MONTREAL – GNSO - New gTLD Subsequent Procedures PDP WG (2 of 4)
Saturday, November 2, 2019 – 13:30 to 15:00 EDT
ICANN66 | Montréal, Canada

JEFF NEUMAN:	Okay, let's give a two-minute warning. Two-minute warning.
	Okay, one minute. So, if everyone can please start making your way back to your seats. One minute.
	Okay, everyone, if you could please take your seats. I just disconnected something. Can you guys hear me? I disconnected something. Sorry. Oh well. No, the camera is still on. All right. I disconnected something. Something is broken. We'll find out. I was just trying to move the microphone closer. What's that? Okay. Whatever I did, didn't have too much of a ramification. You can still hear me. Okay, we'll get started anyway.
	Thank you, everyone. Welcome to the – as Heather is trying to figure out what I did to the microphone. There we go. I basically disconnected the chain to everybody else. All right. Give me one second here. Maybe that was intentional. Okay, now I'm disconnected. Can you guys hear me, anyone?
UNIDENTIFIED MALE:	Hello.
JEFF NEUMAN:	Okay. Thank you. Sorry about that. We're back. Thanks to Heather.

So, since that last session took less time than we thought it would, we're going to start on some other materials and I thought what we would start with is we got a response yesterday from the ICANN Board on the questions that the GNSO Council sent to the Board on dependencies, which were related really to work that came from us or questions that came from us. So, we'll start with that letter and just talking about that response that we got.

Then, a few of us were at an NCAP discussion group meeting yesterday which stands for Name Collision Analysis Project I think is the A. So, we'll do an update of what happened there and the inter-dependencies of those groups. Then, we'll get into the substantive material that we were planning to start on Monday, the second two sessions, and knowing that there may be some people that are either not fully prepared to talk about that today or that had to miss today for whatever reason and were planning on discussing it on Monday. We'll do a recap of today's session and then see if there's additional input, so that hopefully it won't affect the people that were planning to contribute.

So, that's I think what we'll cover in the next I think it's 90 minutes, or now it's probably 75 minutes or so. Does anybody else have anything they want to add today? I'll just do a quick check around the room. Jim, please.

JIM PRENDERGAST: Yeah. Thanks, Jeff. I noticed on the agenda for this evening is a GAC focal group meeting on SubPro. I'm wondering if you and/or Cheryl are

participating in that? Do we know who that group is comprised of, what [member countries]? Thanks.

JEFF NEUMAN: Okay. I'll write that down. We'll talk about that. Anything else before we move on? All right. I'm sure other questions will come up as we go along.

So, a few months back, I guess now, the GNSO Council had sent a letter to the ICANN Board as a result of our questions to them specifically on the dependencies for getting to the next round. Well, for first finishing our work and then getting to the next round of new gTLDs.

There have been a number of statements that were very general in nature that said that there are dependencies but were not specific enough to let us know what those dependencies were.

So, there was a statement, for example – and I don't remember if this was in correspondence or an actual board resolution – that said that completing the NCAP work, the Name Collision Analysis Project work … Or sorry, the next round of new gTLDs is dependent on the completion of the NCAP work. Something to that effect. I know I'm paraphrasing here.

And then there was also other initiatives going on at the GNSO Council level and at the Board level and what we wanted to do as a group is to find out, okay, we want to set expectations. our number one goal in this, as well as – we'll talk about this with NCAP – is really predictability. If we're going to say that there's going to be a next round and we're going

to lead the community to believe it's going to be whenever it is, that we should be fully intent on meeting those deadlines so that those that may want to apply are confident that it will happen when we say it will happen.

So, the question on dependency, specifically of the NCAP. The letter that was written back said "Okay, ICANN Board. You say that there's a dependency. So does that mean we can't complete our work on the policy until the NCAP work is done? Or does that mean we can complete our policy but we can't complete implementation until the NCAP work is done? Or does it mean we can complete all that, we just can't launch the communication period, or post the final Applicant Guidebook? Or does it mean we can do all of that, but we just can't launch the next application window, meaning start accepting applications. Or does it mean we can do all of that, we just can't do any delegations? What does the ICAN Board specifically mean when they say that there's a dependency?

So this letter back was just received yesterday. I think I posted it to the list, so everyone should've at least gotten a copy of it. But due to travel and everything else. Essentially this letter states that they're contemplating Study One of the NCAP, which we'll talk about after this, is on a timeline to complete its work about the same time as when we likely would be – or when the GNSO Council – would be likely to deliver a report to the ICANN Board if we meet our deadline first of delivering a report to the council by the end of Q1.

So if we deliver our final report to the council at the end of Q1, the council in theory could deliver that report towards the end of Q2 of calendar year. Sorry, this is not ICANN quarters, but calendar quarters. So, by June, let's say of 2020. Yeah, that's next year.

So, those two items – the NCAP Study One as well as our report – should all be arriving at the Board around the same time. And if that happens, then what the Board is saying in this letter is there's a decision point at that time.

Obviously we don't know what's going to come out of Study One. We don't know if they're going to proceed with Studies Two and Three of the NCAP work. We'll talk about that in a second as to what those are. But what the Board is basically saying here is they have not made any kinds of decisions.

At this point, there is no dependency because they don't know how Study One will come out. They don't have our recommendations yet. They don't have a full understanding of the timeline.

And so, what they're saying is upon completion of Study One, the Board can determine in consultation with the community, meaning all of us and others, whether additional NCAP work is necessary, and if so, which elements should be a dependency for any of the other future milestones that we noted in the letter.

So what that means essentially for our work on name collision is that we will certainly document the work that we've done on name collision and any recommendations we have as a result of that. We will note that

there is work going on in the NCAP studies, but we're not going to opine as to whether our application window should wait for the Studies Two and Three. We're just going to note the other work that's going on, say we've delivered our report.

Later on down the road, there may come a situation where additional policy work might be recommended from the NCAP Studies, from the name collision studies. We just don't know. I guess, at that point, the Council will deal with it. And whether that's involving us as a SubPro group or some other constituted group, that would be for the Council to consider.

So, before we actually get into the substance of what we learned yesterday with the NCAP discussion group, is there any questions on this letter? It doesn't say much other than what we would logically expect but it's good to see it in writing, so that there is a little bit more … The Board is saying that, at this point, they don't consider any dependencies other than the study one, and then at that point, they'll determine if there are any additional dependencies. I see Maxim has got his hand up.

