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TORONTO – Prioritization Drawing  
Wednesday, October 17, 2012 – 11:00 to 12:30  
ICANN - Toronto, Canada

KURT PRITZ:

The processing of new gTLD applications means what's going to happen to those applications after the initial evaluation is done? How are they going to go through the rest of the process? You know I think we're talking to the cognizantee in here, so you know that after the evaluation is done the applications must go through a contract execution phase, pre-delegation testing and then if there's any objections or contention that has to be resolved. And then the TLDs will be ready for delegation.

And we know that up to now there's been a plan to essentially deliver the evaluation results all at one time, so 1,900, 1,923, maybe a few less, application results. How do we batch them or meter them or process them through an operation that has a certain amount of capacity and then delegate them into the root zone in a way that meets our root zone scalability requirements? Which means that we don't want to delegate more than 1,000 new gTLDs a year, and do that in kind of a smooth way.

So as you know, there's been some trial and error in developing methodology. We think this latest proposal that's published 30 days for comment, so twenty some days now, is based on the community feedback, which has been exhaustive, analysis of that feedback, and development of our process that is reliable, predictable, equitable to all

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the parties, and promotes the public interest. And we think it should be simple enough to be put up on one slide.

And it's sort of a joke — I was going to go through this whole process in about ten seconds and a thousand words, but I'd get fired by the interpreters and the rest of our Staff. So what I'd like to do is take through this process step by step, explain what each step of the process is, and then paint a fairly complete picture for you and then answer questions, and importantly take comments.

Certainly we haven't thought through every... You know we sat around the table, and we consulted with people outside, and pondered all possible scenarios, but I'm sure our pondering is not done, so we want to hear from you. Think about scenarios and how they would go through the process; that'll be helpful for us and for everyone here. And thinking through the process, so that at the end of 30 days, when we finalize this that it'll be in a complete form.

So what's the first step? The first step is the Prioritization Draw and the basic new wrinkle to what we have here. It's a manual prioritization method — it's just a drawing. So every application number will be assigned a Draw Number. And that Draw Number will be used to assign priority during the life of the application in the process. The Draw will occur in December. There are some jurisdictional requirements about conducting a Draw, so every application is going to have to have a paper ticket that you wave around. It has to be purchased in person and it has to be paid for, so we're expecting the price to be about \$100.

We don't want to place a burden on those outside the United States. The Draw is going to occur inside the United States — it has to. And it'll



probably occur in Los Angeles, maybe in Washington D.C., or maybe somewhere else, but those are the top two. If travel is a burden, you can appoint a proxy, a family member, an uncle, an in-law that you don't like. If it's difficult for you to appoint a proxy ICANN will appoint one for you. And ICANN will absorb the cost of the appointment of that proxy, so the process is intended to result in no additional burden to applicants.

To keep things simple and keep the process moving, we created a simple rollback. Draw Numbers cannot be exchanged either between or among applicants, or an applicant with himself on the same applications. It's not expected that everyone will participate or that everyone wants a high priority number. Those that opt out will be placed at the end. If there are multiple opt outs they can be placed at the end in a random fashion.

So the Draw will be conducted in December. And an important note to how this process is going to work is how the objection process feeds into this. And so ICANN has published in the past that the objection period, the period for when parties seeking to object can file their formal objections, will end January 13<sup>th</sup>. There is some amount of ambiguity about that and some public discussion. So in the proposal it states that the objection period will end on March 13<sup>th</sup>, which is before any evaluation results will be posted.

But right after that we'll start posting evaluations, so along the end of March, we're thinking March 21<sup>st</sup> or March 24<sup>th</sup>, the springtime in the northern hemisphere, initial evaluation results will be posted, and they'll be posted gradually. So remember we were going to post all the



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results at the end of June, now we'll start posting results in April and still end at the end of June.

So if you do the math, how many weeks are there in that period? You'll see that it is planned that about 150 evaluation results get published per week. Now because we're going to have to re-jigger kind of the order of the evaluations once the Draw occurs, we expect that release rate to be kind of slow at first and then ramp up.

An important feature to promote public interest, promote globalization, better enable those who can use the DNS completely in their own language now. We've determined that IDN should go first, so that's part of the proposed model. So the IDNs will go into one bucket of the Draw, have those numbers selected and then the remaining applications would go in the next bucket. There are 116, I think, IDNs currently.

So applications that pass initial evaluation and are free from objections or contentions will progress immediately into the next step. What does that mean? That means you've passed initial evaluation and you've got no more encumbrances, which is kind of a legal term I'm misusing, but no other holdbacks to your application progressing.

So if there's an objection to your application, a formal objection on one of the four grounds, or if you're in string contention with another string, or you've failed initial evaluation and you have to go on to extended evaluation, your application will be held back. And then once that contention or objection is resolved or you've passed extended evaluation, you'll proceed to the next step and join applications that are



just passing initial evaluation that same week, so you get back into the flow whenever your objection of contention clears.

So what is that next step? The next step is a determination by the applicant of whether that applicant wants to accept the standard agreement. So if you accept the standard form agreement — that's posted in Module 5 — you go immediately on to the next step — and you'll have to wait for the next slide to hear what that is. If you do not accept the base agreement you'll enter a negotiation queue. And the negotiation queue will be formed in the priority order.

So while it's expected that negotiation might take some time, there'll be multiple negotiations that occur simultaneously. How many instances of negotiation or how much band width do we apply to that depends a lot on how many applications decide that negotiations are necessary and that changes to the agreement are necessary. We're working with different partners to provide a pretty high band width to conduct multiple negotiations. And then once those negotiations are completed they go back into the mainstream, so they go back into the next step.

I think it's no surprise that we're encouraging applicants to adopt the form agreement. We've said that in the formulation of the Guidebook, that this would be a feature. It's really, really important to note that contracts will not be executed by ICANN at this stage, so the applicant will be agreeing to the form agreement or negotiate terms in a new agreement and commit to that, but we won't execute agreements yet.

