ICANN Dakar Meeting

Registries Stakeholder group- TRANSCRIPTION

Tuesday 25th October 2011 at 09:00 local

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David Archbold: So yes, I mean we're trying to - Carla is checking on the dial-in right now.

Man: (Unintelligible), can you hear me?

David Archbold: Good morning and welcome, this is the Registry Stakeholder Group Meeting with a very unusual layout. We didn't order it this way and we were told it was impossible to set up our usual conference setting. In any event we'll start out with introductions. Jonathan, you want to take...

Jonathan Robinson: Sure, hi, good morning. My name's Jonathan Robinson. I'm part of the Registry's contingency - or Registry Stakeholder Group by (unintelligible) and (unintelligible). I am also elected councilor from the Registry Stakeholder Group on the GNSO.

Man: Hi, (unintelligible) Asia.

Chuck Gomes: Chuck Gomes, VeriSign.

Jeff Neuman: Jeff Neuman, Neustar. I'm also one of the councilors from the Registry Stakeholder Group.

David Maher: David Maher, PIR.org, Chair of the group.

Keith Drasek: Keith Drasek, VeriSign, and the alternate chair of the Registry Stakeholder Group.

Man: (Unintelligible).

David Archbold: Carla, are we being recorded?

Carla: Yes.

David Archbold: Thank you. Okay, the first item on the agenda is the agenda.

Man: David?

David Archbold: Let me (unintelligible) to the three agenda items, the Stakeholder Group Meeting, Meeting with the ICANN Board, and the meeting jointly with the registrars, okay. In that case, moving along, the - we're expecting Kurt Pritz and John Jeffrey but they probably won't be here for another 45 minutes. I think we should skip ahead then to GNSO updates. Jeff, do you want to take over on that?

Jeff Neuman: Sure, is there a way to move that up so I can - just move the agenda up? Is there a way to do that? Are you controlling that? (Unintelligible) new gTLD developments or GNSO updates?

Man: Hello?

David Archbold: GNSO updates.

Man: Hello?

Jeff Neuman: Okay, can you move the screen?

David Archbold: Could we - whoever is running the projector, could you scroll down on the document to IV? Thanks.

Jeff Neuman: Okay, sorry, wasn't expecting to go this quickly here. All right, so the motions that are on the table, I guess that's the first item, right. The first motion is a motion - this may not be in order but a motion to approve the final report of the PDP work team.

I know we've discussed this a number of occasion - on a number of occasions. There's - as you know, a number of recommendations and we've commented during - I think there's been at least three or four different comment periods that we've made extensive comments.

As the Chair of the PDP work team I think we've addressed all of those comments. We have explanations for the comments that we did not - well, we addressed them but maybe not adopted them. Hoping everyone has had a chance to review those. This process has been going on now for - gosh, two - two-and-a-half years and I think I'm going to be very glad to get this done and approve it and send it to the Board.

So let me just throw it out to the members and anyone else that wants to - that has a comment on it. Is there any thoughts from the stakeholder group? I mean my inclination is - and I think Jonathan and Ching as well is to vote in favor of it. This was deferred for the last meeting and primarily by us. We actually deferred to it make sure people had some more time to think about it and voted (unintelligible).

Keith Drasek: So Jeff, this is Keith. Thank you very much for that and I think particularly thank you and the rest of the PDP work team for the excellent work that you've put into it, the effort that you've put into it over, you know, quite a bit of

time as you said. I think it's an excellent work product and I think - I certainly would support, you know, a vote in favor.

Man: Jeff, (unintelligible), I wonder if it's worth just saying a couple of words about - just in plain speak what - where this has come from because there's been - you know, it's very easy for those of us who are at this point in the process to - this is how we'd respond to it but it might be worth just a five minute summary or just a couple of minutes on, you know, what this is all about if - it may be useful for the record.

Man: Yes, this is (unintelligible). Can you hear us?

Man: Yes, we can hear you fine.

Man: Okay, fine, there was problems with the dial-in, I apologize. There are other people on the call that may not be able to talk.

David Archbold: Jonathan, I...

Man: Okay, so, if - I'll do my best but I'm not in great shape to do it but I'll try. I mean essentially as I understand there's been a substantial ongoing effort to revise a number of areas of activity including the PDP process. And this is really - this represents the end of a long and sustained period of work on improvements. So that's really the context it sits in.

              And I was just conscious that it's very easy for us to come to one of the final hurdles of the vote. So I'd encourage anyone, I guess, to - if you're uncertain of how this fits into the scheme of things or you have a - any concerns or you'd just like a little bit of explanation to fire away, that's really it I guess.

Chuck Gomes: It might be helpful for those that might be new to the process to point out that there were five general areas - by the way this is Chuck Gomes, five general areas of GNSO improvements with regard to - that were recommended by

the GNSO and then ultimately approved by the Board. This is the fifth one I believe, correct me if I'm wrong Jeff, to be reaching a final stage.

Another one somewhat related to this is the working group model, those recommendations have already been approved. And there were three operational ones. There was the GNSO operations recommendations that have already been approved. There was the stakeholder and constituency recommendations for changes that were approved. And there was an outreach and communications set of recommendations that have been approved.

All or some of those are still in the process of being implemented. This is the last one to reach the approval stage.

Man: Thanks, Chuck, that was the sort of thing I was fishing for.

Jeff Neuman: Yes, I mean - and this is Jeff Neuman. I have a presentation, I don't think I need to go through it, but if anyone had any questions on some of the things that changes the last one to really not that one. I mean the last report was a proposed final report and I think we just clarified some terms, mostly as I said in response to the registry comments.

I think the large set of comments came from the registries and INTA, the International Trademark Association. There were some comments here and there from some other - I think the ALAC had some comments, mostly just, you know, we support this or we support that. And I do want to say, I really appreciate the work of Chuck and David and others that really helped shape our comments to that support. Okay.

Sorry, the next motion - sorry, I'm just getting this to my computer here. The next motion on the table is a - I'm going to skip for now the more controversial one and got to the easier ones I think. And so I'm going to skip for now the registrar accreditation agreement but we'll come back to that one.

The next one, which is I think a pretty easy one to approve, is - excuse me, the outreach task force charter. And, you know, I know we've seen that one before. I know Roy from Neustar has worked on it, has sent it around on a number of occasions. And we've given comments.

I think Chuck has given some comments on it. I believe they've adopted our comments and it's really just for the approval of that charter. I'm not sure how much we need to talk about it but just wanted to make sure that everyone here is okay with voting in favor of that.

David Archbold: I don't hear any opposition.

Jeff Neuman: Okay, (unintelligible) let's move on the last motion and - which is on the registrar accreditation agreement. And this one I'm sure will take some time to discuss. This one is a motion not too dissimilar to the motion that we had seen in San Francisco and voted against.

This was a motion that comes ultimately out of the registration - there was a working group that was set up to talk about the registrar accreditation agreement and there were two different motions that were recommended in the - or I should say, discussed by that working group.

There was a Recommendation A, which had very extensive involvement from the GNSO community, especially the GNSO Council in not only ultimately approving the new registrar accreditation agreement but also the participation - direct participation of the community in the negotiations. That one did not have a strong support, it had some level of support.

And then there was this motion or a variation of this motion, Motion B, that was not necessarily having the community involved in negotiations but ultimately having the GNSO approve the registrar accreditation agreement.

In San Francisco we joined with the registrars in voting that motion down. There were a number of issues in that motion. We had a fairly lengthy statement in San Francisco as to the reasons why we voted that one down. And (Christina Rosette) from the IPC went back, took that statement that we made, and tried to address all of the comments in this current motion that's up on the - that the Council's going to consider.

And just to kind of go over some of the salient points, there is - rather than having the - what the motion initially said was that it conceded the fact that all consensus policies that were in the registrar accreditation agreement had to go through the consensus policy process.

The - in this version now it says that it's the General Council and not the GNSO Council that gives an opinion as to whether a topic is within the picket fence or not, which I think is an improvement. So the General Council in this motion would take the topics that were identified in the report as high priority and medium priority, take those and give an opinion as to the ones that require consensus - a consensus policy.

At that point the ICANN staff will hold a consultation on his opinion and the community would get to weigh in and either support or object to General Council findings. Within 60 days after that public consultation then negotiations would take place only between the registrars and ICANN staff.

And then once they came out with the - whatever they agreed upon as the topics or - I shouldn't say topics, the language on those topics that would then go out to the public for their comments and - until a full new draft the REA would be considered. And then at that point in this motion the - it's the Registrar Stakeholder Group that would determine that it's ready to go out for comments.

The public would get to comment on it but ultimately it's the GNSO Council that then would get to approve the registrar accreditation agreement by two-

thirds or I should say, the super majority vote. If for whatever reason the GNSO Council did not approve by super majority then it would go back to the registrars and ICANN staff to come back with something new.

So I do think that this motion is a lot better than the first one that we saw but I do think, and I know as we'll discuss, there are still some fundamental flaws in this version. I think one of the flaws in this version of the motion is that it seems to presume an endless loop of discussion.

So if the Council did not approve of the REA, for whatever reason, whether it's because it got very few votes on the Council in support or up to a super majority, so you can envision, you know, maybe the REA got 33% of support.

It would still have to go back in this endless loop of keep negotiating until you get something that everyone agrees with, which, you know, on its face sounds okay but if you think about it it presumes that the Council is requiring the group to keep negotiating even if the Council doesn't think that that subject is one in which is appropriate for that agreement.

So if the registries, for example, and registrars didn't think a particular subject was appropriate it would still require the registrars in ICANN to keep negotiating until the GNSO in my view either caves in or keeps voting it no. And I think this endless loop is not something that we should support.

Now I will tell you that the IPC during a meeting said that they would - they could rectify that with some language if we wanted to suggest some. I think the ultimate issue, and I know Chuck will probably want to do some talking on it, is whether we agree as a stakeholder group that the GNSO Council truly has the authority to approve or not approve a private agreement between registrars and ICANN.

And I think that is an issue that's not well settled at this point. I know there are opinions. The non-contracted parties house believes that the current registrar agreement does give them that right to approve.

I know that we have expressed in certain circumstances that we're not so sure that's the case. So I think those are the items that we need to discuss and we need to figure out how we want to vote on this motion.

We also met with the registrars, with the ex-COM of the registrars and had a discussion on this. And you know what I believe is that if we do vote this motion down we need the registrars to come up with an alternative process. We can't just keep voting these motions down for the sake of voting them down.

We do have some legitimate issues but if for whatever reason these issues are resolved at some point the registrars do need a process. And we've made that point very clear to the registrars and I believe they're taking that very seriously. And I'm hoping that within very short order, hopefully before tomorrow's meeting, they will have a proposal. And I think it's something that we will talk about with the registrars this afternoon when we meet with them.

