APRALO region, and the vice chair of the ALAC.

We are going to get into the meat of the matter momentarily.

I want to tell you that this issue is of great importance to the At-Large, contrary to what some of you might have heard. It has been a part of the At-Large agenda since as early as 2009. When we had the At-Large summit at Mexico City in March of that year, several of us got together and thought that it was important in the globalization of the ICANN

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agenda for ICANN to develop some discrete and concrete ways to show its support for the inclusion of developing economies and countries into the names and numbers policy space.

So here we are.

This report has been a long and hard slog. We have been meeting since June of 2010, twice per week in teleconferences, and we believe we have produced two good interim reports that paved the way for this final report. We believe that we have handled the matter as best as we can, given the circumstances. And we hope you will find it necessary to give your support to these recommendations and the next steps in the implementation of these recommendations. That being said, I am going to turn it over to the chief presenters this morning, Avri Doria and Alan Greenberg. Thank you.

Oh, I forgot to mention my co-chair, who unfortunately is not here. There is a chair reserved for him. Rafik Dammak is a member of the NCSG constituency from the GNSO. He unfortunately was supposed to come in remotely from Japan, but unfortunately he is not with us.

So Rafik, if you are listening, thank you for the work you have done with us and we hope you are there cheering us on.

Avri.

ALAN GREENBERG:                      Actually, Alan.

CARLTON SAMUELS:                    Alan, thank you.

[ Laughter ]

ALAN GREENBERG:

All right. Thank you. We do not have very much time, and the intent is to go through the presentation very quickly.

If I am going too quickly -- quicker than I should, someone should give me a sign, but we would like to leave as much time for questions and interaction, instead of just reading to you a summary of a summary, which is already in your hands.

We are going to be looking at a number of issues, starting with terminology. The working group itself was very confused when it started, and we were using words in ways that made sure everyone misunderstood what we were saying within the group. We will look at why we should provide support, what has happened so far, and then go into the actual content of the report.

In terms of terminology, we are using -- and I hoped we used consistently in the report -- the term "candidate" as someone who is looking for support. So it's a candidate, an approved candidate, becoming a recipient, should anyone actually -- we've reserved the term "applicant" for an applicant in the overall gTLD process, because otherwise, we were -- we ended up using the term "applicant" for everything and it didn't yield any good results.

In terms of highlights, the original policy that came out of the GNSO made it clear in a number of its recommendations that although the process had to be cost recovery -- that is, we shouldn't be billing old applicants -- or old users or existing domain holders for the process -- it didn't talk about anything else other than that.

It did, however, explicitly say "and differential fees" particularly for things like requiring assistance from those in developing economies was acceptable.

So there was nothing in the original guideline that said the fee had to be uniform.

We have an activities guideline here which starts with the board resolution in Nairobi. Those who have been around for a while understand that the actual discussion of supporting applicants started

sometime around 2006, and there was always a discussion and the issue raised, pretty much on every single version of the applicant guidebook and prior to the first one being issued, and the answer tended to be,

"Let's wait till the second round," implicitly adding "if there is one," and I personally feel that if we had done something moderate at that point, we wouldn't be in the position we are today, but we didn't.

So we have the board resolution in Nairobi, we have a later board decision to allocate \$2 million to the process, and followed by more recently the GAC and the ALAC recommending very explicitly a fee reduction in addition to other levels of nonmonetary support and monetary support by the \$2 million.

The final report looks at a number of critical points: When should support be provided, who should be approved to receive support, how should we decide -- make that decision, what support should be offered, how should the support process work, and how does it integrate with the applicant guidebook process that is well established.

When should support be offered? Again, tied back to the discussions that go back to 2006, there was a strong belief among some parts of the community that support had to be offered in time to allow applicants to participate in the first round.

We are all presuming there will be a second round, but exactly when it is, given the review process that is going to follow this one, we do not really know. And we feel that to be equitable, to be inclusive, the program has to allow some level of gTLD support, new gTLD support, for economies that cannot otherwise afford it.

There is significant discussion in the community -- and I am sure on the board -- about how important new gTLDs are and how do you define one that is really absolutely crucial, you know, the deal-breaker which is going to disenfranchise feminine. But it is hard to say that we believe, as we are saying in our publicity, how large an impact new gTLDs are going to have on the world and pretend that they could not have any impact in some economies.

You cannot take that differing position. If we believe it's going to have a major impact, then it's going to have a major impact on the other -- on the developing economies as well, although it's hard to quantify at this point exactly how or what.

And perhaps more importantly, we are including IDN gTLDs for the first time. Although that market has been somewhat addressed by the fast track ccTLD IDN program, again, we're pretending that -- or claim that the gTLD program will have a major impact in the rest of the world.

There is no reason to believe that there will not be scripts and languages which will not be served well by ccTLDs, and therefore, there is a potential for great benefit.

Who qualifies for support?

Lots of discussion on this. When we started the process, we said -- we started enumerating how do we recognize a poor person, essentially, or a poor organization.

We quickly realized that poverty alone cannot be the criteria. It is absolutely critical that we look at what they are planning to do and what the social benefit of it is, okay?

It is fine for people to risk their own money on something stupid -- that is my terminology; it is not in the report -- but if they are asking us for our money, then we have a right, just like any other donor organization in the world, to evaluate what it is they are trying to do and make a judgment call. Because it is a judgment call on whether it is worthy of support or not.

Okay. If there's an implicit lack of fairness in some people's mind that judgment calls means someone's going to get rejected, well, so be it. The group felt very strongly that it is more important to avoid gaming and to avoid supporting really bad applications, that it is better to reject some good applications than to accept a lot of bad ones. And we have tried to push that philosophy through in the whole report.

We have provided a number of guidelines, some of which have some holes in them, in terms of identifying potential candidates based on established U.S. lists looking at nonprofit civil society, nongovernmental organizations, but we did not rule out entrepreneurial commercial operations, if they could make a good case on the social benefit of the application. So we are not rejecting someone just because they plan to make money in the long term. The real criteria is, do they have a good enough rationale for doing it, and do they need help, can they demonstrate they need help now.

We identified a number of groups and potential applicants that we would not support. There has been a lot of talk, although the applicant guidebook never defined it, with dot brand. You know, in other words, if you want to have a gTLD to support your commercial venture, you know, it is your billboard. Our interest is not in supporting that.