So once you've agreed to the form agreement, or completed agreement you can go on to the next step, which means you can make an appointment for pre-delegation testing. So this is the first real



metering. Once you go to pre-delegation test, in priority order you can make an appointment for a pre-delegation test. There will be four appointments a day.

So when your number comes up you can select the earliest available appointment, or you can select a later appointment. If you don't think you're going to be ready for a couple of months you pick a date in a couple of months. So this is intended to let applicants pick the earliest priority then can and want to, but also defer if they want to, too, and kind of set a date for when they're going to start pre-delegation testing and then getting into the root zone.

So there'll be about 20 or a few more appointments per week, about four a day, and we'll give them weekends off, or to do rework. And if you do the arithmetic it matches up pretty well to a thousand a year, so that's the spot at which these things are metered first. And I said applicants can make an appointment anytime to suit their own circumstances. So if you miss your appointment or fail your test, then you go back and make another appointment. If you pass, you go on to the next step.

And I just want say a few words about this. This is kind of how this works, so say these are the different strings and these are the different Draw Numbers that get released into the pre-delegation appointment slots. So say one through four, which in this case are X, A, C, and G — I don't know why — decide to take the earliest appointment slots.

But String F decides it's not going to be ready for a couple of weeks yet. It's not going to be ready until the 15<sup>th</sup> of April or whenever that is, so it decides to take a slot in April. And String S says I'm not going to be



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ready for two weeks after that. So these application slots just fill up just like in the spa down the hall that I will never see the inside of.

And then how does this weekly release of results work? Say like at the same time every week, like 5:00 on Friday night, so that we can all go home and feel good. In week one we'll release the first set of evaluation results, so say we release 50, or a 100, or 75 evaluation results in priority order, so there'll be numbers 1 – 75. They'll go on to the contract selection phase so they can elect in the next week to take the form agreement or not.

So in week two, that 1 – 75 will make that selection, and also in week two we'll release another set of evaluation results, say applications 76 – 200. Then in the third week, set one, applications 1 – 75 can make their pre-delegation testing appointments. Set two, applications 76 – 200 can decide if they want to adopt a form contract or not. And we'll release initial evaluation results for say slides 200 – 300.

So where were we? We were at pre-delegation tests. So applicants that pass the pre-delegation test in the week — the 20 or so, in the week where they have an appointment — if they pass will go ahead and execute contracts. So note importantly that we plan not to execute agreements until after the Beijing meeting. This is to line up with what we know about potential receipt of GAC advice.

And similar to pre-delegation testing we're going to execute contracts at the rate of 20 a week, so that's sort of a second metering. So if they kind of pile up for a couple of weeks, at contract signing then we'll have second metering and there'll be 20 contracts executed a week. Then



they'll be forwarded on to IANA processing, whose standard practice is to process applications on a first come, first serve basis.

And IANA and its delegation partners NTIA and VeriSign are working on and will soon publish a plan for doing that, but they've essentially worked through that. And with IANA there might be some additional lumpiness in delegations involved, but we expect the delegations to be 80, 85, 100 a month and not exceed the 1,000 TLD per year target delegation rate. So that's essentially the process.

Down in the lower left-hand corner I didn't talk about our guiding principles in this. The idea is to enable the program to move forward at a controlled pace, but also at a more rapid pace. So there's some acceleration here, and I want to remark that if you look at the time frames in the Guidebook and at the original idea for batching to 500, we would have taken 1 ¾ to nearly 2 years to process all the applications. And we're at a remarkably shorter time than that now.

We wanted to note again that the objection period will close nine months after the publication date, so that is March 13<sup>th</sup>. We'll release IDNs first to underline our commitment to the global public interest, international outreach, and like I said the ability of those around the world to use their computers in their own language.

Contract signing will occur, and delegation will occur after Beijing. And we're limiting delegations to 1,000 a year to live up to our commitments that we made to the technical community and governments to ensure the safeguard and stable operation of the domain name system.



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Ta-da! So that's it. So I'll put the slides back up if I can. Can we put the slides back up? So if there are any questions, please come to the microphone. I'll get my pad, because I'm a [Day List] person. Can you put those slides back up? Perfect. Thanks.

So Amadeu, what did I leave out?

AMADEU ABRIL | ABRIL:

I was trying to convey to you my reaction when read this proposal about the Draw. I remain speechless, which is a remarkable state for me. But I don't want to discuss about the unbreakable faith on the fate that ICANN has instead of making decisions. Some very concrete promise. I'm still lost about the contractual negotiations.

Two things, three concrete things that might be, according to the Guidebook made to be negotiated with ICANN. One is very simple, requesting an exception from Specification 9, the code of conduct for exclusive use TLDs. Is the contract negotiation the time for doing that, requesting that exception on Specification 9, a code of conduct for exclusive use — ICANN is not accepting the base contract.

The second one is there are some prohibitions for public administration and my request on a special clauses regarding arbitration, jurisdiction, etc. is also this not accepted in the base contract? That could be. And the third one is the community based TLDs that by definition need to incorporate their commitments into the contract. But this is not accepting the base contract, right? They accept the base contract, but they want to add something because you request that. This means in

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these three cases, that you lose your place in the queue because you have not accepted the bare bones base contract or not?

KURT PRITZ:

So we have to make that clear. We've spoken about the community based TLDs and the restrictions around them. And I think, but have to confirm, that those restrictions that are written into the application can be put directly into the agreement. So that wouldn't be a negotiation; that's just standard. With regard to the other two things...

AMADEU ABRIL I ABRIL:

One was public authorities and the special clauses for public governments, so to speak. And the third one was...

KURT PRITZ:

No, I've got them right here. I was just trying to say with the other two I'm not sure. So I think we need to make that clear. But your point really is on certain of these contract amendments they should be baked in without losing priority status.

AMADEU ABRIL I ABRIL:

Yeah.

KURT PRITZ:

Okay.



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AMADEU ABRIL I ABRIL: Yes, the other question regarding the interplay between objections and for instance community pejorative, because in this case we have two different procedures for something that might be similar — the same subject matter, two different procedures. How this play if an objection against a community TLD is filed tomorrow the resolution starts now, or only at the end of the objection period, or only when the initial evaluations are published?