MAXIM ALZOBA: Jeff, do you expect to have some kind of plan for the case where they say, "Oh, by the way, you have to redo everything because they found a few interesting things."

JEFF NEUMAN: So, when we talk about the NCAP study work, study one … That could not be a logical outcome of study one. That may be an outcome of a future study, in which case that's so far away from our work that us as a working group really can't plan for that contingency. It's really speculative, and by that point in time, in theory, we'd be well into implementation work. So, that is something that Council is going to have to think about if and when that does happen. Jim, do you want to add?

JIM PRENDERGAST: Yeah, and just pick up on … It's an interesting situation that Maxim actually does raise in the fact that what we know from the letter now is that the conclusion of the work of this group will not be held up by the conclusion of study one. We don't know anything else looking into the future. Neither does the Board because we don't know what the outcomes of that are.

Has there ever been a situation within the policy process where you're into implementation and suddenly something comes up and then you have to go back to the policy making part of the process instead of handling it as part of implementation? Because I think that's what you were talking about, right? You'd have to reconstitute some sort of policy process to hammer out a position on what NCAP could or could not recommend in the future.

JEFF NEUMAN: Thanks, Jim. It's a good question. You could say it's not unlike or you could draw some analogies to the WHOIS stuff that's going on now with the EPDP. There was a working group. There was an expert group and there were recommendations on a number of things, privacy-proxy, a lot of things that were held up due to the intervening circumstances of GDPR. So, while not completely directly on point … But we can't really speak for the GNSO Council. It's a good question for them. Anne, please.

ANNE AIKMAN-SCELESE: Thanks, Jeff, and thanks so much for your participation in the NCAP meeting yesterday. I think that the Board had publicly commented on our initial report that it was an opportunity for collaboration and I think the fact that you were there and that Rubens, as the co-leader of track four was there, and a couple people from SubPro. It was very helpful in terms of figuring out how we could, as I refer to it, dovetail these items. And they will have an NCAP, an initial study one report, in January according to their timeline, and I think that could be informative.

But I also think that we should maybe look at the possibility of creating, if in fact study two were to be necessary, of creating work track six. It's a lot easier to have an issue continued within this working group and the people who are familiar with the issue and the history in this working group than it would be to constitute a brand new EPDP or whatever to be based on the NCAP results.

Now, having said that, I know that's not something that's in the existing processes, but I think it's something that should be considered possibly and dovetailing is the way to go.

JEFF NEUMAN: Yeah. Thanks, Anne. Let's back up. I want to go over what happened at yesterday's NCAP meeting so everyone can come to the same point and understand what Anne was just mentioning because Anne – and thank you, Anne, for being at the NCAP meeting yesterday, and on the discussion group and Jim and Rubens. There were probably others and I'm blanking. But there are a number of participants from this group that are also in that group.

So, the NCAP discussion group, just to go back, is the Name Collision Analysis Project discussion group that was commissioned, I guess, Yeah the SSAC and the OCTO part of GDD, the Office of the Chief Technology Officer, in order to discuss the name collision issues that would come up. I don't know if it's strong as the word advise, but to give our thoughts I guess is a better way to say it, to the SSAC who is responsible for delivering to the Board a report that addresses a number of issues regarding name collision that they set out in their November 2017 resolution, which if you were to boil it down are three studies, the first of which is study one which is focused on finding the sources of data and works that are out there already that discuss the name collision issue.

So, it is really generally seeing who has written about this issue, who has relevant data to look at these issues into the future and helping us verify or validate the definition that we have of name collision.

That definition of name collision for study one was put out for public comment. There were comments received on it, but essentially most of

the comments were very supportive of that definition and no changes were needed to the definition.

So, since that time in the summer, ICANN issued a request for proposal (an RFP) for a contractor to do study one. A firm called Scarfone Cybersecurity, which is a cybersecurity firm of essentially one person, Karen Scarfone. She is the one that was awarded the contract to look at this study one. She was remote participating into the NCAP discussion group yesterday and right now Jim Galvin is the chair of that group. He is looking for other co-chairs of that group. He doesn't want to do all the work himself. There used to be another co-chair, Jay Daley, who had to step down because he took on a new role at the IETF. So, at this point, there's only one co-chair, but Jim is looking for an additional one or tow other people.

The plan, from an administrative standpoint, is to have a meeting – a face-to-face meeting – at each ICANN meeting on day zero. So, the day before the meeting technically starts. So, if you're looking ahead to Cancun during spring break, if you're looking ahead to Mexico and want to attend that meeting, there will be on day zero an NCAP discussion group meeting. The discussion group is open pretty much to anyone as long as you file an SOI (statement of interest) which is a little bit different from the statement of interest needed for our group. This is very much a statement of interest tailored towards the name collision issue in particular. It's not that onerous to fill out, but anyone that fills it out can be a participant in this group. They also have observers if you want to just be able to just receive the emails but not participate on the mailing list. So, you get the email, you just can't respond. And you will

be able to attend the meetings, but again, you just are observing the meeting as an observer.

So, with study one, what we talked about yesterday is a timeline that Anne was referring to where they will be coming out in theory with an initial report somewhere around the February timeframe, February-March timeframe. They will put that report out for comment. Then they will produce a final report and have another public comment period and hope to present their final report to the Board in June of next year, 2020. So, that's their schedule.

So, the other part that may involve … So, if we talk about our timeline and the timeline of this NCAP study work, they will hopefully go to the Board at the same time. Of course, there's no guarantee. In fact, once we send the report to the Council then it's out of our hands and it's totally within the Council as to when and if they forward that on.

But study one, an essential part of study one, is going to be also to recommend whether there should be a study two and three. Study two of the NCAP is now that we know what sources of data may be out there, to go look at a bunch of the substantive issues that we all think about with name collision. Is there a potential risk of name collision if we do a next round? Are there certain strings that may be more susceptible to name collision or – what's the word for it? That may be more dangerous to launch for the next round, so we should maybe prevent those from being applied for. Is there a test that they can come up with to see whether a particular string, once it's applied for, has a name collision risk? And also to look at the data to see if the current mitigation strategy

in place is the right one or whether other mitigation strategies could produce better results. So, really, the bulk of the work is going to be study two.

