

**Transcription ICANN London  
Commercial Stakeholder Group  
Tuesday 24 June 2014**

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Tony Holmes: Good morning, everybody. And welcome to the Commercial Stakeholder Group meeting. The format of these meetings has changed a little over time. At one time we used to discuss real issues and then we went through a period where because following on from this, and it's the same today, at 11:15, we have an hour session with the Board, we got into a situation where to prepare for that it really ate a lot of our time.

But I'm glad to say that recently we've managed to carve out some time on the Sunday where we meet again as a Commercial Stakeholder Group when we do that preparation. So, again, we've now got the opportunity to get into some discussion between the three constituencies, the Business Constituency, the Intellectual Property Constituency and the ISPs to try and forward things as a stakeholder group themselves.

The format for this meeting isn't really idea. I can't see those behind me. I'm glad to see most of the seats at the table are now full. But if anyone wants to make any comment from behind please just come forward and grab a microphone as appropriate. I can't see when that needs to happen.

There are a few things on our agenda today, we're going to talk about ICANN accountability and that's really allied closely as well with the stewardship of the IANA function. Also want to have some discussion about the GNSO review and how that impacts our constituencies.

And towards the end of the session just to facilitate an awareness of what we're going to discuss with the Board I'll ask Steve DeIBianco, and Elisa, who are going to lead on those particular items, to say a few words about how we're going to introduce those particular issues.

I am aware that there are people here in this meeting who couldn't become involved in the Sunday session so I think it's appropriate that we have some awareness before we actually meet with the Board.

To enable us to get over to the Board room and start that meeting promptly this session will end at 11:00 so it gives us 15 minutes to make that transition.

So with that I want to kick off this session. And the first thing we need to do I think is to bring people up to date on some of the things that have happened over the last couple of days but particularly with the issue of ICANN accountability and some thinking that is now taking place within the CSG Executive on that particular issue.

So with that Kristina, if I can hand over to you on that particular point?  
Thanks.

Kristina Rosette: All right, thanks very much. Just as a result of the discussion that occurred on Sunday in the GNSO working session, particularly the GNSO with Theresa Swinehart and the GNSO with Fadi, it seemed as if all of the constituencies and stakeholder groups are really of like mind on the accountability issue. and, you know, given the timing, namely it was too late to introduce any kind of motion that the GNSO Council could perhaps adopt on the issue, that it seemed that we might have a fairly unique opportunity here, namely the opportunity for the stakeholder group and constituency leaders for the entire GNSO to be - well to be united, not just the leaders but the groups themselves - on this issue.

So I went out to the IPC list to see what folks thought about the idea of trying to coordinate a very high level statement on ICANN accountability that could be adopted by all of the constituencies and stakeholder groups and then presented by the leaders of those groups during the public forum.

The initial - and there was really no objection there so I took it out to the stakeholder group and constituency leaders. The initial feedback that I've gotten so far from the BC and the Registries and the Registrar Stakeholder Groups is that, you know, yeah, this is a unique opportunity. We haven't - we're rarely in agreement.

And the ability to provide a united front in the public forum might be very compelling in dispelling what seems to be the view that the community's perception and position on this issue can really just be dismissed.

So in response to my email Keith Drasek had replied to everyone who was on that with some bullet points that he had been thinking about that it seemed, you know, some of them I think are too detailed to get the type of agreement we'd want to have but some of them I think are really good starting points for further discussion.

And Tony and Elisa, you all should have those and to the extent that you can slip those to your respective constituencies and I will be doing that shortly with IPC.

But, again, it just seemed as if to my knowledge, the constituencies and stakeholder groups have never been united on a substantive issue and that it would be really unfortunate if we couldn't take advantage of this opportunity.

Tony Holmes: Okay thanks, Kristina. I believe all of the constituency lists now have a copy of those points that came out of the discussion we had with Keith Drasek. And certainly the point that Kristina made that there are probably only a very

few occasions when the thinking has been that aligned across the whole group is pretty significant on this point.

So it's teasing out those particular principles that we can present to the Board, as Kristina said, fairly top level but underpin the approach that we need to take on this.

One of the points that Keith does make, and I think it's something that we will certainly have a lot of discussion around, is that in terms of accountability ICANN just cannot be accountable to itself so somehow or the other that discussion has to broaden out and we have to put some stakes down as to exactly who is involved in that accountability process.

So it's really looking at the broader issues of accountability rather than just focusing it on one particular aspect, which is where the discussion we had in GNSO Council with Fadi appeared to be heading the other day.

So I'd like to open up for comments around the proposal that's been put forward. How we take this forward as constituencies and how we come together to try and get some agreement of the points we want to make and get that done before we actually hit the public forum later in the week. So Marilyn, please.

Marilyn Cade: Thank you. Marilyn Cade, CSG officer and for the BC. I had been approached by a number of the others in the groups. I had not had yet a conversation with the ALAC. But I have two points about this.

The last time I remember the organizational sub structures of ICANN being united was on the sight finder issue and that was the SSAC, I mean, was broadly across the community. That was years ago. I think that was 2004. And it was remarkable, if you remember.

But I do want to make a point that I would really like to be sure that while we may be making a uniform point about certain principles that we don't go into so much detail that we box ourselves in to an unwieldy alliance or coalition that we can't move flexibly with - then later. That's just a key point.

Because we may then, as we go through the work on this, begin to see more uniqueness coming out of the different groups about possible solutions. But I'm - I think this is a fantastic opportunity to show that it is the broad community that has these concerns and has, you know, I would say certain directional outcomes that they think need to happen.

The second point I just wanted to make is there's a huge amount of - for the transcript I won't use the word "paranoia" - heightened concern - heightened concern and in some cases misunderstanding and misinterpretation within I think the advice that ICANN staff themselves are giving to Fadi and the Board and that some of the hired consultants are giving to Fadi and the Board about the timeline issues on accountability and a confusion that accountability mechanisms have been called for since the President's Strategy Committee, the Affirmation of Commitments the ATRT 1 and ATRT 2. And this linkage that Fadi and some staff seem to want to make that it is only new issue of concern to the community because of the change in the NTIA role I think is something that we at least need to be aware of ourselves since we have consistently called for accountability mechanisms much earlier than this.

Tony Holmes: Thank you, Marilyn. Kristina.

Kristina Rosette: Sure. Marilyn, those are very good points. Just to - I just wanted to note, I think you're right, you know, the idea here is to keep these very high level because quite candidly anything other than that is not going to be something that we can get agreement on.

And second, while I think it would be fantastic if, by Thursday afternoon, we were in a position where we have more than just GNSO leadership on a, you

know, all of the constituencies and stakeholder groups, I think I would prefer that we start there and make sure that we get that lock down to the extent that we can.