KURT PRITZ: Right. So the objection period timetable starts when the objection is lodged. So if you read the objection process, I think there's 60 days for an answer and then the timetable starts.

AMADEU ABRIL I ABRIL: Okay, so it doesn't wait until the end of the...?

KURT PRITZ: Correct. I mean you'd want to spread those things out, right? So that makes sense. This is far to walk back and forth.

[background conversation]

MALE: I just have a really simple clarification question about contention sets and initial evaluation. Just imagine two applications within the same contention set and one in the Draw gets the Number 1 and the second within the Draw gets the number 100, does that effect what order



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they'll be evaluated within the initial evaluation, because they're in the same contention set? And if so, I think it does, is it that the Number 100 gets drawn up to follow the 1 or is it that the 1 gets dragged back to the 100?

KURT PRITZ:

So it doesn't affect when they get evaluated. They get evaluated in priority number, so as soon as the Draw is done we'll start feeding those applications in, in their reordered number. But what happens is under objections contention, those applications will be held there until the contention is resolved. And so say, Number 1 comes in the next week along with applications 200 – 300 that week. It would be number one, so it would be the first one to accept the standard agreement in that week's lot.

MALE:

Okay, great. Thanks. Hey, Tina.

TINA DAM:

Hey. So you just answered my question, but I also have a comment. Tina Dam, DotMusic. About the IDNs go first, I think it's great to see ICANN doing something to promote the global public interest and serve those communities better, but I don't think you got it quite just right, because if you look at these IDN applications, they're not all from those parts of the world.

So then you might say, "Okay. Well, but and IDN TLD in other language or script might still serve that community." But if you then look into



some of the registration rules, I don't think they all do. Some of them have preregistration rules for people that already registered in the ASCII version of that TLD. And so are these people that couldn't get access to the internet in the first place? No, I don't think they are. These are people who preregistered to have a first come gain, which there's nothing really wrong with, but I think it's just not meeting your objectives.

So you may want to look at applications from other countries. I think if you're an applicant from Africa and you picked your TLD to be ASCII version you don't have a lesser right to be first in the queue than an IDN TLD. And there's other criteria, right? So you could dig into the applications a little bit and sort of see the statistics on that before you make that call.

KURT PRITZ:

Right, and you've been there, so you know this is the sort of thing we all argued about when considering this. And realizing that a lot of IDN applications are from the United States or they're from big companies, or some of the applications from developing countries really have headquarters in the U.S. So then it becomes a choice of what do you think is the best and the bright light of rule. So that's why what's written is written, but that's why it's posted for public comment, too. And that way you and others can suggest the sort of analysis that might provide the most benefit.



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TINA DAM: Okay, I'll try to make the analysis for you then online. But I'm not saying don't do the IDNs first; I'm saying maybe add a little bit to it.

KURT PRITZ: No, I understand.

JIM PRENDERGAST: Hey Kurt. Jim Prendergast, Galway Strategy Group. I've got 47 questions, but I'll only ask two. On the IDN question, if an IDN... They're all slotted first, but what if an IDN applicant wants to opt out of going first, would they just delay on the pre-delegation testing? Is that how they would address that, or if they don't...

KURT PRITZ: So they wouldn't participate in the Priority Draw and they'd get put randomly at the end.

JIM PRENDERGAST: So IDN applicants have to participate in the random Draw, buy a ticket, show up in LA, even though they're going first?

KURT PRITZ: I think so, but that's a very good question and we should think about that.

JIM PRENDERGAST: Okay. And then on GAC advice, I sense there's a conflict between what the Guidebook is saying and what I think is implied by the chart. The



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Guidebook says that GAC advice must be submitted before the close of the objection period, which is now March 13<sup>th</sup>. But we've already heard from the GAC, they hope to issue advice and I think we all hope they have issued advice by the Beijing meeting. So there's a conflict there. I asked you this the other day, I don't know if we got an answer, but...

KURT PRITZ: I'm sorry, but I didn't understand that question.

JIM PRENDERGAST: So the question is will you execute contracts before the receipt of GAC advice?

KURT PRITZ: Right. So the receipt of GAC advice is somewhat uncertain, and so we don't know exactly how that's going to play out. In planning for that we've signaled that we won't sign any agreements before the Beijing meeting. We think that the GAC position about when GAC advice will be issued or how or if, will solidify and then we can make that all certain.

JIM PRENDERGAST: Let's hope the GAC gets it done on time.

ANNALISA ROGER: Hello Kurt, this is Annalisa Roger from the DotGreen community and we are designed to serve the global public interest. So I want to support the intent of the idea of equal multi-stakeholders. I also like the global



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public interest strategies behind the IDN going first, and I support the IDNs going first.

And my comment is similar to Tina's that since that's the intent and the strategy, the mechanism of how that's done, it would be great if that was looked at more in depth. And I think if the internet user is the customer of ICANN — I believe I heard that this week — maybe it's the internet user that should be benefiting in terms of global access.

And if that's the case, it may not be the registry applicant that is providing that global public interest, internet user accessibility that is the intent behind that idea. What is it that's really making a specific TLD accessible to that internet user and where is that public interest actually going? So like Tina said, there are other parts of the application that could be looked at.

And then my question is, on this chart here, the third square over, "Objections, Contentions, Fail," the yes and it goes to the Resolution box, and I think we're missing a great piece there that is part of the ICANN process. Resolution I believe is either — I don't know if I should use the word 'purchasing' the TLD from ICANN, or going to an ICANN auction.

But where is that and how does that look in terms of timeline, when we would find out when an ICANN auction is available to a particular string contention set? I'm assuming you have to wait until all members of the contention set would pass evaluation? When do we get that next step?



KURT PRITZ:

So resolution means whatever it is, the objection's resolved, or the contention's resolved, or the lack of passing the evaluation's resolved. The way the Guidebook is set out now is that... Well, there's ways of resolving contention, right? There's community priority and there's auction. The way the Guidebook is written is that the community priority, one of the community TLDs can elect the community priority test as soon as all other contingencies are cleared, so as soon as IE is over for that applicant, and if there are any objections, as soon as they are cleared.

