

**GNSO – ICANN Nairobi Meeting
GNSO Open Working session
New gTLD's by Kurt Pritz
06 March 2010 at 13:00 local time**

Note: The following is the output of transcribing at the New gTLD's presentation by Kurt Pritz held in Nairobi on Saturday 06 March at 13:00 Local time. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record.

(participants list at the end of the transcript)

Stephane van Gelder: Okay everyone. (Kurt) and (Karen) are here so I suggest we start. Thanks for being patient.

Once again as I've said this morning but I don't know if everyone was online then, for those people participating remotely there's an Adobe Connect room where you can raise your hands -- I'm sure we all know that works -- so that we can see if you want to ask questions. Please don't hesitate to do so. We'll try and give priority for those people that are participating remotely.

So we have quite a full agenda of presentations on the new gTLDs from (Kurt) and (Karen) starting with an EOI status update, (Kurt), I believe.

(Kurt): All right. Can you hear me? Excellent. Well thank you very much. I'm sorry I - it's only Saturday. How can I be late?

Thank you very much for being here. I think that this is going to be a fascinating place to hold a meeting. As soon as I walked off the plane - you walk off and you go down, you know, we walked out onto the tarmac and even from the airport you saw those trees. And you've seen all the pictures. And everybody stopped to take pictures just as they walked off of the plane. So I think that's pretty good.

Well the agenda that I was going to take us through is on the next slide. So I was going to take us through this sort of agenda. ICANN, as it typically does with the new gTLD program, posted - published a number of documents intended to move this process of launching new gTLDs conclusion.

And so there are sort of three sets of intertwined issues. One is a resolution of outstanding guidebook issues. So that's kind of code word for the, you know, the issues formally known as overarching issues so how - where are we on those and can we declare victory on any of them.

Two goes to other guidebook issues that are being chased to completion. And then three, I thought then we could, you know, given that knowledge, you know, then the EOI plan going forward would make more sense. So if it's all right with everybody in this room we'll do it that way.

ICANN, as you know, as I said, just published a set of documents 15 working days prior to the start of this meeting. And they included an EOI plan and - a plan for the EOI and a reporting on the EOI going forward, the synthesis and analysis of public comment received on the previously published model.

But then there are a lot of documents intended to move the - detail the implementation to closure, a lot of documents about trademark protections. And so we'll talk more about them, all those - almost all of those resulting from the hard work done by the Special Trademark Issues Group that is part of the GNSO, some documents about IDN issues and then some documents about malicious conduct, some about registry operations and the registry agreement. And then, you know, a set of what I would call guidebook experts - guidebook excerpts, in other words ways in which the guidebook would be amended if we were publishing a new version of it now which we're not.

So if that agenda's okay with everybody let's go on - any comments? Oh good.

Man: Go to the next one.

(Kurt): What? Yeah. So let's go on to the next slide: resolving outstanding issues. So these are the four overarching issues which are trademark protections or right protection mechanisms, the prevention of or mitigation of malicious conduct in new gTLDs, the chasing of further economic studies and root scaling.

So as a trial - the lunar trial close maybe we should start with saying that we've published a set of solutions that are trademark protection mechanisms. And so maybe we're virtually complete here.

The GNSO completed a lot of hard work in a really short period of time and delivered a set of our rights protection mechanisms having to do with the trademark clearinghouse and URS. It reached - you got to have a consensus in very many areas, you know, some sort of agreement in others although there was some sort of dissension. But, you know, if I might say in support of my staff, it was a very good document and - but a lot of good work.

And so as a result of that new versions of the trademark clearinghouse and URS, two trademark protection mechanisms, are - have been posted. At the synthesis, those documents are the synthesis of, you know, the STI report, the reports that preceded it and the public comment on the STI report.

Wait. I didn't say go.

So I'm just following around here. And then in addition we posted a new version of the post delegation dispute resolution procedure for trademarks. So, you know, those things coupled with tech WHOIS and UDRP make up grades of trademark protection mechanisms that we think are effective.

So now - so if you want to look at that, all the trademark protection mechanisms on the next slide portrayed graphically they can be broken up

into prelaunch, (RPMs) and then ongoing operations (RPMs). So prelaunch, the - and most of you guys had all known this -- the registry is obligated to use the trademark clearinghouse so that'll be written into the registry agreement to support either but at least one of an IP claim or a Sunrise process. And how that works is laid out in the posted documentation.

And then after the registry is launched people who own rights can protect them either through the Uniform Rapid Suspension System, the URS, the post-delegation process and also - or UDRP. And then also supporting that would be the requirement for registries to support tech WHOIS.

So that's sort of the bulk of trademark protection mechanisms. So if you think about it it was, you know, everything below that blue line was going to be a blank in the first - was a blank in the first version of the guidebook so another example of the ICANN process at work I think.

Proceed. So what is the trademark clearinghouse? It's a database. So it creates no new rights. Those rights, you know, it's rights that exist. And the trademark clearinghouse can be pursued in other fashions.

So this database has two functions. One is with trademarks coming in to it. It validates those marks and then puts them in the database. And then what happens going out is it's - the clearinghouse will support Sunrise processes and IP claims processes.

So the big benefit here is trademark holders now with TLD launches, you know, enter into the clearinghouse for whatever clearinghouse the new (GLD) establishes. Right?

But this would replace the need for that. And (unintelligible) so...

All right. And the trade - per the STI recommendation the trade - the clearinghouse would be operated by a third-party licensor agreement with ICANN.

So what did the STI say? It said that registries would have to either use the clearinghouse to support a Sunrise or an IP claims service.

And what marks are in there? Well there's a distinction between what marks are in the clearinghouse and what marks the registry is obligated to honor. So the STI recommendations, so now we're getting to the exciting stuff, so any court validated mark or nationally or multi-nationally registered text mark in the clearinghouse.

But what must the registry use on the Sunrise and IP claims services? Well the STI said just registered marks with substantive review processes. And there's a lot of comment about this.

Now what happens to all the marks from countries where trademark offices don't do a substantive review which is, you know, a lot of Europe? I'm not a student of this area so I'm not going to say more than that but that there was - in the STI it was an area where there was some dissension. And in public comment there was a lot of public comment about how to handle that. So there's some separation in the posted model from the STI recommendation. And I'll talk about that in a minute.

That - so what else did the STI recommend: that the provider be contracted with ICANN, that the clearinghouse may offer ancillary services, that there be one database so the clearinghouse is one database but it has to be able to be capable of accepting trademarks from all over in the language that those people who want to enter into the clearinghouse speak and that the cost would be borne by the parties utilizing the service.

And how that's interpreted I think is you want to put a mark in the clearinghouse you pay the clearinghouse some money. If you want to - if you're a registry and you want to use the clearinghouse you pay the clearinghouse some money. And that way the costs are tied directly to activities. So I think that's really good.

So those recommendations are just about adopted wholesale in what's post - the posted model. And there's two slight differences. Both is - are on the next slide.

What? Next slide. Okay.

So what are differences? One is the issue I just spoke to. And that is what happens to all the trademarks from - registered in countries where there's not substantive review? And so there's some implementation work left to be done.

But reading the public comments and the minority reports to the STI what's proposed is that all those marks that the STI said had to be honored by the registry are honored but any marks validated by - through the courts, which was also an STI recommendation. But then finally if it's a mark from register - if it's a registered mark from a country without substantive review that one of the roles of the clearinghouse would be to validate that mark.

So I, you know, to me it's like the first inquiry in a UDRP. You know, it's to sort of validate the mark, you know. So it's got to be registered and then through usage and the like that mark is to be validated.

So, you know, the clearinghouse has two roles. One is to validate and one is to report the IP claims and the Sunrise. So as part of the validation the clearinghouse will say oh it's a registered trademark, you're in and it's because it's from a court - from a country with substantive review it's a - it's been validated by a court or it's a registered trademark from a country without

substantive review but, you know, we do this extra validation work. So that's one difference.

The other is an area where the STI was really silent. And that is that the clearinghouse can provide ancillary services but didn't really look into whether the trademark holder should provide permission for their information to be used in this ancillary service which could possibly result in the publication of that information. So the proposal says that the trademark holder has to be consulted and has the discretion to be included in that ancillary service.

So I think what I'm going to do is pause because we talked about - and Jeff Neuman is asking a question. So I'm going to pause and take questions about the clearinghouse.

(Stefan): Okay. Thanks (Kurt). Jeff, please go ahead if you can hear me.

Jeff Neuman: Yes I can. Can you guys hear me?

(Stefan): Yeah. We can hear you fine.

Jeff Neuman: Okay, great. So (Kurt), I have a question. You said if the registry wants to use the clearinghouse it'll pay a fee but at the beginning you said use of the clearinghouse is mandatory. So I'm assuming then prior to launching this process you'll have exactly the fees that the registry will owe that we can put into our business model and figure out what those costs are.

(Kurt): Hey Jeff, how you doing?

Jeff Neuman: Good. Thanks.

(Kurt): Good. So I - yeah, I think that's exactly right. I think part of the tender to secure the services of a provider would also - would be based on cost as well

as quality so that we can, you know, and it'll be done - tender will be done in a public way so we can all work together to strike the best deal for those who are using the clearinghouse.

Jeff Neuman: Okay. Thanks.

(Kurt): Is that okay, Jeff?

Jeff Neuman: Well I - it's an answer. I'll let you know later if I think it's okay. But thank you for the answer, yes.

(Kurt): Yes.

(Stefan): Do we have any other questions before we move on? (Kurt), carry on. No more questions? Yeah. (Richard)?

(Richard Tindle): It's not a detail question, but it may be important. So I read the IRT report and the STI report as saying that if I had a registry named .shoe and I think that's it, I could apply my discretion as to whether or not a particular trademark classification would or wouldn't have to be allocated say during Sunrise process.

So my interpretation of those two reports was that as the registry for .shoe I could look at the trademarks in the clearinghouse and say I think shoes are Classification 34. If it's a Classification 34 then I'm going to apply a Sunrise rule. But if it's not, if it's Microsoft and their classification is computer services, then I wouldn't necessarily be obliged to provide Microsoft.shoe during a Sunrise. So that was my interpretation of those two reports.

But the way that I read the staff report -- and this is the question now - the way that I read the staff report that I have to apply - I have to give Microsoft Microsoft.shoe during Sunrise unless my registry is one that applies restrictive registration practice.

So the nuance there being that if my intention of .shoe was not to be restrictive in the sense that if Microsoft wants to get Microsoft.shoe I'm going to let them, I don't care. But the way that I interpreted the most recent report is that unless I'm actively policing the, you know, who can and can't get a shoe then I have to use every trademark that's in the database.

So is that the intent of the report? Or is that kind of maybe a drafting error? Or what was the intention of that most recent report?

(Kurt): So I think that's the intent of the report. And it's something we should talk about going forward because how, you know, in order to provide discretion to a registry but also provide some assurity (sic) to trademark holders that their rights are going to be protected through this mechanism. There has to be some type of bright line rule so that there's - expectation is the wrong word but it's a correct anticipation on the part of a trademark holder which path the registry is going to go down before it actually goes down that path. Or the registry, you know, abuses the discretion it has.

So one way to write the bright line rule is to have the registry say well here are restrictions that are in place so, you know, we can decide a priori that the, you know, that I can use discretion in these areas. And absent, you know, some sort of commitment to restrictions then I think trademark holders might be, you know, uncertain as to how their rights are going to be protected going forward.

So that's why it's written that way. And that's why we're kind of stuck in how to push it further than that so.