David Archbold: Thanks, Jeff. Any discussion?

Ken Stubbs: Yes, David. I have my hand up.

David Archbold: I can't see the Adobe but go ahead, Ken.

Ken Stubbs: Yes, I'm very concerned. Hold on for a second because I'm getting an echo here so I'm going to turn the volume down. Thanks for your patience, I hope you can hear me okay. Can you?

Jeff Neuman: Yes, we can hear you.

Ken Stubbs: Okay, I'm sorry. The way this remote participation is set up you get feedback and a delay on your voice so that's why it will take time for anybody that wants to talk on the other end. I'll have to turn the volume down.

I'm concerned about this for a couple of reasons.

I understand the concerns about continuously rejecting these things and I do agree that the registrars need to get something out there. I've had long discussions with Tim Ruiz and some of the other people. They maintain that they have been working hard with the ICANN staff trying to get things resolved.

I think we have the classic problem right now and that is that the ICANN staff's just overwhelmed with work with the new TLD process coming up. What - so as a result maybe they're not able to communicate and be as responsive on both sides of this - as the community would like to see them.

My biggest concern is the fact that a process like this involving third parties in these negotiations will eventually be turned around and applied to registries in the future. And I can see situations where the registries would be required to have third parties like this in the middle of the negotiations.

I'm not comfortable with that. The purpose of the ICANN Board is to represent the community's perspective in ICANN's dealings with the community and in ICANN's contracts. And I find a need to have a third party like the GNSO Council injected into the process, the act of negotiations to be something that makes very little sense to me.

I'm not a lawyer. I'm not exactly certain but I think the concept of privity of contract between parties is something here that might apply if - please, slap me down, Jeff, or David, or somebody if that is not the case. But I would not want to see the registries put in a situation like this in the future.

And I think we need to support the registrars and strongly encourage them to come up with an alternative, even if they have to take the process at this point in time and break it down into smaller parts that they could deal with. I know there's been a lot of concern expressed at the GAC meeting but I think that's primarily the law enforcement end of this thing. And thank you for hearing me out.

David Archbold: Thanks, Ken. Anyone else?

Chuck Gomes: Thanks, David. Chucks Gomes again. My problem with this motion in fact with a general assumption as the one that Jeff referred to that the GNSO Council needs to approve any contract between ICANN and a contracted party.

But the fundamental construct of the contractual arrangement from the very beginning of ICANN - well, that's not actually true, from about a year after ICANN started and established by the Department of Commerce in 1999 was that registries and registrars would be required to implement consensus policies that were within a list of possible topics that we often refer to as the picket fence.

And that that was the one protection that contracted parties had, both registries and registrars, to make it reasonable to sign an agreement where you're committing to implement unknown policies in the future if they follow certain procedures and if there is a consensus policy approved by the GNSO Council and ultimately approved by the Board.

We have to implement those, registrars have to implement those. It's a requirement. And it's something that's unique in the whole world I think that businesses will sign up to implement requirements totally unknown when you sign your agreement.

Now so we've all done that, including registrars. And as soon as you give a body like the GNSO Council approval rights to make changes in an agreement, in this case it's the RAA - excuse me, the RAA, the Registrar Accreditation Agreement, you're voiding that protection for contracted parties.

The GNSO Council has a means of getting changes made in policy that registries and registrars have to follow if they are adopted and ultimately approved as consensus policies. As soon as we give the GNSO Council the right to approve changes outside of the consensus policy approach we have just cancelled the one protection that we have.

Now for months I have asked why there was this approval by the Council of the RAA. The answer I received every time was the RAA requires that. Well, I take responsibility to the fact that I never checked that myself. I have challenged registrars, the ex-COM. I have challenged a lot of individual registrars to show me where in the RAA it says that.

Nobody has yet to show me a clause that does. And I'm happy to hear that because I just kind of backed off when I heard that, well, if that's in their agreement there's not too much I can do about that.

But assuming I'm correct that it's not in there, there's no requirement for that, my objection to this motion is probably the only objection I have, is that it includes a provision for the GNSO Council to approve the agreement. Now le me be clear.

I'm totally for input from the total community into the process with registry agreements. There has always been community comment, community input, and I'm all for that. I think that should happen.

But as far as an approval right by the GNSO Council I believe that that goes contrary to the consensus policy procedure that is critical and a fundamental

construct of the contracted parties agreements, whether it be registries or registrars.

David Archbold: Thanks, Chuck. Jeff, go ahead.

Jeff Neuman: Yes, I want to just agree with Chuck and with Ken before that. I think Ken brings up an important point that I'll just talk a little bit about which is the law enforcement aspect and why this is such a big issue right now. And we had a meeting with - we - actually the GNSO Council had a meeting with the GAC on - I guess it was Sunday.

And that meeting can best be described as kind of an attack on the GNSO Council, especially the registrars. And during that meeting the registrars were asked why they did not approve all of the 12 recommendations from law enforcement.

And they were also criticized - I don't know if you all will recall on the last Council meeting, we had voted in favor of a motion to move forward with an issue report on three of the law enforcement proposals. This was proposed by registrars. And the IPC voted no, the DC voted no.

And they voted no because it was only to move forward on three of the 12 and not all 12. So their vote I viewed, and we viewed, as a protest vote. If you're not going to vote - if you're not going to enforce all 12 then we're going to no to the motion.

And the GAC was - let's just say they were prepared for this discussion, probably more prepared than we were at the Council level and they had been prepared by the intellectual property community and the business community.

And there was a very strong admonishment from the United States representative that couldn't understand why the registrars even needed the consensus policy process to move forward with any of the recommendations.

They thought that because the governments and law enforcement said they needed to implement all 12 regardless of whether the registrars thought they were feasible or not, that they should be implemented.

And the government emphasized the multi-stakeholder approach, which I think was their way of saying you've got to do what we say, and they pretty much gave the registrars a good beating down.

During that discussion, you know, I had raised a point that the registries voted in favor of that motion because we'd rather take a step forward than not do anything at all. So yes, it was only on three of the recommendations from law enforcement but at least it was three and not zero.

And so to vote no came to be a protest vote, which didn't really make sense to us. And the non-commercials voted in favor for the same reason. And obviously the registrars voted in favor. And so the motion passed.

During that discussion we were blindsided, I guess is the best way to say it, by the intellectual property constituency who did not discuss beforehand that they would bring it up but they brought up the fact that we, the evil contracted parties, voted against this motion for the RAA several times before. And that the IPC had - did the white knight to keep negotiating and keep changing their motion to a version that they thought we could support.

Again, I think the governments were prepared for this beforehand and the government said we don't understand why the contracted parties won't ever agree to amend the RAA. And if they don't agree then we're just going to have to - you're going to force us, the governments, to legislate. It was the ultimate kind of threat.

Obviously we need to be very firm and strong in our views despite the governments believing that they can just come up with things and require

everyone to implement it regardless of the feasibility, regardless of the effect on free speech as the non-commercials have raised.

So, you know, we're getting a lot of pressure. This the point I want to make, we're getting a lot of pressure from the government but I think that's not a reason why we should cave in on how we feel and on these very important points that both Ken and Chuck have brought out. So I do want a sense from the registries as to whether we hold firm on this motion.

And we can certainly bring up the points that have been raised during this meeting as we have before, but, again, I do want to emphasize that we have told the registrars that in no uncertain terms that they do need to come up with an alternative proposal. I believe they are working on it. I believe we will know very shortly, hopefully later on today, what that proposal is.

And that at least we can go to the Council and say, while we're voting this motion down we do know there is an alternative. One of the things I proposed at the Council session over the weekend was if nothing else why don't the registrars just propose the process that's already approved in our registry, new gTLD registry agreements.

And the registrars seemed receptive to that. And in fact, some of the community seemed okay with that but that does not involve the approval of the GNSO Council.

So we'll see how that goes but I'm hoping later on this afternoon they're going to have a proposal for us.

David Archbold: Jeff, what is the provision in the new registry agreement? Do you have that offhand?

Jeff Neuman: I can pull it up but it's - I know off the top of my head it's Provision 7.6 called - I think it's called Amendments and Waivers. And so just to quickly recall what

that was, we - if you recall in Version 1 of the guidebook, the ICANN staff came up with a process to unilaterally amend the registry agreement whenever ICANN staff wanted to.

We obviously did not think that was appropriately and in fact in Version 2 there was something similar. The ICANN Board came to talk to the registries and if you recall we brought this up and the ICANN - the Board Chairman had said, registries, you're absolutely correct, this clause is ridiculous and instructed the General Council to work with us on coming up with a better process.

We, the Registry Stakeholder Group, went to Marina Del Ray to negotiate this with ICANN staff. Observers were invited so I know that the IPC had sent certain people and I know that the registrars had sent certain people that were there in Marina Del Ray.

We came up with a new process. That process was put out for comment in Version 3 of the guidebook and it's been in there ever sense.

And so it has generated a lot of comments. The community was responded to in an appropriate way and that version is in the new gTLD base agreement.

Ken Stubbs: David?

David Archbold: Yes, go ahead, Ken.

Ken Stubbs: Yes, I'm sorry. I've got my hand raised. I don't know whether you guys can see that on your deal or not

David Archbold: Yes, we can, Ken.

Ken Stubbs: Okay, I apologize, I didn't want to interrupt. First of all, I'd like to support Jeff's comments. And secondly, compliment him on his recall, his ability to pull that up as quickly as he could was a good education there.

I think that the approach that Jeff has proffered here is one we should take with the registrars this afternoon. I think we're - we need to continue to support them but we need to continue to encourage them to come up with some viable options that the community can deal with.

I think that this is - as I said before, a very slippery slope and we need to watch it very carefully. I'm a little disappointed at the - well, I don't know why I would be disappointed, that's the way (unintelligible) works. I think it would have been reasonable for them to give us a heads-up before this meeting to at least give us a chance to respond with a little bit more research and knowledge on the situation.

So I don't know whether we need a formal proposal and a vote but that would be my suggested guidance for the group in the session with the registrars today.

David Archbold: Thanks, Ken. That is on the agenda. Any other comments on the RAA law enforcement? I believe the consensus is continued the votes as you have outlined.

Jeff Neuman: I also just want to - as I say, I believe this is a topic for the Board meeting. The ICANN - the registry Board meeting, at least law enforcement efforts. And I think the subject may come up especially for those Board members that were in the GAC meeting or that heard about the GAC meeting. I'm sure we're going to have to address this as well with them.

David Archbold: I'm sure you're right. Chuck, go ahead.

Chuck Gomes: Thanks, David. I wonder if we need to give our Councilors a little bit of freedom because this may be a live issue and probably will be a live issue in the Council Meeting. I personally believe that they all three understand the principles, understand that we want this situation to be resolved in a constructive manner but that we also - there are certain basic principles that we don't want to violate in doing that.