So they can raise their hand say I'm ready for community priority evaluation. Similarly after that a party can say we're ready for auction. We're unable to resolve our differences. The time during initial evaluation is also the time during which the parties are expected to settle their differences or not, and then you go to auction. And then the auction can occur either when all the parties are ready and say we want to go to auction, or when they're all done with IE.

ANNALISA ROGER:

Okay, sorry. I just heard you — this may be problematic — I just heard you say when all the parties are ready to go to auction. Is that left up to the parties to auction? Let me just put it this way, somebody has 100 TLDs and they're not in a big hurry to go to auction, does the single string applicant have to wait until they feel in the mood to go to auction? Sorry, Kurt. I need some clarity.



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KURT PRITZ: So I should have diagramed my sentence for you. The parties can go to auction soon, even when they're in evaluation if they all choose. But then once they're all out of initial evaluation and objections are cleared, then a date will be set certain for the auction, so it won't be...

ANNALISA ROGER: Set by ICANN?

KURT PRITZ: Right.

ANNALISA ROGER: Okay. And will those auctions go on during... Your next slide showed the week by week rollouts. Will there be auctions along week by weeks also, simultaneously going on?

KURT PRITZ: Sure the auctions will occur as soon as they can.

ANNALISA ROGER: Okay. Okay, thank you.

CAROLIN SILBERNAGL: Hi Kurt. My name is Carolin, speaking for doTHIV Initiative, a charitable top level domain serving the international fight against AIDS. I would have another question on the new money that is coming in through the Draw. To my understanding the whole system is designed as a fundraising lottery. Is that right? And if so, to my understanding the



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nearly \$200,000 U.S. that you've raised through the drawing will have to be directed to charitable work. Is that right?

And my question is if you have already decided to whom the money goes, and if not, I would like to invite you to address community driven or mission driven TLDs, because we all have a huge network of organizations and could help finding out good...

[crosstalk]

KURT PRITZ: Well, thank you very much. And there are some restrictions around where that money can go, because it's conducted in the U.S., but we'll make those certain and we would really like to hear more about that. Thanks.

CAROLIN SILBERNAGL: Okay, thank you.

KURT PRITZ: Hi.

[IDIA DINALI]: Hello. My name is [Idia Danali] and I'm speaking on behalf of the gtIDN gTLD application, and I strongly appreciate the ICANN's decision to let IDNs go first. I think that's really a great move. And I have very practical questions around that. There are details of the drawing process, it's minor details which are still not clear. My understanding is IDNs still have to participate in the drawing. Yeah?



KURT PRITZ: Yes.

[IDIA DINALI]: And if we are sending our representative for the drawing are there any restrictions on who can be and who cannot be that person? And if we decide to use the ICANN appointed representative, then how can we ensure this \$100 in the pocket, because it's my understanding that he has to pay in cash? So we expect these details to be clarified maybe in the nearest weeks.

And then IDNs mostly come from the countries that have their specifics in law, and that means that despite the applicant's wish there might be necessarily some negotiations and some amendments to the contract. What ICANN consider the way to make these negotiations quick as possible in order not diminish that great move to let IDNs be first?

KURT PRITZ: Thank you that's an excellent point. Contract negotiations can be very brief or longer depending on what the request of the registry is and if it's straightforward, or some nuances because it's an IDN that could occur more quickly. And I certainly hear your question about furnishing more complete details, more pros about the requirements so you're certain about what you have to do.

[IDIA DINALI]: Okay. Thank you.



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KURT PRITZ: Thank you.

FRED KRUEGER: Hello Fred Krueger, Minds & Machines. Two questions, first of all does pre-delegation testing have to wait until initial evaluation is complete? If the systems are in place right now, why can't we actually begin pre-delegation testing and get it over with? It'll accelerate things. That's my first question. My second question is just purely in terms of timing, I've heard the date March 13<sup>th</sup> for the end of the objections. Yesterday somebody said that the initial results would happen in March and today I'm hearing April. So is it March, is it April, what is it?

KURT PRITZ: It is March. So I misspoke myself. So the end of the objection period is March 13<sup>th</sup> and then initial evaluation results will start at the end of March, and if you think about it, that's what gives you enough weeks, if you do the math to get to about 150 a week.

So I think two things. One is pre-delegation testing was set up for those that have already passed initial evaluation because it makes sense not to spend money on applications or time or advance applications that haven't passed testing yet. Second, if we're living up to our agreement to start executing agreements and delegating TLDs in the root right after Beijing, there's no benefit to moving it forward any more than what it is right there.



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FRED KRUEGER: Just in terms of time, how long... How many do we think we can pre-delegate a week?

KURT PRITZ: Well, we're going to do 20 a week.

FRED KRUEGER: Oh, 20 a week. Thank you.

KURT PRITZ: Maybe a little more. Hi Werner.

WERNER STAUB: Okay, Werner Staub from CORE. I have two questions, one of them is... Well, before I ask it, the Draw is not what I prefer; I think everybody knows that.

KURT PRITZ: The Draw what? I'm sorry...

WERNER STAUB: The draw is not what I think is a good idea, but now that you have decided that, which I still hope you're going to change, what are you going to do with those who you call the opt outs? In which order are they going to be put — secondary Draw? I mean are they going to play without playing?



KURT PRITZ:

So once somebody opts out and attaches no value to going first, second or third, it's allowable to order them randomly, because they've declared by opting out that this has no value to them. That's what makes... You know this really poor me to be trying to explain this, when we should be explaining the writing, but that's what makes a random draw for those opt outs allowable.

WERNER STAUB:

Okay now what is the justification for the draw not to take into account preferences? There are some people who would like to be going at this time — maybe not now, but a little bit later — but they'll not be able to express that. Some of them, specifically the single registrant or more precisely exclusive use TLDs, those usually have only one problem — not to be the first, not to be in a hurry, but they would not like the competitor to go two years ahead. That's not good.