That does not mean we will not support something which happens to be a trademark, but if it -- if the tone of it is, "It's a dot brand," we do not believe it is something that we should be eligible for support.

We ruled out -- excuse me -- government and para-statal institutions completely. The GAC came back and said they really believed we should rule out national governments, but not necessarily others.

That's still an ongoing discussion, because we really didn't have within the group the expertise to delineate those and put what the specifics are, so we put in what we could come to closure on within the working group, but we believe that's one that probably does need to be adjusted between now and the end of the year, hopefully in discussion with the GAC.

Geographic names were something that were highly contentious, but again, we figured that these do not fall under our purview. Again, if you could not build a commercial case for doing it properly, we probably did not want to be the ones to support it either.

And there are a number of issues which duplicate those within the guidebook. That is, if you are bankrupt, if you are a criminal. We found

it necessary to put them there because as you will see in a moment, the process to decide whether to support the applicant – or the candidate, I am sorry -- comes prior to the review in the applicant guidebook.

So we needed to just make it clear that ultimately you are going to get rejected anyway, do not bother applying to the first part of the process.

And the last item, the "incapable of meeting any of the applicant guidebook's due diligence procedures," the intent -- and we have one exception later on -- is that we are not asking you to bypass any of the rules that were established to ensure security and stability of the domain name system. Once you get approved, you are going to have to toe the same line as everyone else. There has been some talk in the community that we reduce the engineering requirements significantly, and I -- as one of the authors, I do not think we put that in the report, but it has been discussed as if it was a given.

As I mentioned earlier, we went very quickly in the working group from simply looking at poverty issues to public interest. Now, we truly believe that if you cannot make the case why this -- your TLD is going to serve the public interest, you know -- and that can range from providing access to linguistic or script groups that are not well served, ethnic communities, underserved languages, the list goes on -- we believe that this is not something that ICANN should be supporting.

ICANN or the people who hopefully will help us by matching the \$2 million.

We are recommending that the fee go down to 47,000. A lot of question has been asked about where did we come up with that number. I am not actually the one who came up with it so I cannot pretend that I was there and conceived of it. It is a quarter of the total amount, rounded. I believe it was a number that had some analysis based on the components of the 185,000, which could be used to rationalize it, but I think the bottom line is, it is a moderate number that we feel reduces the threshold very significantly and yet still makes a reasonable demand on the applicant. Because regardless of how low

the fees go, there is money involved in keeping a domain running, and there has to be some sort of financial backing to this whole procedure.

We have recommended staggering application fees. If you remember correctly, in the current process, with the full 185,000, if an applicant does not get all the way through the initial process, refund some of the money. We are simply saying that should be reversed, and for applicants who are deemed worthy of support, they should not have to pay it up front until it is actually due.

So in other words, ICANN should not get the float on the money. The applicant should have the benefit of that doubt.

It is not -- that is not as needed if we do the reduction, but it is still a relevant factor.

The continuity instrument is one that has been subject to a lot of discussion.

There are a number of ways that we believe that this can be reduced. Number one, there's a general feeling in parts of the community that the overall number was geared to large, for-profit, commercial TLDs where the understanding is, the assumption is, you're going to sell it to someone else so ICANN has to keep it running as a full-blown commercial operation in the interim.

We believe that a lot of the TLDs we are talking about here are not going to be in that category; that if we need to keep them running at all, then all we need to do is basically keep the domains in the root.

We do not -- necessarily are going to add some. And there are some people in our group who feel if it did not survive, it did not survive.

Tough. And there are no real costs other than the shutdown costs associated with it. So we believe that has to be addressed somehow.

There has also been talk of having consortiums to share the costs, on the assumption that not everyone is going to fail the same day in the same way.

Again, this needs to be refined in the implementation plan, and hopefully staff is looking at that.

And lastly, but not least, there has always been an assumption in the community that there is going to be some windfall profits in this whole thing attributable to auctions and similar processes.

We are reiterating what has been said many, many times over at least six years. That money should not simply be put into ICANN general coffers; it should be put into some sort of foundation to do good things. One of the good things, but certainly not the only one, is this gTLD process. Either to repay money that was essentially loaned from it or to go to second rounds and refine the process.

The fee reduction, again, is likely to be the single item that is going to be discussed most. It is not well understood, and I am afraid the final report, due to the time frame that we had to produce it, did not do a lot to make it a lot clearer.

I will give you my version of it, and there are some variations, but I think it is important to understand that this is possible to do without impacting the cost recovery nature that the GNSO required nor impacting ICANN's budget significantly.

To do that we have to go back in history.

The original gTLD process, we hoped would be launched somewhere in the 2009 time frame. For those of you who have calendars, it's past then.

Once that passed, it was understood that the development costs, which if you remember correctly, the 185,000 had, I believe, a \$25,000 item to repay the development costs to the ICANN reserve. That is, the theory was that -- and it was a disputed theory when it was first announced -- that although those costs were budgeted in the years they were incurred, they were budgeted at the expense of a return to reserve, and the intent was to recoup the money from the applications.

When the costs of development became much, much higher, ICANN had two choices. They either could have raised the 185,000 to cover them in the first -- cover all the development costs in the first round -- I think ICANN made a wise decision in that it said, "We'll simply defer the return to reserve over multiple rounds and hope there are multiple rounds to return it. Otherwise, we have a reserve problem. Fine."

With a little bit of analysis, you'll find that for the number of applications that is reasonable for us to support, the fee reduction can be funded in exactly the same way. We defer a return to reserve.

If there's windfall profit from auctions, so be it. Then we -- we repay that, and the reserve doesn't take a hit at all.

If there is no windfall profit, then we've deferred the return to reserve by some amount of time by allowing the round to be completely inclusive and allowing application -- candidates who otherwise couldn't compete to compete.

So there is no operational impact on the real fund by looking at it like that. There is an impact -- potential impact on return to reserve, but it's a concept the board has already approved and ratified in how it's handling the original sunk costs. So I think it's a viable way of approaching it.

And, you know, to implement that, we're going to have to look at the details of how many applicants we can support. It's hard to do that because we don't know how many applicants there are going to be total, but I believe the implementation plan can come up with a simple algorithm which will guarantee that we won't impact the overall process too much and yet provide the fee reduction which both the GAC and the ALAC said they believe is necessary.