I for one am willing to give them that freedom if they come to a conclusion that the changes are too significant and they have to come back to us. They can always do that but I think that we're all on the same page on this.

Jeff Neuman: Thanks, Chuck. And I do want to emphasize that the GNSO Council Meeting is open and there will be opportunities for people to come up to the mic and so to the extent you all hear something or have some other information please come on up to the mic and let us know so it's not - I appreciate the flexibility but if you hear something and want to say something at the mic to give us further instruction please, please do that.

And kind of on a related subject, I know everyone here - we're kind of in this format in this meeting, we're not really used to us being up on the table, so if people out there have comments this is actually an open meeting.

So if you want to say anything come on up to the mic, you know, talk, let us know. Unfortunately we're in this format where it looks like where, you know, we're on stage and it looks like you guys can't participate but if you really - if you guys out there want to say something please let us know.

Ken Stubbs: Is Paul Diaz or John Nevitt there? Maybe they can give us a little more background on registrars?

David Archbold: Thanks, Ken. Paul Diaz just came up to the mic.

Paul Diaz: Yes, you (unintelligible), Ken. I was just walking in. Morning everybody, I'm Paul Diaz, formerly with Network Solutions. I just joined PIR literally a week ago as Director of Policy so sitting with you all now on Tuesdays.

Look, I really don't have a lot more to add. I mean you guys have summarized and laid out the positions very well. A question for you is who on the registrar side is supposedly working on this proposal because bluntly, you know, this is something that's easy to see why the GAC - basic everybody non-contracted in the community is frustrated.

This sense of runaround and it's just going on and on and on and on. And specifically I was wondering, is anybody on their ex-COM made a commitment saying I've got the lead because they're also in a position right now at the moment with sort of a leadership vacuum with the way their elections are going. (Unintelligible) stepped down, Mason's moving, etc. I mean it's just an open question.

If they told you they're working on something who specifically and when because I think for the registries the strategy you've laid out makes a lot of sense but you all recognize the pressure's not going to abate. And if the registrars don't come up with something - I mean registries are just going to come under increasing pressure as well. And I think it's really important we have - who's got the pen?

David Archbold: Well, Mason has - at the meeting of the two ex-COMs yesterday undertook to take charge of this and I've spoken to him since them. I believe he is the man in charge. I hope - expect to have continuing dialog with him.

Jeff Neuman: Yes, I think that's - this is Jeff Neuman. I think, Paul, that's right. Mason has committed to taking charge of this. I do believe that they're already been talking to ICANN staff and it's my gut and certain information that they will let us know this afternoon what that proposal is. I think you're absolutely right,

registries are coming under huge fire even though we have a process to amend our agreement.

And even though, you know, we're trying to stand up for certain principles we are coming under the same fire as the registrars even though we do all of those - all the things that are - or a lot of the things that law enforcement has asked we already do or are already in our agreements.

So in our new gTLD agreement, things like having contact information on our websites. I mean a lot of the things law enforcement is asking for are very obvious and I for one am very frustrated at a lot of the registrars for not coming forward and either saying, the good ones already do this already. And, you know, I think there's a better way this whole thing could have been handled.

For example, had the registrars, the ones that actually do these things come forward and say, yes, we already do this, we'll voluntarily agree to do this. And, you know, I believe that registrars that account for at least 80% of the registrations already do this stuff or a lot of the stuff.

And for the 20% that don't, if the 80% that do came forward and said we do this stuff, I think that would put a lot of pressure on the ones that don't. And yes, you could deal with the consensus policy process to force the other 20% to do it but at least law enforcement would be given comfort, the GAC would be given comfort that progress is being made.

But right now the continual no votes is making not only registrars look bad but making us look bad. And so I do think if they do not come up with an acceptable proposal at this meeting and present it to the Council or present it to the community I should say, not the Council but the community at this meeting, I think that we're going to have to solve the problem for them and proposes something.

And, you know, it's not the ideal situation. But I have a feeling, a very strong feeling, that at this meeting today at 4 o'clock they will present a proposal to us.

David Archbold: Thank you, Jeff. Anyone else? I think we can move along the agenda then.

Jeff Neuman: Okay, well, that's the last actual motion that's on the GNSO Council agenda. I think there are some other topics that are on the agenda that don't have motions yet and I think one of the ones is the proposed - or I should say the final issue report on the PDP for the UDRP, there's a lot of acronyms there, for the Policy Development Process on the Uniform Dispute Resolution Policy.

ICANN staff came out with their final issue report based on the preliminary issue report and the comments they received to it.

To refresh your recollection, we submitted comments to that report. The initial report had said that they do not recommend at this time moving forward with a PDP on the UDRP. We had filed comments saying, we didn't think that that was necessarily the right thing to do, that every policy in ICANN's history has been reviewed at some point.

It's been 12 years since this policy went into effect. It's never been reviewed. It doesn't make sense to us not to review it, that yes, we understand that certain people may not like the outcomes of a PDP but to not do the review at all just seemed illogical to us.

At the time that recommendations came out it, yes, you can oppose or recommend certain ones of those. You could vote that up or down. But to just say don't do the review at all - it just seems kind of the antithesis of what ICANN is supposed to be.

And we submitted those comments. In the end if you read a final issue report, what it says is they don't - now they say they don't recommend moving forward with a PDP at this time. The new recommendation is that if you do move forward you should wait 18 months after the launch of the new gTLD process.

At that point in time we'll have more of an understanding of how the UDRP interacts with the other right protection mechanisms including the URS. And so it, again, had the recommendation we don't think you should move forward with the PDP at this time.

The - for those of you that recall as well, the governments weighed in on this and the GAC had sent "advice" to the Council. And I put that in quotes because technically the GAC is - does not have a formal role in writing advice to the Council. Its views are taken like every other stakeholder group.

They can certainly give us their opinion but it doesn't have the same weight as if the GAC were to give advice to the Board. But it is important - it's a very important stakeholder group. And their advice was much like how the ICANN staff came out, which is do not move forward with the PDP at this time. In 18 months after the launch of the new gTLDs you should - you can move forward with this.

So that's the topic we should be discussing and I do want to say that since - give an update as to what we discussed over the weekend. And what I think may make sense and kind of a compromised solution would be, okay, let's wait 18 months to do it but let's not just say let's just delay. I think what the IPC wants to do is just delay.

I think what our recommendation should be is it says 18 months, let's propose that ICANN staff at 18 months after the first new gTLD launches, that an issue report comes out or that we ask the staff to do an issue report.

And in that issue report it's not just an issue report on the UDRP but it's an issue report studying the effectiveness of all the rights protection mechanisms that have been launched to that date.

And, you know, I think it's important to give an actual deliverable so that at 18 months we're not just debating that again, that it's inline with the registry stakeholder group recommendation that every policy be reviewed but also gives the IPC and the governments exactly what they're asking for which is wait 18 months. So I want to kind of throw that out there to see whether the stakeholder group can support a proposal like that.

David Archbold: Thanks Jeff. Chuck?

Chuck Gomes: Just one caution. I understand perfectly, Jeff, what you said about GAC advice to the GNSO versus GAC advice to the board. But I personally would prefer that we don't suggest that GAC advice to the GNSO is less useful than to the board. It makes it sound like we're not going to listen seriously.

It may be true okay, but I'd like to leave with them the impression that if they give advice or they give input to the GNSO in the process that we have that we will take that very seriously and make it a part of our deliberations.

Jeff Neuman: I completely agree. I didn't mean - if I gave that impression, did not mean that.

And in fact in the compromised proposal that I've made I think it recognizes and it gives the GAC exactly what they had asked for in their letter, which is that 18-month delay and also a review of all of the rights and protection mechanisms. And so that -- I think -- takes into consideration the GAC advice, but also gives a concrete deliverable to ICANN staff and to the community, which doesn't just say at 18 months we'll pick it up again and then it gets delayed another 18 months or whatever it is.

I think, you know, this proposal is to actually take a step forward and show the community - some of the community who have actually asked for this that yes, we take that seriously as well and we're moving forward with what we think is something ICANN stands for, which is continuous review of existing policies. So I agree with you and would like to hear thoughts on that compromised proposal.

Jonathan Robinson: Thanks, David. Just to speak in support of that compromise (unintelligible). One of the objections we did receive was that 18 months is a long time away, how can you commit to something in 18 months time?

So I think - but on the contrary that the (sense) suggests that if we'd have put it off the table now, putting something down which actually commits us to a process in the future makes a lot of sense. So that's really where we'll - if we are to go down this route -- which I'm in support of -- that we'll need to hold the line on actually getting something concrete down in the 18 months time.

David Archbold: Thanks Jonathan. We have our group of distinguished visitors.

Chuck Gomes: Thanks. First of all, keep in mind the 18 months is from the first new gTLD that's delegated, not from now. Okay, that's a really important thing to understand.

But secondly, I would like to ask, David, if you would, just find out of there are any objections to this approach. I'm also like others that have spoken supportive of this approach, but it'd be probably good if we confirmed it on the record.

David Archbold: Is there any dissenting view from any of the delegates here?

Jeff Neuman: Sorry, last point of this. I did discuss this with the noncommercial stakeholder group -- or at least some leaders from the noncommercial stakeholder group -- last night to see, right, they're pushing for the (PDP) now.

I think that if we move forward with the proposal I've made -- the compromised proposal -- I think they'll support it, especially because it asks for concrete deliverables. So I think, you know, it's something that they all concede to and, you know, we just keep that in mind that we have other stakeholder groups that are going to support that as well.

David Archbold: Thanks. I've heard no dissenting views from anybody, so I think we have a consensus on that on the UDRP motion, okay.

Okay, Kurt Pritz and his colleagues, (JJ), Amy and (Dan) have just arrived.

Kurt, do you have a opening statement or do you want to have us launch into our agenda? Would it be easier for you all to come up or?

Kurt Pritz: I think it's - whatever easier to make it an interactive session with everybody in the room. It's kind of a awkward setup, isn't it (unintelligible)? Awkward is the word. Maybe we could just take this (as) a handheld mic and kind of move our chairs a little bit so we're half facing...

David Archbold: That's fine.

Kurt Pritz: Yes, so I think that - yes, maybe we should touch on each of the agenda items. So what'd be - what'd be good for us to say, "Here's what we're going to discuss here in this amount of time," and get that. And you know, if you could also reiterate what you're going to go through with the board also later on today so that we're - that we can talk to any of those issues that we wanted to that you don't bring up.

David Archbold: So that's fine.

On the agenda, could you scroll back to Roman Numeral 3 if you could? Thanks.

That's it, thank you.

Kurt Pritz: Do you have the board agenda items too or are they not part of this? We're just trying to get a 1:1 correspondence between the (unintelligible). But if it's...

