

Transcription ICANN Durban Meeting

NCUC Workshop

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Bill Drake: All right. I'm going to get started because I think we are now technologically in place. Welcome to the NCUC workshop on the debate on closed generic Top-Level Domains. My name is Bill Drake. I'm the Chair of NCUC.

The topic closed generic domains has obviously been a subject of some substantial debate in the ICANN community and actually even beyond the ICANN community. You have seen -- probably in the number of mass media press outlets around the world -- coverage of the way ICANN is handling this issue, whether pro or con. But it is clearly rising up the consciousness of a number of people who are not otherwise maidens of the ICANN procedures. And I think that's an interesting phenomena and one worth considering.

It's quite clear that there's a lot of arguments on both sides for closed generics. Critics, of course, argue that closed generics are anticompetitive and will lead to monopolies and are contrary to core Internet principles and turn it to an open Internet.

That they're contrary to accepted legal norms for (unintelligible) of property rights and it will lead to conflicts. And some people even go as far as to say

that common words should be used as part of mankind's shared heritage rather than private property and so on.

Alternatively, of course, supports are equally vehement and argue closed generics were accepted long ago in ICANN's bottom up multi-stakeholder process and should not be now challenged post-hoc that the lead opposition is driven in part by registrars who would like to be able to sell names including these gTLDs rather than in a manner of high principle. That closed generics could stimulate the development of innovative pro considerate business models. And that restrictions would lend to free expression and choice and ICANN should not be in the business of picking things and so on.

So there's a lot of arguments on both sides. And as we know, governments have gotten very engaged in this process. The GAC has had a number of occasions to weigh in through early warnings and arguing that basically nothing should move forward. And so the Board has actually frozen things for now -- and further discussions with the GAC -- to try to sort all these matters out.

So it's a kind of interesting, in minimal time, where everything is kind of in play. And we thought it would be an interesting opportunity then to try to take stock of it.

And some people said to me, "Well, why is NCUC doing this? I mean, you guys don't have any financial skin in the game. What are you - why is this your thing?"

And, you know, I guess - I just - in general, a lot of us feel like one of the frustrations of ICANN -- we had talked about this a lot in the GNSO Council and Stephane and I are on the Council together -- you spend so much time in working meetings that are focused on getting particular things done. That you can't ever brainstorm, think outside the box and actually have open debates around a lot of issues in the way that you would in other forms.

And so it just seems to me that it's useful sometimes to do workshops on these kinds of topic in the ICANN context and indeed when we were in China and (unintelligible) did a workshop on "One World, One Internet?" which was for the Chinese -- a subject of some concern. We got videotaped by a lot of men in cheap suits.

But that was a very interesting event. And we've done a number of these kinds of things at other events as well just a way of trying to stimulate dialog around matters of common concern. And get people talking about the different views that exist in the community. And that's really all we were trying to do here as well.

I have to say that in putting this together, I got a lot of questions like, "Well, what's the agenda really that you're trying to promote?" So there are some signs in ICANN people presume that if you organize a discussion about something, that you're actually trying to push a particular outcome or whatever. We're not.

NCUC, like a lot of other parties, is divided on this issue. When we talked about it, we were unable to come to any specific recommendation. We had members that were strongly in favor and members that strongly opposed. I think the same is true for at large. I think the same is true for a number of different parts of the community.

So, you know, this is not about pushing any particular agenda. It was real difficult to get the composition I would have liked. I have spent several weeks trying to woo major applicants and get them on board. And they just didn't want to talk on advice of council and other kinds of considerations, I suppose.

But I think we ultimately ended up with a panel of people who represent a range of views from across the community. And I know that there are other people in the room who have strong views as well.

So I hope that what we'll do is we'll use their initial presentations as a take off point for a much broader, more interactive, freewheeling session in which everybody will be able to have their - get their voices on - get their views on the table. So that's pretty much what we have in mind here.

Our speakers include folks from, as I say, number of different parts of the community. We have Olga Cavalli who's an advisor to the government of Argentina from the GAC. We have online there -- you see that face - smiling face in that box over there -- coming in from Washington D.C., Kathy Kleinman with the Internet Council for a law firm in D.C., a member of NCUC.

We have Evan Leibovitch over here from York University and Vice Chair of At-Large Advisory Committee. We have Joy Liddicoat that is Internet Rights and Human Rights Coordinator for the Association for Progressive Communication and member of the NCUC. We have Michele Neylon who's the CEO of Blacknight Solutions and the Chair of the Registrar Constituency.

We have Stephane Van Gelder who's a consultant now with the Business Constituency. Very happy he says. Stephane tells me that unfortunately has a schedule conflict with the NomCom. He has to sneak out for a bit to do an interview. So we'll let him start and then hopefully he can come back when his interview is over.

And joining us a little bit later because of a schedule conflict as well will be Erika Mann who's the Director of Public Policy from Facebook and a member of the ICANN Board New gTLD Program Committee.

So what I'd like to do then is just get people to do some opening statements of five minutes or so giving - outlining their broad views on fundamental issues of closed generics. And whether they are in the public interest and should be supported. Or are they more differentiated and nuanced solution necessary than what's been debated to date.

What's the current state of play with the GAC, with the Board and so on. Anything that you feel is a particularly attractive target. And Stephane, we'll start with you because I know you do have this conflict. Okay? So Stephane.

Stephane Van Gelder: Well, thanks very much. This is Stephane Van Gelder. I'm, as you said, a member of the BC and I have a consultancy business. I was, for a long time, in the Registrar Constituency or Stakeholder Group as an owner of that - of the registrar business and very involved in the GNSO as a former Chair of that body.

So as you mentioned, I do have a conflict. There's a NomCom interview going on today and tomorrow. NomCom interviews, it's important to be fair to the interviewee and therefore we try and get the whole NomCom in front of the interviewee.

So I will have to dash out immediately. And I apologize in advance of being rude in this way and just laying out a few opening remarks and then going. I will try and make it back as soon as I can.

I just wanted to come down slightly on the side of closed generics. Not really because of closed generics themselves, but my focus is more of a process based issue which is that there are elements that are coming to the fore now as part of the New gTLD Program that were never in the initial set of rules that applicants were given.

This is one of them. The closed generic term has been coined of late. It was something that actually was not really discussed much in any way until the aggregate guidebook was finalized.

So we have given people a set of rules to interact and enter into this process with. And we are now throwing in their path, if you will, some new parameters

which they are expected to deal with even though they weren't in the rules initially.

And I think that is my problem with this debate. My problem isn't so much that closed generics should or shouldn't exist. It's that we shouldn't change the rules every other week and expect people that have followed a process. Invested, for some of them, an immense amount of resources into bringing an application that was in line with what was being asked of them. And then to turn around and say, "No sorry, we're changing - we're moving the goal posts here and your application no longer fits," is to my mind slightly problematic.

So that's the initial thought that I'd like to open the discussion with. Once again, I apologize for having to dash. I will be back as soon as I can.

And I want to thank - to close by thanking NCUC for organizing this. Thanks to Bill for - he has put in a huge amount of effort into organizing this panel. I think it's great that these discussions can be had. So with that, I'll pass it along to the next speaker. Thank you, Bill.

Bill Drake: Okay, Stephane. Thank you. So essentially a procedural point and certainly one that I think we should give some credence to. Evan, would you like to go next?

Evan Leibovitch: Okay. Thanks, Bill. First of all, while I'm not here speaking on behalf of ALAC, what I'd like to do is go a little bit through the thought process that essentially drove the ALAC position which although it included people in the community that had very divergent views, we were actually able to craft a statement that had unanimous consent.