So basically it's just so long as they express that wish. These are competitors; we do not wish them to be ahead of us, so long as that's okay, you can place... If you don't give them this ability they have no other choice but to play. They're not going to be opt outs as you call them, because they cannot accept that risk or increase that risk. So what option are we giving them?

KURT PRITZ:

We're giving this option, which addresses part of your concern, but it's really difficult to address all of it. In priority order, each applicant will be allowed to select a pre-delegation appointment at a certain time. So if sees the prioritizations and sees all the strings and where they are in



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prioritization, it can pick an appointment time that's later on or earlier on in order to balance "I don't want to go soon, but I see that guy's going now, so..."

WERNER STAUB:

Do I understand correctly, they have to play? And once they have a good number, they can then actually graciously select an appointment a year down the road?

KURT PRITZ:

Yeah and so we could discuss what's the penalty for playing and it's a jurisdictional requirement that we charge a price for this, so there's this \$100 ticket, but essentially that and a little bit of administration is the only cost for playing. And if you think about the different options, we think this is the least burdensome to applicants and the most equitable and gives everybody the same shot.

WERNER STAUB:

It is actually not true. That's not the only cost. The cost of playing is the randomness; that is the cost. So if you could make sure in a better managed system that you're in the right spot, not being disadvantaged... The one who's behind basically, take UPS, they have maybe drawn number 1,500 and HSPC has drawn number 2.

Okay, so basically that means that they're a year or a year and a half different. If something goes wrong it costs them maybe three years, who knows. That is not acceptable. They cannot change that. They can only hope that their competitor would actually be gracious enough to



also wait. But we did have the option to do it right, so why don't we do it right?

KURT PRITZ: Well, that's a balancing and you can recommend that, but that would require ICANN applying judgment to which applications should be grouped together, which...

[crosstalk]

WERNER STAUB: It is not your choice. If you ask them, they said so. We did as you said. There's no problem. Between them they have no problem if they're just allowed to express. So rather than just sending a ticket, if they could write something on it, so to speak — please, that's our preferred seat, as in any other seating. Now the last thing is with the express any objections, I didn't understand what you said. In the written document it say the objections will only start after the end of the evaluation. Now when is it going to be?

KURT PRITZ: So objections can occur at any time.

WERNER STAUB: Yes, but when are they going to be heard and decided upon?



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KURT PRITZ: I'm looking at Amy, but the objections follow a timeline, right? So there's a 60 day window for replying and then each objection takes off on its own timeline. Okay.

WERNER STAUB: If we could please have clarity on this. This is very difficult to understand where we are.

KURT PRITZ: Here's clarity coming right down the aisle.

AMY STATHOS: Thanks. Amy Stathos from ICANN. Once all of the objections are filed, at that point ICANN will issue a dispute notice, which will announce that all of the objections have been filed and the objection period is closed. At that point in time the dispute notice triggers the dispute resolution providers to then send notice to all of the objectors and the respondents that it's now time for the respondents to file a response. So all the time starts ticking after that notice is published.

KURT PRITZ: So all those notices will be published after the March 13<sup>th</sup> date?

AMY STATHOS: Yes.

MALE: So that's about what you were saying?



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KURT PRITZ: That's right.

WERNER STAUB: But that means that there is not going to be any case law in terms of objections. All the objections are going to be heard at the same time. All of the respondents have to prepare, all of them at the same time, and all the complainants have to make objections against all the cases that they have.

KURT PRITZ: Will objections be posted when they're objected to? When there's an objection filed it'll be posted?

AMY STATHOS: That is correct.

KURT PRITZ: So the applicants will see that, or potential objectors will see that an objection is filed, so they'll know an objection is filed. And what's going on here is another balancing, because this allows us to consolidate the objections and save the objector and or the applicant fees, because all the objections against one applicant can be heard at one time if they can be consolidated.

WERNER STAUB: Well, the best consolidation is the objection to go through and get the thing done. Then the other ones will never have to be done again.



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KURT PRITZ: You could say that, but then somebody will object on different grounds or people that are against a certain application will wait for that objection to be resolved and then file another objection. So there's kind of bad things that can happen at either stage.

WERNER STAUB: Will we have time to discuss more about objections in this...

KURT PRITZ: Yeah.

WERNER STAUB: These are enormous costs. I mean if you look at community objection, the way I calculate it's going to be \$100,000 at least for one. And that's not the...

KURT PRITZ: Okay. Werner I've got to go on to the next guy. Thanks. Hey, Tony.

TONY HARRIS: Hi, Kurt. I just wanted to rephrase a comment I made on Monday, in case it gets lost in the shuffle. We're the applicant for .Lat, the Latin American Federation of the Internet. And as I said then, I am still concerned about the question of the Draw.

I think it's a good idea, but the way it's presented is as a single applicant there is a potential that another applicant or other applicants with tens or hundreds of applications will go through the process before I will



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with just one. So I think it might be, let's say fair, to consider having a first round in the Draw, per applicant and not per application. That might seem to be a little fairer. Thank you.

KURT PRITZ:

Okay. Thanks Tony.

SARAH FALVEY:

Sarah Falvey, Google. I have a question that's actually from Argentina and that is one the interesting things about the digital archery process was that it provided for global representation, because it round-robinbed through the different regions. And I think that we can all agree that there were clearly some issues with the digital archery process itself, and that this is generally an improvement on that process. But it's interesting that this sort of round-robin through the regions has been dropped, and so I'm sort of interested as to why that's taken place, number one.

And the second point is, what was the motivation around allowing IDNs to go forth all on their own and not having it sort bucketed and alternating between ASCIIs and IDNs? And even if you did that it would only extend the IDN entry into the root by roughly six weeks.

KURT PRITZ:

Right. So we start with a blank sheet of paper. One of the criticisms of the digital archery model was that there was great chance that those that were closer to someplace, wherever that target was would have an advantage. And so some geographical locations would be



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disadvantaged naturally through the process, so the idea of the round-robin was really meant to defeat that.