And I turn it over to Avri Doria for the next part of it.

AVRI DORIA:

Thank you.

Okay. So I'm going to start talking about the other financial support that was mentioned.

And this is basically the financial support funded from various sources, of which the 2 million that the board has indicated they would make available is hopefully the seed.

And then basically dealing with obtaining more for matching that, both from soliciting other contributions and hopefully from some allocation of what comes out of the auction funds after the reserve fund has been repaid anything that was used for the fee reductions.

Now, the creation of the foundation is something that we're asking the board to investigate.

It was felt that this went beyond what the JAS was actually able to decide on itself, because there were many other people that sort of said, "If there is such a foundation, if there is such a fund, there are other things that need to be done." But the JAS work is really just to focus on the application period.

So therefore, we're going to the board and we're basically asking the board to look at doing this.

There were also a number of legal questions that would come up every time this issue was posed that we didn't necessarily have the wherewithal to answer.

One thing that we did say is that any of the monies that were allocated from such a fund, were it to be created, would be things that the successful -- the successful candidate who created a successful new gTLD would be expected to pay back into, so there will also be a continuation and a sustainability to such a fund.

So in terms of the foundation, we were asking the board to set up a committee, basically, you know, perhaps using the models that have been used for the review teams and such that drew from the whole community to basically, first of all, work with ICANN staff to sort of

investigate the issue of, can a 501(c) set up a foundation. If so, what are the legal, financial, and other constraints.

Every time we've brought up the topic, somebody has raised the flag that there are issues, but no one's ever been able to pin down for us what those issues might be.

So that was something, again, that we felt needed to be deferred to both a staff and committee action.

Then basically do the work of setting up such a foundation, a fund, a foundation with several funds -- again, we're not trying to predetermine what that committee would do and what the foundation would look like -- that would define the responsibilities, that would define the methods by which it would work, you know, that would suggest the members for the first board and that would make a recommendation to the board of, you know, "Here's the foundation proposal. Please approve that by whatever means are appropriate under bylaws," et cetera.

And also, one of the things would be to start obtaining pledges to that fund, and this comes more on the next slide, but I know I've talked to various possible donors, as have other people on this team, that have said, "If there was a well-formed fund, and if we knew that there was going to be responsible handling of such funds, et cetera," then they might be willing -- now, yes, I know that's many conditionals in one sentence but without the well-formed fund, nothing happens.

Oh, yes. The other thing is, we weren't also determining what would be the proper legal domicile for such a fund or foundation. We had many views from, "Well, of course it needs to be in California" to, "Well, this might be a good time to do something in an another country to show the geographical diversity." So that was, again, one thing we said needed to be looked at.

So in terms of the funding sources, as I said, the allocation -- the generous allocation from the ICANN board is, indeed, a fantastic seed.

We're looking for it to at least be matched. You know, auction proceeds, soliciting pledges and guarantees from those who have been

quite successful through the ICANN processes for many years. You know, one of the flippant comments sometimes I make, if people just gave the fund the proceeds -- I mean, the costs of one of the parties that they throw, that would be a great thing and that would help a lot.

So voluntary allocations. I've talked to several ccTLDs that sort of said sure, they might be willing to do this. They might need to direct things to activities in their countries or whatever, but they're willing to talk about it, if there is a well-formed fund.

So, as I said, gTLD registries, the incumbents who may have the ability to contribute external funding sources, whether it's grants from governments, intergovernmental organizations, speak have spoken to the World Bank, there has been a lot of conversations, there has been a lot of "maybes," "if," but we need to take the next steps. Something like the JAS group can only propose that other people think about recommending so that a board can approve.

So that's what we're doing.

The use of the funds -- and this is beyond the recommended reduction in fees -- is, basically, to bring in applications of this is what we would use the funds for, and they would be used to sort of help relax or defer upfront costs, whether it's a ccTLD that wants to bring its registry up to the gTLD requirements, whether it's something that wants to apply for the build-out of a new back end, whether it's an applicant that needs to do extra work to be able to do -- meet some of the technical requirements, like meet the IPv6 or meet the DNSSEC.

Basically, there are many requirements in there that would require money. And as people sort of say, well, the initial fee is just a drop in the bucket. There is a lot of other expenses.

So while the JAS group sort of said every applicant needs to put a certain amount of funds in that they have on their own to show that they are on their own, that they do have their own financial liability, sometimes these expenses would be beyond and would be aided by a well-thought-out proposal with a business rational that goes to a group

that review it is and says, yes, this would be a reasonable allocation of money to help you do what is required to be done to be a registry. And that's basically what's in that slide.

So the types of non-financial support, as it were assistance in the preparation of the gTLD application. So there is also -- I mean, for some people who did not even have the linguistic -- we have to submit applications in English. And the applications have to be intelligible and able to be dealt with in English. And that may require a certain amount of assistance in cases where there might not be available.

So we're looking for a certain amount of volunteer activity to be able to help people, so facility people with the IPv6 compliance.

IPv6 is required for all registries, not necessarily everyone is going to have it. So there will need to be tunneling of various sorts to allow people to meet those requirements. That kind of help will need to come from people who have IPv6 capability who can provide the bandwidth and such.

Consulting and education requiring the DNSSEC. Even among those of us who are here and involved in this technical world, the implementation of DNSSEC is not yet universal and certainly requires some aid.

While I'm at this, I would like to actually take one slight tangent. One of the things that's not in this -- and, therefore, we don't have a slide on it is waving any of the technical requirements. We are not recommending that. There is one recommendation that sort of says, perhaps, a DNSSEC requirement might be delayed for some new income, for some new registry. But there is certainly no waiving of any technical requirements, including the v6, though there were certainly a split opinion within the group of whether that was, you know, something that we could request deferral of. The decision of the group was no. Whether it was a political decision or a technical decision in ICANN, that everybody had to do v6. It was accepted. It was something that was not asked to be deferred against. So I just wanted to take that tangent to say -- because I've been in a lot of rooms where people have said we

are against waiving the technical requirements. As I said, except for perhaps a temporal deferral for a bit of time on the DNSSEC implementation, there is no requested waiving of any technical requirement.