For right now, I m not looking at or talking about the issues of corp, home, and mail because those aren't really within the jurisdiction of our working group at this point, so I'm putting those aside because we're really, in this group, looking forward to future rounds. So, there are some deliverables that the SSAC has to the Board on those three particular strings but I'm kind of putting that to the side, not because it's not important but because it's not really part of our work, which will put us in a very interesting situation.

So, let's say we deliver our report to the Council, the Council delivers the report to the Board, the Board is in a position mid next year of deciding whether to go to implementation on the subsequent procedures stuff. That would also be at a decision point for the Board to go ahead with these two studies.

So, if the Board decides to go ahead with studies two and three, or even just study two, then the community is going to be put in a position where there's a study going on to look at some of the issues that are relevant – very relevant – to the next round but also working on implementation of the next round and that's where, as Anne was saying, there could be some additional policy work that needs to be done or maybe it's all implementation. But at that point, it's going to be out of our hands. There will be, in theory, no Subsequent Procedures Working Group. There will be an implementation team constituted by

ICANN staff, technically, in collaboration and consultation with the GNSO Council. So, the community will have some things to figure out when and if that happens. But I don't want us to get kind of wrapped up in that.

But one thing the discussion group did talk about is, whenever that does occur, that there should be certainly collaboration continuing with the implementation efforts for the next round and that study group. So, not necessarily again with SubPro Working Group, but rather with the implementation team.

I know that's a lot. It was a fairly substantive meeting and the NCAP discussion group will have a couple meetings in December and then start weekly meetings in January. Anyone else that was there at that meeting want to add anything? I'm looking at Anne, Rubens, and Jim. I don't know if you want to add anything. Rubens, please.

RUBENS KUHL: I was just going for some what-if scenarios for the NCAP studies and most of what they can talk about end up being either about risk, mitigation, or predictability. I don't see ICANN paying for a study that would say that ICANN put the world at risk because that would bring them tons of liabilities. So, I don't see ICANN paying for that.

So, we can mostly look into predictability and mitigation as things to let the policy be somewhat flexible to accommodate what comes out of those studies if they ever came about.

JEFF NEUMAN: Thanks, Rubens. Anne?

ANNE AIKMAN-SCELESE: I tend to agree about flexibility. I want to thank Rubens for circulating to the list the recording from the NCAP meeting yesterday. I think that would be helpful for those who are interested in this issue.

I also note that coming out of work track four and in our current review of the public comments and whatnot, there was I think a consensus forming with respect to identification of low, medium, and high-risk strings. But yet we as a group don't have, obviously, a technical way of doing that and that it's possible if there is a concurrent – and when I say concurrent, a study two that's concurrent with drafting other sections of the AGB, for example, that we could get guidance on how to determine, based on our own SubPro recommendations, what low, medium, and high-risk strings are. So, really, there is an opportunity for collaboration that should not hold up the next application window, from my point of view.

The other thing I would say is, based on the experience from 2012 – and this did come up in yesterday's meeting – we need to have a gating mechanism, potentially – depending on what policy develops – with respect to not proceeding to all kinds of very expensive evaluations and objections if a string is going to be listed as too high risk or do not apply. We don't need to have parties throughout ICANN wasting tons of money – or ICANN staff, either – wasting time and resources on strings that cannot proceed.

JEFF NEUMAN: Thanks, Anne. I think in one of our next calls after this meeting we'll go over our recommendations so far with name collision and I think that's certainly right to the extent that there is a way to find these strings that would present that high of a risk and absolutely to the extent that they can do that, then yeah they shouldn't allow strings to go forward. Or certainly if they do, that there's a big warning to anyone that wants to apply that this may not likely to through. I know Jim had his hand raised. Maxim's got his hand raised. Maxim, do you want to respond to his one and then …? Okay, I'll go to Maxim and then Jim.

MAXIM ALZOBA: Last time we saw something like, oh, everybody is in danger. But it's an answer, definitely, but does it help? Formally, they could say, "Okay, in case where a TLD is launched, we need at least three years to establish if it's dangerous or not." So, what do we do? Because last time it was a quite stupid answer and lots of companies spent lots of money just waiting, and even the resulting documents were, I'd say, a bit suspicious.

So, why do we have to wait for a group of experts, some of them potentially hired by ICANN for the very same reason, to deliver something where they might be interested in the process of working on it?

I remind you this NCAP study was added to financial plan of ICANN, then when there were lots of questions about how can you justify spending

$3 million with the few lines of text saying we actually need that? And then it was [inaudible] to CTO office expenses. So, it's better to have some clarity on that.

JEFF NEUMAN: Yeah. Thanks, Maxim. I think what Anne and I were saying, and the recommendations from our group is if before the application round opens there are strings that the community knows or the experts know pose such a high risk of name collision, that perhaps those strings should not be allowed to be applied for. I ended a sentence in a preposition. I hate doing that. And/or a warning to be issued saying, "If you apply for this string, you may have to wait several years before you figure out whether you can actually move forward with that."

Again, it's not what we're saying or what we will likely recommendation is not going to be a warning to everybody that says, "You're applying for a string and you may have to wait three years until we figure out if there's a name collision risk." The recommendation is if it's known definitively that a string will pose that high of a risk, then that warning should be conveyed at a very minimum or the string is blocked. Jim, please.

JIM PRENDERGAST: Sure, Jeff. This feeds into, actually, the predictability framework that this group has been working on as well, that when applicants send the check into ICANN and they cash it, they need to have a good sense of what the rules of the road are. They should be as finalized as much as

humanly possible. I don't think we need … I think anything that we can do to ensure that as much of this is done before the application window opens I think is critical to ensuring that predictability framework.

Just to fill in one or two gaps from your notes and recollection from the meeting yesterday. It was very clear to me that OCTO is managing this process. We were told do not ask Karen, the contractor. We'll call her that since can't pronounce the last name. We're not supposed to ask questions to her directly. Everything has got to go through ICANN. Matt Larson is the actual person who is managing that.

The other thing that Jim Galvin raised was the specter of alerting the Board ahead of time sort of where phase one is going, sot that the Board isn't at a standstill when this report comes to them in June. And we discussed a little bit about what the process is for that and we discovered that OCTO has been briefing the Board Technical Committee on a monthly basis about the statuses of NCAP. Not really much substance up until now because it's been about procurement and things like that. When we asked if those were available anywhere, they said unfortunately that OCTO meetings are not recorded and there are no notes. They do a verbal update. There's no presentations that they could share with us.