(Richard Tindle): It's all a question so is - and maybe we don't want to answer this now. Maybe this is something we're going to discuss going forward a little bit. But it is the intention there that those sort of restrictions would be similar in nature to that

which a community would have to apply? Or are we talking about a different set of sort of policing standards?

(Kurt): Yeah. So the best -- we should talk about it more -- the best world - of all worlds would be to use the same community-based criteria because then we're not creating a new chapter of the guidebook and a new set of complexities.

Now the other way is to say, you know, that registries have to use the clearinghouse and all the - clearinghouse. And that's a, you know, more strict core way to go, you know, and easier bright line way to go forward.

(Richard Tindle): Just to close it out very quick, I mean I think we should talk about this more. I think we have gone now beyond what both the IRT and the STI said in their report. And I think we're creating a situation where it's essentially going to be a little bit silly and that we're going to be going through IP claims processes, both Microsoft.shoe. But let's talk about it more.

(Stefan): Okay. Thanks. I have a question from Mike Palage.

Mike Palage: Yes. Thank you (Stefan). (Kurt), just a follow-up from the question I had asked you last week in New York City about the remove - the restriction in the original IRT about the provider of this service not being a contracted party.

So again existing contracting parties would be able to bid on this potential clearinghouse service? Is that correct?

(Kurt): Yeah. I think that's right. I, you know, we certainly read the reports and take that very seriously and certainly - and take the meaning behind those words to ensure that whoever the provider is that we're avoiding conflicts with ICANN and with the users of the service. So we wanted to, you know we want to secure a provider that or providers that avoid those conflicts. But

certainly having I think some contract with ICANN wouldn't necessarily disqualify a - from (unintelligible).

Mike Palage: Thank you.

(Stefan): Thank you. Thanks very much. Just on a administrative level could I ask that GNSO counselors be given priority at the table if possible. I know just a few of them having to sit behind us. If you could accommodate them that would be much appreciated.

Are there any more questions on this subject or can we move on? Being none, (Kurt), please go ahead.

(Kurt): I think the URS is next. And, you know, looking around this room and the virtual room of all of you back at your home the URS I think is familiar to most everyone. It's intended to provide a rapid, cheaper, faster relief to trademark holders for very clear cut cases of infringement.

The, you know, the fees will be set by the provider but they're anticipated to be in the low to mid hundreds of dollars per adjudication. And that was based on the IRT and others going to school on (nominus) rapid process.

And importantly as everybody knows, it results in just a suspension of the name not a transfer of the name. (Kurt)'s talking now.

So what did the (SC) - what?

Man: Get closer?

(Kurt): What did the STI say? The STI said that the URS shall be mandatory, in other words that all registries will agree to comply with URS decisions, that it - the URS should contain examples, the UR - the STI recommendation includes a appeal that's available at any time, that examiners be trained, that

examiners be rotated around and the URS would only, you know, the URS would find in favor of the rights holder only if there's a clear cut case of infringement.

And if there's a contestable issue that the URS claim could be denied the next steps, you know -- excuse me -- the next steps after that for the rights holder would be UDRP potentially or the courts. And there's provisions for excluding sort of the vexatious litigant type of party in the URS, that they'd be banned after two what are called abusive complaints.

So again these recommendations were adopted just about wholesale into the - into what ICANN's published. There's two what I would term teeny weenie changes. I hope you feel the same way.

The first is really, you know, what I think we could term as a legal term of art. So this is a relatively small issue but there's a chapter in the STI model called Safe Harbors. And safe harbors to me are - to the extent I'm a lawyer are really a set of bright line rules and so you know when you're in the same - safe harbor and know when you're not. And so it seemed to us that that chapter was really about available defenses.

And then - so that's all kind of esoteric. And if you have any questions you could ask.

And then, you know, the STI called for a de novo review at any time after the adjudication. And there were many comments about this in the comment summary. And so as a trial balloon it was thought that, you know, if a URS decision was made then a de novo review would be available for two years after the decision but not after that.

You know, if you think about it the name's suspended for the length of the registration and then maybe a year after that. So a de novo review, you know, it's two years after the decision where the name might have passed on to a

bona fide registrant is somewhat problematic. And, you know, there's -
anyway so I talked too much about that.

I think that's all that we say about URS in these slides. Is that right? So are
there any questions about URS? Excellent.

Woman: (Unintelligible).

(Paul Stahura): (Paul Stahura). And it's really quick about the cost. Was there - I vaguely
remember in the original report there was a discount for quantity, number of
names if you're a complainant. Can you talk about the costs of the URS
complaint?

(Kurt): Yeah, no discounts requirement. And there was also in - I think in the IRT
report -- I forget what's in the STI report on this -- there was a fee that had to
be paid by defendants if there were over a certain number of names. Do you
remember that? Anyway that's not in this model either.

(Caroline): There is -- this is (Caroline) speaking -- there is in what we posted I believe
an allowance that there could be consolidations of cases where the registrant
is common or some other set of factors in common. And that could potentially
affect the fee structure. But it's not so in the document we posted.

(Stefan): You have another question?

(Caroline): Sorry about that. Can you hear me? Okay.

What I said was there is in the document that we posted concerning URS an
allowance for consolidation in certain types of situations where for example
the registrant is common or there's common ownership among a number of
names. And I said that that could potentially affect the fee structure which is
mostly still to be developed.

(Stefan): Thanks. Anything else? Any other questions?

(Kurt): So -- this is (Kurt) again -- so this is essentially the close of what we're going to talk about with regard to trademark protections. You know, I - so to me, you know, like I said we started with a blank sheet of paper on this after the Mexico City meeting and now have a set of (RPMs) in the guidebook that I think are well thought through and vetted by the community including representatives of this counsel.

And so, you know, I'm for us to try and to use this as a trial close going home that we're kind of, you know, we did a lot of good work and discussed I think every darn issue that could possibly be discussed on this topic. And we should declare victory and go onto the next thing.

And David Taylor has a question. He's going to agree with me.

David Taylor: Can you hear me there, (Kurt)?

(Kurt): Yes. Thank you (David).

David Taylor: Yes. Hi and just a question on the sort of eligibility of trademarks for the URS. And what's the code status on community trademarks? Are they included or are they not included?

(Kurt): I heard everything you said except for the type of trademark.

David Taylor: I'm sorry, community trademarks, CTMs. So there's some discussion about whether they - whether they're subject to substantive review or not.

(Kurt): Oh, European community trademarks.

David Taylor: Yeah. Yeah.

(Kurt): Oh. We're in Africa so we didn't get to the European part. Yes. So maybe I didn't make that clear earlier.

So as an accommodation for that the proposal suggests that the - that for trademarks that are registered in countries with - that don't have substantive review that the clearinghouse would validate those marks using the same rule that, you know, a UDRP or - a UDRP provider or other adjudicator might use to first verify the marks. But it would have - it couldn't just be a common law mark. It would have to be registered in one of those countries. Is that clear?

(Stefan): Okay.

David Taylor: Yeah. Yeah. No, that's clear. I just - I think there's some - from my spot anyway there's some confusion because I think it's wrong to say that a community trademark is not subject to substantive review. So I think there's quite a big difference between the community trademark and the Benelux trademarks which were gained in .eu and the old (Junesian) trademarks is just my only point on that really.

(Kurt): So it is - how hard is it to draw a line between registered trademarks that have substantive review and those that don't?

David Taylor: It's quite hard. But you could certainly - I could send you something on substantive review and that's on community trademarks for instance because obviously a lot of companies use community trademarks rather than registering in every country across the European Union. And certainly community trademarks are accepted. And I would say it's wrong to say that they're not subjected to substantive review.

(Kurt): Thank you.

(Stefan): Is that okay, (David)?

David Taylor: Yes. That's fine. Thanks.

(Stefan): Thanks. Tim, you raised your hand? It showed up for awhile. Did you want to ask a question, Tim Ruiz?

Maybe - okay, we'll try and get back to you if you did - if you're having trouble connecting.

Tim Ruiz: No. That was an error.

(Stefan): Okay. Thanks.

(Richard Tindle): Yeah. This is (Richard Tindle). Yeah, I just wanted to sort of emphasize the point that - it's sort of unspoken with (Kurt) but, you know, I'd like to emphasize it and that is these are minimum requirements.

Many registries will implement further requirements than are stipulated in what we've just gone through here. This is the baseline set. I think many registries will implement even broader sets of (RPMs) than what we've just described.

(Stefan): Thanks. Marilyn?

Marilyn Cade: My - just a clarification. The topic is on the - this is a microphone -- Marilyn Cade speaking -- this topic is on the agenda. At 4:00 pm, 1600 hours in a workshop on Monday, right, trademark protection and new gTLDs? So the community will get sort of an overview briefing similar to this on Monday?

And the reason I'm asking, (Kurt), is that that hour happens to be a little friendlier. And I think there'll be more attendance perhaps from - both from Europe and from the U.S. for the - that afternoon workshop.

(Kurt): That's right. It's intended for the entire community and not just the GNSO.
Thanks for bringing it up.

(Stefan): Thanks. I have a question over there. Can I please ask you all to speak closer to the microphone because people on the remote participation are having trouble hearing us? Thanks.

(Alex): My name is (Alex) and I'm speaking up. The question is reach out. This issue is quite important to us because from what I've heard so far there is a presumption that the protection of those marks must possible be registered.

Now there is this development that is confusing the (unintelligible) which has started becoming a trend all over the world. And most of the - what we may have is marks of import -- I think I've read this in the past in Africa -- are not registered. We don't even have a mechanism to register.

And I asked the same question in Korea. Are we going to find all our names taken or what is the protection within the rights - the trademark sector? The names that are African and then Latin are going to be protected? That's the protection for those names to Africa.

And further to the question are what about the ones that are actually language, the same old example of Apple? Are you going to have apple.shop and then it's going to be protected through all the new gTLDs? I'll probably attend other workshops to see a bit more. But I just wanted to raise that, that it's still important to us in this part of the world. Thank you.

(Kurt): Could you reiterate your point about symbols? I didn't understand that one.
Did you talk about symbols at one point?

(Alex): At some point I spoke about symbols that are traditional, cultural and African value but they're not registered. But then if somebody registers it in the European or other countries then we are pulled down the URS what

protection mechanisms are there to make sure our names are not pulled down off the net because of trademarks? Thanks.

(Kurt): So - yeah, so a few things. So I heard you talk about symbols which I think are design marks but I'm not sure. And you talked about - maybe not. And - no?

Because, you know, text marks are protected because text marks can be TLDs, right? TLDs are strings of characters.

(Alex): I will give you an example here in Kenya which has been very detailed of kiondo. You can ask anybody around what is a kiondo. You can ask about kikuyu which is a traditional dress that have been registered in U.K. as trademarks. Yet they are clothes worn around. And there are many others. Those are just - or masai is someone who goes and registers a domain called masai of what - those are things I'm talking about. Thanks.

(Kurt): Yeah. So because there is a registered name - so here's my understanding. I don't know if it'll answer your question.

But because there's a registered name that's in the clearinghouse it does not preclude somebody else from registering that name either, you know, either as a first or a second level in the domain name system. So, you know, an example that's easier for me is - would be .apple where even though Apple is a registered trademark and in the clearinghouse that would not necessarily preclude an apple grower's association from registering .apple as a TLD I mean and being able, you know, being able to successfully register it.

They have a legitimate interest in that TLD and they're not intending to in, you know, infringe the rights of a computer company. So they could still get it.