So outreach on educational efforts, logistical translation, technical support. And we're asking -- Again a question has come up: Are you asking ICANN to do these things? No, we're not. What we're asking ICANN do as the centrally placed organization is to serve as sort of a matchmaker, bring them together, make it possible for the person who is willing to offer aid to be able to know who needs the aid. And ICANN has already started doing that. It was one of the earliest requests we had, so that's already being worked on. But it is still part of the recommendations of the group.

The eligibility requirements is, basically, has to include the notion of specific service to the public interest and both a level of financial need and financial capability. So we're not just sort of saying that you get aid. You have to show that you have a business plan, you have got to show that you have some financial capability to be able to do anything, but we're also making an assumption that the financial capability that is reasonable in a development area isn't necessarily the same financial capability that is reasonable at Marina del Rey or in any of the developed area, that there's a difference in that. And that's what we are looking to help with, is adjusting to that differential.

Various criteria should be disqualifying. We've already talked about that.

One of the issues that came up and one of the sort of difficult ones is the prohibition against aid for a dot brand. But then it was brought up that in many cases a NGO, a community, a culture may have actually used the trademark system to protect its name or its language or the name of the NGO.

And so it's not that having a trademark is a barrier. If you happen to meet all the other requirements of being a NGO or being a cultural applicant and happened to have a trademark that is associated with

your name, that's not, per se, a disqualification. So that's really the fine line that we're trying to cut there. And since we have a board, a group that would be reviewing these applications, that's a guideline that they would have to work in.

So all candidates would be required to, first of all, provide a self-declaration saying we need this. But they would have to back that up. They would need to give annual reports or equivalent, again looking at the cross-cultural aspect of this, not every group from every country would have the same level of financial report. So its financial report or equivalent banking statements, whatever it is that is appropriate to the community and culture from which the application is happening.

Evidence of previously funded projects showing degree of success in meeting the goals of the project, this was a requirement that's put in to sort of say you can't just be a self-forming group that's decided we want to do something, gTLD, what a cool idea, let's apply. You are expected to be an established community, an established NGO, an established something that has shown that you can take funds, you can use them properly, you can account for them properly and have you got somebody whether it is World Bank or some other funder who can say, "Yes, this is a candidate who has received money before and has done what they said they would do with it." So the financial reports, letters of reference regarding the ability to form a sustainable -- and any documentation supporting the qualifications of the applicant would be things that they would be requested.

A support evaluation process. Once again, we've added yet more acronyms to the list. We're good ICANN citizens and such. We believe this process should take place before the gTLD application review. So during -- before applications start, if we can get started, we would like to. But certainly even during the application period, matching as closely as possible the requirements of the application period.

Each application would be reviewed by a panel. We think this panel needs to be composed of both people inside who understand the process, who understand how to game. It has been very important to us that we have some of our master gamers on this panel, people who

can as soon as a whiff of gaming is present can sense it and can point it out. And, obviously, they would not be applicants.

[ Laughter ]

When the review panel rejects a candidate -- a support candidate, it should explain its reasons. This is part of the whole new general philosophy in ICANN, if you make a decision positive or negative, you should be able to explain it.

And, of course, this should not bar the candidate from applying if ICANN rejects them for help but then all of a sudden they can find another funder, the World Bank, it doesn't disqualify you from finding another source of help if you can't. So it wasn't that you applied for aid, you didn't get aid, your application can't go forward. We didn't feel that was a decision we could make.

We would imagine that anybody doing this would probably apply from aid from any source they could find. And we're asking that the ICANN staff help and produce a support candidate guide that explained how the support program worked to match the excellent application guidebook that they have produced for all.

This I'm not going to talk through. But, basically, this is describing the process and going through. So the next steps is for all of you to -- You have to have the picture, come on. And, basically, we are asking for the board to consider this. We've asking for the staff to start doing an implementation on it. There is a public comment at the moment which closes on 16 December.

And we're certainly remaining all available, and I'm volunteering for all of us, myself included, we are all available to do anything that anybody needs to help clarify, to work on stuff, to work with staff, et cetera.

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And that's where you find more information. And then I thank you. And then questions.

[ Applause ]

CARLTON SAMUELS: Thank you, Avri. Yes, Steve? Can we have a microphone over here.

Yes, while we wait for the microphone, I just want to let you know that the report is published and it's available for public comment until December 16th. So we would love for you to take a good look at the report and make your comments online. Thank you.

STEVE CROCKER: So, first of all, bravo, congratulations. This is a weighty and very substantive piece of work. It is quite evident that you all have put an enormous amount of energy into it, very thoughtful. And it resonates and strikes some very positive cords.

And so I'm generally very impressed.

So that said, we get into some of the more interesting aspects.

There has already been quite a bit of discussion, and I know that some of my colleagues on the board and in the ICANN staff tend to focus on the impact of such a program might have on the financial health of ICANN. I want to set that entirely aside and focus instead on the viability of the program from the candidates and potential applicants' point of view.

We're talking about -- the thing that glitters the most, that catches the attention, is the \$185,000 application fee, the potential for reducing that to your recommendation of 47,000. And those numbers are the ones that catch the headlines that everybody talks about.

What we all understand is that the cost of running a new gTLD is substantially greater than that, that the application fee, whether it is 185,000 or 47,000, in the overall scheme of things is but a small fraction.

Further -- and you do make pretty clear references, but I want to drill down a bit. There is the usual sharp distinction between what in the investment lingo is called capex versus opex, the upfront capital investment costs versus the ongoing operational costs.

One of the things I focus on rather quickly in thinking about all of this is: Are we facing the prospect of creating problems -- sort of a nightmare scenario is supporting a lot of candidates. They go into business and they fail and they fail at a much greater rate than the unsupported applicants. Then we would have created a problem that we will regret, I think, greatly and it will not be to the benefit of any of us. It won't be to the benefit of ICANN, but much more importantly, it won't be to the benefit of the applicants, and it won't be to the benefit of the Internet community as a whole and most particularly won't be to the benefit of the portions of the Internet community that we are trying to be supportive of.

So that to me is focus Number 1: Will this be effective, and how do we shape this so that it is effective or at least has the best opportunity and we avoid some of the obvious mistakes?