So, maybe they could amend that process going forward, so that we can see what's being communicated to the Board, realizing that we don't need to … I realize there's sensitive material that's discussed by that group. The first five minutes or the PowerPoint or whatever that Matt is giving I think would be beneficial for us.

Then, something that unfortunately is a conflict, Rod Rasmussen, who is the SSAC chair, had to leave the meeting early but one comment that he made that I took note of goes back to how I started. If you don't have a predictable process in place at the end of this, the SSAC's concern is that you leave the door open for security and stability issues. So, how you address name collisions and having a predictable process in place I think is key to the SSAC and their thinking on it.

JEFF NEUMAN: Yeah. Thanks, Jim, for [inaudible]. One of the valuable things I got out of it is finally understanding what BTC stood for. For those of you that may look at the agenda, you'll see that there is a BTC open meeting from 5:00 to 6:00 on I forgot what day it is. BTC stands for the Board Technical Committee. Perhaps, Jim, that is a good comment for that meeting is to see if they'll open up their … Become a little bit more transparent as to their activities and the presentations before it. I think that's a good idea.

Then, the other interesting thing, when you mentioned the SSAC is they also made it clear that it's the SSAC that's responsible for delivering the report. So, if the SSAC doesn't … If the SSAC disagrees with what we, as the discussion group, even if we come to a consensus on something, it's ultimately the SSAC that makes the determination of what goes into the report that they give to the Board and they're responsible for it.

I don't think that means that the SSAC is not going to take our input seriously. I think they absolutely will. But it's no guarantee that even if

we, within that discussion group, come to some consensus on something that that will ultimately be apart of SSAC recommendation.

Okay. So, that's the update on that. I saw there was a question form Greg, though. Sorry, Greg.

GREG SHATAN: Thanks. A couple of observations and a question on the NCAP. First, it sounds like study two, if it exists, is where the bulk of the work will be done and if the end result is supposed to be a predictable process, it sounds like it seems fairly likely that study two will take place because study one is really just a historical review. It's a review of the literature and a gap analysis. So, it's basically just what we already know if we hadn't forgotten it or had done all the research – and we did most of the research anyway, so it's more of a memory cramming exercise. So, it's hard to see how anything really definitive would come out of study one that would close off the idea of doing study two because it's just prep work. So, that's my first observation. People can disagree, of course.

Second is if we do end up in a situation where we have to go back after implementation starts and deal with policy, the beloved Policy and Implementation Working Group, the group that brought you the EPDP, also created two other mechanisms, one of which is designed specifically for when policy or alleged policy comes up in the course of implementation. So, we have a predictable process, to use a phrase, for that.

Third, and this is kind of a question based on something you said, Jeff, which is you say that dot-corp, dot-home, and dot-mail are not in the jurisdiction of this working group. So, I guess the question is in whose jurisdiction are they and are they going to live in perpetuity? And to the extent that we create a proposal for the next round, how do we deal with the fact that there are strings that are applied for but frozen? Unless of course, by the time we get through study one, two, and three and my 70th birthday party – and I'm not that old – at that point in time, we have a resolution to that because it seems like that's going to be somebody's idea. And I don't know if it's clear that those go on forever or that something else happens to them or whether you could apply for them, and if you did, what would be your result? That would seem to be in our … That's a next round concern, so that would seem to be at least partially in our jurisdiction. So, I guess the question is what are we doing about the people that are still hanging around from yesterday's party and won't leave?

JEFF NEUMAN:

Thanks, Greg. I'll take those questions or comments separately. So, on the study one, I realized from the way we've been talking about it, it does sound like it's prep work but it's not prep work. It's basically … What they'll look at at the end of the day is whether there is data, other than what we already know about, from round one that can be accessed that could, if we study it, give us a different result than what we already know.

In other words, there is a final report from the JAS Working Group already that talks about the known data at the time, the mitigation strategies, and how they got to where they were. The SSAC, if you go back a couple of years, what they were concerned about is what about if there's data that we just don't know about and people had issues that we just, given the time and the lack of studying the issue, just weren't able to find?

So, really, study one is to see are there new data sources? Are there new studies that have been done that could lead us to do a study two which may lead to another recommendation?

So, if out of study one they say, "You know what? There's only a couple pieces out there that were never seen by anybody, but it doesn't really add to the debate, and there are no other sources of data because it's such a niche issue," or the data that is out there is likely to have been corrupted because we're so many years removed, and since then people have done searches of the root for all these names so you're going to find a ton of collisions and we have no way of discerning whether those are legitimate collisions or self-made collisions by testing the system.

In theory, study one could come back and say there's really no reason to do a study two or three because there's nothing out there that's serious enough that we don't know about to push this further. We haven't seen anyone harmed. There's no other literature out there of people being harmed. There's nothing other than the theory that was available prior to going into the mitigation strategies for 2012.

So, in theory, that could be a result of study one. Or, on the other side, the theory could be, "You know what? Yeah. There's a ton of data sources we didn't even think about in the first one. And you know what? There were all these discussion groups that we found that were talking about this issue, and when we looked into it further, they're actually related to name collision and there were so many worse problems that we just didn't even know to look into because we didn't have the data. Now we know. Let's look into it more."

And I know how we initially described it. It sounded like prep work. But it shouldn't just be prep work to regurgitate what we already know. Hopefully, that makes sense.

Then, the issue on corp, home, and mail, I view that, at this point, similar to all the other strings that we've been talking about, which by the time we launch another round, have no final resolution. And we have been talking about, in general, our recommendations of if we start a subsequent round at a point in time in which not everything from the prior round was fully resolved … So, that's an issue we've been discussing and there are essentially I think still two variations of almost eh same proposal that's out there that we still need to come to a final recommendation on. So, I would group that as it can be treated as in accordance with what we've already been talking about.

But, with respect to the ultimate issue of corp, home, and mail, that's a great question. It's not … Whose jurisdiction is it? I don't know. Sorry. It's a good question for ICANN Board because I don't even know if that's a ripe subject for policy development. It's probably not even a GNSO

question. That may be much more for the Board level. But that's a guess. Jim wants to add something.

JIM PRENDERGAST: I think there was a little bit of discussion yesterday about it potentially being an IETF issue which is kind of ironic that that's where Jay is headed. So maybe he can make that his first bullet point on his agenda.