I have mentioned it to Byron regarding the possibility and that this might be coming to him once we see whether there is agreement within the GNSO but, you know, I want to get that group of ducks in a row before we start reaching out to others.

Tony Holmes: I certainly agree with that. I think one of the things we will all do this afternoon, within our constituency meetings, is look down those points and try to draw out what are the top level principles. And certainly not to go beyond that, that's incredibly important. And some of them do go down into the weeds a little bit too much for this.

Anne Aikman-Scalese: It's Anne Aikman-Scalese with IPC. And the question I have is about I guess Fadi's and ICANN staff's view that there are certain accountability issues that are tied to the IANA transition, certain other accountability issues that will take much longer than that and the IANA transition has to happen fast for various reasons.

And so how do we address, if you will, where they are coming from with respect to which issues or do we say, no, we don't buy that period, we think these accountability issues all need to be addressed now? I'm just looking at where they're coming from and separating - you saw that in their initial request for comments.

Some of these accountability issues must be addressed right away because of the IANA transition; others will have to wait.

Tony Holmes: At the moment I don't think we have any clear path as a group we're actually facing up to that. I do appreciate the point. And even in this meeting there have been some conflicts around those issues. We - I think a lot of us heard

Fadi's input on this the other day when he met with the GNSO. Some of us also attended another session with Fadi where, again, he stressed the importance of getting the IANA piece resolved very quickly.

Yesterday we heard from Larry Strickling almost a different take on that. So one of the things that we need to do is discuss that I think in our constituency groups. And I would think that that's an issue where there's probably going to be some common thinking to come out of the Commercial Stakeholder Group. I don't think we can pin that down in the statement that's going to get buy-in from the other sectors of the community, that's probably taking a little bit too far.

Does anyone want to pass any comment on that particular aspect of timing and express any views? I think it would be helpful to do that.

Woman: So, it's (unintelligible) from ISPCP. Again agree with (unintelligible) and it might be a little bit too short of time to come into agreement at this particular meeting. But we don't want to be seen that we are making problems much bigger than it really is. So it would be helpful in the long term for the future meeting to identify.

These are the issues we're concerned related to the IANA transition and this has to be resolved for us to move forward in this kind of discussion. And these are the more long term issues that we have with the ICANN itself. So that might be something that's worth sort of considering not to reach conclusion at this particular meeting but something that we should continue for the next meeting possible.

Tony Holmes: Thank you. The only counter to that I think is that if there is a real push to fix some of it around the IANA discussion. There's a fair chunk of time between now and the next ICANN meeting. And if things were going to go down that path then obviously there has to be some thinking going into that and some movement.

We've talked a lot within the GNSO about how we're going to structure some of the input into the advisory group. What it seems to be missing from all of this discussion currently is how the thought process is going to actually take place and the engagement at the lower levels. And that's really where the focus of the Commercial Stakeholder Group (unintelligible).

Kristina Rosette: So I think it would be great if we're able to come up with some very high level principles. And just reviewing the list I think I see a couple that I think we should just talk about right now if we can. And just to make sure that we could even get to a place of agreement in here.

And one is that looking at the bullet that Keith created one is obviously that ICANN needs to be accountable to somebody other than itself. And that might be an external organization or entity. And two, that the accountability mechanism must be in place before the transition occurs. And those are sort of the two overriding principles that I see. And so I guess I would like to see that whether or not we can agree with those within here before we move forward.

Marilyn Cade: Thank you. Marilyn Cade. I haven't had a chance to look at them but one that I think we would want to incorporate is accountable to an entity that is not an IGO or government. And so I don't want to use the word multistakeholder and it's very confusing to people. And I also think there are some people who think that you can crowd source decisions about the technical, security, stability and resilience of the Internet which we probably don't agree with.

But it needs to be, you know, we can go back and look at how NTIA stated it. Do we think that the principles that NTIA put forward are - would there be a way of saying are consistent with the principles put forward by NTIA which would capture that not accountable to governmental entity? But I just think the point is important.

Tony Holmes: Any comment on that proposal?

Anne Aikman-Scalese: Yes, it's Anne with IPC. And this is a really thorny issue. I think I heard in the high-level government meeting yesterday I think I heard Egypt, for instance, say that ICANN has to be accountable to a government or intergovernmental organization. So you have this huge elephant in the room if you will.

And so, you know, it'd be a good idea for us to take a position on that I think. Whether we agree or don't agree with the NTIA approach. You know, a second comment that I have is I think the response you'll get from ICANN is probably - we are accountable to our Board of Directors and that's who governs us.

And why are you suggesting that anything other than a Board structure and Board accountability is - why create a third or second level of accountability and what's your proposed structure for that?

And, you know, I obviously don't know the answer to that. I'm just trying to anticipate what are they going to say. If we're accountable to our Board, we're a corporation, we're accountable to our Board, that's what they'll say.

Tony Holmes: Okay thanks, Anne. I saw two people wanted to speak. Come back - just one second, Steve, please go ahead.

Steve DelBianco: Thanks, Tony. On Sunday I took some careful note during the CSG prep session in order to be able to deliver what you asked which is our short message to the Board in an hour or so on this topic.

And want to be sure that I do that within the confines of what everyone is comfortable with. So if it's appropriate I could just briefly summarize three points I think you all wanted me to make because I think they answer the

discussion here. And then I would want to be informed by you as to how to modify those points.

Tony Holmes: Okay. I think that's a good idea. Can I come back to you on that point Steve and just give you the opportunity to say - well, if you could come to the microphone.

Anne Aikman-Scalese: And, by the way, we can't see anything on the screen anymore. I don't know what's going on but are we - if we're supposed to be looking at principles.

((Crosstalk))

Rick Lane: Oh sorry, I'm stealing the head table already. Rick Lane with 21st Century Fox. To answer the question about the Board of Directors, you know, one of the problems is they're only answering to the Board. That's okay like when you're a corporation because you have stockholders. And we have stockholders that can vote the Board, you can have a bunch of steps to go after them in a variety of ways legally.

But if it's just the Board by themselves and they're really not accountable to anybody because they can do whatever they want so you need to have some type of balance there.

And the second issue of I think we have to keep in mind here, and I know people don't like to talk about the US control of the Internet, but there is legislation on Capitol Hill, not to let the IANA transition move forward. And in the back of our minds is we're supportive of the IANA moving out of government control we want to make sure that congress feels comfortable with that and doesn't hinder.

So if folks are going to the Hill saying there is no ICANN accountability the last string is IANA function, you're going to have some problems on Capitol Hill and it'll be very hard for the administration to override that.

So what we're looking at is creating a comfort zone that all these groups around the table can go and say to the Hill, because that's where I focus most of my time on, and say look it, we are very comfortable with the accountability standards. You can feel comfortable letting that go.