In all of the statements that you've made today about financing and about analysis and so forth, I listened as carefully as I could and sort of parsed the statements with respect to that.

There's a lot more detail in why the fee should be reduced to a certain amount, where those funds could be repaid back to ICANN and what the impact would be on ICANN and so forth. Relatively little detailed understanding or presentation -- perhaps there is a great deal more understanding -- on the ongoing operational costs and on the financial health. So that, to me, would be absolutely concern number one. So in looking at potential candidates and making those decisions, a viable business plan that at least has the reasonable prospect for success, even

if you reduced all the upfront costs to zero, which is not going to happen, would be the first thing to look at and then backing that up into what the investment profile is and where else the funds are coming from. That's the main thing I wanted to emphasize.

A handful -- and I will be quite brief here -- of other points. On the business of IPv6 or DNSSEC and what those costs are, we actually considered the same kind of questions upfront in structuring the new gTLD process a few years ago. And the idea of deferring -- in other words, a very specific discussion, the idea of deferring DNSSEC requirements was proposed and instantly there was response not from the security oriented folks but from the people who have deep understanding of the operational costs, registry operators, in other words, saying this makes no sense. It costs much more to do it wrong the first time and then come it back and do it right the second time rather than to do it right just up front. It was almost an instinctive reaction.

And I completely concur with that. So I think it's understandable from a distance that these things might seem like there were additional costs and we don't know what they are. I understand also we don't have the expertise, in other words, it is not quite available and so forth, all of that is very reasonable. That I would say, set the requirements to say get it done and it will be much, much better, don't even waste the time talking about that. That's just a small point there.

With respect to the proceeds of the enormous amounts of money that are going to magically appear from the auction process, two very strong comments. First of all, I tend to be on the very conservative side of that. We'll have to wait and see what there is. The gTLD program has been structured in a way that discourages and tends to veer away from creating those kinds of windfall funds. The contentious applicants are encouraged to work it out for themselves. And so the auction is provided as a last resort. If it happens, it happens, that's fine.

Equally, if we get great surpluses from huge numbers of applications so that we exceed our financial estimates, that's fine. But it's a long way from certain.

Second, as a matter of policy, we agree that such surpluses will not just be thrown into the ICANN coffer. They will be accounted for. They will be segregated. They will be dealt with. And that process will be a separate, open, public, fully consultative process. That also implies that there will be no automatic allocation of those funds back to gTLDs for whatever purpose, that they may well be included as one of the possibilities, but there are many other worthy things to do, and we have not had that discussion.

So I don't want an assumption to be taken broadly that, well, there is going to be all this money and, therefore, it should go back into the gTLD program. I think that's a discussion yet to be had.

I have -- with respect to the foundation idea, I think that's a great idea. You have to think through how much work that's going to be, think about how much work you all have put in to getting to the point of saying, "Well, these are the things we want." The translation of that into action is also fairly heavy weight.

The board itself has no capability for making anything happen, I'm sad to say, having sat on the board for a long time. We give -- we pass messages around. We listen carefully. We make some decisions that are policy decisions with respect to the corporate operation of ICANN. And we delegate outward and downward action.

There's going to have to be some act of magic. Some people are going to have to appear on the scene and form a foundation, take that action. It is not going to happen magically. And it is not going to happen, I'm afraid to say, by having the board simply direct staff "go make it happen." At least not in any time frame that's consistent with what you are thinking about. These things take a while that have complexities. Particularly if you are going to add "well, before we do that, let's consider the domicile and let's consider the legal issues." Anybody can go -- in the U.S. can go whip up a new corporation overnight. You can fill out Corporation for Dummies forms or whatever. But there is more to it in this situation that we are talking about.

And let me end with a question that you may have some sense about and maybe you will want to share. Do you have a sense of how many successful candidates you are expecting or have in mind? Are we talking about -- I'll put sharp numbers on the table. The breakeven analysis for the gTLD program is geared at 500 applications. Are you intending or do you expect that there will be an equal number of supported candidates? 1/10th? 20%? Twice as many? So forth.

The quantification of that would be helpful in terms of framing this and getting focus of attention. It doesn't take away from the analysis required of each individual candidate as to whether they're viable. But it does help in shaping the overall effort necessary to provide support and move this forward. Thank you very much.

CARLTON SAMUELS:

Thank you very much, Steve, for that question. We figure out we have about five questions out of that. The first one concerning the operational costs, Alan would take that one. Avri will talk -- Avri will talk about the operating costs. Alan will talk about DNSSEC. And we will also talk about the foundation issue. We also will address the issue about the amount of expectation for support candidates from the breakeven number.

Avri?

AVRI DORIA:

Thank you. I will give some very quick answers. I think on the viability of the business, the operation, the opex versus capex, I think our point here was that a regular business plan is required both for the application for support and still for the application. At no point is there a request that they not have a viable business plan, that that be waived as part of the application process that every application needs.

So all of those considerations need to be dealt with as any applicant needs to deal with them.

Now, obviously, they may have different things inside them saying how they will deal with it. But there's nothing in what we've said to waive that at all.

In terms of the auction -- and I will just quickly go through a couple, and other people will add -- we knew and as we had gotten comments, I think our first milestone report had said auction monies to new gTLDs. That raised a lot of questions to put it mildly. And that's one of the reasons why we've said -- we've sort of pushed that off to further considerations saying we want to be one of those considerations for auction. I think we're more optimistic perhaps than you are that there will be or perhaps pessimistic -- I don't know whether it is the case -- that there will be auction monies. From everything I have heard, it is not all going to happen through under- the-table deals where one guy buys out another. Some of them are going to end up in auctions. But whether that's pessimism or optimism, I don't know.

The last thing I'm going to comment on is the number of -- two other things. We weren't planning to ask the staff to go off and start a foundation. We were asking the staff to work with a dedicated group of volunteers. The optimism on my part says that look at all these review teams we've got. We look at all the others. We can find the people. I think I have been telling Chris he could easily find the number of people to lock in a room for a couple weeks and say "do it" and they would get a lot of this done.

So, you know, lock a bunch of people in a room and tell them to get it done and it will get done. Maybe I'm an optimist, or a masochist, I don't know.