Greg, to your comment about the party was yesterday and people still haven't gone home, I thought all those applications were … Are there still people who have applications in for corp, mail, and home?

UNIDENTIFIED MALE: There are three applications for dot-mail that have not been withdrawn. I don't know about dot-corp and dot-home.

ANNE AIKMAN-SCALESE: Really quickly, I believe there are seven not withdrawn for mail, corp, and home.

JEFF NEUMAN: And there still are. We have a chart that we've done on the existing strings that either haven't been resolved, or even if it's been resolved and it's already delegated, for whatever reason – we have no idea why – some applicants have not withdrawn their application. I can't off the top of my head remember which ones those were, but we do have a chart. It's in our Wiki and it's a Google Doc that sets forth the status.

There may be a couple applications that, for whatever reason, are still in the system that we just have to figure out what to do with those.

Okay. Steve, yeah?

STEVE: Thanks, Jeff. This is Steve from staff. I just had a thought come to mind and I guess a reminder, then, from something that Anne said earlier. It's just a reminder that within the working group guidelines, one of the things that working group can recommend, [inaudible] its own recommendations, is that an additional study could be conducted. So, to the extent the working group wanted to recommend that there should be a demarcation line between low, medium and high risk, but they lack the expertise but they want that to happen, they could actually recommend that a study could be done with experts to be able to try to draw those distinctions either during the IRT or however that study might take place. But a study itself can be a recommendation. Thanks.

JEFF NEUMAN: Yeah. Thanks, Steve. Am I correct in thinking that the name collision issue will come up … That's one of the few issues that we have remaining that we haven't gone over again or did we already talk about that? We already covered it, never mind. Well, we'll get there again.

Okay. Let's go to predictability. It's interesting. I think something that Jim had said about the predictability discussion and how it [inaudible]. And before everyone … We get there and we'll look at these materials.

Predictability is not certainty. It's just predictable process. So, you can have a predictable process without a certainty of the outcome, as long as the process and how we get there is predictable. I'm probably going to have to pull up my own copy because it's a little tough to read. Maybe you can post it in the chat, if you haven't already. Sorry. Hopefully, someone is monitoring the chatroom. I'm not doing a great job of that. Okay, thanks, Julie. So, if there's any comments, let me know.

Okay. So, with respect to predictability, what we've done here now is created a … Going over all the materials that we've discussed so far, going over what was in the reports and what was in the comments that we go back and the subsequent discussions. If you recall, the documents that we've been discussing to this date which we've done for almost every subject except for the last three or four, which we'll cover after this ICANN meeting on calls, those documents all looked fairly similar. It had background documentation. It had a policy goal, high-level agreements, and outstanding questions. Now we're taking it a step further to get much closer to what would be in a final report which is a sort of simple statement as o what the issues that we still need to consider are, and what the goals are and other things that have been gleaned as what we think are, at this point, high-level agreement from the discussions that we've had.

So, quick reminder in this document. And I completely appreciate if you have not had a chance to read it because you might have been putting it off to just read before the session on Monday. But these documents on predictability, string contention, and appeals are out there and I think there's going to be another one … Oh, no, those are the three. Is

there a fourth one? No. Okay, right, because string contention includes the auction stuff. Those are all on the list at this point.

So, if you look at it now, hopefully we're getting closer to the final report text. So, what's the issue we're trying to address in this predictability model?

So, Principle A from the original GNSO report talks about TLDs being introduced in a predictable way – orderly, timely, and predictable. Applicants and other parties interested in the new gTLD program, however, believe that there were a number of changes that were made after the launch of the 2012 program which hindered the program's predictability. Therefore, the working group charter asked the working group to consider how can changes to the program … I guess it should be "be introduced" after launch. So, there were some examples cited. Then, the Board also, in one of their letters, stated that the Board is concerned about unanticipated issues that might arise and what mechanism should be used in such cases. So, that's the overall issue that we're looking at.

The policy goals, the things that we believe we've come to agreement on. First is to the extent that issues arise after the application acceptance window commences. That may result in changes to the program and its supporting processes. Those issues must be resolved in a manner that is as predictable, transparent, and as fair as possible to the impacted parties. I think a previous version had talked about the applicants, but through our discussions, it became clear that there's many other impacted parties, so we updated that goal.

The second one is to promote the predictable resolution of issues. The community should rely on a predictability framework specific to the new gTLD program that guides the selection of mitigation mechanisms. Third, in the event significant issues arise that require resolution via the predictability framework, applicants should be afforded the opportunity to withdraw their applications from the process and receive an appropriate refund. If we can scroll down …

The fourth one, the last one on this, is the predictability model intends to complement the existing GNSO processes and procedures and is not intended to be a substitute or replacement for those, nor should the model be seen as supplanting the GNSO Council's decision-making authority. In fact, the GNSO processes and procedures are incorporated into the predictability framework explicitly. In the event of a conflict existing, GNSO processes and procedures including – and this is what Greg was talking about, the mechanisms – including GNSO input is one of the formal processes now that came out of the work that Greg was mentioning. There's also a GNSO guidance process, and of course the EPDP as contained in the annexes to the GNSO operating procedures. So, those take precedent. Not what we developed, the predictability framework, but the GNSO existing procedures.

So, I think overall through our discussions, it seemed like something we had all agreed to but I see Anne has got her hand raised. So, Anne, please.

ANNE AIKMAN-SCALESE: Yeah. I certainly don't disagree with that drafting at all. I did want to point out that when Greg was mentioning the three processes that, with respect to a policy matter that is currently the subject of a PDP, I doubt that anything but an EPDP would apply. Maybe Greg differs but I don't think something that is currently being treated as a policy matter would be amenable to anything but an EPDP in those processes. So, that figures into my recommendation for work track six, if needed.

JEFF NEUMAN: Okay. Thank you, Anne. Sorry, Greg.

GREG SHATAN: Just a follow-up. I agree with you, Anne. I think that only if the PDP working group closed and implementation was ongoing and then a policy cropped up would you go to one or the other two. And I think if ongoing policy work was being done, I don't even think you'd go to the EPDP. I think you'd just go right back to the working group if it existed. So, I guess that's the question of do we keep the lights on with work track six or do we fold our tents, which then probably puts us back maybe to an EPDP or all three processes would be on the table if this group is closed but this group were open, it would be the place where that would be dealt with. A lot of that depends on the timeframe difference between when we would send our report to the Board and when the decision point makes the decision come up and what that decision is. Thanks.