And that statement actually was not widely one way or the other. I guess within ALAC we didn't have that kind of fervent it's either the spawn of Satan or it's necessary for innovation kind of polarization that may be seen.

Essentially we came to the conclusion that, you know, it's not really that bad a deal.

But ICANN made its bed ten years ago when it said that cars.com or books.com could be owned by one company. Nobody seemed to care that books.com was owned by Barnes & Noble but when Amazon makes an application for book - .book, that all of a sudden is a really big deal.

Within the ICANN bubble, that's a world of difference. Within the world out there, outside the bubble, it's not as big a distinction. A lot of the world has come to understand and realize that generic words in the domain name space can be bought and sold as commodities. They can be used by a single vendor in a space. And the world is used to that at the second level.

So I don't think there's going to be a whole lot more confusion at the top level because the population is already used to the fact that a generic word can be owned and bought and sold as a commodity.

And as far as the process that Stephane was talking about, this is just another consequence to the fact that how the Applicant Guidebook was made. That, you know, there was a, you know, let's throw it open. Let's do as much as we can. Let's throw it wide open.

And then everything we've seen since the Applicant Guidebook has come out has been claw backs -- let's claw back some geo (unintelligible), let's claw back geographic names, let's claw back the Olympics and the Red Cross, you know, let's put in these public interest commitments -- things that were not conceived at the very beginning.

So it's not like the Applicant Guidebook has been sacrosanct since. It's just it'd gone through a whole bunch of, "Okay, the thing came out. Now everyone is trying to deal with the unintended consequences."

In the case of closed generics, I guess I make the case that it was an intended consequence because this is simply in keeping with the way that the second level has grown up. And so it's simply an extension.

Generic words can be owned and controlled by individual companies at the second level. As far as most of the rest of the world is concerned, I don't think there's a massive shift when that same thing happens at the top level. I'll leave at there for now.

Bill Drake: Okay, great. Thank you, Evan. That's some nice stuff on the table for us to chew on. Let's ask Michele what - maybe for a slightly different view.

Michele Neylon: Thanks. Yes, I - really I'm - I've been struggling to think of how to sum this up without kind of get - using long sentences and long words. And I ended up doing was just doing a page blog -- I'm a graphic designer -- to put up a simple little visual -- which you can see on Twitter if you want to look -- of Grumpy Cat saying no to closed generics because it is fundamentally wrong.

And that's - you know, that's the simple view. It's - from my perspective, yes, on a registrar. But I'm not going to be - I'm not going to make or break my fortunes whether or not I'm able to sell all of these domains. It really won't make that much difference to me.

Ultimately my customer base will buy .coms and some ccTLDs and maybe a few other extensions. But, you know, the new TLDs aspect of this isn't that important to me -- wouldn't be that important to my business.

What I've always had a strong feeling about with around this was the idea that an entire name space could be closed off by a single company. That really concerns me.

I mean, recently I think it was Jonathan Zuck who wrote a very well thought out letter talking about the .app application from I believe it was either Google

or Amazon. And going through the - you know, the problem of how do you end up with one single company even if they do allow a limited set of others into in there? How that can cause problems around competition of the idea that's a very, very big player in a marketplace controls it.

And I'll pick on GoDaddy, for example, which I think (James) is here. He's about half asleep but never mind. If GoDaddy were to try and control .hosting or .host, that would be a significant issue.

And the thing - the funny thing is if they were actually trying to do something like that, I'd suspect quite a few people in this room who are happy to talk about how processes and other things were introspected around the guidebook would open that up quite happily because it's easy to pick on a GoDaddy.

Sure. I get what Stephane is saying about the process. I get the entire thing about the guidebook. But, you know, they - there's no reason why you cannot just stand up and say, okay, this is a loophole that we probably didn't really see. And there's much bigger here that I'd have because if there is a second round, then you're going to have every single generic term imaginable is going to be snapped up by companies with a vested interest.

And to Evan's point about, you know, car.com or cars.com. Evan, seriously, I don't understand how you can draw the parallel unless you believe that .com is the only TLD. Because then you - cars.com might belong to what - to an entity or be controlled by them.

Cars.ie is controlled by somebody else. Cars.je by somebody else. I happened to know about (unintelligible). It's happened to be registered to me.

There's a big difference between the right and the left of the dot. There's a massive difference. And, you know, there's some things within the - I think it's the - what within the contracts now and there's some loopholes there.

There's - even if you don't say categorically that closed generics should be shut down, that they should be blocked. You could end up in a situation where -- even through the reservation and registration of even a hundred or two hundred names in that name space -- you're effectively blocking of a large bulk of possible potential innovations and stifling competition. At least that's my view anyway. Thank you.

Bill Drake: Thank you. And I'm glad not the least bit shy on this point. So competition, process. We have a number of issues coming on the table.

I'm very pleased to see arriving at the table Avri Doria who I'd hope to be a speaker here but was - told me she was going to be stuck in NomCom or in ATRT. But apparently has been able to get free. So I'll hope you'll consider added some thoughts later since I know your views are quite the at odds with perhaps some of the other points that are being raised here so far.

Okay, let's go next to somebody from the government side and get a perspective. The GAC has been debating these issues at quite some length. And Olga Cavalli from the Argentine government here who's fresh off a nice day yesterday with Amazon and she's here now. So Olga what are your views on the closed generics space?

Olga Cavalli: Thank you very, Bill. Thank you for putting this over a group of people exchanging ideas. I think it's a very nice idea.

And yesterday we had a workshop organized by ALAC by (unintelligible). And I think that was extremely helpful for all of us to understand our view.

I must confess I had something to say but I would totally change it after listening to Stephane and to Evan and to other colleagues because I think that's the interesting thing. It's interaction.

Throwing (unintelligible) to this process and rules should not be changing. Rules are being followed. What happens is that some of the applicants perhaps don't like how the rules are being applied to them.

So if an early warning is issued, that's already been described in the Applicant Guidebook. If a (unintelligible) is issued, that's already included in the Applicant Guidebook.

And also there is a document that I think it's important because it said all the worries that government have expressed from the very beginning of this process which is the GAC principles for the new gTLDs that was finished in the Lisbon meeting. Some of us were there that day and our Chair was (unintelligible).

It was in the Lisbon meeting that we agreed in that the document that it clearly state the worries the government will have for geo names, for names that are related with their culture, with their local ethnicities. There are many things already established there that then were captured by the Applicant Guidebook and the rules are written today.

So I don't think that rules have changed. Rules are followed. And so both parties -- ICANN and the applicant and also the countries and all the interest parties in this process -- should be prepared for a process. At least in my life you never know what exactly what the outcome will be that things happen and challenges are there in the market.

And companies know that perfectly well because having a business has its own risks. And you have to invest and you can be successful or not.

So I had heard that, for example, ICANN may have legal problems. Well, that's part - I think that's part of the prize of the Applicant Guidebook that the applicants have to pay when for preventing this legal assistance.

So I don't think that rules have been changed. The rules have been put in place. And about closed generic, I've - we - I read that your (unintelligible) than yesterday. And I think -- and this is a personal opinion as a teacher -- a university teacher, not as a government representative -- I think it's a case by case issue.

And I recall perhaps she's done a little bit to the geo issue. I recall - there from (unintelligible) came into us in 2007 or '08 telling us -- and me as a GAC representative of Argentina -- that there was a small town called Berlin is the north of my country. I had no idea which I found very interesting.

And at that time, his idea was to include these small towns that are all over the world calling with the same name as the capitol of Germany into the project. And I thought that that small town in the north of Argentina was a fantastic opportunity.

But I don't think that the whole south of Latin America as a name should be ignored. Or the biggest river in the world which is Amazon should be ignored as a name. It's not the same.