And then so starting with a blank sheet of paper we talked about how to serve the public interest the best way. And understanding that there are commercial applications, and not for profit applications everywhere, and public interest applications everywhere, and mercenary applications everywhere we thought that the best way to promote the public interest and promote globalization was IDNs. So that was a choice and your suggestion for spreading out IDNs a little bit is also a good one, and we wanted to keep the model really simple, but our recommendation along your lines can be thought through, too.

SARAH FALVEY: Okay. Thanks.

KURT PRITZ: Hey Carol.

CAROL CORNELL: Hi. This is a remote participant. This one's Liz Williams: What do you do with IDNs that have ASCII pair; does the IDN get priority attached to the ASCII version?

KURT PRITZ: Ask that question again.



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CAROL CORNELL: What do you do with IDNs that have an ASCII pair; does the IDN get priority attached to the ASCII version?

KURT PRITZ: So no.

CAROL CORNELL: The second question...

KURT PRITZ: Whoa, I answered a question with one word for the first time in my life. I can't help but go on. Alright. Next.

CAROL CORNELL: The second question is who has the final say and sign off of the nonstandard contracts and how will that be resourced? We don't need one choke point for decision making. That was also from Liz Williams.

KURT PRITZ: Okay and certainly we want to strongly incent the adoption of the form agreement and that's what we're trying to do here. But we are putting together resources to conduct multiple parallel negotiations. We'll firm that up when we see the number of negotiations that occur.

ELAINE PRUIS: Hi Kurt.



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KURT PRITZ: Hi.

ELAINE PRUIS: Elaine Pruis, Minds & Machines. Something very strange happened yesterday, and I'm not referring to music night. I found myself agreeing with the GAC in that Geos should have some priority behind IDNs for a couple of reasons. It serves the global public interests, it addresses some of the questions about geographic diversity, and we know hopefully that Geo Review Panel will come out with their results well before initial evaluation results are announced.

I thought about the communities being in that bucket as well, but the way the Applicant Guidebook is written, we don't know if an application has passed the community evaluation panel until the very end. It's written so that that's not decided until it's absolutely the last thing. So I would be concerned that we would have to rewrite the Applicant Guidebook to include communities and some sort of prioritization.

A couple of other points, I wanted to know if you are using the same back-end registry service provider or if a single applicant has the same technology, do they have to go through the same pre-delegation testing for every application, or can it just be a check of a particular system?

KURT PRITZ: They have to go through it again, and again, and again.

ELAINE PRUIS: Is that a two hour process as indicated on your calendar, or is that a week long process?



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KURT PRITZ: I'm not sure. I think it's much closer to the first than the latter.

ELAINE PRUIS: Okay. That will be good to know for resourcing.

KURT PRITZ: And we'll publish an informational article about that.

ELAINE PRUIS: Okay. Another thing that I wanted to suggest and I think it's a really good idea, and unless there's a legal reason not to, I'd like to see it adopted. Since our \$100 will go to charity, could we please pick our own charity for that to go to? I think there'll be less outcry from the community if the money goes to the Sierra Club instead of United Way or something. If I can say I want this \$100 to go here; it seems reasonable to me.

KURT PRITZ: Seems reasonable to me.

ELAINE PRUIS: Alright, good. And I think overall this is really an excellent solution and I'm very glad to see ICANN and the Board presenting something finally on this outstanding question, and we're excited to start the ball rolling, so thanks.



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**KURT PRITZ:** Okay, terrific. Thanks Elaine. And we had a lot of the same discussions about geographic names and they're not on the list, but like I said, you can argue both sides. Geographic names are names that appear on a list, it's on an ISO list or some other UN list. There are geographic type names that perform the same public interest or more of a public interest, that aren't on those lists. So they wouldn't be described as a geographic name and so that's what made the parsing kind of difficult. But there are arguments for promoting other types of TLDs. Hi.

**RUBENS KUHL:** Hi Kurt. Rubens Kuhl, NIC.br. I have binders full of questions, but we will limit those to one. I didn't see in your drawings the Board approval phase, because the Guidebook specifies that each new TLD would require Board approval. So when is Board approval occurring in your diagram?

**KURT PRITZ:** That's embedded in the process. And the Board will receive reports on a periodic basis about which applications have been processed, along with reports that demonstrate that each application has gone through the appropriate steps and all appropriate processes have been met. And the Board can decide if it wants to investigate at any time any application. So the Board will provide oversight and be involved in the process, but there will not be a specific Board step where each TLD is approved by the Board.



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RUBENS KUHL: Okay, just a quick comment. We are an applicant with more than one string, but we really support the idea of having multiple Drawings. A first Drawing for single applicants and then one application of an applicant and then another Draw for the second application and so forth, so there could be a really more balanced way of distributing the TLDs. Thank you, Kurt.

KURT PRITZ: Amadeu?

AMADEU ABRIL I ABRIL: Here I am. So I don't like psychodramas. So the question is during the change to influence the Draw, not just esthetically, we could say that we're still having a Draw, we could go just to (inaudible) version as the oracle, which should come first. It would be more esthetical. It would be exactly the same, trust in the fate as making judgment. You said that word too early. We don't want to make judgment. The problem is that we want you to make judgment, not you Kurt, ICANN should make some judgment.

So let's try to give some practical advice of things that could improve the method if it cannot be changed. IDN is one; many others have been said here. You should take into account probably that the system, even if you don't like it, favors some types of applicants or applications regarding others. And the case of the single application applicant is one of them, so perhaps you should consider having different tracks, even if you keep the Draw. And use some sort of round-robin (inaudible).



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Second, why don't you move the multiple application applicants and have two or three hundred to tell you in which order? They pick the Draw if you want number 1 or number 1,000, but at least you're not unnecessarily harming by having all the bad applications, or the less interesting, or less urgent applications first in the reverse. This is not something that requires you to make arbitrary judgment. It's simply allows you to make better non-judgment decision making through the Draw.

It's not just you making the decision; it's listening to the real interests of the people. Let me give you another example. Moscow and Moskva, okay the IDN and the ASCII, but something even worse indicate of social repercussions. And perhaps they are in the room and they could speak for themselves. We have no relation with them direct, so there's a part of the world watching that.