And then - so I don't know if that's a good answer or not. And then I think you also asked about, you know, whether it's similar - very similar or confusing

with a TLD. And I think that the IRT and the STI developed fairly close definitions for - that they have to be - that they have to essentially be identical to the registered trademark. There's some allowance for spaces or and signs or hyphens but that in order to be - in order for a name you want to register to be caught, you know, identified as one as the same as the clearinghouse it has to be pretty close to identical.

(Alex): Just to make sure I'm quite clear, I'm talking about cultural expressions and traditions that are not registered. So that's the first part of the one you're asking about. And the second one is the confusingly similar (unintelligible) dates because then that would be determined elsewhere. But let's focus on the cultural expressions not registered anywhere.

(Kurt): So if those are not in the trade - if those are not in the clearinghouse then many entities would be, you know, file, you know, if it's not in the clearinghouse then there wouldn't be any, you know, notice through an IP claims or capturing those names through a Sunrise process.

As I'm sure you know, the new gTLD process does have available to it an objection based process. And one of those objections, one of those four types of objections is community based objection where if you're a member of a community and that TLD string has a nexus with that community, then you could object to the registration of that string and potentially keep others from, you know, misusing that label. That's the best I could...

(Stefan): Is that okay, (Alex)? Is that okay?

(Kurt): Can we talk outside?

(Alex): We'll talk offline. Thanks.

(Stefan): Thank you very much. (Richard), you had a question - all right, another question?

(Richard Tindle): Yeah, just a quick comment for (Alex) and is that a registry can also reserve names. So the registry can decide that certain names -- let's say they've got cultural significance -- they could also be reserved.

And there's going to be some interconnect there with trademark rights. But it's not as if the registry can't choose to have a reserved list of names as well.

(Stefan): Okay. I suggest we move on. (Kurt)?

(Kurt): Yeah. So we're going to leave trademark issues and go to another area of the guidebook where I think significant and good progress has been made. And I'll start to forecast a trial closed.

But there is a set of modifications in the guidebook that describe I think seven changes to the guidebook. And you've all seen the slide before so I'm - I - we don't - (Karen) and I don't have it here about changes to the - changes to - that seek to prevent a proliferation of malicious conduct along with the addition of new gTLDs.

There's two bits of very important work that are going on right now and that are being conducted by cross-functional ICANN community teams. One is to develop a means of furnishing centralized zone file access from all registries. And one is - the other is a voluntary designation that's been suggested by the financial community and - the worldwide financial community and others, high security top level type of TLD.

So I think we're going to talk about these things for a couple slides. So if you could go onto the next slide, Marika.

Woman: So how did that happen?

(Kurt):

So zone file access is a tool used by many, by some for legitimate business purposes but others fighting cyber crime and other sorts of bad behavior. If pressed I won't be able to describe how that works at all although I sat in a number of the zone file access team meetings and understood elements of it at one time. But for example the anti-phishing working group for one set is a user of this information as are other very bona fide organizations seeking to protect registrants, rights holders and others from bad people.

And so, you know, arising with this new sort of tool that would help these people, you know, picture instead of those seeking zone file access from availing themselves of several different registries with - each with different procedures for accessing the zone file there's now hundreds of different registries of varying size and that many different procedures.

So if the community can work together to develop a way to provide one set of rules around zone file access it is thought that the, you know, this bad behavior fighting model would be facilitated and so in that regard be a good thing.

So this cross-functional group made up of members of many constituency groups has done a lot of good work and has published a paper that describes four different models for public comment. So to me, the way home on this is to - for a community discussion of the four different models and perhaps, you know, arrive at one and flesh it out in enough detail to be included in the guidebook and registry agreements going forward. So that group's done a very good job.

The other group is the - oh so here's the four models. And gosh I just don't want to read them all because I was going to understand them fully before coming here. And I did at one time. And I can tell you I'm for two of them, against one of them and on the fence on the third. But I encourage you to read the report that describes this information fully.

And I'm going to go on to the next slide if it's okay with everybody which is going to talk about high security zones which is a - as envisioned now a voluntary self-designation by a registry and retaining of independent third party to audit registries that would comply with criteria that are being developed by this working group team.

I should mention that the zone file access team is chaired by Rod Rasmussen and the high security zone team is chaired by Mike Palage. This team also published a concept paper recently and now is writing the content or the controls that would actually go into the - this process.

Is there another HS TLD slide or is that the end? What? So is there another slide?

So that's all the material on malicious conduct. And so I'll take any questions. I think I have one.

Man: (Unintelligible).

(Stefan): (Milton), did you have a question? Maybe (Milton) cannot answer.

Okay. He's written a question. Can you read that, (Kurt)? How -- I'll read it -- how does a uniform approach deal with a non - with non-uniformity of privacy data protection laws around the world?

(Kurt): So I think it's a good question. And it's - the answer to me, and this is an oversimplification, (Milton), but it's the same as applies to registry agreements solved now if you think about WHOIS requirements that, you know, no contract requires a party to break its national laws. And so whatever, you know, whatever controls or whatever's written in the zone file access rules will have to, you know, no registry would have to comply with an ICANN contract in a way that would force them to violate their own laws.

And there's an accommodation for that in WHOIS, a procedure for giving that when there's a conflict. And, you know, I would assume the same thing, you know, across all terms in a registry agreement.

(Stefan): Okay. Thanks. I have three or four people in the queue. I have Chuck, (Mike Young), Mike Palage and Steve Metalitz, who's just raised his hand. Chuck, please go ahead.

Chuck Gomes: Thank you (Stefan). This is Chuck Gomes. First of all on the zone file access program -- and (Kurt), this may not be a question that you can answer but I at least want to raise it so that others can think about it as well -- on the proxy approach, one of the four approaches that were on the slide that you - that was shown up there briefly my question is does that assume that TLD zone files are updated dynamically almost in real time? For those that haven't looked at that model the proxy model is one where the third party goes back to the registry as a request and gets a zone file.

And it's not clear to me in the description whether that assumes dynamic updating of the files. And so - and I'll pose that question, (Kurt), to the advisory group as well. So I just wanted to raise that for others' benefit as well.

And then a related question to that is do the files go from the registry to the third party or do they go directly from the registry to the user that's requesting them? Those are things that aren't clear, at least weren't clear to me in the document that was produced.

So again, (Kurt), I don't necessarily expect you to raise those but I think they're important questions to be answered. And they may be straightforward answers. I don't know.

If you want to respond, (Kurt), you can. Or otherwise I'll go on to another question.

(Kurt): Yeah. So using instant messaging, you know, there's updates once a day now. And so the group really hasn't considered whether or not that needs to be changed and so is a good discussion for it.

And anybody else on this call that's on this team could probably answer these, you know, can certainly answer these questions better than me. I think it depends on the model, right, if the data goes from the registry to a third party to the recipient of the data or it goes directly from the registry to the recipient. I think each model is different in that regard.

(Mikey): (Kurt)...

(Kurt): So...

(Mikey): This is (Mikey). I was on the group. Can I jump in here?

(Kurt): Yeah. Thanks (Mike).

(Mikey): Actually there are a gaggle of us here who were on that group. And I think the main point that we probably want to make as a group right now is that Chuck's questions are great questions. We haven't completed the analysis. We need to.

But in general the sense of the group right now is that the current model of once a day is what we're considering. We're certainly not considering the notion of dynamic at this point.

There's going to be a session in a lot more detail about this in - Thursday, I believe - Wednesday where various of us on the team are going to present this in considerably more granularity. And I think that as a member of the team what we probably want to do is take note of Chuck's questions and say

that at this point we don't have a definitive answer but that we're certainly not looking at dynamics at this point.

Chuck Gomes: Thank you very much, (Mikey), for that. I appreciate it a lot. Does - unless there's anybody that wants to say anything else there I'll go to my next topic, (Kurt).

(Stefan): Please do, Chuck.

Chuck Gomes: Okay. Thanks. Thanks (Stefan). I appreciate that.

On the high security zone, in reviewing that document and the proposed very high budget for ICANN cost for Fiscal Year 2011 I come back to something we've talked about many time over the years, that ICANN is really not a technical operations organization. And consequently it's much more expensive for ICANN to perform operational functions, some of which are described in the high security zone document as well as other operational things in the budget.

I really think it would be much more cost effective to have things like that done - if they're not already available in the industry and some of them are, including this, to be done by organizations that have the infrastructure, that have the expertise already and especially in - and now in jumping into a budget issue that I'll talk about later in the week but in a year where expenses are certainly hiked because of revenue limitations and so forth, it really doesn't seem to make sense to me for ICANN to be increasing operational roles that it's not a well - as well equipped to do.

And I don't necessarily expect a response from you on that, (Kurt), but just wanted to share that.

(Kurt): Yeah. So I agree. So maybe I'm missing something. So I don't think it was - it's every been envisaged that ICANN would undertake control but that would

find an entity that would, you know, given the criteria either perform audits or do the work necessary so that the TLDs can demonstrate their compliance with these enhanced criteria.

So, you know, from my prior, you know, from my prior life, you know, that was - I'm a manufacturing guy so that was kind of like ISO 2000 or ISO 9000 it became where there were criteria and people came out and made sure you were compliance with the ISO criteria.

So in this case I don't know if it's a certificate provider or some other entity that would actually do this work but certainly never - I don't think anybody was ever close to thinking that ICANN would become operational in this regard. So I'm going to talk to you later and make sure we're on all course with this.

Chuck Gomes: Thank you.

(Stefan): Okay. Thanks Chuck. And can I get (Mike Young) I think I have next in the queue? (Mike), are you able to speak? Are you online?

Okay. Let's move to Mike Palage and come back to (Mike Young) if we can clear that up.

Mike Palage: Thank you very much, (Stefan). (Kurt), my question goes to the zone file access group. I've actually submitted my comment to the public forum but per - I'd like to perhaps raise with you at this time.

While I think the zone file access group has put forth four interesting proposals the one thing that I see lacking is that they haven't addressed sort of a broader issue. And the issue I'm raising here is the legacy gTLDs of .mil and .gov, they do not currently provide their zone files to anyone. And in the case of .mil and gov there are security and stability reasons why they do not provide that access.

So within this context does ICANN anticipate modifying the registry agreements to perhaps alter zone files so that a registry would not have to provide access or participate in any type of zone file access process program?

(Kurt): So you mean write - so write some sort of criteria where a registry could say they're exempt from it?

Mike Palage: That's correct.

(Kurt): Yeah. So there could be a very good reason for that. And, you know, the team might - that team that's doing the work might consider, you know, how to write a set of rules around that. So that's a good point.

Mike Palage: Okay. And one other just a point as I'm actually a co-chair with (Christopher Rovard) on the high security zone. I just want to make sure he gets his due credit as co-chair of that group.

(Stefan): Thanks Mike for making that point. Is (Mike Young) still in the queue? It looks like we'll have to come back to (Mike). Steve Metalitz, please.

Steve Metalitz: Hello. Can you hear me?

(Stefan): Yes we can. Please go head.

Steve Metalitz: Thank you. I had two questions about the high security zone project.

The first is what you've released for this meeting is a development snapshot. Can you tell us when there will actually be a full proposal to release for public comment? Will that be part of guidebook Version 4. That's my first question.

And the second question is, (Kurt), you said this was envisioned as a voluntary program and one that didn't enter into the evaluation process for there were no scoring consequence in the evaluation process. And that vision was, I think, challenged by quite a few people in the community when it was first announced in Seoul. And I just wonder is that a done deal or is it still open to consider whether any elements of this HS TLD proposal would be mandatory for new gTLD applicants.