So a case by case concept could be a reasonable approach. The problem is that there are so many things to review. I will stop here. I'm looking forward for the exchange information and thanks again for the invitation.

Bill Drake: Thank you, Olga. And this is actually I think the first time we had somebody make the argument to me that actually what the sole experience shows is that the process works exactly as it's intended. So this has - this adds a new dimension to the discussion that (unintelligible).

Okay, let's - yes, we have Kathy Kleinman sitting by patiently in Washington D.C. Kathy, are you good to go? Would you like to add some thoughts here?

Kathy Kleinman: Can you hear me, Bill?

Bill Drake: We certainly can.

Kathy Kleinman: Am I too loud?

Bill Drake: No.

Kathy Kleinman: Okay. That's great. Hello everybody from Washington D.C. And I'm getting an echo.

Bill Drake: Maybe you could be louder actually. (Josh)? Yes, you have a little echo turned on your speakers.

Kathy Kleinman: Most of it (unintelligible). And I'm happy to be a part of the discussion. I apologize that I can't be there in person with everyone.

I wanted to share the procedural and substantive issue. I do (unintelligible) a little bit and I will talk about it. Yet the biggest surprise of my life came when I started reading the new gTLD application. And found out that application after application is modeled on a closed generic model which meant shutting down access to the main names, to the basic words that are in of a good or industry.

I was shocked for two reasons. One is that I'm one of ICANN's longest running advocates to the principle that generic words belong to everyone. Just because we have a trademark in one area -- just as a trademark for Panthers as a football team -- that doesn't give you the right to sell (unintelligible) to the same word to describe the animals in their collection.

Since generic words belong to everyone, the basic right that we use language to describe what we do. If you never get a trademark, at least in every country I know you can never get a trademark to the generic use of a word in the smaller area business services.

So you can never get a trademark in creative branding around the word “truck” if you run a trucking operation. It wouldn’t be fair.

So I was doubly shocked because -- on the procedural side -- I had read the Applicant Guidebook closely. I had served on the vertical integration working group. And I had served on a team that edited the new gTLD based agreement -- the model registry agreement -- line by line.

So while knew many of these people want the different models, I thought ICANN had agreed on the traditional model. And we had adopted a code of conduct to the registry agreement within the new - within the Applicant Guidebook as part of the new gTLD based registry agreement.

It had been with the code of conduct -- Specification 9 -- that expressly barred these types of conduct -- at least three types of conduct -- that we decided not to allow. One was favoring room registrars which was a vertically integrated situation. Second, with barring - with - you weren’t allowed to own names in your own registry with some limits and a few exceptions. And three, we barred registry (unintelligible) front running or using proprietary information about customer service.

And so the reason I saw application after application didn’t fit with the code of conduct that I thought we had adopted. So I’m totally with Olga that this about enforcing the rules that we’ve adopted together.

So I thought applicant after applicant trying to monopolize these generic words of competitive industry -- .app, .cloud, .blog, .phone. So I did what anyone would do. I wrote to ICANN. And Michele did too. And others did too. And ICANN opened up a public time of proceeding on this to see how others thought.

And it's amazing how many people wrote back to ICANN including so many who were near to the ICANN community. I thought it was fantastic actually. And they said largely what we have said that generic strings belong to everyone and they wanted to be able to register domain names and the new gTLDs that we have generic words of that - of their industry.

We heard particularly from groups who are running .books, .mobile, .antivirus and .security. So the GAC thought about this too. And as Olga mentioned there were lots and lots of early warnings engaging GAC advice particularly regarding the use of generic words or close generics as an anticompetitive issue.

So - and the New gTLD Committee listened very closely. And in the new version of the registry agreement, ICANN staff clarified the code of conduct and added a new specification requirements which I view totally as clarification.

So let me move over to the Adobe room. And what I did was I just posted this so everyone can see. It's slightly extracted but you can find the full version in the new registry agreement.

So Specification 9 is the registry operator code of conduct that we were talking about. And this is in connection with the operation of the registry for the TLD. The registry operator will not -- and then I'll go to the second slide and here it is -- directly or indirectly show any preference or provide any special consideration to any registrar.

Or B, registered domain names in its own right. This is one of the basic fundamental principles. And then there is some exceptions and limitations because you need to register some just to run the TLD generally. But in general you can't have all of the domain names in your own TLD unless you ask for an exception.

We have another interesting - what I view is a clarification now Specification 11 under the public interest commitments. And if you looked at Section 3, the registry operator agrees to perform the following specific public interest commitments.

And now in Section 3D, we see a definition of (GO) and this is great because what the public comment proceeding was about. Lots of good definitions were provided. I think the staff did a good job in consolidating them.

So now we have some new language in the registry agreement that says -- and then I'll conclude -- the registry operator of a generic gTLD may not impose eligibility criteria to register a name in the TLD that limit registration exclusively to a single person or entity and/or that person or entity's affiliate. And there extremely is extreme consisting of a word or term that denominates or describes a certain general class of goods, services group or related to that.

So from a procedural point of view -- from a substantive point of view -- I think ICANN is on the right track. I think you need certain commitments to group to certain types of models and I think that's what we're pursuing. Thank you very much.

Bill Drake: Thank you, Kathy. That was very crisp and clear despite the audio rendering in this room for which I can only apologize to everybody. Comme ci, comme ça.

Okay, let's turn next to Joy Liddicoat from APC from the GNSO Council. Joy?

Joy Liddicoat: Thanks, Bill. And I guess I'll just make some points that haven't been previously made rather than pinpoints I'll agree or to speak with it or otherwise come out in discussion.

I think the key is, Bill, it's (unintelligible). This topic of co-generics is in the Non Commercial Stakeholder Group in a widely different view. Some that are vehemently in favor of closed generics committed by the Guidebook. Anybody shows in at coming at business and registrars are only doing what they're allowed to do by the rules.

Others saying, well, you know, this - we didn't think this through necessarily in terms of some of the generics. But in meaning I think as Olga has said clearly it was anticipated that there might be objections to certain types of applications. And once more there are procedural processes to allow applicants to respond to objections.

And so the (unintelligible) scope for this to evolve as the applications come in. I have to say I'm on the - in the camp that we're of not in favor of closed generics. And I'm thinking particularly about the views from developing countries which has been associated with aggressive communication heads of most of its members.

Many for whom English is not the first language of those countries and in fact they have many multiple different languages in those countries. And they are by default particularly at the top level forced into and required essentially to use English as the first language in their Internet use.

So in that context, the idea that generic words might be closed, you know, in my view there's an even more greater responsibility to protect the public interest in the use of those names being open and free as far as possible. Precisely because the TLD space itself is actually constrained by vast numbers of Internet users and potential registrants.

And in terms of fair play I think is as Evan has said we have plenty of opportunities for businesses to operate models which offer up models into the application process that meet some of these public interest concerns. For example, one would have seemed to have shared registry services available

at the second level. To have open competitive registration at the second level rather than prescribed and prescriptive registrations at the second level.

And that could have -- in some respects -- some words could result in far better and greater business models than closed (unintelligible) generics for those predominantly in developing economies and rather than from developing countries.

The other point is that many people in developing countries have seen big business do these things before. Indigenous people have seen their names and their art and their words even their medicines taken from them, patented, wrapped in clothed processes which they had - do not have access to and which has been sold back to them at a premium. Or for which they cannot get access at all.

And in this context, we would - you know, my view would be that, again, it's in the public interest to allow openness in - at the - at least at the second level in relation to registration for generics. So that rather than capture and lick competitive, there's increased diversity and in fact, increased motivation for innovation at the second and third levels. Rather than a very tight funnel through which a small number of people get to squeeze in order to being (unintelligible) and create names in the space at these other levels.