As Marilyn pointed out, you can feel comfortable that it's not going to be taken over by another government entity. There is government control in the sense of rule of law. And we're - and you have contracts and other types of antitrust. There's a lot of roles that government can play in terms of overall accountability.

But in terms of getting congress comfortable I think starting off with some set of principles that they realize that they're hearing with this group, this broad based group, that we are all in unison and agree 100% that there needs to be greater accountability, that's a nice message to send up there. It helps us convince them that, okay, let the strings go a little bit more.

And then when there's a solid document in place and we can all go up and say, hey, this is really good for the Internet community, I think that will help us get the votes on the other side because there are some who will never vote with us.

Tony Holmes: Thank you. And that's exactly why I'd like to - attention to that one principle from that long list we have of the fact that ICANN - it's suggested ICANN cannot be accountable. So - just a second, J. Scott. Did you want to come back on that?

Woman: (Unintelligible).

J. Scott Evans: I just want to echo that, you know, and we have a - some of the comments that were made at the high level meeting are going to worry congress a lot. And so that's going to make our message all that more important. And so that's the reason if it's something that my company believes is important is is keeping the private sector at the table and involved.

It's our duty to make sure we're sending a message loud and clear that we're comfortable and we have to convince the ICANN entity that we're their greatest ally in this transition and that they need to work with us so that we can have a plan that would allow them to achieve their ultimate goal which is, in a sense, our ultimate goal but that doesn't come without some level of responsibility so that when we have to go and sell this for them, as private industry, we have a story that's worth telling.

Anne Aikman-Scalese: I completely agree with these statements. And the only reason I raise the issue is trying to get to be a little more concrete about our proposed accountability mechanism. And when we say, okay, let's compare ourselves as stakeholders with stockholders and that additional level of accountability.

So what you see within the structure of ICANN and the bylaws is, for example, with respect to the GAC, the bylaws say if the ICANN Board does not follow GAC advice they must make an explanation as to why they are not doing so, blah, blah, blah.

So there is a potential type of accountability mechanism that could be incorporated through a modification of bylaws to increase levels of accountability with the various supporting organizations and stakeholder groups within the existing structure of the corporation of ICANN.

So I'm really kind of trying to get to - maybe I'm going too fast to suggested solutions for accountability but I don't think we want to go the direction of creating some other overseeing board somewhere because that's going to go in the direction of governments.

If you say that you're going to create some other structure that has accountability versus the one that exists right now you will head directly into the governmental oversight issue.

If you stick with your stakeholders that you have and you kind of make an analogy between those and stockholders and yet you modify your bylaws so that you get a structural mechanism for accountability through your existing SOs and ACs, I think that you won't head in the direction of too much government power. Thank you.

Ellen Shankman: Ellen Shankman. I'm hearing two things that I think are very important. I think what Anne raises as a process question I want to address in a second. First I want to really support what J. Scott said.

I think it's important to send the message that trust has to be earned, it's not demanded. And Fadi can stand there all he wants and say, you know, you owe it to me or give it to me or ICANN can do that. But I think that we have to send the message that says, no you have to earn that trust. We want to give it to you. We are your best people, don't shoot the troops. Work with us to make this happen.

I'm struggling a little bit, Anne, with what you're saying because I think on the one hand it really is very important to address the kinds of Egyptian statements, the kind of other concerns that say the government should step in and (unintelligible) because there's an incredible phenomena that when certain things are not addressed directly that silence becomes some kind of acquiescence or other things get momentum.

My hesitation about suggesting a mechanism for that accountability at the same time that we're making a demand for that accountability is that people may lose sight of the demand for accountability and then it gets to a debate about the mechanism and you get lost in the argument about the house

which always have pluses and minuses as opposed to the target which is something that everybody can agree about.

And if the strength of what we're talking about is a unique situation which lots of constituencies who ordinarily don't agree about everything are for the first time coming together and saying, you know, this is really important, I would focus on the message that unites and says, this just is really important rather than going to the place where people might get too hung up on the pluses and minuses of their suggested house.

So I'm not sure how to leave that unaddressed but I think it's important to focus it on the target statement.

Tony Holmes: Okay thank you. And I have a roaming mic, I gather there are some comments.

Rick Lane: Our concern - Rick Lane, 21st Century Fox - our concern about just the bylaws is, again, I hate to use kind of the prime sector, stockholders can ask for bylaws and (unintelligible) boards immediately. There's a lot of things - there's tools in their arsenal. Bylaws can change. So for example, everything we see that they have now for accountability what prohibits them from changing those tomorrow as a board.

And we can go - I don't know if anyone's ever been involved in the ICANN budget, there's been recommendations. Did they ever - anyone ever listen, do they ever agree? Do they make changes? You know, what is that mechanism?

I'm more concerned - and then on the government side if there isn't an accountability mechanism to ICANN that's when government does step in because they feel out of control. So, again to the point that was made earlier if we have the ability to say there are controls, government, you don't need to step in, because what I'm afraid of if they continue to what they're doing and

there isn't an oversight mechanism that we feel comfortable there will be folks going to the Hill saying there is no control, there is no oversight so the government needs to retain control. And that opens up the door to the ITU and others.

So I wouldn't look at it as saying another account mechanism or accountable mechanism in place calls in governments, I think it helps keep them away.

Tony Holmes: Thanks, (Rick). Marilyn.

Marilyn Cade: Marilyn Cade. I was - I'm - the list of governments who share the view of the government that you just mentioned is a shorter list than it was two or three years ago but it is still a list. In some cases some of the governments have shifted into being willing to accept a nongovernmental entity but describe their lack of depth of understanding of how such an entity would work.

So I think there's - I do think we need to be cautious about proposing a particular solution it may in fact be a layered solution. I wanted to respond though to a comment that was made earlier, I think folks should be aware that there is, today, a process of an external review mechanism. It has only been invoked one time, it's extremely expensive.

But I think we just need to be careful that we are really demonstrating our familiarity because the Board could come back and say well, the independent review panel process blah, blah, blah or the review process, which is just a sub group of the Board advised by the General Counsel reviewing a full Board decision advised by the same General Counsel, we don't want to get into that level of detail.

But I think, you know, we also want to be conveying the fact that I - it's more I think conveying the importance of independence of a review process or processes and if we can reflect to the Board realizing our meetings with the Board are transcribed and are publicly webcast and are open, but if we can

convey to the Board the kind of message again that the business sector broadly, these three communities, really are ICANN's best friend in trying to resolve this I think that's a very important point for us to get across the Board and the staff.

Tony Holmes: Okay thanks, Marilyn. What I'd like to do is allow a couple of responses to that very point then go to Steve to run through the issues that he mentioned we're going to promote to the Board and then come back to Kristina about how we move this forward so...