(Kurt): So the - what are you doing up? So it's - yeah, it's planned that fleshed-out model be available for discussion in the Brussels meeting and also, you know, be inserted into Guidebook 4 which will also be published for the Brussels meeting. So that's the plan.

I think that making the - so I think making the HS TLDs mandatory is - would require a lot more work maybe from a policy standpoint or - yeah, from policy work that if we're going to significantly change the operating requirements or requirements for operating a TLD that I don't think the staff implementation of the (GNO) recommendations could do that without more policy discussion. And that's probably the principle reason why, you know, it's not mandatory.

There are other reasons too. There's some and maybe significant expense associated with operating an eight - high security TLD that, you know, some would see that as a bar to operating a TLD.

And also, you know, there's many TLDs in operation today that operate in a very secure fashion in many regards. And so, you know, enforcing this - these additional criteria upon them may not be a value-add for users or registrants. And so to a certain extent the market should address those issues.

So the HS TLD requirements are intended to benefit a - certain market segments. And to enforce those requirements onto all market segments might not be efficient or wise. So that's my best answer.

Steve Metalitz: But you're also not requiring them for certain market segments. For example you wouldn't have to qualify for the HS TLD to apply for let's say .bank. And in fact your failure to do so would not count against you in the evaluation process.

So is that - I just - I'm just asking if that is still an issue open for discussion. Or do you - it sounds from what you say as you view that as a closed issue.

(Kurt): No. Certainly it's open for discussion. And I think the rub in the discussion, the - where you really need discussion is trying to separate words that - you might require that additional criteria or how, you know, under what circumstances you would make the designation mandatory. So it's - so I'm not sure I see the path home although the whole purpose of publishing the paper was to stimulate additional discussion on it.

Steve Metalitz: Okay. Thank you very much.

(Stefan): Thanks Steve. I think I have Tim Ruiz next, Steve, if you've asked your question. Mike Palage, did you want to ask another question?

Mike Palage: I just wanted to follow up and perhaps give a little more context. Steve, two weeks ago the advisory group took a straw poll. And at the - at that time there was actually unanimity among the team members that this be a voluntary program.

The group has discussed the - some of the recommendations particularly made by law enforcement in Seoul where certain elements of the high security zone would actually be mandated upon all TLD applicants. So that has been discussed. But the current thinking right now is that this program would be voluntary, not mandatory.

With regard to deliverables what the group has done is we have avoided timelines. We are trying to get obviously a more refined work product out before Brussels. And what we have agreed to do is to issue monthly snapshots so that the community could see how we're progressing forward with this particular initiative.

Steve Metalitz: Thank you.

(Stefan): Thanks Mike. Tim?

Tim Ruiz: Yeah. (Kurt), my question's just about kind of related to what Mike just brought up as far as not having timelines right now.

If this is a completely voluntary program I mean is there any need for this to be completely done before new gTLDs roll out? Given the time that, you know, that whole process is going to take and before TLDs actually delegated wouldn't that still allow time for this process or this particular initiative to be refined and completed without having to hold up the rollout of new gTLDs?

(Kurt): Yeah. So no, but just as so many other things in the guidebook this was - this is a strong recommended - recommendation by a certain important, just like other segments of the community are important, important segment of the community that urged that ICANN adopt some mechanisms to - for TLDs that want to identify as high security in order to provide some sense of security or certainty to their registrants.

There are a lot of ways - there's probably a lot of ways that TLDs can do this in addition to this HS TLD program. But without, you know, before saying let's - we can launch the guidebook without finishing this work we want to have consultations with all members of the community, especially the ones that are urging adoption of this to see if the, you know, going ahead without it would, you know, would - well would hurt their course. And so that's a bad way to put it.

(Stefan): I guess there are no more questions on this. Are there any more questions on this? Tim, do you still got your hand up or are you done? Are you all done? (Kurt), want to move on? Oh, sorry, another question behind.

Steve DelBianco: Thanks. Steve DelBianco. If the notion that it's voluntary is on your mind right now remember that if an applicant for a TLD in their proposal says that they're going to run it in compliance with ICANN's high security zone and they're awarded the TLD well it's not voluntary anymore. They have to, as a condition of running the registry, maintain the high security zone status if that was something they promised in their application, agreed?

(Kurt): I'm not sure if they decided to not, you know, if they decided later on not to comply with that status whether there should be a way to back out of that other than losing the TLD. What do you think?

Steve DelBianco: That's effectively mandatory. They - if they suggest in their application that they would meet though then it's not voluntary anymore. The consequences of backing out are severe.

(Kurt): Well yeah. So my question is if a TLD says I'm a high security TLD and we're going to comply with this and then later on decides not to comply should they lose their TLD or should there be a way to back out of the designation without losing the TLD?

Steve DelBianco: Well I certainly hope we'll find a way to give flexibility to that. Let me suggest why.

ICANN being in a top down mode of being the one who dictates what it takes to be a high security zone makes a lot of us from industry uncomfortable. It's a little less uncomfortable than having you actually be the operator.

But the notion of you being the sole source of indicating what qualifies as a high security zone has got to give applicants concern if two, three months or a year out if the industry has come up with superb security measures and protocols. But if they don't meet ICANN's definition then I'm not - I'm in violation of a registry contract where I promised to meet your top down dictated high security zones.

So the notion of voluntary should not give everyone around the table a warm feeling that hey this is no big deal. Because it will become a huge deal if an application is granted knowing that I have to run it in high security but I'm subject to your definition of what security is instead of what, say, the industry's definition is.

(Kurt): Yeah. So I think that's right and an excellent point. I just want to comment that, Steve, when you say you, you know, you're really - no, when you say when you make criteria you're really talking to the whole room here because these criteria are being developed by, you know, a set of people that are on ICANN staff that are set them up.

(Stefan): Okay. I've got (Richard Tindle) and then Tim again.

(Richard Tindle): Yeah. I mean on - it - to me, Steve, that's the reason why this thing should not be mandatory for a start. I agree with that.

But I would think the more simple solution, if you fail to continue to meet the obligations for the seal -- that's what you get, right, you get a seal -- then you lose the seal. I don't think you should lose the TLD. But I think we should talk about that more.

(Stefan): Okay, good point. Tim?

Tim Ruiz: Okay. Is there any intent that - stating that you intend to run a high security zone will somehow give you deference in the evaluation process if there's

intention? Or is there an intent that it's going to become a mandatory part of the registration agreement if they offer to do it?

You know, if there's no - if they're not given any kind of deference in the decision process based on that and it's not going to become part of the contractual restrictions then I don't see where that's going to be an issue as far as if they decide not to comply with those standards later. It'd be more like (Richard) said, they'd just lose the seal.

(Kurt): Yeah. So that's the way I see it going, Tim, right? The way it's written right now is that, you know it's not part of the scoring of - in the evaluation and that the high security - if certifications are where the high security certification really becomes - really comes from an independent audit against the criteria by some third party.

(Stefan): Okay. Is that okay for you, Tim?

Tim Ruiz: Oh. Thank you then.

(Kurt): Yeah. So time check. So we're like - we've got an hour and forty minutes left.

(Stefan): Yeah.

(Kurt): Is that right?

(Stefan): You want to move on?

(Kurt): Okay. So I'm going to talk about two things. I'm going to talk about economic study. So ICANN has - based on public comment ICANN has contracted with a third set of economists to undertake economic study regarding the new gTLD program.

The first phase of the study is sort of a survey of existing papers, of existing papers and materials that have been developed so far to kind of point the way towards the meat that is really the second phase of this study that's going to occur between now and the next ICANN meeting.

And that is to do three things, right, to try to estimate the cost of defensive registrations, to develop some sort of metric to assess the overall benefits versus cost of the program. And then finally perhaps to develop a methodology for individual applications to assess cost and detriment - cost or detriment and benefits so that, you know, potentially there's an objection and the objector, you know, proves that the detriment of a new TLD outweighs its benefit.

So whether, you know, whether that can be done or not will come out of the study. And then the third phase would happen after Brussels to look at potential additional mechanisms to enhance the benefits of new gTLDs.

So that's - the first phase of that economic study is just coming to a close. I'm going to have some talking points, just a few talking points about it in the public session on Monday about the work that's done so far. But the real meaningful work on it will occur between the next two meetings.

Tim, is it all right with you if I just go through a couple more slides on root scaling and then go back and take questions on these three? Okay. Thanks.

Tim Ruiz: (Kurt), it just took me a minute to get off mute. Actually my question is exactly on that slide if I could just ask it real quick.

(Kurt): (Unintelligible).

Tim Ruiz: Do you have or will you have when you do the more detailed presentation of this, examples of what's meant by that third bullet under the second point:

develop a process to assess whether economic consumer harm might result from individual applications? There's some debate...

Woman: You're not going to...

(Kurt): Yeah, not too much. But picture a objection process where somebody objects to a TLD and is asked to demonstrate that the detriment going from the TLD outweighs its cost. In some ways that indicates that the TLD shouldn't be introduced to the root zone.

There's been a lot of public comment about possible detriments of the new TLD program or possibly that the detriment of the program outweighs the cost. So leave it to somebody who would object to a specific TLD to demonstrate that that in fact is the case.

Tim Ruiz: All right. Thanks.

(Kurt): Yeah. But we would look for the work product of the economists to flesh that out.

And then - so I just want to talk for a minute before we go on about root scaling. The work that, you know, if it were to - staff and others are doing work to inform the consideration of (STAC) and (RTAC) in their reporting on root scaling efforts.

I just want to show you a couple pieces of work. And it's about delegation rates. So the concerns that have come out about root scaling study are - don't go to the absolute number of delegations into the root zone but rather the way - the rate at which they're delegated, the rate of change really being the problem rather than the total number of delegations.

So one chart forecasts the delegation of TLDs into the root zone for varying levels of application. So, you know, the story is really that, you know, on

closing day ICANN has X number of applications so all the applied-for TLDs do not get delegated into the root zone at once.

Some pass initial evaluation -- we think about half -- and then get delegated after, you know, contracts are signed and the (IANA) process is done. Some go through extended evaluation or objection and dispute resolution process. Some go through string contention.

And so the delegation of TLDs is naturally spread out. It's been described in other meetings that if ICANN receives a large number of applications that those applications will be processed in batches, that in order to maintain consistency and quality of evaluation and proper spans of control that X number, about 400 or 500 applications, can only be processed through initial evaluation at one time.

So that would - that batching if it has to occur, if there's many applications, would tend to further spread out the delegation rates. So, you know, sitting in this room we can't see the small numbers that you might be able to see on your computer screen. But, you know, for the expected level of activity we would expect the delegation rate to be about 235, 215 per year of delegation.

And so if you think about delegations being totally spread out and you have some statistical background, you know, you would realize that even if we received - even if ICANN received infinitely many applications that delegation rate would go asymptotic to some final number of time. And so that analysis has been done too. And that's the blue line.

So even if we received 100,000 applications, all right -- I think this one's 10,000 -- you would see a delegation rate of about 917 a year being the absolute maximum. I think the number really way out in the (unintelligible) is 924 per year. So that would be the worst, worst case.

But, you know, we don't really even want to talk about that. We want to talk about we think delegation rates are, you know, 100 to mod if the number of applications is below what's expected, 215 or so if it's what's expected and in case of a high level of number of applications 240.

So that's it, right? That's the last slide on that. So this kind of brings to a close the overarching issue discussion. So if anybody has any questions go ahead.

(Stefan): Questions on - sorry, any questions on this? Yes. (Rahid) has one.