In addition, I suppose finally I would say that, you know, it's not about one set of rights versus another set of rights. It's not about the rights of applicants being free association for any model they like and to express themselves how they want. Versus the rights of registrants and those who might want businesses at second or third level to do the same.

This is a public interest policy making space that I can operate. So it has to balance these rights and freedoms. And my view when these conflict, human rights and public interest should prevail.

Now these are, you know, long - these processes of generic will have has significant effect for a long time where we're not - of some of which we're not clear about. We don't know yet.

So in that case, my very strong argument would be that -- again, in the public interest -- we should open up generics. And I know that even in other constituents there are those who feel the same. So with those few comments, I hope you got enough on the table, Bill. And we can (unintelligible).

Bill Drake: Thank you very much, Joy. And the points about developing countries I think it's the things that don't get raised enough in the ICANN and the dialogs. And I think are very much worth considering and moving forward.

I'm very pleased that we've had people sitting here at the table now who I know have views that are quite at odds with some of what's been said. And I'd like to take advantage of their presence. And start drawing them into this conversation.

Avri Doria is a former - (unintelligible). Avri Doria is the former Chair of the GNSO and was involved back when a lot of these things were being worked out. She's a member of NCUC. And she disagrees quite strongly, I think, with some fellow NCUC members on these points. So Avri, share with us your thoughts about these now.

Avri Doria: Thank you. And thanks for including me and apologies for not having prepared anything since I thought I would have another meeting.

First of all to go back to history, during the new gTLD process it is true that we never talked about closed generics. We did talk about things like boutique names. Names that would be gotten -- by a company, a group, a whomever -- to do with what they pleased, you know, within the boundaries of laws and, of course, trademark rights of others and stuff like that.

So we did have a notion of - and in fact I think if you go through all the history of the conversations, we did have conversations that presumed that there would be names that were for private usage and not be open to the general market. That was just assumed.

I certainly had that assumption all along. And when this issue came up as an issue that had never been discussed, I was really shocked because I thought it was just a forgone conclusion that you can open it and sell it to the public or you can close it and use it for your family.

I mean, this was even before ICANN had decided that only corporations could apply for names. We had the assumption that a family could apply for its name -- that I could apply for .doria and use it for my family as I wished.

It was only later that ICANN -- in its infinite wisdom -- decided that no, and only a corporate entity could apply for a name, not just a rich individual. Not that I ever figured I'd be able to afford .doria and - but I didn't know that it was going to be three figures to apply for one or seven figures to defend one.

So the whole issue that came up shocked and it was with real surprise. And then that it was over .book. Now I understand what was said about book.com being sort of a funny issue these days because there's .info, there's .gov.

When dot - when book.com was obtained, it was in a world where we only presumed that .com was the Internet world. And the world did not fall. Book sellers did not crumble. Book.com went along fine. And yes, other people found names.

When we talk about .book, we are talking about one word for these things with papers and covers. One book for (unintelligible). One book for - for name for (unintelligible). One name in one language in one script.

And so to say, "Oh my word, you've monopolized a whole concept. You've monopolized our ability to talk about books on the Internet because you've used one word in one script in one language."

And I'd say in one naming system but at the moment we only have one naming system. But, you know, that's a different issue and sort of a different bit of heresy I might have.

So that surprises me that we've gone - I actually do agree with part of what Olga said in terms of process. Process was indeed followed. When we talked about it in the GNSO, we had no reserve lists of geographic names. And there was a concept that any government or the GAC would be able to object to a geographic name. And, you know, their objection would be treated like anyone else's objection.

Now, of course, we're no longer at the point where they'll be treated as any other objection. As we went through, we got to the point where the GAC was given a virtual veto over decisions. I don't believe that the GAC having a veto was something that was in the rules but the policy people decided.

So that's yet another problem. Certainly though a government objecting to it and going through the same objection process that everyone else has to go through at, you know, at ICANN expense was indeed something that was within the process. The veto of the GAC is not within the process. It has been put there.

Specification 11 and that was not within the process. That's something that's added on and someone that's done some counseling to people doing a community application. That was one of the differences that the community applicants would provide certain applications and certain protection. And indeed, would somewhat close the name down to a community and others would do an open application open to the world to use the name as they please.

So we did have a notion of restricting a name. So the fact of restricting a name down to one company that applies for it, it's certainly not a community notion, but it's not a foreign notion either. It's a different usage.

When we get to the issue of -- let me look at my notes -- the BI issue and the code of conduct. The recommendation said that one had to treat all registrars alike.

And I think that you don't need a bypass in the code of conduct to actually use the name in a closed manner. As long as you allow any registrar -- any RAA registrar -- to provide the registry of the names under the same conditions, that's the rule.

So if the rule says that as long as you are willing to take a nominal fee for providing the names, as long as they are signed off by a particular authority within the company that says this name can be used for that purpose, you will be giving every registrar...

Man: Sorry.

Avri Doria: ...the same conditions of registration of that name. The rule is quite specific. Every registrar to be treated the same. It does not say you have to provide conditions that registrars would all like. It doesn't say you have to provide conditions that are easy. It just says the same conditions have to be available to all.

With the (VI) decision by the Board, it was said that one can be a registrar as well as being a registry. So one could be a registrar, one could be a registry and one could provide the same rules to other registrars that they applied to their own subsection that was a registry.

So we are restricting a concept that was never intended to be restricted. We're restricting it in a way that was never envisioned. We've gone beyond our rules and we've done it all for one word, one language when this is really not necessary.

So I really do see this as being outside certainly the spirit, outside the intentions and, you know, outside the way the new gTLD program should have worked. Thank you.

Bill Drake: Would you go as far then to say that the way this is being handled with Specification 11 and the GAC where, you know, that we're undermining the multi-stakeholder process in the way we're addressing this?

Avri Doria: Are they undermining - has the Board undermine -- Board and staff -- undermined the multi-stakeholder process in the way much of this program has been handled including the creation of the notion of closed generics so that it's something that could be closed off? Yes, I would.

Bill Drake: Okay. I see multiple people bubbling including Antony and probably (Nick) and others around the table. I also saw on Michele where his head was exploding when you were talking. So I want to give him an opportunity to respond to whatever it was that (unintelligible).

Michele Neylon: No, it's quite okay.

Bill Drake: Okay, we'll roll along. Why don't we - people - it's great to have a say. People should just join the table. And I'm happy to call on you. Please identify yourself for those who don't know you also. Antony, go ahead.

Antony Van Couvering: Thank you, Bill. This is Antony Van Couvering. I don't really have a strong view on open or closed. I can see arguments in either area. But I would like to talk a little bit about our rules and our processes and what these mean. Because at this point in the process I don't think there are any rules.

I mean, we've got a guidebook. It violated at every turn whenever it suits somebody who's powerful. It's quite nonsensical. But I would like to bring us back to the spirit that got us here -- at least some of us. And that's to quote a little bit from RFC 5091. Avri said at the beginning there was only .com. That's actually not true -- there's a whole bunch of them.

But what it says is - the major concern I'm quoting, the major concern in selecting a designated manager for a domain is that it be able to carry out the necessary responsibilities and have the ability to do an equitable, just, honest and competent job. These designated authorities are trustees for the designated domain and have a duty to serve the community. The designated manager is the trustee of the top level domain and the global Internet community. Concerns about rights and ownership of domains are inappropriate. It is appropriate to be concerned about the responsibilities and service to the community.