David Archbold: The only - it's on the next page. There are only three topics currently listed, although that's -- I believe -- been amended. But on the agenda that we have here, new gTLD contract issues, single character IDNs and then questions. But I - the board since then has sent some additional topics at which unfortunately I don't have in front of me.

Kurt Pritz: Okay, I think that's good. So how do you want us to - do you want to make - do you want to put a point on any of the - like, for example, the first - the COI before we say where we think we are?

David Archbold: I'm sorry, could you repeat that?

Kurt Pritz: Yes, do you want to put - so for example, Item 1 -- Continuing Operations Instrument -- do you want to put a point on where you'd like our discussion to reach before we start talking about it?

Jeff Neuman: I mean, one of the things I'd like to hear from you guys is that, you know, the EBERO -- the Emergency Back-End Registry Operator -- RFI is out now and it's due -- I believe -- somewhere either November 30 or 29 or something like that.

And just your comment on how that's going to be enough time for you all to evaluate the proposals and provide guidance to applicants by the opening of the application window on January 12. As we talked about before, it's one of the strongest - or not strongest, it's one of the questions we get the most as to how to figure that out, you know, everyone, there's a lot of misinformation that's out there, a lot of people believe that just taking the cost that you pay

your back-end providers -- (you) do have one -- and multiplying that times three, that's going to be sufficient.

The guidebook's clear that it says that's not the basis by which you do the calculation. And so it's really the cost of a third party to provide the service and it's also just (being frank) for an existing operator that's providing back-end services to others. We've never broken down our costs into the five critical items. You know, we've never stopped to think well this is how much DNS cost versus (SRS), there's a DNSSEC versus who is versus escrow, I think are the five.

So there's not much guidance on how to break that apart. We can make something up -- as I'm sure we would do -- I mean, that's like if we're forced to do. But I'm not sure new applicants can actually do that. So to kind of hear how that's going to translate -- because it's not much time these are going to be very complex proposals that you received, I'm sure -- and so how that's going to translate into enough time for you all to provide advice to applicants out there that may not even understand this at all.

Kurt Pritz: I have two questions. Is this an open meeting or a closed meeting?

David Archbold: Open.

Kurt Pritz: And then is it being recorded?

David Archbold: Yes.

Kurt Pritz: Okay, good. So that's good for us because we want to, you know, whatever answers we have we want to be in the public domain so everybody's operating from the same set of information.

So, you know, we think that question is the most important question in the guidebook so we're not surprised that you're getting a lot of questions on it.

We think that registries are particularly well positioned to identify cost because there's great experience with that and can advise whomever you're working with how to answer that question in a way that engenders a confidence that if the registry operator ceases operations or has trouble the registrants will be protected. I think that the timing - so the most important thing about the RFI is that we get confident EBEROs participating and also that they have the time necessary to accurately and most economically put together cost.

You know, so here's the speculative part. I think -- and we'll have to refine this -- but I think ICANN would take the responses to the EBERO RFI, you know, strip out identification because confidential information and the responses, but synthesize the information of that into a report that, you know, is in an ICANN conclusion as to what the costs are. But here's a synthesis of what the bidders say the costs are.

So we want to take that information, get into negotiation with parties so we can conclude an agreement with EBERO operator or operators, but also share information in those bids. That would be helpful to operators.

But if I were, you know, if I were a new TLD applicant I would, you know, use the wealth of expertise in this room and gTLD operators and the like and put together a completely defensible case for, you know, how much it cost to sustain these five registry functions and put that in my COI. And I'd put, you know, I think that can be done economically and a lot of intelligence can be put into the number that'll make a defensible answer going forward.

So that's kind of Part A to my answer. Part B is that there's going to be a session right tomorrow that discusses an alternative to the - alternative to the COI. And I think Brian's - Brian and Hal - not Hal, Brain and Ken's papers and the work of others have pointed out some areas where the COI needs to be improved somewhere. It could be - there could be some abuses, so I want to

try to address that as well as take up the issue of, you know, some sort of pooled allocation fund and discuss the difficulties with that and how those difficulties could be overcome if that becomes a way going forward.

So I think there's two opportunities to answer that question.

David Archbold: Ken Stubbs...

Ken Stubbs: (Unintelligible).

David Archbold: Ken?

Ken Stubbs: Yes. Kurt, you said there was a session tomorrow. I believe that session's on Thursday morning. Is it not?

Kurt Pritz: It is. At what time?

Karla Valente: (Unintelligible).

Kurt Pritz: Karla says 9 o'clock even though she held up ten fingers. Okay, 9 o'clock.

Jeff Neuman: So another question I have, and I think we talked about it at the last (meeting). It's clear that when there is an emergency provider that that beck-end provider or providers -- I'm assuming it should be multiple because obviously if one fails or if one is the back-end operator or someone else and they fail you need kind of a backup to the backup -- those operators are going to need to connect with everybody's systems from Day 1, and to do that it's going to require work and costs whether a registry fails or not.

And COIs come with a - funds are only going to be released if that particular registry fails. But if no registry fails or it takes awhile, that's not going to necessarily compensate the registries - the back-end registries that are doing work daily to connect to all the registries and testing and doing everything.

Is there - or have you all thought about budgeting money in the ICANN budget to - for ICANN to pay back-end operators on an ongoing basis regardless of whether a COI is triggered or not?

Kurt Pritz: So we were hoping that the prestige of being an EBERO would be payment in itself. So certainly that's going to be part of the business negotiation that occurs as to what upfront costs need to be funded or ongoing costs and how they're funded. So, you know, certainly it's anticipated and there'll be money budgeted for that.

David Archbold: Any other questions on that?

Ken Stubbs: Yes. David, it's Ken. Can you hear me?

David Archbold: Yes, go ahead.

Ken Stubbs: Yes. Kurt, I listened to the recording of the JAS Working Group report that was submitted in the last day or two and I'm somewhat troubled a little bit by some of the recommendations. One of which implies that there would be a waiver of the COI. I'm very concerned that these costs and this burden may very well be configured by ICANN in a way that pushes that burden back to the other applicants. I think - it's more of a request for you to see if you can't get clarification from the board on that.

Also, Steve Crocker -- it sounded like Steve, people were not giving their names before they were commenting -- expressed concerns about continuing operations for the JAS candidates. And I think we need to get a lot of clarity on that. I'm very, very concerned that someway those costs are going to end up being included in such a way that the (competition) puts them back on the non-JAS applicants. So maybe you can give me some comfort there, please.

Kurt Pritz: Yes, so thank you very much for that comment. As much as you can into thank you, because that's (what I mean).

                 Karla, I don't know if you - is there a comment forum open? There's a comment forum open right now, right? So Ken, if you and as many people as you can write that comment to the - into that forum, you know, I, you know, we have the report of the JAS Working Group and I think we want as many comments as we can to - in response to it (anyway).

Ken Stubbs: Well I'm hoping I'm -- may have missed it on the constituency agenda -- but I'm assuming that the report from the JAS Working Group is somewhere on our agenda, if not I'm going to ask David to put it on the agenda please.

Kurt Pritz: Yes, and I would - I would - so I'm sorry, David. Yes, and I would make that loud and clear to the board when they're here if that's the constituency position.

David Archbold: That is on the board agenda that - the supplemental issues the board sent to us.

                 Do we - okay to move along to IDNs then?

                 Cary, do you...

Cary Karp: Okay, what points do we have here? Bundling of IDN versions of new and existing TLDs. The people who are worrying about such things have decided not to use the word bundling in any context whatsoever, so I suppose that's no longer an issue.

                 If we're talking about principles of aggregating IDN labels with preexisting TLD labels, I think that discussion has to be conducted on the basis of something other than a notion of one name is on the basis of some principle, many names. And instead which (of the) additional names do we want, then

how do we realize that? Is it separate delegation? Is it whatever it might be? And that's - I don't know what the status of that discussion is -- I'm not party to it -- but I think it's more a business thing than an IDN thing.

And then we have IDN Variant TLD's Issue project update, that's an easy one. The six original VIP studies are online for comment until sometime I think the middle of November. And an editorial group -- which is tasked with integrating those six reports -- hello -- integrating those six reports into a unified document that can then be fed into the policy mill, that group convened on Saturday, spent all day working in a manner that - since I was there I'm able to assess, and personally I found it very - quite exciting. This is definitely going to lead somewhere.

The initial six reports were conducted by groups of people who had varying perspectives on the purpose of the exercise and had interests that they would like to see reflected in the outcome. And now we're homogenizing in a manner that I do think is going to have useful affect. And the - was there the single label - single character label issue on the list?

David Archbold: No.

Cary Karp: Okay. Questions?

David Archbold: Anyone? Any comments? Chuck, go ahead.

Chuck Gomes: With regard to aggregating more than one string in one (unintelligible) the application, the one thing that I have never heard a satisfactory response for is why we wouldn't allow that at least for underserved language communities. Because it's an easy, a very easy way to provide TLD - IDN versions of TLDs in underserved languages that wouldn't have otherwise be offered just because it doesn't make any business sense at all if you have to pay $185,000-plus per application.

Let's use - since we're in Africa, you know, is - I mean it'd be very hard for VeriSign to justify doing a Swahili version of dotcom and pay $185,000 in the other costs. At the same time it's relatively easy for us to do, we do it at the second level already in all scripts.

So I have never heard satisfactory explanations to why we wouldn't at least do that for underserved language communities.

Kurt Pritz: So one idea would be then to fold that under the Applicant Support banner that this is somehow a deserving applicant that is trying to serve an underserved language, because I don't - so I think where you and I disagree is on the easy part because how do we parse between, you know, whether VeriSign should do that or some other (unintelligible) should do that or it should be a local community.

My concern is that there's many instances where your proposal, you know, would really help serve underserved communities, but I want to make sure those decisions - not I, but it seems like those decisions should be made in a way that doesn't disadvantage entities in those regions that want a TLD from gaining them.

And I wonder if, you know, putting it under the banner of Applicant Support somehow and funding it that way takes it, you know, does that level of scrutiny to ensure that's okay.

Chuck Gomes: By the way, it was discussed in the JAS Working Group -- and I didn't actively participate, I kind of tracked it -- my understanding is they felt like it was not in their scope to really deal with that. We can both ask them to clarify that.

With regard to disadvantaging, I don't see how it disadvantages anyone. So if you could help me understand that. In the case of aggregating, I'm making an assumption that if they were IDN versions of an existing string or a new -

applied for a string, that if anybody else did it anyway it would probably be confusingly similar and would be ruled out because of that anyway.

That does not in any way prevent other applicants from applying for IDN strings. In Swahili, for example, I'd like to think they'd have trouble applying for a Swahili version of dotcom because I think it would be confusingly similar, but that's my opinion. So how would it disadvantage?