JEFF NEUMAN: Yeah. Thanks, Greg. We're doing a lot of speculation here. There is no work track six yet. But yes, at that point in time, we'll figure out or the GNSO Council will ultimately figure out whether to close our group or keep it open for whatever reason. And then that will guide which, if any, of these processes they choose to use.

So, what are we proposing in addition? So, the first one is the type, scope, context of a change to the program will guide the process that should be following when a change or modification to the program is necessary or requested after the launch of the program.

B, the working group – and I apologize for this acronym. The working group recommends that a Standing Predictability Implementation Review Team (SPIRT) … I'm looking at Steve because I don't know if I created that or …

STEVE: Can we make that SPORT, please, rather than SPIRT? Can we make it SPORT? Thank you.

JEFF NEUMAN: Yeah. That's it for now. Be formed after publication of the Applicant Guidebook to review potential changes to the program and to recommend the process that should be followed when considering those changes in accordance with the guidance provided below.

C, the GNSO Council shall be responsible for oversight over this SPIRT and may review all recommendations of the SPIRT in accordance with

the procedures outlined in the GNSO operating procedures and annexes there, too.

Then, we get into the specific categories of changes. So, before we do those categories, essentially what we're saying here is that this group is not intended to have decision-making authority. It's always subservient to the GNSO Council. It's just trying to help provide advice as to what this team believes should be the next steps. The Council is always … Nothing replaces the Council's role to do what it wants to do. But hopefully they will be a valuable asset I guess of the Council to use for these situations.

Then, we get into specific categories of changes. It's important … Again, the first principle was that the context scope of the change determines what we do afterwards. So, if there's a change to an ICANN organizational internal processes … If they're minor – and that's Part A – all minor ICANN organizational internal process changes may be implemented by ICANN Org without a need for consultation. A minor change is defined as a change to ICANN's internal processes that does not have a material impact on applicants or other community members, change applications or any of the processes and procedures set forth in the Applicant Guidebook. This usually involves no changes to the Applicant Guidebook including the evaluation questions or scoring criteria but may involve the way in which ICANN Organization or its third-party contractors meet their obligations under the Applicant Guidebook.

So, examples of these types of minor changes could be a change in the internal process workflow for contracting or pre-delegation testing. It could include changing their backend accounting system. So, let's say that they put in a new system and it requires a little bit different way that an applicant has to pay or something like that. Maybe that's minor and wouldn't need to go through any further processes. I can't remember if there's another example on the next page.

Another example would be ICANN Org selecting or changing subcontractor to perform assigned tasks under the Applicant Guidebook where the original selection process did not involve feedback from the ICANN community.

So, let's say that is … And I'll distinguish two different situations. So, let's say they select an evaluator for background screening. Yes, maybe we had insight and maybe we had the ability as a community to comment on what should go into such a vendor. But once they make the selection, if they, for whatever reason, can't enter into a contract with that entity or that entity decides to back out and ICANN's got to redo it, that's not something that's going to involve us. That's not going to need the community input on it or this new SPIRT input or GNSO Council. It's something ICANN should be able to without.

That would be different than, let's say, that ICANN were going through the process of selecting the independent objector. If it does that similarly to the way that it did it before where it really sought advice from the community on the selection criteria and on the process itself. If something changed with that, that change could be considered a little

bit more material and not fall within this category. So, that's why the part at the end is added. If the initial selection process didn't involve feedback from the community, then a subsequent selection process shouldn't need to, either.

Then we get into – again, this still applies under the category of ICANN Org changes to internal processes. If a proposed change is not a change to an internal process but rather a new … So, it's not a change to a process but it's a new people that's put in place, but it's still internal to the organization. If it's likely to have a material impact on … Oh, I skipped one. Sorry. I skipped B. I knew there was something there. Sorry.

If there's a non-minor change or revisions to ICANN Org's internal processes, but it does have … If it's non-minor, then it should be communicated to all impacted parties or reasonably foreseeably impacted parties prior to the deployment of the change. These are changes to ICANN's internal processes that have or are likely to have a material effect on applicants or other community members. And examples could be something like a change in their service-level agreements related to contracting or pre-delegation testing that adjusts the overall timeline.

So, if ICANN went in and said we promise to have reveal day within two months after we receive applications, and it turns out they get so many applications that the reveal day is no longer to be two months but it's going to be four months, then that's the type of thing that is a little bit more major and might need to go to – or that would need to be

communicated to the community in advance. Something like that wouldn't impact necessarily applicants in a huge way if it pushes the timeline out a little bit. So, we wouldn't necessarily need to go back to the GNSO or through this predictability or to this SPIRT team for that.

But, if there's something new – and this is where we get to part C. Sorry about missing this before. If the proposed change is not a change to internal process but something new that's added and it's likely to have a material impact on applicants or community members, then we would employ the use of a new Standing Predictability Implementation Review Team. That's this SPIRT.

The examples of this would be let's say that there's a new public comment platform tool that is put into effect or a new process platform that's created to submit an objection, a new procedural mechanism to determine the order in which applications are evaluated. So, this was like the previous change of digital archery to randomization. Then there's still … One of the questions we still need to think about is to whether if there is a substantial change in the evaluation timeline or if additional fees would be needed, whether that would fit in here. So, there's just sort of a question there.

Because the process is new, this new thing that they want to introduce – that ICANN wants to introduce – collaboration with the … That should probably go back to being that SPIRT … is likely needed. Staff will work with the community to develop a solution. Once changes are agreed, they'll communicate the changes to the affected parties before they are

deployed. Sorry, if we can scroll down. I should use my own version of this.

Again, these changes are not envisioned to have a substantive impact. Or stated otherwise, they are envisioned to have a non-substantive impact to the applicants or community members.

We'll talk a little bit about how this group operates and what its outcomes could be. This section just deals with when the group would be called in to assist.

All right. Now if we had something like fundamental policy changes. So, there are potential … Sorry. Donna, please.

DONNA AUSTIN: Thanks, Jeff. Can we just go back … Just one more, please? Steve or Julie, whoever is driving. Thank you. Donna Austin from Neustar.