Those are wise words I think and followed more often in the breach. But as we look at closed generics, if we just shift away from "do you have the right to do it," "did we follow the rule that, you know, a few people happened to put together a few years ago" and look at the broader implications, I would not look at whether it's opened or closed but instead, you know, what is it doing to serve the community?

And I would only say that in the case of the closed one there's a much greater responsibility for that because there is simply one person's going to be making this decision. In an open TLD you're sort of devolving that responsibility to all those people who own second level domain names. Thank you.

Bill Drake: So there's a greater responsibility in your view for closed?

Antony Van Couvering: I do, yes.

Bill Drake: Okay, that's a reasonable position. Nick (unintelligible).

Antony Van Couvering: Yes, thank you.

Bill Drake: And anybody back behind me, if I'm not seeing you wave your hand at me.

Nick Wood: I'm Nick Wood. I run a consultancy called Valideus and we worked with about 22 applicants, who together applied for about 120 different applications. They all came from brand owners.

The word closed I think appears in two of those applications. They didn't define themselves as closed or open because these weren't definitions that were there in the guide book. And even now I'm sure quite sure what open or closed means.

Open and closed could mean anything. They're on different ends of a line. As I look around now I see these Apple computers shining at me. Supposing Apple, which probably said in its (unintelligible) that it was going restrict the allocation of domains to, for example, business purposes. Suppose Apple gives everyone with a .apple computer a .apple domain name. Suppose that's 100 or 200 million domain names and they're using it for use services. They're using it for some kind of very smart innovative use.

Is that a bad thing? Is that restricted open? It's not quite closed. It's not quite open. I'm not sure what it is but I'm sure it's not a bad thing. So that's the first point I'd like to make.

The second point is that on behalf of some of these clients of mine then I was asked to do a road show. So I've traveled around and I've spoken to representatives of governments in Europe, in Australasia. I spoke to them in South America. I spoke to them in North America. And we chatted through

this idea of closed registries. And it was the specific question of, "Well, are they anti-competitive?"

They said, "Well clearly." If they operate in an anti-competitive fashion, in a discriminatory fashion, in a non-transparent fashion, there is a pattern of such use in the future, then they could be anti-competitive and that would be a bad thing. But they're also clear that the business of applying for a registry and building up a registry is not anti-competitive.

So I'm very sympathetic to the arguments about closed. I do understand it and I wish that there had been some kind of public interest test in all of this for some terms. I think that the GAC's early warnings were for open and closed. I understand them. And in speaking with some of the GAC representatives, they said, "Look, it's an early warning. We want to understand more about this." We discussed it and in some cases they said, "We understand more. We think that's okay." And in one or two places they said, "We think we understand it. We're not sure it's okay."

So I think there's a little gray in this. It's not just open or closed -- there's a lot of other stuff in the middle.

Man: Nick, can I just press you on a point? One of the things that's frustrated me throughout this dialogue is that the argument is made, well, innovative business models but then when you try to hear, well, what are the innovative business models, you don't hear a lot.

Now you just gave the example Apple gives away goodies. That would be a neat thing. Are there many other examples that you can point to of people putting forward, you know, far-sighted, demonstrably public interest oriented business models that, you know, just are inarguably this would be an addition?

Nick Wood: Some of my clients I think have got that. And I know in working with them they're not a consultancy basis. I've had meetings with them but recently at some of the meetings I've turned up to places and they said, "You're here for a day Nick," then after an hour I'm told to leave the room and the business people carry on talking about what they're going to be doing.

I think part of the problem with the application process was that to expect large businesses to write in an application to describe the innovation that they're going to be doing, which might give them some kind of advantage, it just wasn't going to happen.

I think a lot of the brand applicants were not clear on why they were applying, in terms of the specific business use. What they wanted to do was have the opportunity to benefit as the Internet develops. They wanted to have a place at the table. And when they saw how the whole ICANN process played out they wanted to see what this asset, if you like, would get them.

So a lot of them weren't clear then. They're only just beginning to be clear now. And I do mean just now because it's only really now that it's becoming a reality. Most businesses don't - I mean, this process is what's been referred to sometimes as kind of disruptive innovation. Businesses did not want this. This was brought to them by ICANN and by the community. And then they sat around and thought, "Well actually what, you know, what can we do with this?" Probably Google is one of the companies that has actually got innovative ideas and may tell you.

Bill Drake: I tried to get Google to come and tell me about their innovative ideas. Okay, well then would you have just - I'm seeing that a couple of people are waving hands at me but since we're on this specific (unintelligible) we'll come to you in another minute. But if you could perhaps illustrate on this point that would be very nice.

Jordyn Buchanan: Yes. So, well, I mean, first...

Bill Drake: Identify yourself.

Jordyn Buchanan: Yes. I mean, first I'll make the point that - I'll make first the important preamble I'm speaking on my personal capacity with a lot of knowledge about what Google has done. But if you - so first I'll note that Google has...

Bill Drake: Could you identify yourself?

Jordyn Buchanan: I'm sorry, Jordyn Buchanan, in my personal capacity. I would note that Google has committed publicly for four registries that were formerly closed to change them from a what we're calling closed model to what we call open with restrictions. So there's specific criteria associated with them but third parties are eligible to register in them. And I think most of the things that people would consider to be closed generics but Google applied for are those four specific TLDs.

So we no longer are - I don't think we have closed generics anymore so what - I'm going to now speak about what Google had proposed in its original application as opposed to what we are now proposing to do -- or they are.

In the original .blog application though - and I think blog's a really good example because if you think about the .blog TLD what do you expect when you navigate to that? You expect to get to a blog, right? And one of the - now - and we could largely achieve that goal of just saying, like, "Hey, when you navigate to a .blog you want to get to a blog by having a registration restriction and saying this can only be used for blogging."

But the problem is that it's really hard for users to use the DNS today. If I go and register, you know, foo.com and then I want to put a blog on it, it requires that I know quite a bit about the DNS. I have to go to the blogging platform and figure out what their IP address is.

Most - many users don't know what an IP address is so they have to learn about this. They have to understand an A record and where they might point their MX record as opposed to where they're trying to point the A record for the blogging platform and the mail platform might be a completely different service. They have to learn a lot in order to make this work.

And in fact, we've subsequently gone and we've talked to folks like, you know, folks like Tumblr and so on, in addition to Google's own experience. And it's clear that this is a pain point for users of every blogging platform. If they want to use domain names with their blog about half of the people that attempt to do it fail. They could never actually make their domain name work with their blog.

And so Google in its original application had proposed that when you sign up for .blog it automatically ties it to your Blogger blog. And so users would have a much more streamlined experience of this is how you get online.

Now, it turns out through a lot of work - we've worked folks at other blogging platforms to come up with a mechanism that's going to allow that to work across multiple blogging platforms. But I don't think that's necessarily the case, that every use case that's going to make life easier for users and make domain more functional than they are today is going to be achievable in an open fashion where you work across a bunch of different potentially competitors. Because sometimes the good will and trust that we engaged in in that particular set of conversations is just not going to exist in a particular industry.

And so there will be things that could be beneficial to users and could change how people use DNS that just will be precluded if we say, "You're never allowed to do a closed generic."

So I think there's tons of potential innovative uses. Yes, a lot of them haven't been articulated yet but I know for sure that we've had the exact same model

in how we treat domain name registrations basically ever since the (SRI), Nick, was created. You get a domain, I mean, you're on your own to figure out what to do with it. And one of the things you can do with closed names - with closed TLDs is associate functionality directly with the domain name. It goes far above and beyond what we have available today.

Bill Drake: That's great, thanks. And I understand that was all completely in your personal capacity. Let me - Evan and then (Annuno) and then others please. If you're - go ahead Peter. (Annuno), Peter and others if you'd like to get in on the game, raise your hand.