(Dan): Chuck, this is (Dan). I think you're kind of beyond our level of - you're expressing your opinions, you're asking -- I don't know -- for Kurt's personal opinions about it. I think there's just a fundamentally different way people see - you're talking about it as like offering this as a service to the community, would only be helpful - I think other people see it as a resource that ICANN's doling out and why should ICANN dole out if there's this resource, you know, this name and underserved language, why should we be handing them out in big bundles to existing players rather than waiting around, maybe somebody else could run it.

So it's just a different way -- I think -- of seeing it and I don't think we have an opinion on it. We're waiting for community discussions, board discussions, whatever the policy discussions are going on. Kurt's saying funnel this back into the JAS discussion. Maybe if you're talking about underserved languages, (they) talked about underserved languages.

So we've got the guidebook as it is and it's, you know, not Kurt's personal decision to say, "Okay, Chuck, you know, you've convinced me. All right, let's change that guidebook and we're going to flip it here.

Chuck Gomes: I understand that, (Dan). I'm not the one that said the reason was disadvantaging. I was just asking for clarity in how they would be disadvantaged. That's not clear to me at all.

Kurt Pritz: I think the - well, let's see if I can put this clearly, I so often cannot.

There is an issue, right, whether a translation of a TLD -- or a transliteration of a TLD -- in different a language is confusingly similar or not. And there's - and then who should be the, you know, if it's not then who should be the operator of it? Should it be an American company? Should it be a European company? Should it be an African company or, you know, a company in the region? So I think those were all issues that make it not an easy - not an easy determination.

And, you know, I also think Peter, you know, when Peter was chair he was asked that question, you know, many times every single meeting and, you know, know, gave an indication that, you know, it was the sense of the board that we weren't going to do this aggregation without further work.

And I think a clear place where the aggregation is going to take place is in variance when, you know, (Variant) TLDs are delegated that, you know, part of that discussion is going to be how to bundle or aggregate them.

David Archbold: Thanks Kurt. Richard Tindal has had his hand up for awhile. Could you let him have the mic briefly? Thanks.

Richard Tindal: Yes, thanks. I think a potential problem of the aggregation is that you could collide with a local applicant who's just applying that language. And I'm not talking in the context of something that you think you have brand rights in, but I think what you're saying is if I apply for (Shoe) in English and if I apply for (Shoe) in Arabic that I would get some sort of (aggregate) reduced fee?

But the potential problem -- I think -- is that I could collide with someone who just applied for (Shoe) in Arabic and then I would be paying - that applicant would be paying $185,000. The person who applied in an aggregated basis will be paying less than $185,000. What would happen -- in your view -- in that scenario?

Chuck Gomes: Let's make sure I understand. So run that by me again, please.

Richard Tindal: Sure. I'm the aggregator. I apply for (Shoe) in English and then I apply for it in Arabic and Chinese and a variety of other languages. And I think what you're proposing is that it's for the - let's say the Arabic version that I would pay less than $185,000, is that correct?

Chuck Gomes: What I'm suggesting is is that there would be the regular fees for the (string.shoe), whatever script it's in okay. If the applicant combined with that, aggregated with that okay, other IDN versions of (Shoe) okay, then there would be some - at least lesser fee to do that and that could easily be done from a cost point of view, obviously the GNSO recommended that cost be covered.

Well that's an easy issue because you're talking about same technical applications, same with minor - maybe minor checks. Same financial, same etcetera. So cost could be still covered, but it would allow then for that application - it would motivate actually serving some underserved language communities in a more cost effective manner, because otherwise it's just not going to make business sense to do it.

Does that make sense?

Richard Tindal: Yes, I understand what you're saying and I agree with the principles. But what I'm asking is what do you think would happen if you were the aggregator and you collided with someone who had (purely) applied for (Shoe) in Arabic. Now you're in a contention set with them. One of the applicants has paid $185, the other has paid something less than $185.

Chuck Gomes: No, they would all pay at least $185, there's no difference there. So I'm missing something.

Richard Tindal: The average costs per application of the aggregators, the average applications, their aggregator's string is lower than the person that they collided with.

Chuck Gomes: That's correct. The GNSO recommended. And it should be because it's supposed to be cost based. You don't have to evaluate, each one of the aggregated strings independently, you don't have to have the independent evaluators go through the - they don't have to repeat the technical evaluation six or seven times.

Richard Tindal: Yes, I agree. I'm not making a cost argument, I'm making a fairness argument. The fairness argument is that I applied for one string -- (Shoe) in Arabic -- and I collided with someone else who's applied for multiple TLD strings and my cost - my cost at ICANN is higher than theirs, it seems to me there's a fairness issue there.

Chuck Gomes: How is it higher?

Richard Tindal: Because the average cost per application that you've made it...

Chuck Gomes: What does average cost have to do with it? Actual cost is what's supposed to be covered.

                    The GNSO didn't recommend anything about average costs. I know that (Staff) has done that, but the GNSO didn't recommend that.

Richard Tindal: Let me try and maybe paint an example. I'm not sure if I'm getting my point across well.

                    So I want to get (.Shoe) again and I've applied and I've made 50 applications, (Shoe) in English and (Shoe) in 50 other languages. I want to dominate the world (.Shoe) market.

Now I'm in a contention set with one applicant in an underserved script country that has only applied for that one string. And so I'm going to go into a contention set and I'm going to end up in an auction scenario with them.

And I'm just saying that I've gone in there with a cost basis for that specific application of $185,000 to ICANN. The person I'm in the contention set with has not paid for that specific application, has not paid -- I think -- $185,000 under your proposal, they've paid less than that.

Chuck Gomes: No, they paid more than that because there would be some additional fee on top - you have to pay at least $185,000.

Richard Tindal: Not for the string that I'm in contention with (unintelligible). You're saying that you've paid $185 for the English one, then you've paid 70 for the Chinese one and 70 for the Arabic one, whatever that number is.

Is anyone else getting my point here or - my spokesman's going to speak for me.

Chuck Gomes: Help me out Jeff, because I'm not getting it.

Jeff Neuman: Well what Richard is saying is that if you only - if you strictly look only at that one application for the underserved language, let's say the cost - let's say it's $185 for the first one and $50 for the underserved language, just throwing it out there. Richard's saying that if he only applied for the undeserved one he would (take) $185 for that underserved language.

You -- if you only look at that one application for the underserved -- you only paid $50. So in an auction you will have $135,000 more to spend on that auction than Richard would because he already paid those fees to (IPN).

Your point is if you look at the aggregate, you look at everything, you've paid at least $185, so you paid -- if only those two languages -- you paid $235. But

again, if you divide that by two your average cost for an application is less than Richard's cost to the one application.

Chuck Gomes: So our difference is you're looking at it on a string basis, I'm looking on it as an applicant basis and that's where we're differing, so I understand that. But as far as contention goes, there are procedures for contention that are well outlined in the guidebook. But there are ways of dealing with the contention and that should be irrelevant to whether one is aggregated or not, there are procedures that don't depend on that.

David Archbold: I think -- if I could intervene here as chair -- we have pretty much exhausted this and we clearly understand our differences.

Edmon, do you have some comments?

Edmon Chung: Hello? Is it on? Oh, there we go. Edmon Chung from DotAsia.

On that particular subject I think, you know, we're focusing a lot of attention on the application process. But I think one of the things that should be discussed also is after the delegation and if there's a situation where, you know, let's say - use DotAsia as an example, DotAsia in English and Chinese and Japanese, we might want to run the same zone (unintelligible) under those and basically register one name and allow -- especially for Chinese -- then Chinese dot A-S-I-A as exactly the same as chinese.asia in Chinese.

In those scenarios we need to talk about the registration fees, the ICANN fees. So that particular area is also important. I think, you know, there's the application part and there's also the, you know, operational ICANN fees down the road. That's also part of this subject matter I think.

This is one thing. And I wanted to (raise) back the issue of single character in TLDs, but I don't know whether people want to add to this subject before I bring that (other one).

Jeff Neuman: I have another question.

So the question I have more for (IPN) at the higher level -- I guess -- on this issue and the whole issue of confusingly similar. The first question - or the question is essentially what guidance is ICANN going to provide -- if any -- to the entity that looks at whether something's confusingly similar or not as far as at the top level?

And if they're going to let this third party decide, is that third party going to set a principle that we apply equally to all and will they let that be known before everyone files objections? In other words, it's going to be a waste of a lot of money if - if it's not known upfront there may be a lot of existing operators and others that file objections based on confusingly similar and they may find out in the first decision that comes out that no we don't do those types of things as confusingly similar.

So I guess my question is is there going to be some principle that's announced beforehand to give guidance to those that may want to file an objection?

Kurt Pritz: So two things. One is we stand by the standard in the guidebook that there's a likelihood that user confusion will result if two TLDs are delegated. So that's the standard.

And ICANN is working with service providers that are going to perform evaluations in a way to normalize the approach to applications. So example, you know, we have multiple evaluators for each category of evaluation and multiple panelists for each. So to the extent that additional guidance is provided to evaluators I think, you know, that has to become public. But the original premise is that, you know, the standards are in the guidebook, that there has to be a likelihood of confusion which we think is, you know, pretty high standard.

Jeff Neuman: If I could follow up. If you have multiple providers - let's say Provider A says, "Yes, the principle is that if something's transliteration of an existing string, that in and of itself is confusingly similar." I'm not saying it is or it isn't, but let's just hypothetically assume that.

Or could be the other way around, is there going to be some communication between the providers so that Provider B doesn't decide exactly the opposite, that no, a string in and of itself -- a transliteration of a string in and of itself -- is not confusingly similar.

Kurt Pritz: Right. That's a great question. And that situation exists even if you have one provider or multiple panelists, right? So we're doing a few things to ensure consistency across evaluations.

One is we're doing, you know, we're doing some practice runs with evaluators in order to normalize the understanding across evaluators or service providers for what the standards mean.

Two is we have a Quality Assurance program that's administered by a third entity and their job is to perform evaluations, you know, duplicate evaluations in a (blind) way. And where there's differences say, "Okay, stop" and go back with the evaluators and not just arrive at a consistent set of results for that application, but feed that back into the process as we go to make sure there's consistency built as we go.

And third is a process for, you know, we received the applications, identifying a first set of applications, evaluating those, stopping doing a QA and normalizations that are across those 12 before we proceed. So recognizing the same risk you do and, you know, one of the primary goals and risks of the program is ensuring and processing multiple applications in parallel that there's consistency across the evaluations. But at least three sets of

protections are, you know, (unintelligible) into the evaluation process so we can ensure consistency.

David Archbold: Thanks Kurt. (Dennis)?