(Rahid): I'm not sure when to bring this up because - but the issue of whether there's been any changes in the DAG or any other element that we're working on considering the ICM judgment or the arbitration decision because that has some sort of impact. Have we made any changes? Do we feel that it's not going to impact the way we're doing business now or the way the DAG screen laid out? Just wanted to...

(Kurt): And there's been no changes to the applicant guidebook based on that.

(Stefan): Can I just ask a question myself, (Kurt)? On those projected delegation rates that you - those are independent of how much staff is working on actually approving the applications. Am I correct in thinking that? It's just a root scaling issue.

It doesn't - I mean say you get 10,000 applications like you had in that example. That's going to be a problem with staff actually handling those as well.

(Kurt): Right. So it's - yeah, so it's not really a staff thing. It's that, you know, we're hiring or we're contracting with evaluation service providers.

And so if you think about the team of people doing the technical evaluation it's been calculated that we could process - it's either 400 or 500 so let's

pretend 500 -- applications simultaneously. If we're going to do that within the four month window that we've promised it will require having 75 evaluators.

And so if we want to have more than 75 evaluators then, you know, we'll have to hire another firm or, you know, our spans of control will get so big that it becomes very difficult to ensure consistency across applications. So we say well we'll process 400 - we'll say we'll do it in a four month window and we'll process 500 at a time but we don't want to hire more than 75 technical evaluators for consistency purposes. So that's, you know, that's sort of the critical resource in that. Is that clear?

(Stefan): Yeah. That's fine. Thanks. Marilyn and Jeff as well, I see you put your hand up.

Marilyn Cade: My question may belong in a different segment. And I'm happy to have it deferred.

What's the process by which we - once we find hypothetically that 300 names have gone into the root or whatever and we now begin with the - because this is just to me looking at a maximum delegation rate.

Going back to the root scaling study and other criteria that are required when do names go into the root in Year 1 and we find that there's significant security and stability issues that begin to emerge and there's a need to ratchet back the rate of introduction, or we find that 197 of those TLDs fail in the first year and want to withdraw which is very possible, what's the - where's my dating factor that says okay, that's my production line but now these things have happened and I can ratchet back my production line? Is that built in?

(Kurt): Yeah. So there's one really easy ratchet and that's between rounds. So if there's - what this chart says is if there is 500 applications received they'll probably be delegated at a rate of - they'll be delegated at a rate of 215 a

year and - or all -- I don't know -- 500 minus 20% or whatever we're pretending. So that's an easy break after the 400 to mod delegations, to say well, you know, we're monitoring the root zone and we're saying let's not - we're - we need to do something about the second round.

Certainly the (STAC) has called for monitoring and early warning system be in place before the TLD process is launched. So we're expecting that.

It's more tricky if you are in mid-round then delegated out of the 420 you're going to delegate you've delegated 237 and you get some indications of root zone instability. Certainly if there is root zone instability due to delegation rate which I view as a low probability certainly, you know, root zone stability would take precedence and we'd have a mechanism in place for stopping that. But as far as, you know if the process is - so as long as we have that in place, that and the fact that it's very low probability I feel comfortable going ahead.

Marilyn Cade: Right. I just have a follow-up. It doesn't actually matter what the cause of root zone instability is. What matters is there's root zone instability. So any factor that exacerbates that has implications not just for generic users but for (CCs), for all of us who use the internet.

So what your comment was was that if there were any indication of establish - of root zone instability whatever factors are mitigating circumstances would have to be addressed, right?

(Kurt): Yeah. Yeah. So a factor is a cause. So if the - if one of the factors is introducing TLDs would exacerbate that then that would be taken into - okay.

(Stefan): Okay. Thanks. Jeff's next. And then I'm going to ask that we let (Kurt) go through - there's still two major point that (Kurt) need - wants to talk to us about today. And we have just under an hour and a half left. So we're starting to be pressed for time.

So after that may I ask that people let (Kurt) finish the - what's next? You're doing the applicant divert, the completing the applicant divert next, (Kurt), right?

Yeah. Okay. So okay, let's let (Kurt) go through that after Jeff's question please.

Jeff Neuman: Yeah. Thanks. My question's on - (Kurt), you said there were four overarching issues. I think isn't there a fifth one?

And not that I'm saying we go over it now because it's a long topic but the vertical separation issue I believe is an overarching issue. And at some point we'd like a briefing on the report that went to the board from the economists and the recommendations that were made.

(Kurt): Yeah. So we have a slide on that, Jeff, in a little bit. So then I'll try to remember your question and address it then. But if I don't, please bring it up. Okay?

Jeff Neuman: Okay. Thanks.

(Kurt): Let's - other issues associated with the guidebook are for one, the - so I love ICANN. The RRDRP is a way to address - a form to address allegations that a community based TLD is not enforcing its restrictions. So we've markedly expanded the level of detail into this post-delegation dispute resolution procedure and published it for comment and made some changes based on public comment.

So there's no default decisions in this procedure anymore. All cases proceed to a determination on the merits even if one side defaults.

And, you know in an earlier publication on this the panel would decide what the remedies would be. And of course that was incorrect that the panel recommends to ICANN and ICANN decides. So that change has been made.

On the IDN - so I think that was posted on - IDN three character requirement and a relaxation of that, this is one I'd like to put a ticky (sic) mark next to and say done.

The guidebook, based on an IDN working group recommendation -- did it just get really hot in here -- based on an IDN working group recommendation the language has been posted that if - stuck into the guidebook and had to stick would relax that requirement for non-ASCII TLDs that two character names would be registerable so long as they were not confusable with ASCII characters.

So it also says that one character TLDs will not be registered pending some additional policy consideration. And I think that goes to the value of beachfront property and even in many languages the limited number of single letter names. So we thought that - and the allocation methods for those should be given some additional policy consideration before being they're released.

This - there - so the idea in three character relaxation is based not just on the work of this IDN working group but also it's compliant with the recommendations of the reserved names working group and I think the IDN working group that were all part of the GNSO policy development process. So we - let's pretend this one's done.

And then IDN variance, you know, we could call this one done for the guidebook too but it ain't done. More - and I'll explain that better. More work has to be done in developing technical method for having the delegation of IDN variance work.

So what's a variant? You know, nobody's sure. But if you furnish IDN language tables and your alphabet has two representations of the same letter so they're different Unicode code points and you have TLDs, one with one representation of the letter and one with the other representation of the letter, you really have two different strings because they're two different Unicode code points but they often look amazingly similar to one another.

There's a great Pakistani example that happened in another presentation. And it was that S kind of...

Man: Yeah.

(Kurt): It's a K, see. It just looks like an S to me. You know, I'm so culturally insensitive. I, you know, I grew up in Queens and it's my only excuse.

So at the - so there's - there are technical means for ensuring that if you type both those strings into your browser they'll go to the same place. But having those technical solutions work today - well they don't quite work today and so additional work needs to be done.

So in the interim if an entity were to apply for two variants or variant TLDs one would be delegated into the root zone and the other would be allocated to the applicant. And so that would keep somebody else from getting one into his - if somebody else were to delegate that TLD that would cause confusion too and then just then pend that out, you know, and delegate it after the completion of testing into one of several technical solutions that are being considered right now. So that's where we are in variance.

(Karen) continues.

I'll wait. I'll wait till - let's see. So is that - let me finish this IDN slide and then that would be a good breaking point. Thanks (Stefan).

So is there anything here I haven't said? No. So this is it. So yeah, go ahead.

(Stefan): Okay. Yeah. Steve, continue.

Steve DelBianco: Thanks (Kurt). Steve DelBianco. Just a question with respect to these IDN variance rules. Would they apply to IDN ccTLDs coming in to the fast track?

(Kurt): Yes they do exactly the same way.

(Stefan): Tim? Tim, go ahead please. Tim?

Tim Ruiz: Okay. Just give us a little bit of - a couple of seconds while we run from our chair to get there.

Anyway my question's back on the community TLDs and the dispute resolution process because that - well that clearly implies that the restrictions that they agreed to, you know, are, you know, they're contractual, blah, blah, blah. That's fine.

But it seems to me from the guidebook the way it currently is that if somebody comes in, says I'm a community TLD but there's no contention they can go all the way through the process without ever going through any verification of their community status and then just agree to restrictions and they're - they become a community TLD. Does that - am I looking at that right?

(Kurt): Yes. And those restrictions would be written into their agreement. So regardless of whether the applicant has to go through comparative evaluation or community priority evaluation or even if they go through community priority evaluation and don't get the grade those restrictions...

Tim Ruiz: Okay

(Kurt): Are still written in the registry agreement.

Man: I...

(Kurt): But there's not money spent on that evaluation absent the need to.

Tim Ruiz: Right. So someone could say that they represent a community, have no need to show any evidence that that community actually agrees with that representation. They just - as long as they're not contended they just get it?

(Kurt): Well the - yeah, but the community could object, you know, through the objection process to that TLD getting the community so that there's that outlet there.

Tim Ruiz: Okay. And if they're not aware...

(Kurt): So essentially...

Tim Ruiz: But - I got it. I got it.

Man: (Unintelligible). Okay.

(Stefan): Any more questions on the IDNs? Okay.

(Kurt): I'm so excited I knew the answer to one. Benchmarking of registry operations, (Karen)'s done a - (Karen) led this and did a lot of work on it.

We thought that surveying existing TLDs would inform the evaluation process so we're writing evaluation criteria right for technical and operational requirements for a TLD to ensure that the applicant has the financial and technical wherewithal to operate the TLD or is provided for properly.

And so this work was contracted out by ICANN and has helped benchmark various criteria in the guidebook. So we see that as very valuable work.

(Adrian), is it all right if I go ahead for a couple slides?

(Adrian): Sure (Kurt). It's actually on benchmark. It's a real quick question.

(Stefan): Are you a counselor, (Adrian)? Go ahead (Adrian).

(Adrian): I still believe I'm a counselor if I haven't been removed already. (Kurt), this benchmarking, I remember being out at a - quite a few ICANNs ago the notion of ICANN accredited registries. Do you think that you would ever extrapolate if this benchmarking of registry operations to a level of ICANN accredited registry?

(Kurt): Yeah. Do you mean like a backend service provider?

(Adrian): Yeah, correct.

(Kurt): You mean...

(Adrian): So...

(Kurt): Or do you mean...

(Adrian): But...

(Kurt): Or do you mean...

(Adrian): Sorry. Go ahead.

(Kurt): What's that? Yeah. Or do you mean some sort of a priori passing of technical and operation requirements so you just - a - here's my money, give me my TLD in subsequent rounds?

(Adrian): Yeah, actually both of those are good ways to look at it.

(Kurt): Yeah, so no. No, is - I'm just joking. So the - so we've talked an awful lot about, you know, ICANN staff but also in these sorts of meetings about certification of a backend service provider.

And there's plusses and minuses to that. The, you know, the plusses I think are very apparent that there's an a priori approval of a provider so that some other entity interested in starting a business can in a so much a still way meet the - some of the technical criteria required for operating a registry and give the community the - some sense of certainty that that box is ticked with regard to registry operations.

Some of the issues on the other side of that are that things change over time. So how do you, you know, how do you renew or review that certification and who is, you know, it might kind of be a bar to competition to those seeking to start up registry operations, that it might drive the market to those few entities that are certified.

So, you know, it - we'll - I think we should continue to talk about it because I think there's a - as you point out a definite use for the - or as you've pointed out in the past a definite benefit to the DNS from those sorts of entities. We just want to do it in a way that it works well, lasts a long time and promotes rather than hinders competition. But...

(Adrian): Thanks. I'll continue to pester.

(Stefan): (Unintelligible).

(Adrian): Thank you.