Wales and Cambria the same TLD for the two languages that are official and speaking in Wales. Just having them one year apart can create a huge debate, because they are applying for two after a long political and social debate. Why ICANN in its role, should really reconnect that useless debate. They should have one method of saying we want them together. It does not harm me. It does not harm anybody else.

And the same for the case that Werner was saying about competitors. Just tell them we are in that track. We are in that group, so you draw for that group. And whether we are the first or the last we follow your rule, but allow us to minimize what we consider — perhaps wrongly — but we consider as applicants that would be harmful to us. So I feel there is some room for not just improving the system, but limiting the



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collateral damages of applying a blind absolute rule on the Draw. And I don't know whether it is possible or not, that's the question.

KURT PRITZ: And you know, you and I have talked about this a lot. Others have talked about it a lot. The idea of putting competitors together; some competitors might not want to be put together.

AMADEU ABRIL I ABRIL: They're right. They're right.

KURT PRITZ: Some applicants might not want to be forced to pick between applicants. Say you're representing an application from this geographic region and this geographic region. You've got pick between one government or the other. It's an impossible situation and even giving the ability to pick between governments can put applicants in a very awkward situation. Wales, it's not a very attractive choice, but they can select pre-delegation test dates that puts one's flap up against the other.

AMADEU ABRIL I ABRIL: As you say, you're offering not very attractive solutions for simple problems. Let's offer something that's more attractive.

KURT PRITZ: But it is a really interesting discussion and that's what this comment period is for and it can be tweaked.



PAUL MCGRADY:

Thanks Kurt. Paul McGrady from Winston and Strawn. Kurt can you just talk to us a little bit about the thinking behind not allowing the tickets to be exchangeable, because it would seem that that might be a valuable thing that someone who draws a high number, but doesn't really care when they go in, might be able to sell or whatever. I know you've indicated that that won't be allowed and I'd just like to understand a little better why?

KURT PRITZ:

One is to and it can provide value, so it's a really interesting question and again a lot of these decisions and the way these things made it into the draft model are 60/40 things right. So first of all it's really simple. Second I think there can be criticism of it, so we've talked a lot about applicants for a single TLD versus one a hundred and the one for a hundred can see the lay of the land and gain advantages against the single applicant — one by re-jiggering his priorities. So if he sees a competitor over there he can get in front of it by virtue of the fact that he has a lot of applications.

Just in the new gTLD process there's criticism even though this is all about creating value through creating business that make a profit. There is criticism of the process by allowing business to sort of what could be termed manipulate the system, but what I would call a free market and beneficial. And we want to avoid that criticism just for the overall look of the program. But if you get me out to the bar, I'll get on the barstool and argue for a free market. But those are the reasons.



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PAUL MCGRADY:                    Would it be useful to have public comments on that portion?

KURT PRITZ:                        Sure.

PAUL MCGRADY:                    Thank you.

KURT PRITZ:                        Thanks Paul.

HENRY CHAN:                      Thank you Kurt. This is Henry Chan, representing dotMTR applications. I've got two terrifying questions and for real, one comment. The first one is about the \$100 prize for the ticket. Is it minimum requirement for fundraising lottery based on the U.S. jurisdiction, or is it just a random number that you came up with?

And the second one is will the ICANN arranged proxy be ICANN Staff or an independent proxy you contracted? That question is for applicants or applications that they don't bother, or they could not afford to go to U.S. for the Draw, and they will all depend on this proxy. So what we would like know more detail about how you are sure that the proxy will do his or her job properly.

And the first one, which is a comment, is that we support the idea of having a first round Draw for single applicants.



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KURT PRITZ: Okay, thank you very much. The \$100 prize is not random, but it's not a hard line price written into the jurisdictional requirements. It has to be of some value and balancing that fee, versus the evaluation fee and other costs, we determined that \$100 was the right number for that. So not random, selected to meet the jurisdictional requirements.

The proxy will be an independent third party, and we will publish more information about how you arrange for that. And I understand your comment about the single applicant.

HENRY CHAN: Thank you, Kurt.

KURT PRITZ: Carol?

CAROL CORNELL: Hi, another remote participation question. This one is from S-h-w-e-t-a, Shweta, the Retox registry. Question, so the applicant with the Draw Number 120, is in contention with an applicant for the Draw Number 800. The former applicant has to wait until IE results for the latter is published weeks later. Does it make more sense to group all applications in contention into one set of IE results? That is publish IE results for 800 along with 120, that way both could potentially move into resolution process.



KURT PRITZ:

Right. And another excellent question and that's the way it was in the old batching scheme when we were going to do batches of 500. Recognizing that contention can be resolved any time that the parties can get together and resolve it, ahead of the initial evaluation results or between that time, we made the election that you can accept the standard agreement once we know you're a viable candidate from the standpoint of passing IE and resolving contention. So it's really the gate to agreeing to a form of agreement.

CAROL CORNELL:

Great thanks Kurt.

ANNALISA ROGER:

Hi Kurt. This is Annalisa with the DotGreen community. I support the Draw. I like the randomness of the Draw and what you had spoken about earlier where people who have a lot of Draw Cards, don't gain an advantage by being able to manipulate the order. And I had a comment about auction. Actually I had two comments.

You just mentioned about that resolution time that is offered to applicants, but I think there's a silent dangerous assumption behind that idea. And that is that all applicants are in it for the same purpose, i.e. money. So if this was a business and everybody's in it for the money, then it sort of makes sense — great, they can work things out. But the reason behind that for each applicant could be different, so I think that shouldn't be an assumption on the part of the planning.

And then moving on to the ICANN auction, are we going to hear this week about what happens to the money? I know previously there was



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some talk that ICANN auction money would go to charity. Has that been confirmed? Are we going to hear some more about that?

KURT PRITZ: Going backwards you'll hear some more about that. ICANN intends to establish a foundation. Part of it goes to how much money there's going to be, so you don't want to spend a lot of money creating a foundation that manages a fund of money that's nonexistent or really small and vice versa. So it's sort of a chicken and egg thing, but we'll publish more about it.