Evan Leibovitch: Actually I wanted to speak in support on just about everything that's been said on this side of the table from Anthony on down, as well as Avri. And also to link that into something that Kathy said that sort of bothered me a little.

At the very end of what of what you were saying Kathy you said we made certain commitments to certain models and I think that's a problem because when you say we made commitments to certain models that by definition elevates them over models that haven't yet been invented.

And that's what I interpret as a barrier to innovation and a protection of the status quo. If it wasn't innovation, everyone around the table would have figured it out. That's the point of it -- people inventing things that are novel and unique and that everyone hasn't already tried.

And that I think is at the crux of this, is that we're really talking about ICANN protecting a certain right of allocating domains that doesn't anticipate the old Rumsfeld unknown unknowns -- that it doesn't allow for the possibility of doing something that's truly novel.

In the ALAC response we said on the whole it's not necessarily a good thing. Most closed generics, as we saw them, weren't necessarily good. But you can't discard the entire category. You can't say they're all by definition bad

unless you've had a look at them, which is why we were advocating have a look at them on a case-by-case basis, develop and determine a public interest component to them and for those that do have the kind of innovation that have been talked about in the last couple of minutes, that those aren't restricted simply in the aim of protecting an existing set of known models.
Thanks.

Bill Drake: Okay, thank you. I think you're adding an important point there about differentiation and treating in a little bit more settled way. Okay, so we have (Annuno) and then Kathy Kleinman's online, has raised her hand. And also Peter.

(Annuno): Thank you Bill. (Unintelligible) I would like to start with the open versus closed aspect on domain names and that is an issue that's not (unintelligible). There is an argument here that has been mentioned that is to my eyes a bit a dangerous. Innovation actually has been on the core of Internet business forever. And innovation also explains a lot of the phenomenon of Internet expansion. So therefore, we should make our best to protect the innovation abilities of the Internet players.

Now, the example on .apple, and assuming that granting .apple would possibly bring a huge amount of innovation is dangerous. And let me tell you why. There is no technical reason whatsoever that distinguishes .apple from something .apple.com. So the idea that if we don't grant a particular TLD to a major corporation is something has the potential to hamper innovation, the capacity to be harming. This corporation's capacity of innovation is really a very dangerous idea and it has no (unintelligible) whatsoever.

On the contrary, if we grant a TLD that conflicts with persons or corporations rights, that is really dangerous, okay. Because you could be doing something that on the long run it has no immediate remedy.

So I'd like to leave you this idea, that granting a TLD is dangerous if you do it the wrong way. Not granting a TLD does not hamper innovation at all. Thank you.

Bill Drake: Thank you (unintelligible). Kathy.

Kathy Kleinman: Can you hear me?

Bill Drake: Yes.

Kathy Kleinman: Great. I can appreciate a lot of the points that are being made without agreeing with them. But I wanted to talk about something that I really agree with. One is what Joy said about the developing countries. Some of the (unintelligible) editorial came out of developing countries about words like hair and beauty being monopolized by Western European U.S. companies that want to run them as closed generics. So I thought was interesting. Again, not people traditionally involved with ICANN, although I believed some were involved with the idea.

To Anthony's point about the history of registries, I think this is very important. What is a registry? And when I was (unintelligible) .org I can tell you what we thought it was, which is that a registry's a service. It's a business and a service and we practiced what I call (unintelligible) discrimination. We didn't discriminate against registrars and we didn't discriminate against registrants and I had always felt that was part of the foundation of what we were building into the new gTLDs as well, that we weren't displacing that obligation or that service -- we were expanding it.

To Nick's point, it's interesting. He actually hit on the one area that I remember so many people completed agreed with, which is that if you have a brand name, even if it's a generic (unintelligible), but as a brand name it can't be used as a generic. Or an Apple computer is not using Apple as a generic

because Apple is approved but it's using it as a computer and an electronic (for music). We should talk about Apple Records sometime.

But what we're talking about here is a brand and I think there was always agreement that within brands (unintelligible) the exception there could be a lot of innovation, there could be a lot of exclusive use within a brand. And that agreement goes way back to the beginning.

So really there's an exception along the communities (unintelligible). So generally (registries and registries) opening up domain names with lots of innovation and lots of competition in new ways but not necessarily exclusive ways. Thank you.

Bill Drake: Thanks Kathy. Peter, would you like to say something?

Peter Dengate Thrush: Yes, thanks Bill. Peter Dengate Thrush. I have a very small interest in one TLD -- it's .kiwi in New Zealand but I'm speaking here personally. It's probably easier to go around I think, for me, and just pick out some of the points rather than develop them independently.

I think as a lawyer I start also with the argument about the sanctity of the contract but I don't think this is that kind of a contract. I think in fact the (AGB) is a developing document and that at any point in the process if the community comes up with a problem with implementing what's in the guidebook then it's completely appropriate to stop and review and ultimately it's the fiduciary responsibility of the Board, if there is a problem, to take action. So I think having an issue raised and then discussing it is completely appropriate.

What I do say so though is that the (ONUS) is very clearly on the people who are crying that there's a danger to make sure that they're not crying wolf. They need to prove that there really is a problem and when they establish that and they propose remediation then it's up to them to propose

remediation and if necessary compensation for people who have acted previously in acting on the advice in the guidebook.

And I think the point about being - I'm sorry, I'll come at that in a different way. I think the argument to think about here is also that there are really two major aspects to the guidebook. One of them is the technical aspects that people are able to prove that they can safely run a TLD and not cause any harm to the Internet. And that's a big part of the guidebook. And none of that has been changed.

The only bit that we're talking about, because there was a suggestion that we're looking at lots of clawbacks and really the important interface with the community. It's the terms of the use, the terms of user confusion, the term of user rights.

So we need to keep in mind that we are not fundamentally changing merely a key part of the guidebook. We're not constantly moving the goalposts and requiring bigger service, different configurations, et cetera -- we're looking at (unintelligible) important area of the user and the interface.

I think at Michele's argument, and I'll quote it, an entire name space can be closed off by a single entity. That's a key part of this argument, that we're closing off a big piece of the - which I think is completely wrong. What is happening is we are opening things up. We're not taking something that's currently available and closing it, we're taking something that doesn't currently exist and opening it. And all we're talking about is the conditions in which we open it.

So it's nonsense to call this a closure or a restriction. What we're doing is talking about the extent of opening that we may have. Now, in some cases it may not be as open as some people would like but you have to be very careful with that kind of an argument. It starts to sound like the politics of envy. And if you go too far down that line it's getting towards the definition

that all property is theft or that we all have a right to this property and you've got to be careful about that.

(Unintelligible) here said that the rules are being followed. I think we're more often talking about the geographic situation. It's not that the applicants don't like how the rules are being used. If you go back and look at the GAC principles from 2007 they don't say anything at all about closed generics. So that's not a change of closure rules.

But even if they did, the GAC principles were established in 2007 and then have been progressively compromised by the GAC in negotiations as those principles came into conflict with the principles of other organizations.

And ICANN is what this guidebook crisis has been about -- developing a compromise between conflicting sets of principles. And I personally think that in relation to the geographic exercise the GAC has breached that compromise in its recent discussions but that's not today's discussion, which is about open and closed generics.

So Kathy also talks about closing off -- and I say it's an opening -- and about the Code of Conduct. And I think Avri and others got it exactly right -- no, the Code of Conduct says you've got to treat everybody equally. There is no support anywhere for the statement that generic strings belong to everybody. Generic strings don't belong to anybody any more than Amazon.com belongs to everybody and there's just - there's no support for it.