So, one of the things that concerns me about this. You've got here as an example a new public comment platform tool that's intended to be utilized. What if that's a tool that ICANN is introducing across the organization but it happens to impact SubPro applicants – whatever. Applicants in some way? How do you manage that? ICANN is looking to roll out something across the organization that may also impact on applicants or the program in some way. Do you envision that this implementation review team is going to be involved? We need to be a little bit sensitive to things that ICANN Org is going to roll out as a matter of course that will impact this but is intended for organizational purposes.

JEFF NEUMAN: So, all this is saying is that ICANN should let this SPIRT team know about what's going on and get input to see whether they believe this is – that they would view this issue as material or not material and then make a recommendation based on that as to whether further work would need to be done. But it would seem to me that if it's organization-wide, that that would certainly go into IRT's record of that SPIRT, that IRT's recommendation of what, if anything, needs to be done. That's all a relevant factor. All we're saying is that there should not be unexpected and unanticipated surprises to applicants and others.

So, by consulting with this team – and the team, again … Let's say, personally speaking, if I were a member of this team and they said, "This is what we're doing organization wide and this is the impact," then that would certainly go into my thinking as to what should be done after that, if anything. I consider that relevant.

But, if we don't do something like this, then there's a possibility that it's a complete unanticipated change that people weren't expecting and throws everyone by surprise.

This is put in place not to put a level of bureaucracy that moves things to standstill but it's to make sure that there are no surprises.

DONNA AUSTIN: It is a risk that it will add a layer of bureaucracy and lead to standstill. So, that's something that the review team will need to be cognizant of

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and need to be, I don't know, nimble in how they responded to any of these things.

JEFF NEUMAN: Yeah. Thanks, Donna. I agree with that. Heath, please.

HEATH DIXON: Heath Dixon from Amazon. So, am I understanding correctly, then, that the way this will work is ICANN staff will find a change that they need to make, they will bring it to the … I'd call it SPIRIT maybe instead of SPIRT. They'll bring it to the SPIRIT team and say, "We think that this is a minor change. We think it falls under category A," or B or whatever and then the SPIRIT team is the one that makes that assessment? Or does ICANN staff make the assessment of which category this falls? I'm wondering who decides what's a minor or material or substantial, all these different criteria? Who decides that?

JEFF NEUMAN: So, ultimately, as with any implementation review team, it's technically ICANN Org that has control over the decision of a purely implementation … Now, this is different than what we'll talk about in a minute, which is the policy stuff. But with any implementation review team, it's ICANN staff that has the decision-making authority with advice from the implementation review team. Hopefully, there will be a collaborative process where they'll go to the review team and it will be an easy issue to just kind of say, "Okay, that's not a big deal," and move on.

HEATH DIXON: Well, what I'm worried about is the ones that are not the easy issues, I guess.

JEFF NEUMAN: But at the end of the day, all implementation review teams, the decision is with ICANN staff.

ANNE AIKMAN-SCELESE: That concern is exactly why we ask that it be clarified in the draft that this is subject to GNSO Council's … Any single member of GNSO Council can raise the issue that you've described based on the input and guidance and EPDP procedures. Any single council member can raise an issue.

For example, if a council member says, "Well, I don't agree that's just implementation," can be raised at Council level. So, there are checks and balances on this SPIRT team. And I really like the SPIRIT.

JEFF NEUMAN: Yeah. Thanks, Anne. And I don't necessarily disagree with the notion of what the Council should do. The problem we have is that will be a change to the GNSO Council rules, their operating procedures. So, we can't set forth in our draft that if one council member doesn't feel like it's implementation. But, the GNSO Council could put in its implementation rules that aspect. Yeah.

UNIDENTIFIED FEMALE: I'm sorry. Just quickly, Jeff. We don't need to because what we said is that those procedures take precedent. Those procedures not only already exist, they're in the bylaws. So, the check and balance already exists and we don't need to say anything other than what we've already said in your draft which says that those procedures take precedent.

JEFF NEUMAN: Yeah. Thanks. And I'll go to Cheryl.

CHERYL LANGDON-ORR: Thanks. Just to follow on from that. And I just want to draw people's memories back. And if you weren't there at the time, then do look up the documents. But when we put together the concepts of how review teams could and should operate and what does and doesn't happen in these types of teams, there was some extensive flow charting done. We did look at checks and balances, so that in existence in those accepted recommendations and reports are also very clear checkpoints to take away some of the concerns that, quite reasonably, are heard around this room. But we were considering it very, very carefully.

Donna, correct me if I'm wrong, but you and I were on that team and we went into nth degree to make sure we tried to think of as many "oops" opportunities that we could put in a check and balance for. So, I think we're okay. In fact, if anything, I think we're probably at belts and braces level of holding up our pants.

JEFF NEUMAN: Okay. Donna, do you agree with that?

DONNA AUSTIN: Cheryl, to be honest, I don't remember being on that group. But, you know …

JEFF NEUMAN: It's funny because there's so many groups that I was a part of that people mention and I'll have no recollection of doing it. Even if I wrote it.

                      Okay. But, thanks, Heath. It's a good question. Certainly, there's going to be questions like that. There's going to be some gray areas and we just need to make sure – and the Council will need to make sure – that when it constitutes that team, that the team is trained and educated and knows what its role is and not to delay things and to do everything to collaborate. Steve is going to tell me it's not the Council but it's the staff. Thanks. Sorry, Steve.

STEVE: Thanks, Jeff. This is Steve from staff. When I read SPIRT, I also read it SPIRIT. Anyway, [inaudible] my comment. I've been trying to wrap my head around this thing. I know it's not my role as staff support to really try to look at things and try to solve things, but hopefully you'll indulge me in this one comment in saying that when I looked at this, what struck me that might be helpful is trying to add some rigor around these

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different categories. And by that, I mean trying to maybe add some numerical element. So, sort of a risk analysis element to each of these different categories, so you have something a little more objective to look at, based on risk and likelihood or something to that effect, so that you can sort of create clear demarcation lens between the different areas and it's more objective. It's easier for staff to determine which of these categories it falls into. So, that's my hopefully not too substantive comment from my support role. Thanks.

JEFF NEUMAN: Yeah. Thanks, Steve. I think Steve's comment points out – and I certainly individually have heard a number off concerns from ICANN staff worried that we're trying to take out all their decision-making authority and we're basically hindering their ability to do what they need to do for this program.

I am actually a little bit more optimistic that this should be a help, not only to ICANN staff but to applicants and others that were impacted – not just applicants but the community that were impacted – by changes that staff initially had thought wouldn't be a big deal and made a decision that it turned out, if they had had input from others in the community, they might have recognized that it would have had a bigger deal than they thought.