(Stefan): Sorry (Adrian). Go ahead. I was - cut in there.

(Adrian): I just did. Thank you, (Kurt). And I'll continue to push for it. Thank you.

(Stefan): (Kurt), can I just follow up on that? When you say you're thinking about certification for backend registry providers you're not implying that that would be included in the fourth or final version of the DAG, are you?

(Kurt): Yeah, I don't think it will be. But - oh because, you know, when you, you know, people say are you thinking about this, (Kurt) and it - I just wanted to have a commercial timeout and say I am a channeler of all the conversations that occur and really add little or no value to the whole thing other than to review what the others have said.

(Stefan): Okay. Thanks. So next - oh sorry, there's a question.

(Fabian): My name is (Fabian). I'm working for (Afnik), who will be the registry operator in partnership with (Core Productary).

I have a question regarding the benchmarking of registry operations. My understanding is that you're using this to develop the evaluation criteria in the gTLD application process. Will there be a window for comments on these documents because I believe that some analyses that are provided in these documents could be subjected to critical review?

(Kurt): So it's - that document is posted for public comment. And it's not closed yet. So I would encourage you to - if you're - if you know what you want to say this is the perfect time.

And I encourage you, you know, I kind of understand what you're getting at. And I understand - and I encourage you to do that.

(Fabian): We will. Thank you.

(Kurt): Mike?

Mike Palage: Yeah, Mike Palage here. Thank you.

Well just to follow up on that last week in New York I believe you said you were in discussions with other registry operators already and that you thought that the price in the benchmark document was too high. So could you perhaps provide clarity on how ICANN may already be reevaluating a report that's out for public comment right now?

Is KPMG involved in that reevaluation? And what other registries are you talking to besides the baselines that were already spoken with?

(Kurt): Well I think that it's all part of the public comment process. So no, we're not involved with KPMG in reevaluating it. The report is just posted for public comment.

I was - I'm relating to you some of the comments - some of the public comments that I had heard about the report and that - and those were given to me in context, me, you know, made to ICANN not ICANN, you know, other than the public comment period not, you know, any ICANN staff reaching out for alternative opinions.

Mike Palage: Thank you.

(Kurt): So we're going to go on vertical integration. So, you know, we've had - we had a, you know, a session in Seoul, a session in Sydney, to discuss this, another consultation in D.C. So this is - it was a topic of a recent - the recent board meeting. And I'm sure the board is continuing to discuss it and review the public comment and the documents that came out of the public comment and the opinions of economists who have discussed that.

So I don't - am anticipating Jeff's question. I don't know the timing of the release of reports quite yet and - or what the board would consider giving

some sense of what might go into the guidebook or what role the board wants to play in considering the next steps.

I'll comment briefly that also the GNSO has undertaken a (PDP) on this. And so the guidebook implementation and the GNSO (PDP) are operating in parallel and are intended not to, you know, interfere and to the extent possible inform one another.

So Jeff, I didn't think - I don't think I answered your comment. Certainly the goal is to publish a model shortly and that would be for public comment too. But why don't you ask your question, Jeff?

(Stefan): Jeff?

Jeff Neuman: Yeah, sorry. It takes a couple minutes to actually get to the kind of microphone we have set up here.

Yeah. So I guess my question is so there's been a report that's obviously been done. It's been delivered to the board. You have no sense of whether that report is done, what's being debated about it, is it that the report's being redone because of some things that board members said. I guess, you know, in open it to transparency we kind of expect that we have a little bit more detail than the board discussed whatever they did discuss.

So I'm hoping that during this meeting and during the session on vertical integration that the board members will tell us what was presented to them and what their issues were so that we can have a meaningful discussion. As opposed to publishing something after Nairobi, you know, and then it goes into the fourth version of the guidebook and it's almost final at that point.

(Kurt): Yeah. So there's nothing you said that I disagree with. I - whenever the report's published or whenever, you know, a revised model's published it's

certainly for public comment and won't be published as something where, you know, another round of discussion cannot be had.

So, you know all I can really say is that, you know, ICANN, you know, will publish a model, you know in some way and say here's the model, let's have a, you know, here's where to send public comment and here's where there are meetings to discuss it.

Jeff Neuman: Yeah. Just to follow up real quick, if I could make a request that there's a face to face session or at least a - at least some series of calls to actually discuss this orally before Brussels so that we can actually have a meaningful discussion on that issue. Thank you.

(Stefan): (Wendy), is that a question?

(Wendy): Just a question within the framework of the chat.

(Stefan): Is that okay on this?

(Kurt): Yeah. So I think the fourth version of the guidebook will be almost final.

(Stefan): Mike, did you still have your hand up, Mike Palage? Okay. We'll suppose that you don't. Tim, you still have your hand up.

Tim Ruiz: Yeah. I have my hand up. I just wanted to confirm that the economic report referred to earlier in your presentation, (Kurt), if the - if those are the same economists doing - I mean is this report on the vertical integration a part of that economic study or is this something completely separate by a different group?

(Kurt): Yeah. So it's a completely different - as you know we engaged (Steve Sallup) and (Josh Wright) to participate in meetings that discuss vertical integration and have been offering advice to the - in public meetings about that. And the

other economic study is the one that - where ICANN's retained (Greg Rothson) and (Michael Katz) to undertake the broader economic study.

Tim Ruiz: Okay. Thank you.

(Stefan): Okay. Next slide.

(Kurt): So under - so there's a few outstanding issues with the registry agreement. One is the process for amending the registry agreement.

So this issue's been discussed a lot in the registry constituency and just about nowhere else. So ICANN in each version - succeeding version of the guidebook has amended the process for revising the registry agreement.

So picture an environment instead of 16 TLDs contracted with ICANN there's hundreds so very different from the registrar landscape but some similarities may be similarities in numbers. And so in order to preserve a level playing field and respond to changes in the marketplace what process should there be for amending the registry agreement? Should all the registries have the same agreement similar to the (RAA) or should they be individually negotiated?

So ICANN has posted a couple of models. And there's been meetings with the registry constituency. And then an inter-sessional open cross-constituency meeting was held to discuss this.

One of the results of that in the comment form on the last version of the guidebook is that the registry constituency -- I guess it's the registry stakeholder group now -- furnished a model for amending the registry agreement that would suggest that ICANN and the registry constituency or representatives from the constituency meet once every three years to talk about amendments, but after a sense of amendments was given by that

group that amendments would be individually negotiated with each of the registries.

So that model is posted for public comment. And I - so this one is not almost done. And I encourage - I think these are serious issues that a few years from now we're going to look at the registry agreement and ask ourselves, you know, if we've done the right thing. So I encourage everybody in the - in this room to read that memo, that explanatory memo on amending the process.

So to the extent that it's current, you know, people say I (unintelligible) thought about this so this is current asking the people in this room to get involved in this issue because it's one of the last remaining ones. It hasn't been widely discussed. And I think it's important -- so I won't say it a third time -- to read this stuff and comment on it so we have a good public record on this issue.

(Stefan): Great. And you - we've got an hour left. So do you want to carry on or do you want to take questions now?

Okay. Well okay, so let's do questions now. (Kurt), I suppose when you refer to people in this room you mean the virtual room.

So all the members of the GNSO...

Man: What...

(Stefan): Okay. I have Chuck and then Tim, I believe. Chuck, please go ahead.

Chuck Gomes: Thank you (Stefan). (Kurt), I have an observation to make. It doesn't necessarily require a response.

But the memo, the five page memo that you're referring to and I'm speaking as someone from the registry stakeholder group as well obviously as a

member of that stakeholder group and a registry operator, that memo was terribly biased towards the original ICANN solution.

Most of the five pages involved describing the problems associated with the (RAA) and changes being made in that. And at the end when the four alternatives were described in one liners it - they - the one liners were terribly misleading as well. So I was really disappointed.

And I will say that the registry solution was put in there, one paragraph of the whole thing which that was our complete recommendation. But most of the verbiage in the five pages and probably more problematic the five one - four one liners describing those really was not fairly stated.

So again this is a comment. I don't necessarily expect a response. But it was a disappointing memo and it looked very much like whoever wrote that really was trying to drive the original ICANN solution rather than something else. Now hopefully that was not the intention but certainly it came across that way.

(Kurt): So I didn't have my microphone on. So thanks for that, Chuck. And I, you know, I appreciate your comment. And, you know, and I certainly expect to see it in writing but, you know, I encourage you to do that.

(Stefan): Sorry, (unintelligible). Tim, I think you're next.

Tim Ruiz: I was just curious if the next - if Version 4 will include the proposed registry agreement for the community TLDs.

(Kurt): So I - so if I understand your question I think it is posted that in one of the specifications of the agreement the community restrictions provided by the applicant - boy I started a sentence and I don't know how I'm going to bring it home. So I'm going to start another sentence.

So the posted registry agreement has a specification. That specification will include the restrictions furnished by the applicant that describes the community and the restrictions by which the registry has to live by. I even ended that sentence in a preposition.

Tim Ruiz: Just so - okay, so the - so for community TLDs the registry agreement is intended to be exactly the same. The only difference is the section on restrictions.

(Kurt): Yes.

Tim Ruiz: Thanks.

(Stefan): Okay. Who did we have? Mike Palage was next.

Mike Palage: Thank you. (Kurt), sort of a follow up to Tim's question. Back in 2008 when we first started this implementation journey you talked about ICANN potentially having different contracts for government or IGOs. Obviously ICANN is aware of many governments that are potentially going to be submitting applications in connection with, if you will, city TLDs.

I've raised this issue before in Sydney as well as during the January consultation in D.C. And, you know, ICANN - I think ICANN's last response to me was we'll get to it in due course.

My question is based up what I've heard today ICANN appears to have ticked all the boxes. Do they intend to provide a different contract for governments and IGOs or are they going to be left to sign on a bottom line with this contract which is primarily, you know, geared towards private sector applicants?

(Kurt): Yeah. So - yeah so I think that issue is all around where the registry would have power or not. So for example in our ICANN's negotiations with (.post)

because they're comprised of member states they just did not have the power to agree to certain terms of the agreement. And so those are the sorts of terms that would be different in a contract with a government entity or an IGO and certainly...

Mike Palage: So...

(Kurt): So I'm not quite done. So I would - but, you know, what ICANN's identified as a work item, you know, for the fourth guidebook to flesh out that detail and indicate where those agreements might be different. I think getting a different agreement would be based upon that, you know, lack of power to comply with the contractual terms in the existing posted agreement.

Mike Palage: Okay, so just a follow-up. And again obviously this whole process was geared towards predictability for applicants.

It took the UPU four years of contractual negotiations with ICANN to reach that agreement. Obviously, you know, I - the people involved with the .paris, the .nyc, the city TLDs, hopefully they would not have to wait for four years of negotiation. So hopefully ICANN from a predictability standpoint would have that contract in place, the same footing if you will or equal footing that private sector applicants would.

So do you envision ICANN having that contract so that public sector applicants and IGOs would know what they would be entering into?

(Kurt): Yeah. So to - yeah so it's - that negotiation took a long time. You know, there wasn't a constant negotiation so there were fallow times.

And - but both parties were trying to solve a very difficult issue. You know? Certainly ICANN - all of us here at ICANN stand for ongoing stability and security of the DNS. And one of the cornerstones of that is consensus with compliance policy.

It's - well I won't - well I'm going to use the word cornerstone again. But, you know, it's a cornerstone upon which - one of them anyway that ICANN is based so that's very important to all of us I think sitting in this room that we can see to require that ongoing compliance with consensus policy as a precondition for having a gTLD.