Finally, on the number of successful candidates, we tended to see it as a goal. We tended to see it that we have to set a goal of how many we think there should be. And we looked at things in terms of the 10 to 20% maximum. More likely the 10%. We thought if we got 10% of 500 applicants, that would be amazing. So that was kind of our view. But we weren't setting a -- we knew how many.

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CARLTON SAMUELS: Alan, go ahead. DNSSEC.

ALAN GREENBERG: I will make a couple of comments to elaborate on a some of the things Avri said and then go on to DNSSEC also.

In terms of the failure rate, I think I tried to make it clear that we're looking for a group of hard-nosed people making these decisions. We prefer to reject people than accept them just to keep those kind of numbers reasonable.

In terms of foundation, I think Avri made clear, all we were asking for is to investigate. We had no illusions that you were going to create it in the next three months. But let's start understanding what is involved in terms of that.

>>CARLTON SAMUELS: Yes.

>>ALAN GREENBERG: DNSSEC.

This was a working group. If you remember, when the GNSO was reformed, the board instructed the GNSO to use the working group model. Well, the working group model has some benefits over previous models. It has some problems, too.

It brings very vocal, very interested people with very strong opinions together, and you cannot necessarily end up with a single idea. There were some people in the group who felt very strongly that DNSSEC should be deferred or deferable, others who felt exactly the way Steve described the thing.

We presented what we had to in the report to get the report out.

Understand it was a divided group on some of these issues and there was not uniformity.

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The only issue that we did make a very strong statement on is: Find a way that people who physically do not have IPv6 in their country can provide -- can meet the requirements in the applicant guidebook. That one, we felt strongly on, because there are countries where it is essentially not available.

In terms of the number of successful applicants, my number is 10. If we reach 20, I think we've made a mistake somewhere along the way.

(Speaker is off microphone.)

ALAN GREENBURG:

Percent, percent. Sorry. And since we don't know what the -- what the multiplier is, we don't know what the absolute number is, but that's the kind of target, and if we have to assign -- for financial reasons, if we have to assign an absolute physical target, we can come up with a number, but, you know...

CARLTON SAMUELS:

Thank you, Alan.

Two small things. The question was -- that Avri mentioned in her presentation -- that we were looking that the people we expect to apply would be people who were experienced and so on. We want to make one small clarification.

The persons involved might be experienced, but it might be a new single-purpose vehicle that is put together for this enterprise. That's understood.

The other issue is the DNSSEC. Again, that's one of the areas we think that practitioners with experience would certainly be helpful in getting over that hurdle for new applicants.

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STEVE CROCKER: (Speaker is off microphone.)

CARLTON SAMUELS: Thank you. Yes, Karla.

KARLA VALENTE: Yes, this is Karla Valente from ICANN staff and I'm acting as remote participation manager for this session, and we have about 29 remote participants, including Rafik Dammak, who is the co-chair of this session, and he asked me to thank everybody here for participating and encourages everybody to support that effort, not only here during the Dakar meeting but also through our public comment that ends on December 16th.

We have one question.

CARLTON SAMUELS: Thank you, Rafik.

KARLA VALENTE: Yes. We have one question from Joly MacFie. Will eligible applicants include those looking for IDNs and variants?

The second question comes from Faisal Hasan, and it's about the new gTLD communications and outreach program.

Is there any plan to organize sessions to promote and inform the application rules for business communities in developing countries?

Is there any way ISOC chapters can help in this program? Thank you.

ANDREW MACK: Let me see if I can jump in on a couple of those.

In terms of the outreach program, we actually had a nice conversation about this yesterday in the ALAC meeting, and we recognize that a lot of outreach is necessary and not nearly enough has been done especially

focused on communities in the southern hemisphere, and so we know that there is not nearly the level of sensitization about this.

We think it's extremely important. It kind of goes to this question of whether the budget that we have currently to work with is enough, and clearly there's an awful lot of potential uses for that \$2 million, and so whether we work through a foundation or in what other way, we clearly need to raise that amount so that we can get the word out.

It also suggests that we need to work with groups like the international business community and others who have the ability to reach out into emerging markets to make sure that the -- that these audiences really understand what's going on and see themselves in this program.

In terms of the work on IDNs, this has been a significant topic of discussion over a significant period of time. We recognize that there can be no real success in this program without some focus on IDNs, and in whatever way that we can to try to incentivize the build-out and the focus on new IDNs as part of this process, that's definitely something that we as a group feel is important.

CARLTON SAMUELS:

Thank you, Andrew.

STEVE DeIBIANCO:

Thank you. Steve DeBianco with the business constituency.

First, congratulations. You guys have accomplished amazing things in a short period of time, but I wanted to explain why the business constituency council abstain from supporting the report.

We didn't vote no but we abstained and I'll just explain quickly why. We don't have very much time.

But the BC is completely focused on business users and registrants and assuring they have a stable and secure DNS with lots of availability and integrity in a global environment.

But when we looked at the focus of what JAS went after, it was so much more directed at applicants and less focused on end users and registrants, particularly from the business community.

Let me see if I can explain how that may come at the expense of the business community.

We've already covered the notion of DNSSEC deferral, and I think that you've heard the input on that, because the BC was opposed to any lowering of the bar for technical, or for continuity of operations.

And Alan mentioned that continuity of operations may not be such a big deal for maybe one of these applicants because they're not looking to sell the TLD. Maybe they just want to shut it down.

Maybe, Alan. But maybe, just as true, several thousand registrants plunk down money to buy a domain name, change their T-shirts, business cards, and logos, paint it on the side of their trucks, and embark on a whole branding exercise to use a new TLD from an applicant you supported.

Continuity of operations for the purposes of the applicants and -- applicants is one concern, but it's the registrants and users we'd like to see more focus on.

And the second reason is that we really feel like this program will only be successful, as Andrew Mack said, if we really do roll out TLDs to underserved linguistic communities, underserved languages and scripts.

And I know Alan mentioned it as the second bullet on the criteria slide, but I would love to have seen that rise to the top, because how can we miss the opportunity of creating incentives so that applicants for new TLDs, whether they need money or not, will be encouraged to build out their script in multiple languages, particularly those that are underserved. And I don't want that to come at the expense of the funds that Avri described. It shouldn't be money that's charity. We're just suggesting, recommending that staff and the board discount applicants who put in multiple strings in different versions, and in such a way that the staff doesn't have to spend extra money evaluating the applicant, so

if there's any cost savings for an applicant with four strings, let the applicant reap the cost savings as an incentive to build out more strings. Thank you.