So, there's certainly always going to be this push and pull between ICANN staff and this group and with the community on these types of things. We're certainly not trying to get into the day-to-day business and operations of doing this but there is hopefully a balance that we'll

get to between ICANN's ability to do these things day-to-day but also the impact on others that may be unanticipated. So, share those concerns. I'm not sure but I'd love to hear input, if there's some sort of objective criteria you could put into place. But I've been wracking my brain to think what criteria someone could use and then add up all the criteria at the end, score at the end of the day and say, "Okay, yes, this requires it going to this SPIRT team." And I just don't see how that would happen, because then people would complain or say, "Well, how is ICANN scoring it?" or, "What if ICANN was wrong in its assessment for the criteria?"

It's a good question and look for feedback from everyone. That is a legitimate concern from ICANN staff as to it doesn't want to get tied down with … This could substantially delay things if not done right.

STEVE: Thanks, Jeff. I did give some consideration to the next step, that that analysis could go to the SPIRT for their analysis. So, it's not necessarily the staff making the decisions on their own. It's still in collaboration but they come in with a proposal that then is consulted with – shared and consulted with – the SPIRT. Thanks.

JEFF NEUMAN: So, by the way, for the abbreviation, we may need to come up with something for that other I. I know, Greg, you're always creative. So, if you could add another I in there between R and T.

JUSTINE CHEW: Just use an E.

JEFF NEUMAN: An E? That's your homework before Monday is come up with another word where the abbreviation could be SPIRIT either with an I, or as Justine is saying, with an E.

JUSTINE CHEW: R-E, review.

JEFF NEUMAN: For review?

JUSTINE CHEW: Use the "RE" in review.

JEFF NEUMAN: There you go, the Implementation review team. The R. So, it's SPIRET. And yes, we know that's not spelling "spirit" correctly, but sure.

UNIDENTIFIED MALE: I suggest Standing Predictability Implementation Review Implementation Team.

UNIDENTIFIED FEMALE: You guys should ask some millennials about this. You probably should just delete all the vowels.

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JEFF NEUMAN: There you go. All right. I can see Paul is actually churning in his head trying to think of it. I can see it.

UNIDENTIFIED MALE: The good news is that we've already hit bottom, so anything is going to be an improvement.

JEFF NEUMAN: Thanks. Okay So, now, let's spend … Actually, what time is the session? It might be done at 3:00. So, we're coming up to the end of it. So, we will start then on … We got a good head start for Monday. Our next session is – remind me about the time. I think it starts at 1:30 maybe, next time. Julie, please.

[JULIE BISLAND]:   Starts on Monday at 15:15 to 16:45 … 17:00 to 18:30.

JEFF NEUMAN: Great. Thanks. I'll go to Jonathan in a second. We'll get into this a little bit more and then get into the string contention resolution specifically on auction and then into the appeals process. Then finally talk about areas that we think – we're just trying to get a head start on areas that we think will have to go out for public comment again. So, we've been working behind the scenes, at least the leadership level, just preparing what, in our minds, we think might need to go out for public comment

just as kind of a starting point. That should be sent fairly soon today, I would think, out to everyone. So, you can take a look at that. It's not a big document. You can review it just before that meeting but just to get a head start. I think Jonathan had his hand raised, so let me go to Jonathan and then Jim. Jim's hand is raised because I remember there's another item.

JONATHAN ROBINSON: Yeah. And I think I'm going to remind you that the GAC folk group, just a couple sentences on that. I think you said – there was an earlier question on that and you were going to make a comment or two just to inform the group. Thanks, Jeff.

JEFF NEUMAN: Thanks. So, there is a meeting today, a closed meeting, of the GAC focal group. This is a group that they established to work on some of the more substantive issues with respect to the next round of new gTLDs. Cheryl and I were invited. But other than being invited and knowing that we're going to present and update us to where we are, I don't have any other information on what … Oh, there we go. Someone else does.

TAYLOR BENTLEY: Hi, everybody. I am Taylor Bentley. I am with the government of Canada. The Canadian representative to the GAC, Luisa Paez, is actually the vice chair right now and she volunteered to help try to support the GAC's efforts. And rather than creating a formal working group, the idea

was just to really bring together an informal mechanism for primarily capacity building.

So, when we're getting in on substance of some of these issues, it's a lot of history and cribbing notes from the summaries of the calls and the summary documents, really to help a lot of the newer members who are really interested and have heard a lot about subsequent procedures but have no clear sense of how to navigate this working group and what not.

So, it is closed only in the sense that it will be a small meeting. It's meant to be very personal, kind of a safe space for people to work through if they're having a difficult time navigating this process and whatnot.

So, what we've been doing over the last six months have been calls, deep dives on this stuff, a lot of talking about timelines and sequencing, figuring out the inter-relation between this, the CCT Review, the implementation group. I think there are some good stats about the turnover in GAC members, even in the last two years. If you extend that back to the original GNSO policy, it's probably like 90%.

So, I think there's still a lot of work to be done in this space, and even how we've been working on building capacity. We still just kind of need to check back with interested GAC members. I don't think we've got as many folks attending these calls and reading the briefs and resources that we've been working on with GAC staff and other vice chairs and other interested members. So, a lot of it is just demystifying, and as I said, providing that safe space to help folks navigate.

It certainly seems more ominous on the schedule and whatnot, but in the same token, I think we're very open to hearing and we'll be looking for you, Jeff and Cheryl, about some candid views on how to support folks, understanding how governments approach this and how the community wants to see the GAC involved, [inaudible] evaluations of how they have been involved, etc. It's a shared challenge that other communities like the ALAC also go through that we're just figuring out in this way. Thanks.

JEFF NEUMAN: Yeah. Thank you. I'm looking forward. Again, the only other meeting I went to of the group, as you said, it's educational for them. They have so much on their plates and usually used to dealing with things at such a high level and here we ask them to deal with the minutia of these details, and so this group tries to just understand all of this stuff. And now we're throwing in another SPIRT acronym. More acronyms. Great.

Jonathan, anything else on that? Great.

Okay, everyone. We'll see you on Monday at 3:15. Is it in this room again, I think? All right. Well, look on the agenda for the room. It's probably somewhere around here anyway. Thanks, everyone.

[END OF TRANSCRIPTION]