(Dennis): (Unintelligible) at this point it's on the IDN Variant Issues project, if I may digress for just a moment. One of the things that we're trying to do is collect information on existing policies for IDN Variants at the second level from existing registries. So we have compiled a survey and Francisco is looking after this.

And so two requests. One, that you promote this service, people in the gTLD space respond to the survey, and we hope to get this out later this week. And if you talk to Francisco, if you have any suggestions on the questions that should be asked, that would be very valuable input. I won't take your time by going through the questions, but this is important to us to try and gather that is this information has input to our further consideration of IDN Variants TLDs.

But the (unintelligible) chair maybe I could ask Francisco to add any comment.

David Archbold: Please.

Francisco Arias: So just quickly. They have the surveys to ask about what the (unintelligible) be considered to be a variant and how they identify those variants, what they do with those variants, they log them, reserve, allocate, etcetera. The idea is we collect this information so we inform the IDN Variants Issue (unintelligible). Thank you.

David Archbold: Thank you. Jeff?

Jeff Neuman: Yes, sorry. Last follow-up on that question because I asked this and - not to use VeriSign as an example, but they just made a comment.

On these common consistent principles with regard to objections -- the string contention objection -- to save VeriSign money, if there was a principle that said, "No, we don't find these things confusingly similar." If you look at the time period to file objections, in theory let's say there's 50 applications to transliteration to dotcom and so VeriSign files an objection to all 50. It's a hypothetical, so don't quote me on this, but hypothetical.

If the first decision comes out and says, "No, they are not confusingly similar," and that seems to be general principle, you know, I'm sure VeriSign would not want the other 49 to come out the exact same way and lose all the money that it filed objections on if that's the general principle. So as there - again, there are certain things I think principles may have to be developed early on even before the objections are heard, so I guess that's kind of my point.

Man: Hey Jeff, just for clarity. I don't think - what I heard Kurt say was likelihood was confusingly similar as much as likelihood of confusion. And those are two really different things. I think the likelihood of confusion is the higher barrier than confusingly similar.

So a transliteration -- for example -- you might be able to look at (standardly) across all scripts, whereas likelihood of confusion I think could definitely vary depending on the market, for example.

And maybe Kurt can offer a comment to that. Confusingly similar in likelihood confusion are not the same things is the way I'm hearing it.

Kurt Pritz: So I was - can you hear me? Okay, oh there I am.

So I was just repeating the standard that's in the guidebook. And I understood your point well and it's well taken.

David Archbold: Edmon, are you...

Edmon Chung: Yes. So my second topic is -- I think Cary mentioned it briefly -- the single character, IDN TLD.

I think - I just want to let people know that this was one of the topics that the (unintelligible) worked on and we saw the board resolution in August. And I think we can summarize by saying we're fairly disappointed and maybe frustrated about the situation because this particular topic was discussed in the IDN Working Group, it was discussed in the Reserved Names Working Group, it was eventually discussed in the, you know, general GNSO gTLD recommendations. And every single time it was discussed, you know, quite at length. And technically, you know, people impact financial, all those kind of things, and the answer has always been the same, you know, open up.

But of course the board resolution has other ideas and other rationale about it and they're going through a whole cycle of - requesting a whole cycle of consultation again.

So I'd like to -- I guess -- bring this up and let everyone know we'd like to -- I guess -- get everyone's support also, perhaps the (unintelligible) would start working on response to that.

But two things I think is even more important in the board resolution that I want to flag. One of which is that the - usually the board resolution comes with a rationale. This one does too but there wasn't a rationale given for one of the particular key aspects, which is to delay this single character IDN TLDs for, you know, after the first round and there was no rationale given at all. And I don't want to go into how well the rationale was provided, but you can go and take a look at them.

The other point that I think is even more important is that in through the resolution actually the board seems to have been conflicted with what the GNSO and the ccNSO council has repeatedly stated in the past. Both the

GNSO council and the ccNSO council has (repeatedly) sort of stated their principle that IDN ccTLDs and IDN gTLDs would go on their own pace and neither one would stop the other. This board resolution ties it together and makes it specific that IDN gTLDs and IDN ccTLDs for single characters need to go together.

So I think these are some of the issues that we'd like to raise and, you know, I think it's significant for both community and of course for communities that need single character IDN TLDs.

David Archbold: Thank you, Edmon.

Chuck, go ahead.

Chuck Gomes: I'm not going to be as nice as Edmon. I didn't think the board rationale -- with all due respect for the board and staff that wrote it -- helped at all in understanding why we're kicking this down the road again.

If I didn't have the good respect I have for the board I would think that up to now they haven't gotten the answer that they wanted so let's try one more time and see if we can get it, because multiple times it has been said, "This is okay, we see no problem, let's study it some more."

Man: (Unintelligible).

David Archbold: Operator, I believe we have some (unintelligible).

Coordinator: Excuse me, for those participating remotely, we're getting some cross pollination with another meeting, so if you could please mute your computer, thank you.

Man: Our secret of listening in to other constituencies has been exposed.

Man: It is an open meeting. We didn't realize how open it was.

Man: So I just want to respond to Chuck...

David Archbold: Go ahead.

Man: ...and Edmon a little bit. So there are a couple of issues that are in the report that I think the board thought required additional scrutiny. One was that, we, you know, we sent the report to SSAC to get some informal advice.

And the informal advice is we'd like to provide more formal advice and do a more formal study that there are some issues here that we're not satisfied with. So the SSAC in a discussion with them said, "We would, you know, we would be happy to opine on this."

The second is that -- so the report kind of gives a road map but it says for example, you know, a single letter IDNs should be delegated. But the -- a further reading of the report says that, you know, evaluated on a case-by-case basis.

But, you know, I don't know what the guidance is for evaluating them on a case-by-case basis. What would make them, you know, what's the other level of scrutiny besides traditional TLD?

And then third is the report that the board and others lately have attached themselves too that, you know, maybe single-letter IDNs should be delegated. But maybe it should be constrained to ideographs or if I said that right or ideograms, but hope you know what I'm talking about.

And if that's the case that, you know, that's a policy discussion and so that's the issues raised by the report that make it difficult to implement. And, you know, the way -- if it's a GNSO policy that approves the JIG report.

You know, what's required then maybe is some sort of implementation team. Because I don't understand the issues SSAC might have with the report once they provide analysis.

And I don't know what the path forward is for trying to draw a line between some types - some communities that were clearly, clearly benefit from the delegation of single-letter names and those were less important where the alphabets are more like single char- no more like single letters that build the words.

So I think there are some questions- there are definitely implementation questions for the report that when we had discussions about how to implement it led to, let's ask the SSAC for their opinion, let's ask - and let's ask these policy making bodies, you know, how that could be implemented?

Edmon Chung: Can I -- and I guess the response to that and appreciate the response. It's a couple things, one is that, you know, if an implementation team should be created that's great.

I mean I think a lot of people when in the community would be ready for it that is very different than, you know, basically it's importing not adopting, you know, or not accepting the JIG report.

That's those are very different things and will have some implementations. I'm sure we can create an implementation team and provide additional implementation and recommendations.

That's certainly not a problem, that is very different than going in for a whole consultation of the GAC, the ALAC, the SSAC. On the issue of SSAC, yes I think, you know, I've spoken with people at SSAC on this issue as well.

And I think it was -- initially they had some misunderstanding of some of the - some of the report because a lot of it ties back into the huge applicant guide

book and because of those links a lot of things, you know, in the JIG we have been very, very careful not to step on other people's, you know, shoes and toes and whatever.

So those are missing links that need to, you know, we need to go back and forth between the guide book, to understand the whole, you know, set of things.

So after that I think, you know, the SSAC - those who I've spoken to with the SSAC is, you know, is fine with the report today. And on the issue of ideographs I think in the report we have - we did open up that possibility.

That is, you know, I would say that is a one of the steps forward from the JIG. But because you mentioned about the case-by-case and those kind of things that is part of the GNSO new gTLD recommendations.

So those are policies that were created by GNSO and I don't think the JIG was chartered to, you know, change that. So -- and that's why we built on that, right and provided additional clarity on some of things.

So when you read it, it's not part of the recommendation itself, but its based on what was said before and as you said, you know, all gTLDs ultimately are dealt with on a case-by-case basis anyway.

David Archbold: Thank you Edmon. One more?

Man: One brief follow-up, the practical implication of the board motion is that it once again gives ccTLDs first to market advantage over gTLDs just like with fast track, that's an unfortunate consequence of the motion.

Man: Yes.

Kurt Pritz: That might be a -- this is Kurt -- that might be in effect, you know, on the face of the decision but in fact I don't think any single-letter IDNs are being delegated at the cc level nor are there request for them.

                Sorry, I think on the face of it your points well taken, but in practical effect I don't think the cc's want to delegate. The cc's we've heard from don't want to delegate single-letter names.

Man: Certainly, the ccNSO policy process will finish probably at least two years.

Woman: ...to allow people to work together and that...(same other meeting interruption)

David Archbold: Operator. One of the next topics on the agenda status of the applicant guide book, one question we had there was a summary of a comments made on the (unintelligible) but nothing has happened towards issuing revisions to the current guide book. Any comment on that?

(Dan):   Thanks David, this is (Dan). Can someone talk about exactly what document we're talking about please?

David Archbold: Oh, so there are a large number of comments filed on the (unintelligible) otherwise final. I think the commentary closed in May and in accordance with normal procedure there was a summary published of those comments, which is posted on the website.

                But there were some concrete suggestions for changes and I was wondering whether you can give us any idea of whether and when there might be revisions of that. Chuck do you think...

Chuck Gomes: Let me just clarify, it's the April 15 version of the guidebook, the previous one to the one that's out right now. Basically the situation is this -- may be this helps.

The only changes made in the latest guide book were from the board motions. No change that I'm aware of unless it was part of the board motion were made to the latest version of the guide book in response to the last comment for it.

Man: And what?

((Audio gap))

David Archbold: ...comments to the discussion draft those comments were incorporated into the May draft which was published in the guide book and then there wasn't a comment period on that, that was per board both.

And then in Singapore the board instructed those three or more changes be made into the guide book and listen to the community too. But my understand was there was a comment period on the April version, those comments considered delivering the may version and then May version didn't have a comment period.

Chuck Gomes: We didn't see a May version.

Man: So Chuck maybe I can ask you. Was the April version to the comments to the very quick, I mean not quickly, careless but past, do the past summary analysis involve the April comments we posted in the May version of the guide book and a summary analysis of all the comments on the April version and it's all posted -- I'll walk you through where it is.

David Archbold: Our next topic is cross ownership. Does anyone want to volun- Jeff go ahead.

Jeff Neuman: Yes, I think this is just a follow-up to the discussion we had in Singapore where it was decided that the existing registries could become registrars with the new gTLDs but at this point and time until further work was done they

could not apply to be registrars and their own TLD and we had asked and I believe this is also at the ICANN board registries sessions.