Joy talked about English speakers from developing countries, which Joy I think is a non sequitur. I think non-English speakers shouldn't be worrying about control of English words. The issue for them might be what's happening to their own languages. But the declaration then was made there's a public interest in the use of these being open and free, which is declaratory rather than any particular advocacy.

(Unintelligible) well what is this public interest that's being declared? And the only two examples we're given were increased diversity and I agree there's a public interest in increased diversity and there's a public interest in increased competition. I happen to think those are values and I think most people of ICANN but we would need to agree that those were values before we wanted to change the rules (unintelligible).

But (unintelligible) and a proper competition (unintelligible) shows that this is not a monopoly situation. These are substitutable products and just because somebody gets .amazon or .brand or .generic, doesn't take that out of any kind of contention. There's 243 or whatever the number is now, (unintelligible) TLDs than any other TLDs where that can be taken.

So this is a substitutable situation. There's no competition analysis and no economic theory that declares this a monopoly and can show that allocating TLDs this way actually decreases diversity or decreases competition.

So even if we agree that those are values, I don't think it's at all showing that they are threatened by this activity. And I think Avri was perfectly right to recall the discussion about how this came up and the names (unintelligible) was one I've forgotten but of course it's a perfect analogy, that we used to talk about the Smiths and various having their own.

And I know Bertrand de la Chapelle is in the room and won't mind, when he was a member of the GAC and very dedicated to many of these topics in the discussions raised with me in public conversation. I think it was in Paris Bertrand (unintelligible) the concept of a company might get hold of a generic and keep it for its own clients. And so this topic has been widely discussed, I think.

I'm sorry that Anthony's gone because I would have tweaked him a little bit about referring to RFC 5091. First of all, I think it's dated 1994, which is sort of antediluvian in Internet terms. But it also does go on to say that there were

a number of generic top level domains and it is unlikely that there will ever be anymore. RFC 5091 has a problem in terms of support.

So I want to close with the last comment about innovation. You said that .apple is the same as Apple.com, which is exactly right and because we allow one we ought to allow the other. Thanks.

Bill Drake: Thanks Peter. That was a nice summary of a lot of important points that I think perhaps some of our regional speakers might want to respond to.

We have ten minutes left and what I'd like to do is get - (Tim) be a quick one because I want to try and go back to the panelists.

(Tim McGinnis): Sure, I can do it quickly. My name is (Tim McGinnis). Some of you will know me as (McJim). I'm a member of NCUC and I've pretty much given my opinion on the NCSG list. And those of you who know me know I'm not as eloquent as Peter or Avri, so I'd like to use Avri's words.

The intent is to let a thousand flowers bloom and what the GAC is doing with their Beijing communiqué and this category of closed generics is weeding and pruning and hacking indiscriminately and I object to that. Thank you.

Bill Drake: Okay. I think that finishes the GAC role. Bertrand would you like to say something quickly before I go back to the panelists and ask them to respond to Peter and Avri and other provocations and so on that we've had?

Bertrand de la Chapelle: Actually, thank you Bill. I ask you to - the opportunity to make one quick comment in the end. I will (unintelligible) the pleasure of reenacting some of the interactions that I've had with Peter being both on the side of the GAC and on the Board that would lead to a fascinating dinner discussion. I don't want to address the substance.

I'm extremely happy that NCUC has taken the initiative to hold this meeting. I have one problem and one question. One problem is that, unless I'm mistaken and apart from Olga, I don't see other members of the GAC being present. I know that they are very busy with the drafting of the communiqué but I think it's a very missed opportunity in terms of timing to not be able to have them or that they didn't want to come or send somebody.

I must confess that I'm even more surprised that there is nobody from the Board presently on that topic and especially from the new gTLD Committee, even that there is a topic that would be on their agenda. I mean, I will report that, which leads to my question.

What is the output of this discussion going to be and how will it be fed into the further discussions of both the GAC and the NCUC, which as you know, are going to be discussing these topics among themselves. So in terms of the functioning of this organization I find it bad and sad for the efforts of everybody that we have two valid discussions -- both are very valid -- and we haven't found a way to bring them together.

Bill Drake: Okay Bertrand. The first thing I would say to you is if you were not on the Board you would know perhaps the pleasure of trying to get slots on the agenda and what that involved.

Bertrand de la Chapelle: (I said that).

Bill Drake: This one was moved around by staff repeatedly. I was told I can do this, I can't do that. I couldn't conflict with anything. This is the very last thing that they could give me and it turns out to conflict for Avri, who I'd wanted to be a speaker and so on. So I had to go with what I had to go with, okay. That's the first point.

((Crosstalk))

Man: ...Friday then we could open up thing a little bit more then we could (add) a little bit more space to the dialogue.

Bertrand de la Chapelle: I'd be fine with that. What I mean is that (as a matter) and I think that because to be frank we have a Board workshop this afternoon. And then one of the (unintelligible) is how to improve the interaction between the Board and the GNSO. So I think I get a particularly good topical example here.

What I mean is that on such a topic that is on the agenda of the Board Committee, when we have a physical meeting and it concerns the whole community including the GAC, I think it should be a priority to put it on the agenda at a moment where not only actors are invited but are almost compelled to participate.

Bill Drake: I would have loved to compel the GAC and the Board to come to this workshop. That was, alas, beyond my powers, I could assure you. But okay, so yes, Stephane.

Stephane Van Gelder: Thanks Bill. This is Stephane Van Gelder. As one that was extremely conflicted for this event, I was on the panel, was able to be here at the start before you were here, then had to rush back to do a NomCom thing and I just rushed back from that, then will have to rush back. It's, you know, I think you ask a very good question but I think the question is probably asked in the wrong way.

We have what interaction we can. I think the real question that we want to get to is what comes out of it. You kind of asked that at the end. What can come away from - I mean, this is just a discussion. I don't think there should be any goals set. And I've missed the discussion so certainly I'm not going to set any goals but I don't think there should be any goals set to a discussion like this.

I think what we should note is that the discussion took place, that it was allowed to take place and that in everybody's extremely busy agenda some of

us were able to make it and some of us were able to forward the discussion. The rest of it will be on record. I hope it is available to people. And when I was - no, I shouldn't say that. But I was going to say that when I was in the NomCom I could see people tweeting but obviously I couldn't because I was paying attention to what was going on there.

Bill Drake: Again, Bertrand I totally share your frustration. I wish we could do things like this in a more structured outcome oriented way. I wish we could organize the agenda in ways that would bring (parties) together when we do this. I'm not in that position right now.

I'd like to go to Avri, who was waving at me, and then Olga.

Avri Doria: Avri speaking. I just wanted to make one recommendation to what you can do. First of all, I was going to say the only people that can compel the Board is the GAC.

But beyond that I would recommend that you recommend to your fellow board members that they either listen or hopefully there's a transcript and they actually read the transcript. Because synthesizing what was said would not be - to properly get it would really require the transcript so I would recommend that the solution to your problem is get your fellow board members to read the discussion.

Bill Drake: Okay, Olga.

Olga Cavalli: Thank you Bill and I have many questions for many people but I will say just a few words and thank Bertrand for mentioning the Board issue. I think it's important that the Board would interact more with different activities.

For me it was very difficult to come. We are drafting the communiqué. It's a tough meeting back - Beijing was, but I'm here because I think there's a lot of value in this interaction. And I bring a lot of ideas for my colleagues and the

GAC. I want to say a few things and thank Peter for the nice summary. I think it was, for me, very interesting.

I don't understand why if the GAC advised it's in the (unintelligible) guidebook it's considered illegal. That I don't get but we can talk about that another moment.