ANNALISA ROGER: So there are thousands of foundations existing, would that be a possibility? Could ICANN as a 501C3 can they donate to an existing foundation?

KURT PRITZ: Maybe we could; it's kind of out of my scope.

ANNALISA ROGER: Because California tax law says exactly that. And by the way the DotGreen Foundation is a 501C3 and it's in Californian and legally can accept donations.

KURT PRITZ: Well, here's \$185,000. So let's cut off the lines here, because we're kind of out of time.



ATSUSHI ENDO:

Hello Kurt. This is Atsushi Endo of JPRS. I asked you a question the day before yesterday and I understand the standard agreement is on Module 5, but I have another related question. Exhibit A, which defines the registry service on Module 5 is blank; it's a white page. So my understanding is all registries have to put something on that Exhibit A, so this means that every registry has to have a kind of negotiation between ICANN. So my question is, what is the definition accepted standard agreement?

KURT PRITZ:

Okay, thank you. That's a very good question. I can give you a partial answer that in one of the questions that you answered in the Guidebook — and Trent could tell me which one it is — has you describe your registry's services. And in fact part of the evaluation is to make sure you're registry services don't disturb DNS stability. Those are the registry services that would be incorporated into the agreement.

So if you wanted to introduce additional services that were not part of your application, they would have to go through that DNS stability review, which would kind of retard the processing of the application. But and I don't know and I'll talk to John and others about how that wording and the answer to that question can be taken verbatim or what has to be done to them in order to make that a contract term rather than a answer to a question.

But essentially the intention is whatever you answered to that question about registry services goes into the agreement and becomes part of it.



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And then the negotiation is if you want to depart from that. Does that make sense?

ATSUSHI ENDO: Yes, at this moment. Thank you.

KURT PRITZ: Okay. Hi, Elaine.

ELAINE PRUIS: Hi. It's me again, Elaine Pruis, Minds & Machines. I have just a couple of quick questions. Is the drawing a two hour event or a weeklong event, where somebody can pop in at their convenience? What's the date range of the auction? If you trigger the start of the auction how...

KURT PRITZ: What's that?

ELAINE PRUIS: The date range of the auction. You trigger the auction, how long does that last? And then the next point is a suggestion. I've heard lots of people say that they can't accept the standard agreement because it's contrary to their jurisdictional laws, such as the EU. So a suggestion to ICANN legal staff to put together standard contracts that will address those problems before we get to April. Thanks.



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KURT PRITZ: So the drawing will be a daylong event. If I was Fadi, I'd do this great job of saying bring in your kids and the drawing will be a one day event and it can be very interesting and we can make it sort of a public interest event around the benefits we're expecting to get from new gTLDs, so expect to get some benefit out of it too. But anyway, one day. And then I understood your other comment.

So the auction, if you read the Guidebook, and I know you have, really provides a wide range of dates where the auction could occur, because different types of contention or objection have to clear before the auction occurs or it can occur as soon as the parties complete initial evaluation, so auctions could occur right after the initial evaluation results for the contending applications are released, or well after. And it can take that timeframe in the Guidebook and slide it.

ELAINE PRUIS: Once an auction starts how long does it last?

KURT PRITZ: That's pretty well defined in the Guidebook, too, I think.

ELAINE PRUIS: Do you remember?

KURT PRITZ: So one of those (inaudible).



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ELAINE PRUIS: Does anybody remember?

[background conversation]

KURT PRITZ: The whole auction takes place in a day or two days.

ELAINE PRUIS: Okay.

KURT PRITZ: Carol?

CAROL CORNELL: Hi. One more remote participation. Actually we quite few and these we'll have to answer after the session. Mr. Kumar: Since the pre-delegation testing also follows the Draw order, an application which has Draw Number 800 and is in contention, which results in a multimillion dollar auction result, will lose interest in the auction capital for many weeks. Can the auction in such a case happen closer to the contract selection/pre-delegation date?

KURT PRITZ: If a train leaves New York at 3 PM on a Tuesday...

CAROL CORNELL: I'm sorry.



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KURT PRITZ: Read the question again. I'll do better.

CAROL CORNELL: Sorry. Since the pre-delegation testing also follows the Draw order, an application which has Draw Number 800 and is in contention, which results in a multimillion dollar auction result, will lose interest in the auction capital for many weeks. Can the auction in such a case happen closer to the contract selection versus the pre-delegation date?

KURT PRITZ: So the auction can occur as soon as the parties elect, but after the parties clear initial evaluation, and objection and contention will want to attach a time certain to it.

CAROL CORNELL: Okay. Thank you.

KURT PRITZ: Is that what I was supposed to say? Hi, Jordan.

JORDAN BUCHANAN: Hi, Kurt. Jordan Buchanan with Google. So a very quick question and then maybe a slightly longer comment. The very quick question is, is the 20 slots for pre-delegation testing per week, is that a technical limitation? You guys don't have the capacity to do more testing than that, or is that just an arbitrary thing to roughly match how much you



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expect to delegate into the root later? What is the source of the 20 per week limit on pre-delegation testing?

KURT PRITZ: It kind of matches up with the thousand a year.

JORDAN BUCHANAN: Right, so it's to match the delegation rate, essentially.

KURT PRITZ: Right.

JORDAN BUCHANAN: Alright. So my comment is that I just wanted to basically thank you guys. I think that this proposal, I don't think it's perfect; we'll make some comments. But I think you guys clearly read all the comments from folks who listened to the community. I think this proposal is significantly superior to almost any of the public comments you received. So you were able to assemble a bunch of not great ideas and take elements of them and incorporate them into a reasonably good idea.

And in addition to that I think this session... This is probably the best session I've ever attended at an ICANN meeting. I think the level of engagement from Staff, the honesty, and the productive exchange with you, Kurt, in this session and the quality of the questions from the community, I think is extraordinary. Let's do more of this, please.



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KURT PRITZ:

Okay, I can't follow that, so have a good day everybody.

[End of Transcript]