Having said that, the UPU demonstrated some difficulty in that regard and so an accommodation was reached. So to the extent that, you know, one accommodation can fit all and it may well could, you know, then all the TLDs you were speaking of can enter into an agreement rapidly I think.

(Stefan): Okay. Just before we move to the EOI which is the last subject - sorry, (Sebastian), you have a question?

(Sebastian): Yeah, a follow up question because it seems to be that a lot of people are forgetting that all the seven and the ten next - new TLD or next new TLD are where proof of concept. I would very much like ICANN to publish the result of this document of this proof of concepts for UPU for example because it's something very interesting.

It was a proof of concept like the (.666). It's also a proof of concept, not in the same way but it will be very important to have those done by ICANN. I regret that some of the work was supposed to be done by ICANN after the first round of new TLD where ICANN decide to add new TLD to the proof of concepts were not done during this period.

And then we are facing a lot of trouble today. Some of the questions posed at that time was not - it was not set up to try to get the answer of the introduction of new TLD. And I would like very much that we do that.

And as I observed the micro point I will just add one point. When what is established of all those documents in non-English language because if you

want the large community to participate to this discussion not just you need to provide three weeks prior to the meeting an English version of the document but you need to do that in other language?

And that's not fair today you need to be English speaker to be able to provide any information or any comments on this - on the document published today. And that's not fair for the - there will be non-English speaking participants.

(Kurt): Yeah. So let me take your second question first. These documents are also being posted in other languages.

Up till now we've extended every comment period to make - we've extended every comment period to ensure that those that want to participate in languages other than English can participate and be given the full length of the comment period so we've done that.

I'll tell you that it's just impossible. I forgot how many pages we published. But if you think about a comment period runs 45 days and then we add seven days or five days more to that for the meeting and that we post things 15 working days or three weeks before the meeting. For the Brussels meeting that gives us eight weeks between the close of the comment period to analyze the comments, do a comment analysis, consider changes for the guidebook and essentially rewrite the guidebook in time for the meeting in Brussels and then translate it. So then the translation, as you can see, because our publisher yet takes weeks for that volume of documents.

So, you know, we try to run to the circadian rhythm of the ICANN meeting. But the length of comment period and the notice period before makes it difficult. Nonetheless, you know, we post in these other languages and we don't curtail the length of the comment period.

And then the first thing you said was an excellent point that I think was made earlier but certainly we, you know, for - what we learned from (.post) will be

seen in the next version of the guidebook. And from the 2000 and 2003 round, you know, that material too was very valuable. So thanks (Sebastian).

(Stefan): Thanks very much. So just one point before we move on to the EOI which is the final part of your presentation today, (Kurt).

Can I just ask (Liz) to give us some good news about tomorrow? We should have a bigger room. For those of us who are physically here we're a bit cramped in this room.

(Liz): Yes. There is a different room for the GNSO meeting tomorrow. It's on the same floor. It's called the (Impala) Room. It's straight down the hall this way and to your right. And it's probably double the size.

(Stefan): Thanks (Liz). Good news. Can you - can we move on to the EOI?

(Kurt): Yes.

(Stefan): (Kurt)?

(Kurt): Thanks. Do we know how many people are online? Are we keeping track? Marika, do you know?

Those are who signed in, right? So there's like 52 people in this room and 52 people online? Nip and tuck.

Okay. So the EOI, the Expression of Interest and preregistration process that was to - we can start, (Karen), if you don't mind.

So this came from a suggestion in the public forum in the last meeting. And the suggestion was, you know, evidently not just by one person but something that had been talked about in the hallways and meetings, other meeting in Seoul.

So let's, you know, to - the first slide is really in response to the public comment on the whole EOI. And the comments were, you know, well why are you doing this, why does it serve the public interest and what are the benefits you're getting out of it.

So I think the public interest is served because it'll facilitate the launch of new gTLDs in a more secure, stable manner. It provides for a check after the EOI applications or the EOI submissions are received and allow for additional work that - on unanticipated issues that needs to be done so providing a check would be good. It also will allow ICANN - the big ICANNs in this room to more efficiently direct resources toward the application and the evaluation process.

We'll know how many applications there, how many, you know, you can guess at how many potential objections might be or how many episodes of contention there'll be. We can, you know, partially at least, not greatly but partially inform the economic and risk discussion. Like I led with, you know, identify perhaps unanticipated issues and so, you know, the words in the last (unintelligible) our mind but in the end hasten the launch of the new gTLD program.

So I don't know. So just me sitting here, you know, when I first heard, you know, heard about the idea for the EOI, you know, I was at best ambivalent about it.

There's been a lot of work done on a short period of - in a short period of time on this. There's been two complete public comment periods and analysis of that public and construction of two or three EOI models. It's been the topic of two board meetings and other meetings.

So through that work and gaining a better understanding of it and trying to describe the benefits, you know, I personally see benefit, you know, benefits

of conducting it as a path to getting home here in the best way possible. And by best way I mean, you know in a stable, secure way and in a program that we - an evaluation program and delegation program that we can operate with more certainty. So that's my speech on that.

So I'm going to go through these EOI slides. I said a lot of this but there's been - we had a, you know, we asked - after it was suggested we ran a public comment period where solicit, you know, ideas were solicited on the answers to several questions. There's been analysis of that comment and there are models posted and then another public comment session. And then you've seen everything that's been posted.

So what's the model? I think that's the next one. Yeah. So what's the model?

The model is that it would be mandatory for eligibility in the first round. So let me say a couple words about that.

One is there's going to be a second round. And so it doesn't preclude - if you don't want to participate in the EOI it doesn't preclude receiving a TLD.

There's been a lot of staff and other discussion about this. There's really three options, right, having a - well I'll just use shorthand, using a - have a mandatory EOI, a voluntary EOI or no EOI.

I'll say that of the, you know, the - I think the sense of the staff and the public is that the mandatory EOI is a first choice. Voluntary EOI -- can't even spell EOI -- is a distant third that, you know, it would require a, you know, result in breakage, performing the same tasks over again, result in information that's of little or no value. So the - a voluntary EOI is actually more expensive than a mandatory one and much, much less useful. So that's some detail around the thinking behind that.

The deposited 55,000 seems to have met with essentially a sense in public comment. Some are a little bit above. Some are a little bit below. There are several comments that there should be little or no fee. That would seem to result in receipt of information that's not really accurate or usable.

We think the deposited - if the deposit on the application fees are going to be used for that essentially it would be nonrefundable unless the round is cancelled. Now there's a prerequisite to this, right, that a lot of guidebook issues need to be solved before we launch the EOI.

We - they, you know, in an environment in this from public comment, you know, I think there's universal agreement. We can't have an EOI and then substantially change the guidebook. So that's necessarily hooked into this issue of refunds that if there's not going to be refunds there can't be big change to the guidebook either. So the major issues in the guidebook will have to be settled before the launch of the EOI.

And then, you know, there's a lot of back and forth on this issue. But the name of participants and the string will be made public.

One prerequisite to the EOI would be a fully executed communications plan so it's necessarily identical to the communications plan for launching the whole gTLD process so that we don't work to disadvantage various groups.

And that final element of the proposal would be that there'll be no evaluation. So we'll probably have to have some public comment area because entities and people will want to comment on submissions but there'll be no real evaluation occurring during the - until the (RFT) is launched in earnest.

So what are the prerequisites? Well we want a published version for the guidebook where we think (Wendy) will be close to final. You know?

So some of the issues that would need to be well settled are, you know, the (RPMs), the three character issue, vertical integration issue. Other important registry agreement issues would need to be settled and the full communications plan executed. And then finally we'd have to be ready to receive and process the submissions.

So that's the whole EOI presentation so let's have questions.

(Stefan): Thanks (Kurt). I'll ask the first question if possible. You were talking about looking at making it public or not making it public, the EOI submissions. I would like to consider if you do make it public the risk to applicants that they come out in the open.

Say they're going to go after a certain TLD and then say ICANN is unable to bring the first round in a timely manner and we go beyond the 18 month limit that you set and they lose their - I mean they get refunded but they've put their information out there and they've people they were going for that TLD.

If you then start another process or a first round say after two years or three years they've still lost that position but they've made their intent public and they may be prone to certain static from competition for example or other companies or other players that may want the same or a similar TLD.

So would it not be a better solution to keep the submissions confidential except to the people submitting because I understand that you want - one of the intents in making them public was to ensure that people are - might go for similar TLDs would be able to talk to each other beforehand? So you could still reach that objective while protecting applicants from the wider world as it were.

(Kurt): Yeah. So it's a - that's a long discussion. I - so a couple things. You know, when I read mandatory for eligibility in the first round, you know, to me that

says mandatory for eligibility in the first round whenever that occurs even if it occurs much later.

But the, you know, may, you know, I haven't really thought about it much. Maybe not. So maybe that's a valid point you have. And may, you know, we should at least make it clear whether - so people are on notice so when deciding whether to participate in EOI they have a definite answer to that question and know whether to take that risk.

So I think, you know, the EOI has some different values. One is it ascertains the number of applications in the first round. So that's one.

But all the other benefits from the EOI come from publishing the string information. So that's the kind of balancing that occurred. I think that, you know, so I can argue both sides of it.

I think that, you know, if we - if strings were not published or entities were not published, you know, some would self-publish. Some would not. There would be, you know, there'd certainly be rumor and discussion.

You know, the whole new gTLD program would then be surrounded by, you know, rumor and innuendo instead of clear, transparent information. So I think that's a benefit. I don't think we want to get into the business of ICANN receiving the information and then holding it confidential because, you know, then I'd never sleep.

So, you know, I think the points you raise are excellent ones and that - so the - and so the balancing that's going on and where we are at this point is we think, you know, better openness and transparency about who's applying and what they're applying for. Given that it is mandatory so others, you know, cannot gain say the information would - a very important supposition is a widely better way.

(Stefan): Thanks (Kurt). I received a number of questions.

Tim Ruiz: This is Tim. May I...

(Stefan): (Unintelligible).

Tim Ruiz: It's on the same subject.

(Stefan): Tim, just a second. I just want to say that I will give priority to GNSO counselors as this is a GNSO counsel session. And I think (Adrian), you had your hand up first, then Chuck, Tim as counselors.

There's (Bill), you want to ask a question as well in the room? Okay. So (Adrian), please go ahead.

(Adrian): Thank you (Stefan). (Kurt), I have two questions with respect to the communications campaign.

The first one you said -- and I think it might just be a misinterpretation from my point of view -- you said that the communications campaign for the EOI was going to be - I think you said something like necessarily similar or necessarily identical.

Just so I'm straight on that, there's only one communications campaign, right? You're not going to do another communications campaign be - for the final DAG, right?

(Kurt): Yeah. I think that's right. I mean I - the communications effort will continue but the emphasis would be on this first part because that's where we're seeking to protect those who want to participate. (Karla) has a comment.

(Karla Genesta): There's one communications plan but there's several campaigns that happens. So for example when we were searching for evaluators that was

one campaign. If the EOI is approved by the board then we need to intensify the information around the EOI. This would be another campaign. When the program launches and the objection period's open that would be another campaign.

So there's a series of concentrated efforts depending on the phase that we are on the program. And that's what we call the campaign. But the goal of the plan which is really to make sure that people around the world are informed about the new gTLDs, the goal is the same.

(Stefan): That was (Karla Genesta) speaking.

(Adrian): I understand.

(Stefan): Just to benefit the people that didn't know. (Adrian).

(Adrian): Yeah. Can I just respond to that? So my concern is around the timeline of four months continues to get bandied around.