Kristina Rosette: (Unintelligible).

Tony Holmes: Okay, we'll come back later. Elisa.

Elisa Cooper: I was only going to say that probably makes sense for us to just discuss what our high level thoughts are in our individual constituency meetings and then send it out to the list later tonight. But sounds like that's what you're going to discuss.

Tony Holmes: Okay thanks. Steve, over to you.

Steve DelBianco: Thanks, Tony. So what I'll quickly do is walk through the three points that I believe this group wants us to begin the discussion with the Board in an hour or so.

You'll tee up presumably the topic under the IANA transition and ICANN accountability and I would make three clear points. The first is for us to express the fact that we're grateful that the Board has acknowledged that the IANA transition has a huge important element of ICANN accountability in it.

For a while that was something that was uncomfortable but now that we've set up two tracks it enables us to focus on the enhancement of accountability. And we appreciate, as well, that the Enhanced Accountability Working Group

hasn't been burdened with a tightly limited scope or even a prescribed set of participants. They haven't dictated who's going to be on it and what it's going to cover.

So I think that shows that they listened and it helps us to express the fact that we're grateful for that. That's the first. And I guess I'll linger a moment and let them understand the fact that we said something nice to the Board for a change.

The second is for us to clarify the point we made over the weekend about the distinction in reality and in perception, the distinction between ICANN the corporation and ICANN the community. And sometimes they prefer to say ICANN the organization versus ICANN the corporation but they're both the same thing.

And the community is a distinct group. A community comes together from time to time and creates bottom up processes, it comes together once every few years for a review team under the affirmation. And that community includes governments, it includes the At Large, GNSO, ccNSO, all the different groups.

So we see value in the fact that the Board has a duty to the organization. Each of those directors is there to serve the best interest of ICANN the organization. And several Board members explained that to us when GNSO met with the Board on Sunday afternoon.

This was after the CEO was incredulous at the notion that there's a distinction between the corporation and the community. An hour later the Board he works for sort of cleared that up. And I want to express gratitude for that and kind of lock that in. That they acknowledged that the Board's duty is to the organization.

And we are not seeking to change that. The organization - every organization, every corporation, needs a Board who keeps the best interests of the corporation at heart. And we're not seeking to change that. Instead, we're seeking to create mechanisms that would hold management and board accountable to the community.

And this is not the time today to discuss the plan we're going to make during the working group that convenes starting next week. All we're trying to do is set the groundwork. So I would suggest to them that things like the Affirmation review and cross community working groups that come together and they do hold ICANN accountable for that particular episode.

But we want to seek something more permanent with the same entities from the community with something that's more permanent and with genuine powers to impose consequences if accountability is strained.

So the third and final point is to clarify what we said over the weekend about dependency or sequencing. It's really not helpful to discuss this notion that IANA transition and enhancing accountability are interdependent and related because I don't think that clarifies what that means.

So we want to be as clear as we can be that we have full agreement in the CSG on the principle that the IANA transition should not take place until the enhanced accountability mechanisms have been locked in. And I'll leave it for you to inform us as to whether we should say they should all be fully implemented versus agreed to and baked into the bylaws.

I think it's much more difficult to say that IANA transition can't occur until everything is done, I really believe that's a bit of a stretch. Now we have heard that that will generate - this statement of dependency, sequencing, we know that will generate some concern on the part of the Board. And I think we can address it, and this is what we discussed Sunday.

That - come right out and saying if that generates a lot of concern that we wouldn't have the enhanced accountability design completed by September 2015 we'd like to say, relax, we believe we can do it. And if there had to be several months of extensions on the IANA contract to finish the job that could be done as well. All parties involved have expressed a willingness to extend.

And there's a year and a half of time between September 15 and the end of the presidential election that seems to be of concern to the CEO. But I don't think we should say that today.

And I think we should add that one of the most important ways to accelerate the enhanced accountability is for ICANN staff and outside experts to contribute their efforts to that working group that convenes next week so a lot of staff support particularly from Legal when it comes to us designing changes to the bylaws, being able to write the correct language for how we move the Affirmation reviews into the bylaws or the authority that will be given to the new structure.

And then finally I will say what Marilyn noted earlier is that I want the Board to sort of relax. We're sending some principles here but we started by thanking them for acknowledging the two tracks. We told them to relax, we're not going to change the way the Board is operated but we are going to try to institutionalize this community accountability.

And I have to remind them over and over again that the people around this room, around this table are ICANN's best defenders and best friends in Washington, in every national capital and at the United Nations and at the Internet Governance Forum.

They can't seem to forget who their best friends and defenders are and I want to remind them of that. So I'll stop there, Tony, and take your advice on how to modify that.

Tony Holmes: Okay. I believe, Steve, that it's going to be pretty difficult to get them to feel comfortable particularly with the last point. I think that's the one that we're probably going to get the challenge on when we do have that discussion. We already know they've got a hard line in some places on that. Ellen.

Ellen Shankman: Whether it makes sense to go into all the details about the anticipated bylaw changes or not I leave to this group on whether or not the (unintelligible) needs to be shorter to the higher levels or includes that is setting the groundwork.

But if the very last point about saying that we're your best allies I think notwithstanding the point that was made earlier about we're your best allies but we're already not your total done deal. Understand that we're your best allies but you still have to earn our trust, don't just assume that that piece is done so that you can go off and do the other piece.

Tony Holmes: Okay. I'll turn it over now to Kristina.

Kristina Rosette: Just following up to Steve I would actually - I think Ellen's point is very well taken and quite candidly I would suggest perhaps that we use allies as opposed to friends because I think there is an important distinction there and I think allies is much more accurate in this context particularly given that trust needs to be earned point.

I guess in terms of kind of taking this whole idea going forward I'm still waiting to hear back. I guess, you know, formally even from the ISPs. I haven't heard a pee from the NCSG. I'm kind of of the view that there seems to be at least enough momentum here that if it turns out that NCSG or NCUC or NPOC or all of them aren't interested in participating that nonetheless whoever we can get at this point I think it's important to do.

One thing that might be a practical way to move this forward would be for each of us - each of the constituencies in the CSG to go through that list of

key bullets, say which ones are too in the weeds for us, get rid of those for now. Which are the ones that at least articulate a principle that we have to have and then perhaps do the, you know, - so that those bullets end up in three categories: must have, like to have, can't have, so that we can at least, given the time that we have, try and coalesce some agreements.

And to the extent that the BC in their meeting today, Steve, if you could maybe take the lead on this within the BC on trying to distill down the points we're making to the board into a few additional bullets then we know that we already have the CSG agreement on those. And it may be that if we can share those with the other groups that we can add those in to the broader level.