(I don't agree that) (unintelligible) is only word of one language in the world. For those who have Internet access, we are so fortunate to have it. You know, we are like 2000 million people in the world. English is the ruling language of the Internet so far. If you look at the amounts of articles in Wikipedia you see that English is the ruling language. We like it, we don't. My native language is Spanish. I learned English many years ago but it's not the same for me to speak in English now than to speak in Spanish. For several of you it's easier because it's your mother tongue.

So I don't agree that we'll get any word (as liberal) in Spanish or other - I think there's a monopoly of English in the technology world and in the Internet world. So that I think - and this comes to my last comment because we have not that much time.

What will happen in this outcome of this process for closed generic or open generic or GNSO, whatever? What will happen in future rounds when those other names in other languages will be taken and request? We are not thinking about (liberal) in Spanish but that will come. We have some examples (unintelligible) and some others in Spanish and Portuguese, which are very few for the moment.

So I will just say that the outcome of all this process, which like everything in life can change and that is not so bad, will impact developing worlds in the near rounds and the future rounds. So let's have that in mind. And thanks very much for the invitation.

Bill Drake: Sure. I'm mindful of the fact that the GNSO Council is supposed to start in about one minute and so I'd like to try to move us quickly. If the remaining panelists could offer some concise closing comments. And everybody else who would like to talk I'm sorry but we can chat afterwards, okay.

So Evan, please.

Evan Leibovitch: Actually, everything I have to say has been said, in some cases better than other people - by other people. I think both sides have been brought out. I think the issue of, you know, the difference between Apple.blah and blah.apple within the public, I think is blurred and not quite as distinct as is considered inside the ICANN bubble. And so if a policy's been made over the last ten years about the openness of one that should also apply to the other.

As far as the issues of innovations, competitions, so on, those points have already been made very well by other people. Thanks.

Bill Drake: Thanks Evan. Stephane, did you have a quick one or you want to just let it go? All right, Michele?

Michele Neylon: Thanks. I think it's been interesting to hear other sides and other views on this topic, no matter how flawed those views and opinions are. I mean, I do - in particular I would like to thank Jordyn for speaking in his personal capacity and not aligned with any large entity that has promised to do no evil. But the spawn of Satan comment from Evan, I thought I'd have to reuse it at some point.

And I think it's an ongoing discussion. It's an ongoing debate. I think it's something that shouldn't be ignored. Olga does raise a very valid point, in that if you look at what could happen in further rounds with (Punto Libro) - I mean, there's so many different ones in, you know, Spanish, Italian, French, German, Japanese. There's so many different languages, so many different opportunities for these strings to exist.

I am very impressed with Mr. Dengate Thrush. He manages to turn my words against me and those of others. It's impressive. I mean, the logic is...

Man: (Unintelligible)

Michele Neylon: I know. The logic is completely flawed but it's impressive. If I didn't stop to actually question the words coming out of your mouth I would almost believe it -- almost, but not quite.

And going back to Google and .blog -- sorry, I always do pick on Google and Amazon because I consider them to be big enough companies to take it on the chin. I mean, the example of .blog for me was pretty clear. It was simple. If, you know, you go to a .blog you expect to see blog content.

Is there a challenge about getting people to use a particular extension for a particular type of content? Sure. Is it insurmountable? No. Should Google or any other company take it upon themselves to be the nanny state and kind of look after the poor misunderstood registrants? No.

You should leave it up to other companies to innovate and to offer solutions to make it easier to get your mother online, to get your granny online and actually, oddly enough, my company and Google partnered on doing that very same thing in Ireland.

So, you know, it's a wonderful argument backwards and forwards you can have about, you know, the innovation and everything else but there's an equally valid argument for allowing the competition and the innovation and speaking for (unintelligible) for example maybe, you know, in certain markets working with local partners who actually work better. So I'll hand over to Joy.

Bill Drake: Thank you.

Joy Liddicoat: Thanks and apologies if I need to step out to the GNSO Council meeting. But likewise I agree. It's an interesting (unintelligible) perspective and particularly I appreciate your perspective Olga and Jordyn. I'm very familiar and used to the powers of persuasion that people use to (unintelligible) but likewise I'm not swayed by any of them.

I think it's a saying that the English language is not a closed community and then describing it as a non sequitur is effective and it's sort of the point I was making. I think that people from developing countries will not be grateful that a space is being opened up (unintelligible) that's adequate. I think when you look at the history of the development of the (applicant) guidebook, the demand for access and financial assistance of those from developing countries and the profile of applicants, I think that it's vital not to (expect) communities and constituency groups to be thankful that a space has been opened.

We want that space to be fair, open and competitive and available to all in accordance with the principals of the community and not closed. So it's not a case that all TLDs are equal and some are more equal than others.

So I would say that. I would say that in terms of Bertrand's question about taking, you know, outcomes. I don't know if we need outcomes but I think it's good to keep the discussion going and I think there's a desire for more cross utilization of ideas (unintelligible).

Peter Dengate Thrush: Could I quickly respond? Ad hominem attacks on me (unintelligible) they don't actually make the point and they're kind of a concession it seems to me. Joy, TLDs are not all equal. There's a whole other category of TLDs (in top) London that's a completely different category of TLDs than, you know, .amazon.

Joy Liddicoat: I think if we're talking in the context of this debate, which is around generics, I think that the point is clear and quite precise. I'm happy to continue that discussion (unintelligible) and allow other voices to (unintelligible).

Bill Drake: Before war breaks out in New Zealand I think we should probably let Joy get to the GNSO Council.

I note that this room has nothing programmed directly right after right now. So people - others who don't have to go to the council want to stay for another five minutes you're perfectly welcome to do so. I'd like to get - Kathy's still waiting on line for a last blow. I would take one or two more comments if somebody else wants to. But there are others who have to get out. I recognize that and thank you for coming, okay.

So Kathy, go ahead.

Kathy Kleinman: Terrific. Thanks Bill and I wanted to thank everyone for the discussion. No ad hominem attacks here. I just wanted to say that I can't think of anything more different than a registrant and a registry. I don't think they're the same thing at all. And you can have a very robust (unintelligible) quite a while now. So in terms of outcome - and that's what the outcome is, is (this) excellent discussion.

But in terms of the discussion that's been going on (unintelligible) ICANN for so many months in the GNSO, in the GAC, in the Board - at the Board level, I think the right move to be taken for this round, for this time regarding closed generics and generic strings. And so I think the right steps have been taken and I look forward to seeing your implementation.

Thanks so much for organizing this Bill (unintelligible).

Bill Drake: Thank you Kathy. All right, I'm going to wrap it up because people are breaking up. So thank you all for participating. Sorry if you didn't get to get a word in. And we'll hopefully do this again.

Anybody who's interested, I'm going to organize a workshop on the same topic at the IGF meeting in Bali in October with some brilliant speakers. And it should be, being at the IGF rather than ICANN, a rather different kind of composition and discussion. So you're certainly welcome to come for that as well.

Peter, did you have something?

Peter Dengate Thrush: Bill thanks again very much for organizing this. I think the output point, there is a public forum and what this has done for me is clarified my thinking. I mean, hearing the others (unintelligible). Would it be possible for you as the leader of this to at least report the debate at the public forum? Maybe a little summary of the pros and cons or even your own view. I don't mind. But that's the output, it seems to me, that people who have spoken here should be encouraged to take the debate into the public forum.

Man: Could we all have that opportunity? That we be great if you open that up at the public forum because I think this is an incredibly important issue. Because, you know, the English language or language family is an asset that cannot be owned by corporations.

Man: Okay (unintelligible).

Man: Thanks.

END