CARLTON SAMUELS: Alan, you want to respond directly?

ALAN GREENBERG: Yeah. Two very, very quick responses.

In terms of shutting down the domain if it fails versus keeping it alive, my preference -- and I thought I made that clear -- was the absolute minimum amount that the applicant should be required to provide is enough to keep it alive.

Keeping domains in the zone -- in the root zone is not an expensive process if you're not trying to get new ones at the same time and things like that.

Now, some people said, "Well, maybe we want to shut it down." And fine. If you want to, we'll allow you to. But that wasn't the real target. It was making sure that the registrants are not disenfranchised because someone had a bad business plan. And that -- again, this is a working group and what comes out of it is the merger, not what everyone wants to see, and I think the same can be said in terms of the order in which IDN was put in.

And on bundling, we probably spent more talk on bundling scripts and languages than on any other subject. We could not come to closure on it. So be it.

CHERYL LANGDON-ORR: If I may, Sharil Langdon-Orr for the transcript record.

We also note that the GNSO was very firm on the matter of bundling and I didn't think the working group was in a position to overturn a previous ruling from a support organization.

CARLTON SAMUELS: Thank you, Cheryl. Next question.

MOUHAMET DIOP: Okay. Thank you, Chair. My name is Mouhamet. I'm from Senegal. Welcome in that country for the ICANN meeting.

CARLTON SAMUELS: Thank you.

MOUHAMET DIOP: I just want to echo first that this is one of the greatest initiatives I have seen involving so many people trying to address one issue regarding the developing countries. So for that, I just want to say thank you to ICANN and thank you to all the volunteers who have worked on that.

But the issues that need to be covered for that one, I mean, are so huge that I can imagine that at that point we cannot fill all the questions we get regarding the developing countries for the gTLD space.

But I want to raise one point, because if we do an effort of decreasing the application fee for developing countries, all these initiatives are great, but let me ask you one question regarding: If we think from an economic perspective, an economic point of view, we want these registrars -- I mean, these new gTLDs to be successful, to get their market, to get their business running. But if we look at the value chain of the business domain name in Africa, let's say that, for example, we are more than 900 million people, we don't have in the continent more than five registrars. It means if a new gTLD has been accredited, gets his contract, he spends the money he spends on it, and he wants his business to run, who is going to be his interface in terms of doing the job unfilled, guaranteeing that people -- the contract, the registrants, the end user -- will be protected, safe, and deal with people who are contractors and who get something to -- responsibility. I mean, the assigned for gTLD responsibility. It means that there's something

broken and I haven't seen any recommendation going to move all this effort you're doing by providing the correct links on fill in the developing country to help the new gTLDs get their business done in a proper way, and the registrant at the end of the day being protected by dealing with the new gTLD.

So from the business perspective, we need to add a recommendation, and I'm not saying that something will be done in the short term, because we already discussed with April in Singapore that the time was too short to address it, but in fact if you don't say anything as a recommendation from the JAS, I'm really desperately thinking that people are going to have their accreditation, they're going to launch their new gTLD, but it's going to be a big mess. If we look at the market, what's going to happen locally. Thank you.

CARLTON SAMUELS:

Thank you. Andrew?

ANDREW MACK:

Mouhamet, as we said in Singapore and when you brought up the point the first time, we agree. This is a crucial development issue over the long term, absolutely.

As you can imagine, we had so much on our plate in the short term, trying to figure out just -- just what we've discussed so far, and a very, very limited budget in terms of time and resource, so I think that it was the group's strong opinion that you're absolutely right, and it's the kind of thing that we should be building toward and yet another reason why we need to increase the pool of resources and mobilize the community that much more to address just this kind of issue.

CARLTON SAMUELS:

Thank you. Next question?

MARY WONG:

My name is Mary Wong, and as a councillor for the noncommercial users constituency, NCUC at ICANN, I'd like to read a statement. Ooh, sorry. The vertically challenged person with the vertically challenged mic.

Thank you, Sebastien.

We would be submitting this into the public comment forum, and it has also been sent to the board.

One difference from the version sent to the board is that we have since been joined by individual colleagues from the new nonprofit operational concerns constituency, and we are hopeful that as we get more sign-ons, that this will become a full NCSG comment and not just a NCUC comment.

The NCUC wishes to congratulate the JAS working group on the recommendations it has made to enable the new gTLD program to become one that gives a fair chance to the developing world.

As the NCUC, we have been arguing for policies in support of fairness since the time when the new gTLD policy was first discussed in the GNSO.

We have continued this by being active participants in the JAS working group, including having one of our members as the co-chair.

We are heartened to see that this effort is also being championed by the GAC and the ALAC, and want to once again lend our voice to the call for fairness.

We encourage the board to approve all of the measures in the JAS report and we wish here to single out a few that we believe need immediate approval and implementation.

Without question, the fee reduction as recommended in the report, where all qualified developing economy applicants will pay the reduced fee of 47,000 U.S. dollars is necessary for the new program to be considered fair. Even 47,000 U.S. dollars may be a challenge, but we

understand the need for applicants to have some degree of financial stake. To require more would exclude them from a chance of making any application at all in this round.

We accept the arguments in the JAS recommendations that this recommendation is consistent with the GNSO policy recommendations and we accept the proposals also of ways in which the reserve fund portion of the collected fees and the expectation of auction funds may be used to satisfy the requirements for self-funding application processes.

We also support the suggestion in the report that the continuity instrument required be made more affordable.

Finally, we urge the board to accept the proposal in the JAS report for a board organized working group to create an ICANN foundation. Its first goal being to raise and distribute funds to assist developing economies in meeting the other expenses or creating registries to serve populations in the world's developing economies.

We appreciate the seed funds offered by the board and encourage those who have financially benefitted already from the domain name industry and from the involvement with ICANN to contribute generously to build on this seed once the foundation is created.

In the meantime, NCUC encourages all who can to publicly pledge to such a fund in anticipation of its creation.

Thank you for your time.

[ Applause ]

CARLTON SAMUELS:

Thank you very much, Mary, and NCUC.