Steve DelBianco: Kristina, I was clear that in this morning's discussion with the Board we in now way have CSG agreement on what the mechanisms would be. I cited bylaw changes as an example without saying what the change would be. So I realize that today we're simply trying to make sure they understand about the sequencing and the distinction between the organization and the community. Those are the only two principles I think we are all comfortable with as of this morning.

The BC is far enough along where we'll probably adopted and ratify today a more concrete plan for the cross community working group permanent working group as it were. And I shared it with the leaders of the other constituencies. And I wrote about it on CircleID yesterday if you want to see it as a snapshot. But there's no way we can get into any of those details today, agree? Okay.

Tony Holmes: The one thing that presentation does do I think is give the pitch of - it brings out some of the concerns and it also gets a commitment on our part to participate in the process. And that is an important step in itself. Anne.

Anne Aikman-Scalese: Yes, this is Anne with IPC. I thought that was an extremely strong and thorough and good statement. There's only one phrase that I wanted to question, Steve, which was when you said that genuine power to impose consequences, I know that, you know, we mean that. I wonder if that - if this is the time to state it. I'm afraid it - okay. The responded the same way. We may want to drop or rephrase that at this time.

Steve DelBianco: Easy to do. We'll drop the word "consequences," I mean, for this purpose or this room the BC has been discussing what consequence could be imposed. Today we'll debate whether the consequence of (spilling) the Board makes sense. And of course there's no need to discuss that today.

((Crosstalk))

Anne Aikman-Scalese: ...genuine oversight authority or...

((Crosstalk))

Steve DelBianco: Hold them accountable and leave it at hold them accountable. But in your discussions talk about consequences today.

J. Scott Evans: Could you - when you say consequences of (spilling) the Board can you explain exactly what you are - what you mean?

Steve DelBianco: J. Scott, we'll coverage during the BC meeting because it won't be for today's discussion with our Board of Directors. But (spill) the Board is a common term in the corporate governance where the entire Board of Directors has to stand for reelection and reselection.

Rick Lane: Rick Lane with 21st Century Fox. I would add something else to this because I think there needs to be a historical context. When Marilyn and I and others from the Business Constituency back in '98, '99 and 2000, when there was a lot of tax on Capitol Hill to try to destroy ICANN because they were kind of

messing things up, we stood up and fought hard with the Senate Commerce Committee, House Commerce Committees and other governments to say hey, don't rush it to that ITU. Don't take it over. Be patient. Let this group - let this organization grow.

And it was that Business Constituency - it wasn't the NGOs and others who, you know, who were up on the Hill (unintelligible) with the US Chamber, you know, having the Chamber up there, that's where I was - I was at that US Chamber at the time going up to the Senate Commerce Committee chairman and saying hey, you're going to have hearings, realize what you say has ramifications around the world. We want this organization to grow.

And I think what we need to say at this juncture, which again, you know, is the ICANN 2.0 because all of a sudden there isn't going to be any connection, we want to state - we want to be with you again unified to the governments. We've historically done it to build on the trust idea.

We have a history of standing by and not trying to kill ICANN. And this is another opportunity for us to work with you in a way that creates comfort domestically and internationally. So I think we need to put it in a historical context.

Steve DelBianco: And, (Rick), I had asked Sunday during the CSG meeting whether it was possible for us to add the point to calm the Board down a little bit further. I would say something like not a single member of the Commercial Stakeholders Group is favoring Congressional legislation that would deny or derail the transition.

But I did ask the leaders of the CSG, and none of you felt comfortable that you could say that because you haven't checked with all of your membership. But that would be one way of understanding. We are opposing legislation that would derail or deny the transition. Do you feel like we should go that far or not?

((Crosstalk))

Rick Lane: We'll stay away from that.

Tony Holmes: Did you hear that, Steve?

Marilyn Cade: Tony, real quickly. I just wanted to offer a small added here. I really support - Marilyn Cade speaking - I really support what (Rick) proposed. The business community - I think (Rick) used the word "constituency" but it was really the broad business community that carry that message. But I would like to propose that we not use the words, "we are with you" instead we go back to the words we used then which is, "We are with and are ICANN."

So we are talking about improvements to ICANN. Again, it may seem a subtle difference but we are saying we want to work with the staff and the Board but it's ICANN we're seeking to improve or to strengthen. And I think we've got to get out of - help them get out of this. They think they are in charge of protecting ICANN; we think we are responsible for building and strengthening ICANN. And we've got to get out of that us/they. That is the one small change in terms of words.

Tony Holmes: Okay. I want to close this off. I just wanted to check from behind, there isn't anybody else that wants to pick up on anything that I've missed? So that being the case there are two clear points to summarize on this I think.

One is within each of the constituency meetings this afternoon we need some discussion of that list of bulleted principles. And there's a follow-up on I think the leadership of all the constituencies after to come together and look at where we have commonality over there and to feed that back into the discussions on the cross community deliberations that may result in a statement being made before the end of this meeting probably in the public forum. So they are the key follow-up points.

So with that I want to move us on and to get some input - excuse me - on the GNSO review. And we had a presentation earlier this week certainly in Council that really raised the key issue that I think does require some discussion here.

And that was that the initial feeling was that there was going to be no consideration of structural reform of that GNSO. We are now at a stage where I believe that it is totally off the table but there has been little discussions to try and put any boundaries around that element of the debate.

So what I would like to do here is open that up for some discussion as to whether we think that's an avenue that we should go down. I think some of us are aware that there have been permanent tensions within our particular house in making this structure work that have led to some considerable challenges for all of us.

And whether it's a time to try and move that discussion ahead through the GNSO review or whether we are at the stage where other things are taking so much attention we couldn't actually give full focus to that particular issue. So I'd like to hear some input. Ron, please.

Ron Andruff: Thank you, Tony. Ron Andruff, Business Constituency. I'm on the working party for the GNSO review. And we've been actually debating pretty heavily that particular element what is open for review and what is not. So one June 13 we sent a request to Ray Plzak, the Chair of the Structural Improvements Committee, actually just before that, he replied with a memo. What I'll do is I'll circulate it to the leadership so you can circulate it to your membership.

And we ask two questions actually. First question was, given the direction from the SIC that structural issues would not be addressed during the current GNSO review, when does the SIC plan to conduct a follow-up review to focus on structural issues?

And the second question was, the GNSO Review Working Party would like to include questions and the 360 assessment that delve into the effectiveness of the various GNSO structural components such as the two house structure and the NomComm appointees on Council. Are such questions within the scope for the current review?

And he responded to both of them. I was going to read the full text but on the second question which is probably more relevant the answer is, "Questions pertaining to the effectiveness of various GNSO structural components are within the scope of the current review." And then it goes on to discuss other elements.