We had asked when was the milestones, when is that work going to begin? How long is it going to take? And some registries had expressed, you know, the opinion that if we do - if we are not able to launch to our own gTLDs that we will be put at a competitive disadvantage than the new gTLD by the time the they launched.

So I guess the question is, what steps have been taken since Singapore and what are the next steps and milestones? And what's the process to getting this resolved?

(Dan): So Jeff, this is (Dan). I think we already had this question by email. I think we replied once and you said you wanted more, we gave some more feedback by email. So if you had further follow-up questions about our written response on that question?

Jeff Neuman: I don't reca- I remember the first one it said that you had sought or you're in the process of seeking clarification from competition authorities. I don't - I may have missed the second one.

Do you guys recall a second one, a follow-up? Because I think we asked at that point what does mean? When did you contact them? What is the - what's the expected timeframe to get a response from them?

And I don't recall seeing that.

(Dan): Maybe - can I say to Francisco to clarify that went out, but I think the paragraph about as we previously noted we are continuing to communicate with competition authorities. Is that...

Jeff Neuman: Yes, that went out and then the question - the follow-up question was what does that mean? Who have you contacted? When did you contact them? What's there process? When are they going to be done with it?

I mean its okay, I'm glad you sent out communications and going on, but that doesn't really give us much information or frankly comfort that it's moving forward.

(Dan):   Yes, so we also - we said -- so you asked, who are you communicating with? We said, the US DOJ and the Trust Division of the European Commission. You said we're in the final stages of providing a written response to the European Commission, they asked for a written response.

They said within the next few weeks and we're up to that right now. It's going to be...Okay so John said we're republishing that today. So that's something you guys can be on the lookout for.

We said further discussion - further timelines are still unclear. So I don't, you know, if you're asking us for us to look kind of into a crystal ball. Maybe if (Ina) or John want to give more detail in this.

But I know where there's much more we can provide right now. It's one of these things where we don't have a schedule like we're going to talk three times on, you know, December 12 and January 12, it's, you know, they asked for a response but we'll follow-up, they'll follow-up, we'll have discussions.

We also asked, you know, so we said for the timeline is unclear and they also said I think importantly that, you know, we should be receiving updates on discussions you might have had with these competition authorities.

I think in a way as you're expressing you feel you're going to be disadvantaged you guys have the real -- are the parties at interest here, so we said back in Singapore, we're deferring action on this. We have to have

further conversations, those are ongoing. That does not in any way stop you guys from bringing this up.

I mean some of these - the communication we got was from your government and so we'd be curious to hear what if any thing you guys have learned or John.

John Jeffrey: So the discussions are slow. We're having our council communicate but it's not a fast track communication. So any communications you're having that we could use or benefit from would be useful too.

The communication to the European Commission is a long document that you'll see we think you'll like it too. It describes exactly the process that we've gone through to make the decision.

And it goes through the very long history on the issue the fact that the board's spent probably more time and had more thinking on this than almost any other issue as in the whole program itself.

So I think, you know, that's an important point and it's not that this is an undocumented decision. In fact, it's a very well documented decision and you're all aware of that because you participated in, you know, on both sides of the discussion at some point.

So - so I think, you know, it's for all of our benefit to make sure this continues to move forward. We don't see it as a - as in anyway useful for this to continue to be slowed down by the competition authorities.

David Archbold: Thank you. There's -- go ahead.

Man: Just one more point. I want to thank Jeff like you gave us a little more information which is you're seeing as your timeline for resolution to this issue.

You want to be able to launch your own TLDs at the same time that other new TLDs are launching and their own TLDs.

So that gives us - that means it's certainly something you have need an answer on next week or next month, but you want to be able to launch when everyone else launches which my understanding, you know, at least still we're talking about a year out from now.

Jeff Neuman: Just to clarify, I think that would be the absolute latest. I think to really put us on an equal or leveled playing field, the registrars that are applying now or that will apply in January are already doing this and already have distribution.

In order for us to get on that leveled playing field, we may have to -- we'd like to start distribution in getting customers earlier than that for those that want to. So I'm not sure -- I don't mean to say that that's the earliest or anything.

And the next thing is, next question is, are you expecting the competition authorities to say a definitive yes or no? Is that what staff is waiting for or just waiting for enough comfort to have - to move forward?

Because I'm not sure that competition authorities would ever say yes or no. I think they would still always say it's a case-by-case determination and give some factors and things.

And so my concern is that if we do wait for a yes or no, we'll never move forward.

John Jeffrey: Yes, you're right. We're probably not going to get an answer particularly on something that's not right. The -- we think that the letter will go a long way toward being very clear and crisp about what our view is.

We think that was clear before but we think that in such a different way. So any support that you have behind that, any communications that you're going to issue behind would - would probably be useful.

David Archbold: Thank you. One -- oh, Ken do you have a comment? Oh, go ahead (Dan).

(Dan): I just wanted to add one little thing to John's which is that you guys don't have to just be frustrated and just keep asking staff questions about this. You can also, if you have opinions on this, advice on this, you guys can give it, you know, communicate.

Like I said, we want to know what you've been communicating to the competition authorities. You can also work through the GNSO. You can give advice to the board, letters, you guys can speak on this in ways other than, you know. If you have opinions, if you have answers to the concerns raised by the competition authorities, put them out there.

Don't just rely on us to, you know, kind of carry the ball for you guys.

David Archbold: All right, thanks. Okay. You know, Ken we can't hear you. Oh, sorry Jonathan go ahead.

Jonathan Robinson: I don't want to jump ahead of Ken. Ken if you come in, let us know. I guess what I've heard is if new ICANN staff is working from the maximum speed you can subject to satisfactory and timely responses from the competition authorities which is great to hear.

I suppose the next question really is, subject to what sort of responses you might get back and how equivocal or unequivocal that might be. What do you see as the implementation steps for you guys for ICANN staff once you have that degree of comfort or satisfaction from the competition authorities?

How much work or is it simply a matter of a minor operation to the historic - to the existing contract when we move? Or do you see that as a substantial piece of work? So that would be helpful and then I guess in that context I just emphasized Jeff's point that although he mentioned an in staff timing really business doesn't work on that basis.

As you well know we have to plan. This could involve corporate activity of some description or another. It could involve business development all of which takes time and effort and money and planning.

So the sooner we hear the better we are prepared to operate in the market place. Thank you.

Ken Stubbs: David can you hear me?

David Archbold: Go ahead.

Man: Respond to Jonathan the question about implementation. I think, you know, the implementation will be subject to whatever the kind of the answers to the path we figure out following the discussions.

If its as simple as saying, "Go ahead." I think we already published a plan and a process to allow this to happen. And we asked for a comment on that and that's what provoked the kind of response, the comment which was to defer.

And we ended up kind of doing a little redlines and tweaking of that process to exclude existing TLDs. So it could be as simple as just going back to the process we posted in getting rid of that - the redline changes we made.

That could be very simple or it could be more complex than with processes or competitions who knows what happens. But we don't -- so it's speculating at this point.

David Archbold: Thank you.

Ken Stubbs: David, can you hear me?

David Archbold: Yes, ahead.

Ken Stubbs: Yes, I'm sorry, it's just a minor point of order. The only thing we as remote participants can see are your handsome faces on the (DEAS). We have no idea who's speaking, that sounded like (Dan).

But in the future when we start this thing would you please ask whoever's speaking to give their name just so that we know who's talking. I've heard (Dan), Jeff and Kurt.

If anyone else is commenting, please ask them to give their name first. Thanks.

David Archbold: Will do. All right, (Dan) and Kurt is already left us.

(Dan): Yes Ken, this is (Dan), I'm sorry about that. We'll keep that better in mine and yes Kurt did have to leave, he had another appointment to run off to.

David Archbold: Thank you very much for coming to join us. We appreciate your concerns and information. At this point it's 11:10 am, we'll have a break for 5 to 10 minutes. Please make it brief and we'll resume, try to resume at 11:15.

Now, I don't think we have everyone here but I think we can start on the stakeholder group business. Are there any -- does anyone know of pending votes that we need to do?

I don't think we have any pending comments. The -- Ken are you online? Can we get a treasurer's report?

Ken Stubbs: Yes David, can you hear me all right?

David Archbold: Yes. Please.

Ken Stubbs: Yes, we're in pretty good shape. We have -- I don't have the numbers in front of me right now. But we have an excess of $18,000, everybody's totally up to date on dues.

I'm going to over the next 60 days prepare a budget for 2012. I'm going to prepare it on the assumption that there will be no additions to the constituency and if we get observers or something like this, we can always just treat it as found money.

I am not certain whether or not ICANN is going to continue to pay for our lunches. I need to have some clarity on that. I'll get that from (Sherry) I'm sure.

I guess the only question I really have is more of a procedural thing. And that is that we have now term limits. I do not know how much longer my term is right now, whether it ends with this meeting or but I am more than happy to continue to provide the accounting and banking relationships for the constituency.

I'm doing it for 10 years so it's very easy to work with. I guess I would ask if there are any questions David.

David Archbold: Anyone? Thank you, that's a very encouraging report. On the question of term limits the new charter that we've adopted does provide for term limits. What is -- when is the annual meeting of ICANN, is this it? This is the annual meeting.

I think in that case both the Chair and the Treasurer are up for replacement. Because I think we both been in for such a long time that either we're going to be dictators for life which probably won't be acceptable to the group.

Or we can have an orderly succession. Well, we don't need to go into that here especially in light of the limited number of delegates who are present.

Ken Stubbs: Yes, real quick question. Can you hear me?

David Archbold: Yes.

Ken Stubbs: Oh, okay. Did want to let the group know that I am -- regardless of the title -- I am more than happy to continue to provide to the constituency the accounting functions.

So it may encourage someone else to step up and take the title on the treasurer knowing that they don't have to do any serious lifting, that's the only thing I would mention.

David Archbold: Yes, that's a good suggestion. Thank you Ken. There is a provision in the charter now for the election of an Assistant Treasurer who is not termed limited and when we get around to the election of the new chair and treasurer, I for one would favor nominating you to be the Assistant Treasurer which would allow you to fulfill those functions.

Man: So then what's the -- should we just outline a process then to elect new officers or...

David Archbold: Yes, I will undertake to send out the relevant provisions of the charter and we can get the nomination process going.

Man: David, I was trying to get to our charter but I can't get to our website to get to it. I thought maybe we did two years terms, but let's check that.

David Archbold: Okay.

Man: Once we can get to the charter or I can get to it during the meeting I'll comment.

David Archbold: Okay, thanks. That brings us to the end of our scheduled morning agenda.

Man: David?