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We are running out of time, so we will take the last two, and that's it.

MATHIEU WEILL: Thank you. My name is Mathieu Weill. I'm the CEO of AfNIC, the French ccTLD registry.

And first of all, I want to commend the work of the working group in a very short time for addressing a critical issue, I think in an extremely constructive and thorough manner, which was quite a challenge. And even if I have to mention the opposition or pushback that the group has been facing.

So I think this is a particularly interesting outcome from the multistakeholder model that we should commend, and I have a specific word to say for the vice chair, Rafik, who is not here but I know has been extremely active in that.

CARLTON SAMUELS: Yes.

MATHIEU WEILL: I want basically to provide support from one ccTLD.

As has been mentioned in the report, that some ccTLDs would be willing to support, and I think it would be -- it was important to express this support.

I think this comes at a time when -- where it is critical for ICANN to demonstrate its commitment to the public interest, and this is a critical opportunity to give the idea to the world that ICANN takes into account the fact that why we have a global Internet. It doesn't mean it's one-size-fits-all.

So -- and we have a very short time left, so despite some concerns that are valid, not -- I mean, the board will have to decide, taking into account a number of risks, but they have to take this risk. Not

everything can be absolutely certain, but I think the goal here is higher than the risks.

And of course apart from this support, I mean AfNIC has been involved in capacity building for -- ever since it was created in 1998, and we will definitely increase our support for capacity building initiatives next year.

We have a dedicated fund that has been running since 2008, and its amount is going to be tripled next year, precisely to support new gTLD applicants in the process.

So of course we would hope that this support -- this extra support does not go into ICANN fees, but rather into supporting initiatives in the emerging countries. Thank you very much.

CARLTON SAMUELS:

Thank you very much for that.

[ Applause ]

CARLTON SAMUELS:

Next question. We have Katim. And the last one, we have Katim Touray, from the board.

KATIM TOURAY:

Thank you very much. I have no computer with me. I have no notes. I am going to speak from the bottom of my heart.

I am incredibly proud of the work that's been done by the JAS working group. I had the fortune and the honor of joining two of your calls -- I think one or two of them -- and I was just absolutely amazed at the kind of work that you guys have been doing, that you guys were doing. And to imagine that you were doing this twice a week for the past couple of months is really simply incredible. We really can't say -- years, I should say. I beg your pardon. So thank you so very much. I really, really

appreciate it. And the work is very important for two main reasons, in my mind, at least.

One is that you helped the board actually operationalize the commitment it made in Nairobi in March when it passed the resolution that specifically called for an inclusive new gTLD program. So you really, as the Americans would say, are saving our butt, basically. I think that's a very important point.

But also important is the fact that you helped us achieve the recommendation -- and a very important one at that -- of the ATRT. That's the Accountability and Transparency Review Team. They specifically mentioned that ICANN should redouble its efforts to build stronger relationships with the developing world, and I think that's a very important issue, because I think that relationship is, in my mind at least, something that is of importance to the existing -- important to ICANN, because there is quite a lot of talk about what the consequences of this type of dissatisfaction that exists in many people in developing countries. What are the consequences of that dissatisfaction for ICANN as we move forward.

So that you are doing something that's going to really help appease quite a lot of people -- and not just for appeasement's sake, but because it's the right thing to do -- I think is very worthy of commendation, and again, thank you very much.

I have one question, and that is in regards to the -- regarding the issue of the \$2 million that the board committed to in Singapore. What I'd like to hear from you is: What's your take between applying those \$2 million to -- as a cost deferral and applying it to something else? I think I would -- I would love to hear what your take on that is.

And finally, let me just mention that some of you might recall that in Singapore, we had a preparatory meeting on the proposed idea of having an ICANN summit on developing countries. We discussed this whole matter in a more strategic sense and a 360-degree sense, and we are going to have a follow-up meeting in Dakar here. It's going to be on Thursday from 12:30 noon till 2:00 p.m. Check the schedule for the

proper room. But it's going to be -- it's going to be done this Thursday, and we're going to expand the discussion a little bit and talk not only about the idea of the summit but see really what we can do in terms of developing a framework for building a stronger relationship between ICANN and the developing world. Again, thank you very much.

CARLTON SAMUELS: Thank you, Katim. Tijani.

TINJANI BEN JEMAA: Thank you, Carlton.

First of all, I want to say that the JAS program is not intended to solve all problems of the new gTLDs. I want to remind you that the JAS working group was created as per the Resolution 20 adopted in Nairobi, and the Resolution 20 spoke about applicants. So we addressed the applicants issue.

It was about support for applicants that need assistance in applying for and operating new gTLDs.

That's why we didn't solve the problems of the registrars, the problem of the bundling, et cetera.

Even if we all individually support the concept of the bundling, the JAS working group is not -- hasn't the mission to speak about this point. That's why we encourage very well the IDN scripts and we put it as one of the -- how to say -- favorable points to be supported, but we cannot address the bundling issue, so thank you.

CARLTON SAMUELS: Alan, you want to say one thing more before I close?

ALAN GREENBERG: Yeah. Just one comment with relation to what we were doing here and with relation to what Mouhamet Diop said.

I'm going to say something radical. We could cancel the new gTLD program altogether, immediately say it's gone, we're not doing anymore, we have enough TLDs. We still need to augment the number of registrars in Africa and a whole bunch of other problems like that, and, you know, whether that's an ICANN problem or a community problem is moot. That still has to be addressed.

The new gTLDs just exacerbate the problem. Thank you.

ICANN – NL

Ladies and gentlemen, I'm terribly sorry to have to interrupt this but we have another program starting immediately and we have quite a busy morning. If we can possibly close this session, I would greatly appreciate it.

CARLTON SAMUELS:

Yes. We are closing the session as we speak. I want to thank all of you for coming here. I want to thank the staff, especially, in supporting us through this entire process, Gisella,

Karla, Glen, Robb, Seth, and all of them. Thanks to Kurt Pritz for supporting us through this process. They were really, really supportive of this in putting human effort to get this done. Thank you all for coming. Thank you all for your support, and we hope and encourage you to make comments on the final report so that we can have a better product. Thank you all. This meeting is ended.

[ Applause ]

END OF SESSION