So I think it's absolutely critical that we discuss this. There's no point in us going through a review process where we look around the edges of this thing and don't delve into the critical issues. And it's quite clear that the other side of the house feels the same way and certainly on the list as we've been discussing it.

There's a lot of desire for it to go forward. Now having said that, the other house, the Contracted Parties House, are feeling that there's not a lot of need to go there and start to review this because it's working for them. So it's no surprise there but the fact is the structural components really does need a lot of consideration.

There's been a couple of ideas tossed around. One idea is let's keep all of the constituencies and so forth but remove the house structure per se so we can not try to jam bodies that are not birds of a feather in the same box and that might release some tension.

There was another idea that was floated recently that I heard and it's these radical ideas and hearing but one was to say maybe we rejigger that and we say that there is a three house structure, the providers, the users and the

impacted parties. So that would - you'd have to try to figure out who falls into those various boxes.

But with a three house structure you wouldn't find - you might have a - well in every vote situation you would have a different account. So these are the things that are on the table. I'll circulate this memorandum to the leadership now and you can look at it and discuss it on your own. But that's kind of where we're at with the work party as I see it right now. Thank you.

Tony Holmes: Thanks, Ron. One question to you before you take any other input. As chair of the Structural Improvement Committee, you did call for I believe a total review of the operating procedures. And if we went down that path of getting some discussion around structural reform, would that be something you would be proposing to put on the back burner?

Because it seems - the only point of doing that work, which seems more and more to be a focus for GNSO reform, if we're going to go down that path. So as chair, what would be your thinking?

Ron Andruff: So you're referring to being the chair of the SCI, which is the - the Structural - what are we again - the SCI.

Tony Holmes: The SCI. We all know what you are.

Ron Andruff: ...committee.

((Crosstalk))

Ron Andruff: I need the former chair to tell me. But that is SCI has a mandate that as part of the - and this body, the SCI, came about as a result of the last restructuring. And our job was to work on structural - the implementation improvements. And so we were not to be a long-term body but that GNSO

Council determines that this is a body that serves the interest of the institution so in fact it is a standing committee.

And what we have within our mandate, within our charter, is that we are to look at various components from time to time independently and determine whether or not they need review.

And so one of the things that's on the table was the policy - or the operating procedures. And so on the Saturday meeting when I made my report to Council I asked Council should we start to undertake this now or would Council rather have us - have the GNSO review kind of look at this and it come back to us?

And so we've left that, that's really in Council's hands right now. And I would expect at the end of the week we will have some determination. But those are two different elements; one is operating procedures of course and the other is the structures of the organization.

So we are looking at both and we will take the mandate on operating procedures if it's given to us by the GNSO Council independent of the review.

Tony Holmes: Okay, thanks for that clarity. I saw a queue. Firstly the previous chair of SCI and then Tony and then J. Scott.

Wolf-Ulrich Knochen: Thank you. Wolf-Ulrich speaking. Well, you remember that there is a history of the GNSO review so also for this round so it's not just coming out so we already discuss it since I think almost 2 years we started.

And from that time it came that from the beginning if you are not of the opinion well, to dive into that way that - (unintelligible) we are going to restructure the GNSO. So rather than you were talking about self review and adjusting things which are going wrong with this way.

Now it's good that it came up with that discussion and it's clear that we can discuss that. There is still the question and that is how I understand the different positions is whether the outcome of that review should lead really to a restructuring or not. So the last review was with the goal it should be restructured.

So right now we should be careful to set this as a goal. Now we should restructure that GNSO and have that in mind. So we should be open for discussion for that.

But for the outcome is will be - could be different. I'm saying is that the most attention we have infrastructure seems sometimes to be coming from the voting scheme, from this side. And my perception is that depending on outcomes of votings different parties are happy or aren't happy with the structure.

So then we have to discuss also this way, you know, if it's a real structure problem or is it something else which we have to take - to take into consideration. So that's how I see the process.

This is also what we have to input in that structural related issue with regards to the review. And that - I'm fully confident that we can go that way right now because this discussion is officially open for that. Thanks.

Tony Holmes: Thanks, Tony.

Tony Harris: First I would say if you have a GNSO review and you don't think about restructuring I think it's a waste of time. Basically we are saddled with that - this fantastic invention that the London School of Economics came up with last time where we have this strange noncommercial side of the house where six people have the same voting power and assume the same representation as the entire commercial industry sector which seems a little unbalanced. And we have that difficulty now with the election of course.

On top of that these people have managed to write their own bylaws in such a way that you have a new group which is trying to make their way which is that NPOC who actually I think can claim much better representation of the civil society because of the NGOs that are involved and those that the NCUC is actually blocking from becoming members.

And they just can't make any headway. So that, to my mind, poses another challenge which is what happens is (unintelligible) to that transition process they look at representation within the ICANN and come to the conclusion that civil society is not perhaps well represented and it's more in a takeover mode.

And that to me presents them with some very good let's say, ammunition, thank you, for criticizing, you know, the legitimacy of ICANN as actually representing the worldwide stakeholders. So, I mean, if you don't restructure let's say, the GNSO you've got a (unintelligible) right now.

Tony Holmes: J. Scott.

J. Scott Evans: I agree with everything (Tony) had to save. Secondly, I think Steve Metalitz reminded the Board at a public forum not long after we took on this structure, that this was a compromise positioned that was forced on us; not something that we necessarily volunteered for.

And we were assured that the good thing was that in three years we would have a review of that to make sure that it was working. And so it was, don't worry about it because we are going to look at it again in three years. They publicly told us that. And I think to back away from what we've been promised is a mistake.

And I think we should go into it full fledged and with a list of demands of what we expect so that we can resolve some of the issues and fixes some of the issues so that this becomes a more fluid and effective organization.

Tony Holmes: And with that I'll hand over to Steve.

Steve Metalitz: Steve Metalitz. Not surprisingly J. Scott has a more vivid memory of what I said than I do. But he's right. And I just think we cannot go into a process ruling out structural change. And I say that even though - we all want to avoid the time, effort, anguish and pain that we will have to go through in order to improve the structural situation we're in now.

But I don't think it's avoidable. It's not going to be any better time in the future to confront it. And this situation we are in is not tolerable so we should not tolerate it. Thank you.

Ron Andruff: Thank you very much. I want to come back to what Tony made - the comment Tony made a moment ago and he was speaking specifically about NPOC having difficulty within that house just even getting votes.

And I want to highlight the issue there is the fact that they make their collections at an SG level, not at a constituency level. So you see what we're talking about here is apples and oranges. And so they will quickly say, oh no, the election was this way and that's why they only have one seat.