David Archbold: Go ahead.

Man: Can we cover just kind of an update on chair, vice chair on the GNSO council tomorrow at the council meeting with the new council seated the first vote. What we'll have to do for the election of the chair. (Stephane) is the only candidate at this point and time.

And just want to confirm that everyone is in line with voting, the council reps are voting in favor of (Stephane)? Anyone object to that?

David Archbold: I see no objection.

Man: Okay. And then vice chair, I've already been elected as Vice Chair for a second term that starts at this annual meeting or the Wednesday and on the non-contracted parties house that issue is still not resolved as to who the vice chair will be.

I understand that both Mary and Wolf have been nominated and I don't have a -- we don't have a note yet as to how that's turned out.

David Archbold: Thank you. Any - any other comments?

Ken Stubbs: Yes, real quick request David. Could you have somebody bring the second half of the agenda up on the Adobe Connect screen because I think we're pretty...

David Archbold: Okay, could we scroll down the agenda please? Thank you.

Ken Stubbs: David, are we going to be discussing the JAS at all prior to the discussion with the board?

David Archbold: I don't see it on the agenda but if you have some comments go ahead.

Ken Stubbs: I need about 30 seconds to pull up a statement.

David Archbold: Go ahead. In the meantime let me go over a message from Diane Schroeder which was forwarded to the group to remind everyone. The board has suggested some additional topics beyond the ones that we initially requested for our meeting that starts at 1:00 pm back our time.

                 The -- according to (Diane)'s message the board would like to talk about the CEO search, what qualities we think we should be sought in a new CEO, criteria and so on?

                 Ethics guidelines and then what is the view of registries with respect to the registry role versus registrar or reseller in taking down domain names that are being used for illegal purposes?

                 And connected with that an update on discussions between registries and law enforcement, what are the barriers to improving collaboration? And finally, feedback on the JAS final report. So it is going to come up in the Director's meeting - the meeting with the Directors.

Ken Stubbs: David?

David Archbold: Yes, go ahead.

Ken Stubbs: Okay, I took some notes and this is a bit of a ramble. But I think you'll get the general tenure on the JAS working group. I'll start off. I'm listening to the session I became concerned about the fact that it appears the working group intends to treat the proceeds of the disputed stream auction as a de facto funding source for subsidizing the differential and application fees for these candidates as well as a potential source of operational assistance for these candidates as well.

Numerous times during this session there are references being made to the use of auction proceeds to reimburse reserve funds which were depleted in the subsidization process for these candidates.

They call it deferring return to reserve. This is about 20 minutes into this session if anybody wants to go back through the MP3. My concern here is the JAS process seems to assume that the principle source of repayment can be the proceeds of these auctions of contested names.

When ICANN first started kicking around the concept of auctioning contested of disputed streams they discussed placing the proceeds in the form of a trust to be used for "doing good things".

The good things the board emphasized at the time were primarily enhancing the development of a more secure internet structure around the DNS.

All of a sudden it appears to me that the concept is being construed by JAS members to include subsidizing the JAS process. It doesn't take much to figure that the current proposal for $2 million fund offered by the board at one of the recent meetings is going to fall terribly short when compared to the demand for applicant support which will manifest itself in the very near future.

There is also a mention in the middle section of the presentation that was made in the public session on Monday, for potential use of these funds to subsidize ongoing operational development for these candidates in addition to reimbursement funds to be used to subsidize the initial fees.

To me it's kind of a double dip here. This issue needs to be resolved very quickly by the board.

And frankly, I am going to feel personally that these funds -- and I got to make this clear -- this is my personal opinion. I'm not reviewed this with anybody.

I'm going to feel personally that these funds originating through the auction process should be reserved and used to primarily for the enhancement of the core goals established when ICANN was originally formed, i.e., enhancement of security and stability.

I honestly don't believe that it's ICANN's mandate to subsidize or ensure expansion of the space in the way that it appears that these people in the JAS working group have implied, using our proceeds to subsidize the application process are personal opinion isn't appropriate.

I'm also very concerned that the report lacks significant emphasis on ongoing operational cost. And as a matter of fact -- please correct me if I'm wrong of any you that were there -- I think the first guy that got up and commented and one of the problems is these guys are not announcing themselves when - from the floor.

It sounded like (Steve Krocker) and he was expressing concern about the fact that, you know, a lot of these people don't realize how much cost to continue to run a registry, an ongoing operation.

And they were just kind of giving lip service to another group. So, you know, I want to make it clear again, that this was just my own personal thoughts. But I'd like to get some thoughts from other members of the group.

Am I way off base here or something?

David Archbold: Thanks.

Ray Fassett: This is Ray Fassett. To Ken's - a couple of Ken's points. One and maybe others that were on this group is going back quite a ways now. But the issue of subsidizing applicants was actually thoroughly discussed in the GNSO in coming up with the high-level recommendations to begin with.

And if I'm not mistaken, there was a conclusion from that process that applicants should not be subsidized. But one thing I am sure about is that the stakeholder group - this stakeholder group voiced the opinion at that time that applicants should not be subsidized, you know, in a new gTLD round.

I don't think our position has changed since then. I mean that was something formally we stated at the time. So that's one point. The second point is like the second cannon is, you know, how funds are used?

We -- I agree with Ken 100% that a very narrow approach to ICANN's mission and purpose of security and stability of the DNS is a very important message to stay with.

What we hear a lot, however, recently is serving the public interest which is far broader. So just about anything can fall under the ladder aspect of serving the public interest which, you know, fuels a lot of debate, discussion of what that means.

I believe Steve DelBianco of the BC has been saying for quite some time, if ICANN is going to continue to discuss serving the public interest and then just some kind of definitions to what that means.

And I think a good way to look at that is there's certainly clear meaning of what it means to secure the -- or insure the security and stability of the DNS. I think people can get their hands around that in improvising more efficient discussion process.

But when you go off on a very amorphous concepts and continually repeat them over and over of serving the public interest, I think it leads to a lot of debate and down right confusion in some cases. So those are the two points I'd like to add to Ken's comments.

David Archbold: All right Chuck.

Chuck Gomes: Right, I think that the GNSO recommendations although it was not one of the formal recommendations did include the statement that it would be okay to investigate the possibility of providing support for needy applicants.

So I'm confident about that, now in terms of any position we took as a stakeholder group I certainly don't remember that but I also don't always trust my memory.

So more recently in our telephone meetings we have expressed support for the general approach and have stated that obviously we need to see the implementation details. But I think that's the case in our recent meetings.

Ken Stubbs: David, it's Ken.

David Archbold: Oh, Ken, go ahead.

Ken Stubbs: Yes, I think Chuck may be partially right there. But the problem is that what's happening Chuck is they're really taking this thing to the ends degree. They're talking about subsidizing or deferring the COI.

They're talking about using auction proceeds to subsidize ongoing operations of these registries. And in listening to (Alan) he makes it sound like this is just a slam dunk.

I mean, you know, "If there are problems, well, that just means that the reserve fund depletion will not be reimbursed as quickly." And I'm not finding much clarity at all.

And I think you guys know as well as I do, $2 million is a drop in the bucket. I mean I will make a bet to this constituency right now that that will be at least 100 applications for JAS support.

So you -- it's not going to take very long to figure that that fund is significantly depleted and they're talking about asking the community for contributions to the fund.

But so far I've not seen anybody offer to step up, you know. And I don't think in the long run that the funding that they have proposed at this point and time is going to be adequate unless they change the parameters to tighten them up even more.

Because there was also comments made about. "Well, we're not going to penalize somebody if they come in asking for a subsidy if they are a for profit organization. You just have to have the right goals."

You know, and this thing is far too fast to loose and they are more concerned about deflecting the public's perception of this process towards what kind of trust should we set up?

Well, I'm not concerned about what kind of trust they set up or where they set it up. I'm more concerned about exactly what is the trust going to be used for. And I think we need more specificity there and I need - we need more clarity from the board on this you know.

I've talked to quite a few board members and there's a lot of trepidation out there. I understand the constituency's position. We don't want to be the almighty incumbents that are putting pressure on the - on ICANN to keep "competitors" out.

But at the same point and time this is not a troth that everybody is entitled to feed at and that's the way it's being discussed. You need to go back through and listen to some of this.

Ray Fassett: Yes, this is Ray Fassett again. Yes, and I want to say that we're all saying the same thing. You know, even though my recollection is and I go back and look it up we did take a position on whether new applicants can be subsidized, that's regardless to the status quo which is lately we have agreed with the process that is going on in terms of how to do that.

But to Ken's point which I think I'm hearing which is it's become sort of open season and where are the boundaries, where are the lines at? And then again to Chuck's point, you know, we need the see the implementation plan.

Because right now we're just guessing, where a lot of people are making assumptions which is not healthy and stead there are expectations out there that people have developed on their own.

And until we see this implementation plan which is where I do absolutely agree with Chuck where everybody's sort of working blind.

David Archbold: Oh, go ahead.

Jonathan Robinson: Thanks David. I guess I'm just looking back at some of the comments that were made in our GNSO meeting with staff. And there were a couple of things. One was that the U.S. $2 million fund was to be administered by a foundation and supplemented by other contributions.

But it was not made clear or defined in any way or form as far as I recall what those other contributions might be. So that's something to really to raise point about on the implementation plan I suppose.

We'll certainly talk a few reductions, we'll certainly talk about few applicants paying those back and of course the relaxation of the continued operation ensured which is something personally I have a concern about.

Because it strikes me as somewhat illogical that candidates applying for a -- or rather registering from a position of disadvantage weakness may need a higher insurance policy and regardless of how that's funded the concepts of simply reducing the insurance on that seems in some ways illogical. So why they won't relax those, I'm not quite sure.

David Archbold: Thank you.

Ken Stubbs: David?

David Archbold: It's now...It's now 11:45 and it's time for our break. We do not have unlimited loaves and fishes. So we invite all observers who are not members of the stakeholder group to find their lunch elsewhere.

And we will reconvene for our meeting with the Board of Directors in BC12 at 1:00 pm. Thank you.

Ken Stubbs: David, did I understand you correctly. Observer members are invited?

David Archbold: Yes, observer members, there are loaves and fishes for observer members.

Ken Stubbs: Carla would you please send the dial-in information for the board meeting out one more time please?

Man: The question is to whether the board meeting was an open one. And I don't -- I think they usually are but I don't - I don't know.

Francisco Arias: Sorry, this is Francisco; yes observers are invited to be on the meeting.

Man: But are not allowed to participate. So just to be clear I think for the schedule. So we're breaking for lunch right now from 11:45 to 1:00 pm. This group - the registry stakeholder group will go to meet with the board in Room BC12 from 1:00 to 2:00 pm. And then we will reconvene in this room at 2:00 pm. Thank you.

                            END