But as you recall, we gave up two seats to bring them in thinking that they would get two seats. But the structure they have is at the SG level as opposed to where we are at the constituency level. So this kind of disharmony across the board is what really makes it very difficult. We're trying to get square holes into round pegs - or round pegs into square holes and it's just not possible.

So even if we didn't necessarily deconstruct the whole thing as J. Scott was kind of suggesting that, you know, we're looking at three years later to see if it works and make changes, we might not have to completely start out of whole cloth; we may just have to do modifications where we harmonize charters to

get everybody kind of working in the same vein. At least then we'd have some standardized system we can understand and all discuss and negotiate.

But the way it's been to date is that each constituency, historically, would come up with their own charter and then off we would go. And whether that made any sense or not didn't - nobody cared.

But when we got the house structure then we tried to harmonize the charter of the IPC, ISPs and the BC. And we also - we decided at that time we weren't going to - we were going to have a light touch and we wouldn't go heavy on the charter for the SG, we to kind of keep our individual charters and just have a cooperative element. That's not what happened on the other side.

And that in and of itself is what one of the big problems that we have. So if we were to even look at it from that perspective there may be a way out of this thing. It's not restructuring completely out of whole cloth because I think that's the biggest fear; we've got so many moving parts right now, we are transitioning IANA, we're trying to roll out a TLD program and now to restructure the entire GNSO it's like changing airplane parts where we're flying in midair. And that's the tricky part. Thanks.

Tony Holmes: Your last point is exactly why I raised this today because I think that will be the first thing we get pushback on. Yeah, just Kristina and then Ellen.

Kristina Rosette: I agree that we need to push forward on the structural reform issue. I would just also note that this isn't a new problem. This is the problem that those of you who were here when Debbie Hughes was put on the Board for the purposes of creating that constituency, she had the very same issue.

And I think the fact that - on one side have the same cast of characters engaging in the same type of activity that's having the same outcome three

years later should be evidence on its face, that this structural reform effort that the Board attempted simply didn't work.

Having said that, I do think it's going to be incumbent on us as if we really want to pursue this that we identify our own solution and one that, quite candidly, Ron, I don't know if you were talking about harmonization of charters at the SG level or the constituency level. But that's the point that I think we should just kind of put a pin in and come back to it.

But I do think it's really important that if this is an issue we want to take up, we need to be driving the bus so we need to be coming up with our own idea for how we can restructure things in such a way that it's fair to everyone involved.

Ron Andruff: I completely agree. And in fact we have to start looking at this from the much broader perspective. I had a hallway conversation the other day and it appears that the - there's some - more or less a foregone conclusion that the brands are going to set up their own registry; or I'm sorry, their own constituency. They're not going to stay within the Registry constituency at this point.

Now I'm not sure what will happen at the end of this week, but that's kind of what I'm hearing now that it kind of understood that's what's going to happen. So that means there's yet another constituency. So we have to have some forethought that as and when new bodies arrive that we can bring them in without having to do a whole re-jiggering and a whole, you know, all of this - the amount of energy that we lose, and of course we're going to have pushback from those who are comfortable, is just too much.

So it'd have to be a longer-term vision and something that we can transition into. So I couldn't agree more. So what I was talking about harmonizing charters I was just kind of may be misusing my words but I was trying to say that if we can find even a simple method, something that's elegant, that will

serve the need right now even though we may need larger change at another time, do something that - we have to do something.

Let's figure out how that something comes to be without a lot of contention because there's too much other things going on and we need to keep our eye on the ball. Thank you.

Tony Holmes: Ellen.

Ellen Shankman: I agree that it's threatening and I agree that if, you know, one can find smaller elegant solution faster than total chaos, everybody is for that. But I think that the scope of the review has to be on the table; you can go into it with your hands already tied and pulling your punches saying, oh because we don't want the extreme discomfort of what may be the major shakeup, but let's already go to the middle ground, you can't get to the compromise ground without at least having the bigger picture looked at.

And I can tell you that already starting at that compromise ground, I can tell you as personal experience on the IRT proved to be the wrong way to go about it. That you really need to have, in your scope, the ability to look at the whole problem. It may be that your solutions come up with subsets that are elegant compromises but don't base the question that you're asking on your anticipated answer because you will have already informed that answer before you've asked the question.

Tony Holmes: Okay I'm going to close this one off. But I think we're at the stage where what we need to do without any doubt is make a statement from the CSG to the Board that this meeting clearly making the point that we consider we do need to include the option of structural reform within the GNSO review. If we don't do it here I think things will move forward too quickly and it will get lost.

How we actually progress this well that's probably a discussion again for each of the constituencies to have some thinking about and to see how we can do it within our respective constituencies and move it forward.

But the main point is is to get it on the table and we probably need to do that during the public forum to make that particular point. Ron.

Ron Andruff: Thanks, Tony. I'm scanning as fast as I can the media schedule but I am aware that there is a meeting of the GNSO working party and its tomorrow sometime so I will find it and make note of it because I think anybody who can attend that and sit in and hear what's going on will be helpful. Unfortunately I'm in the NomComm so I won't be there and Stéphane Van Gelder also from the BC will not be there, we're both NomComm.

That so anybody else who can go and listen and bring some input will be very helpful. Thank you.

Tony Holmes: I think that's an excellent. We do need to do that my concern was that we can certainly make the point during that discussion as well but I do think it needs to be elevated to the Board who are going to make decisions around this pretty soon. John.

John Berard: John Berard with the Business Constituency and a member of the GNSO Council and so sat through the presentation that the working party made on Saturday.

In their preparatory materials and then during the conversation the structure review is certainly a prominent part of what they're up to. So I'm not concerned that they're not willing to, able to or going to look at the structural possibilities. The concern I do have is whether we are satisfied enough that that will be done or do we want to offer a specific solution which could be the work product of a small committee of the CSG offering up recommendations.

But one of the anxieties I have is that we can restructure as often as we want but when we see the affect of, as Bill Graham said, the dysfunction of the house structure, you know, we're not going to see a new Board member added that would match a three-part structure of the GNSO.

I mean, we have to be focused on the outcomes as well and so my question - I guess I'm encouraging us to pull together a committee of this group to begin to think about the elements, as Kristina said, of what a reorganization would look like but it needs to be mindful of the fact that, as you say, we can reorganize as much as we like if the outcomes are not going to be - we can make it easier for us to vote but if we are still voting on the same stuff and ultimately in the same way then we're going to remain dissatisfied.

And so I just don't want to think that restructuring alone of the GNSO is going to get us a satisfactory answer to the anxiety that we confront right now.

Tony Holmes: The presentation that you referred to--my take on that presentation was they didn't rule it out, restructuring, that they didn't rule it in either. It was very much a question mark over that. And I think that's the point we need to reinforce.

In terms of the potential changes - well, A, I like the idea that we should set up maybe a group amongst us to try and do that with the three constituencies because it is beholden on a to drive it if were going to take this line; nothing is going to happen without that input. So we clearly need to do that.

But I don't think anything should be taken off the table. And if it has some knock-on impact as to how the GNSO is represented on the Board, I don't think we should just say there's a hard line there at this stage. I think that should be open for us to come back on as well.

Ron Andruff: I agree with you, Tony. And at the end of the presentation I specifically engaged in I guess what you would consider a colloquy with Jen Wolfe, the

GNSO councilor who is the liaison on that working party, about the three things that we had already accomplished in terms of getting changes to that review.

The first one of course was that initially it was going to be delayed, it was not delayed. You know, the second thing that it was not going to look at - it was going to be more of a checklist, the yes, no, digital analysis and it became more subjective and that it was not going to deal with structure. These are all three things that rate had said when he initially met with the GNSO. All three of those things are essentially now confirmed.

It will be a subjective review. It is not delayed. And it will include structure. Now the question is, you know, what can we do to make sure that there is a legitimate outcome for each of those things.

Tony Holmes: Okay, so we will make that position quite clear to the Board that we're adopting on this. The other thing I'd just like to ask here, are we at the stage where we could even think about, this afternoon, in our constituency meetings putting forward (unintelligible) to form that small group that you mentioned? I'm aware that as a Commercial Stakeholder Group the execs have conversation but as a group we just tend to meet at meetings.

Are we at the stage where we can all commit to that and have that discussion now? I look to the chairs of the other constituencies for some comment.

Kristina Rosette: I think speaking for IPC, you know, we had some discussion of we need to add the structural reform component of the GNSO review to our discussions which does far have not focused on that. I will certainly raise the topic about getting volunteers. I don't know, given participation here, given my expectations and remote participation that I can come back to you at end of day and say here are people. But I would certainly expect to be able to do that within a week or so.

Elisa Cooper: Yes, I think we can make the call for participation and within a week or so provide some members.

Tony Holmes: Okay, that's pretty positive step. Ron, just final word.

Ron Andruff: Thank you, Tony. Just last week comment, Wolf and I looked through the schedule and we found out that in fact that meeting was on Sunday so it's already past. So - but not to worry. There are two other things, there's a survey that's being put together, a 360 review survey, and we're working on that. And I'm seeing right now a draft of that document. So that survey is going to go out to the entire community and it's going to include structural issues.

And I'm told that they are our some in there, I haven't had a chance to look at it yet, but we'll talk about it. So that's an important part. That means that everyone will have a chance to weigh in. But I was going to make a recommendation that maybe the various constituencies, our group here in the CSG, might consider that those who are already representing them on this work party kind of band together and carry that load a little bit.

We are already doing it so rather than adding more people that would participate I think that might be one way to go. Thank you.

Tony Holmes: If you are prepared to take on that extra load I think that's...

Ron Andruff: We're already doing it. You know, we're already in the meeting so now it just means instead of, you know, as attending individually we now will caucus and kind of come up with, you know, how do we feel as a group and start to carry that - and then we can carry that back to the CSG and individual constituents.

Tony Holmes: Right, because what we need to head towards is a defining some form of proposal that we all buy into, that's the important part that probably falls outside of that currently. Okay.

Yeah, what I just want is two minutes, well, I'm going to hand over to Elisa who's going to lead part of the discussion with the Board just to make sure that those who weren't party to the conversation we had in this group at the weekend are aware of what we're actually putting forward in the next hour. Elisa.

Elisa Cooper: So we're going to bring forth to the Board some of the issues that we are seeing with the new gTLD program. And I've group them into three different categories there are issues where I believe there is a compliance risk, there are issues where I think we need to consider in future rounds how we address, and then there are issues where we believe there is an actual compliance issue.

So under that topic where I think there is a potential compliance risk there's the issue of reserve names that have been added to a list because of name collisions where those names have not been available for registration during the sunrise period.

And the reason that it's only a risk at this point is, you know, we assume that those names will be available for a sunrise registration when they come off of the reserve names list. And we just want to make sure that that happens so that's why it's a risk. Yes.

Anne Aikman-Scalese: In the name collision recommendation yesterday it was very specifically stated, and on the slides, just as (unintelligible) had mentioned in their Sunday meeting. But officially announced by staff that the recommendation would be not subject to sunrise.

Elisa Cooper: Okay.

Anne Aikman-Scalese: So I just want to make sure that you know that that is their position. And they're saying that's their position because they're saying that

there was actually no requirement those names be available in the sunrise either. They're saying that those names were not required - that they could all have been reserved if they wanted them to.

Elisa Cooper: Okay so that's not true. The Registries aren't making them available for registration during the sunrise. The Donuts registries are making them available for sunrise registration. If they're on the names collision list and it's a Donuts registry you can get it.

But there are many other registries who are not making them available for registration during the sunrise. And so if that's the case that the name has never been subject to a sunrise then we feel that it must be subject to the sunrise. And so we're calling this a risk because, well, there's still time for it to be subject to a sunrise because it hasn't come off the list yet.

There are some issues that are, I think, of concern and we cannot address them now. But in future rounds we want to make them aware of the fact that there are registries who are putting trademark names on premium lists. And although I know we don't want to talk about, you know, we're not - about price setting or anything, I think that there is a concern and I think we should address it in a future round where there's really exorbitant pricing for things that are clearly, clearly identifiable trademarks.

And we're also seeing issues where the registry/registrar channel is really being bypassed because the registries are registering names for themselves, they are warehousing the names and then putting them out onto auction sites for registration. And so that's restricting one's ability really to select which registrar to choose.

And that's the whole reason why we have the whole registrar distribution network. Again, I don't think there's anything we can probably do in this current round but in a future round let's focus on that issue.

And then finally, the last area which is around sort of true compliance issues, in the case of one particular registry we see that they are essentially registering names to individuals without receiving consent. And this is the case of dot-XYZ where names were registered on behalf of current dot-com owners matching the current dot-com without those registrants ever agreeing to terms and conditions or ever even asking to have the registration.

So those are the three areas that we have concern with and that I will plan to bring forward to the Board.

Tony Holmes: Thank you, Elisa. Jim, you have to be quick, we need to break and get over to the Board quickly but.

Jim Baskin: It has to do with the collisions. There was a meeting yesterday afternoon. And just wanted to make sure that all three constituencies hopefully had people at that meeting they can talk about it during your constituency meetings because there was a lot of surprises in that meeting.

Tony Holmes: It's on our agenda certainly. So with that I'll bring this meeting to a close and thank you for your participation. We now have to go over to meet with the Board and that's in the Sandringham Room. Thank you.

END