So I'm just trying to get a grapple on it. Is it going to be two four month periods or with these different campaigns that (Karla) was just talking about do they get to chew up some of that four months? You know, when does that four months clock start ticking?

(Kurt): Yeah. So we would conduct what's intended to be the four month campaigns prior to the launch of the EOI.

(Adrian): Okay. That's great, perfect. Thank you. I've got a second question. Thanks (Stefan).

(Stefan): Yeah.

(Adrian): And it is will the - can the comms campaign start prior to DAG 4?

(Kurt): Yeah. I think so.

(Adrian): Okay. Thank you. Thanks (Stefan). I appreciate the time.

(Stefan): Thanks very much, (Adrian). Chuck?

Chuck Gomes: Thank you, (Stefan). Let me say that I'm speaking in my personal capacity and as one who participated in the new gTLD (PDP) from Day 1.

I want to comment on the public comment summary and analysis that staff prepared and posted. But I'd also like to ask where I could send more detailed written comments instead of just the public ones that I'll make today and if there's time on Monday as well. So if you can direct me to who I - who or where I should send more detailed comments I'd appreciate that.

First of all I want to compliment staff for what I believe is to be one of the most thorough comment summaries and analyses that has been done to date so my compliments and thanks there.

For background purposes of what I'm going to say the recommendation for a communication period in the GNSO was done for some very specific reasons. And in the analysis staff only covered one aspect of the recommendation and they didn't quite get that all right either.

It is true that the GNSO council recommended a four month communication period. But it was a minimum of four months. It was not a maximum of four months. So there's absolutely nothing to prevent the communication period lasting longer than four months. So that's the first point that I think seemed to be missed there.

A more important point is that the GNSO recommendation with regard to a communication period was specifically made that the communication period

start after everything's done, not before - not while we're still working on things. Now lest I scare those off that are worried about delays I'll come back and talk about that. I don't think it has to create delays so I'll talk about that in a moment.

There was a specific reason why the GNSO recommended it that way. And this is the key point that staff missed in the analysis.

The purpose of the communication period was to inform those who are not insiders in the ICANN world and aware of what's going on and to give them some reasonable opportunity to participate in the process whether that be as an applicant or as someone filing a dispute or whatever.

And one of the problems we had with Round 2 of new gTLDs was that the - some elements of the process were not finalized before the process started. And one example of that was the base agreement wasn't provided until at least two months into the process. That was very problematic for bidders because they didn't know the full risk of what they were bidding on and what they were going to have to sign up to.

The - in the (PDP) process we were very concerned about that. And that's why we said that the communications bridge should start after everything's done.

With that background the - now to literally comply with what the GNSO recommended would require obviously waiting until at least DAG 4, maybe a little bit longer. I'm not suggesting that.

I think that the intent of the GNSO recommendation can be fulfilled by simply extending the communication period longer, certainly beyond DAG 4 if DAG 4 is very close to complete. And I think that if the communication period extended at least two months beyond DAG 4 that would, in my own personal opinion, be a reasonable compromise for meeting that part of the GNSO

recommendation. And that again assumes that there are no major issues remaining in DAG 4 that aren't close to final resolution.

And I firmly believe that that could be done without causing any additional delays to the new gTLD process. It would probably just mean an overlap of the EOI if that goes forward and with the communication period. And as long as the EOI lasted long enough to give those who are not heavily involved in the process a chance to get involved in the EOI that should meet the major intent of the recommendation.

Now I also disagree as some - as others have on this - in this session right now that strings need to be publicly communicated. I certainly believe they need to be collected. That'll provide good data and useful data. In fact I thought (Stefan) had an interesting suggestion with regard to that in terms of communicating with those who are in contention for strings rather than the whole public.

I do recognize some of the benefits that staff and their analysis recognize with regard to communicating the strings. But there are also some risks and disadvantages, in particular those of a - an organization exposing its business plan prematurely.

Now the - (Kurt), with regard to your not sleeping at night because of ICANN having to hold confidential information, I'm sorry but ICANN can hold confidential information. And if they can't we have a more serious problem than what we're talking about here. They do it all the time with regard to registry reports that are - that do not become public until 90 days after they are presented.

For sure if strings are disclosed -- and I'm not advocating that -- then disclosure of the strings should definitely not occur until the EOI ends. And you - and the proposal does say that in there. And that should be pretty late

in the process with not very much time before the start of the actual application process.

It would also - another idea that should be considered is that if strings are going to be disclosed then the start of the EOI should in essence be the start of the application process in that case.

I - and I'm almost done. I also disagree with the - with one of the things that seemed to be missed in the analysis. And that is that several of the overarching issues and the - and including the vertical integration issue were mentioned as needing to be done before the EOI starts. And several were left out. And I don't understand why several were left out.

All of the overarching issues should be very close to final resolution before the EOI starts otherwise that would go against the GNSO recommend - the intent of the GNSO recommendation. So all of the overarching issues and the contract issues and the vertical integration issue should be very close to resolution before the EOI starts.

Finally I want to reemphasize that the problems that I've identified are all solvable. And they're solvable without causing any delays. There are just some tweaks that need to be made to the plan that would address these again without causing any delays to the introduction of new gTLDs. Thanks.

(Kurt): Thanks Chuck. That was very thoughtful. So the place to send a comment would be to the (newgtld@icann.org) mailbox is one place.

Two is I don't know if you're planning to be participating remotely in the public session on Monday on EOIs but if you're not we can make arrangements to have your comments read in so that they're considered real time in a little better arena.

Third is that the part about losing sleep was just a joke. And we intend to keep the - to the extent the information is kept confidential it would be - it's always intended to keep it confidential until the very end of the process.

And so four I see, you know, a large area of agreement. So anyway I, you know, I would encourage you to send those comments to that mailbox so they can be read directly but also if you can participate remotely in the session on Monday that would be great.

Chuck Gomes: Thanks (Kurt). I am planning on participating on Monday. But my guess is is that there may be limited time for comments. So I will send them. Could you give me that email address again please? (Newgtld), is that it? With an S or without an S?

(Kurt): Six letters, (newgtld@icann.org).

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Chuck Gomes: Thanks.

(Stefan): Okay. Thanks. Tim, I see your hand up. But do you mind if I go to (Debbie) first? She hasn't - she had a question and she hasn't spoken yet. So I'll come back to you.

Debbie Hughes: Hello. A lot of my comments have already been addressed by some of what Chuck just said.

Hi. This is Debbie Hughes. I'm from the American Red Cross.

A lot of my questions have already been addressed by some of what Chuck just mentioned. But what I did want to ask was when we're talking about a communications plan certainly wanted to stress the importance of having that communications plan be longer than four months if at all possible.

Was wondering to hear when a written communications plan would be drafted and put out for participation by the community and that certainly reaching out to developing countries to those who are not actively engaged in the ICANN community I think would be a very important part of such a communication plan and would be very interested to hear from ICANN the plans for having a written plan and when we might expect some of that.

(Kurt): Yeah. So - yeah, thank you. Those are excellent comments too and especially the part about outreach because of the main goal here is to not have somebody at the end say gee, I didn't know that this was going on.

So there is a written version of the communications plan that's posted. It went through one round of public comment. And a revision's been posted that is targeted at - more targeted at the EOI process.

(Karla), I don't know if you want to talk about any aspects of the written plan.

Debbie Hughes: Are there plans to have comments on the communications plans? I'm sorry.

(Karla Genesta): Then have any plans for posting the communications plan for public comments but we could certainly - the current version doesn't include EOIs.

Yes. It's specified with - on the subject area, comments on direct communications plans. Thank you.

(Stefan): Okay. Thanks. So I have - in the queue as counselors I have Tim, (Christina), (Bill), not necessarily in that order. I forget the order so please bear with me. Repeat, if anyone - any other counselors want to speak - Rafik. So Tim, oh, and (Wendy), sorry.

Tim Ruiz: This is Tim. Yeah. My comment's also about the strings being made public during the EOI. And, you know, my feeling is if they're not then there's no point in the EOI whatsoever.

If the EOI is mandatory that in itself means that however you - whatever you want to call it, it is the start of the application process. If the strings are not made public till the end of that period then I really don't see what any issues are or what problems it raises that doesn't get raised when it's - when the application process would start and the strings would be made public at the end of the - what was envisioned as the original application period.

No one can apply once the EOI closes who hasn't submitted an EOI. So I really don't see what the problems are. But if we're not going to make the strings public during the EOI then there's really no point in it whatsoever.

(Stefan): Okay. Let me give priority to the people participating remotely so that would - next. That would be (Christina), right?

(Christina): Great. Thanks. I actually just - and Tim, you actually gave me kind of a good segue to my concern.

I remain very concerned about the string and applicant names information public. And I think that there are two possible and frankly with all due respect in this community potentially likely scenarios in which that'll play out.

And the first is once the application - once the applicant and name strings are made public I think you're likely to see at least some cybersquatting. And because of how this regime is going to be set up it will be exceedingly difficult if possible at all for any applicant to prove that they have sufficient rights in that string in order to prevail with the UDRP or any kind of action at least under the Anti-Cybersquatting Consumer Protection Act.

The other scenario that I see as immediate gaming in the sense that where this is a new best - business venture -- and this is the scenario that I'm most concerned about -- it will be very possible, assuming that we have at least a 12 month period between the EOI and when strings - when applications

would get to the objection process for entities that want to, to go out and file intent to use registration applications in the U.S. or in other countries where the examination process moves rather rapidly and end up with one or more trademark registrations before the objection period to applications starts.

And then you're going to have a situation in which an entity that really had no viable business plan and frankly has another trademark's handling is going to be in a position to hold up an accident to avoid a trademark objection.

And I just want - I'm having a hard time trying to - I've run through these scenarios and I really don't see how you can truly avoid either of them. And I do think that ICANN can get a lot of the information that it needs if the EOI, if it did go forward in the current model would be that entrant and string and applicant information would go to an intermediary and then the information is provided to ICANN in an aggregate.

I still am not persuaded by the if we make the string public all of the applicants for the same strings will get together and work it out. We haven't seen that yet. And we've already seen multiple identical strings out.

So I just think that ICANN really needs to think about some of these other unsolvable issues that they could be creating if they go ahead and make the strings public. Thanks very much.

(Kurt): Thanks (Christine).

(Stefan): Okay. Thanks. So next I have (Bill).

(Bill): Thank you. In looking through the public comments I'm kind of struck by the range and diversity of opposition to the whole EOI approach. And yet apparently we continue to go forward.

There's one particular dimension I'd like to pick up on though. And it's a point that (Debbie) made. And that concerns developing countries. We're here in Africa after all.

Several people in their comments raised concerns about developing countries. And the response in the paper was that establishing a separate deposit structure for communities, non-profits, entities from developing areas that are - adds complexity and cost to the EOI program -- full stop -- and providing benefits to ones that were applicants over another does not promote a fair and impartial process.

It just - I - with all due respect it just strikes me that this is like not really coming to terms with the kind of range of concerns out there in the developing world about ICANN's operations generally and processes going forward that they often find difficult to plug into. And if the answer is simply well we'll do some outreach I don't know that, you know, doing some outreach is going to be sufficient.

You're dealing with a lot of potentially interested players that will not be relatively cognizant of this process, who will feel that steps were taken in a very accelerated manner that suited people who are inside, aware, plugged in, well financed, etcetera and now they're coming in at the backend and their options are limited. It just seems to me politically that we have to be more sensitive to the developing world dimensions of this entire operation than I feel we have been thus far.

And I'm wondering it, you know, if it's simply a matter that having a separate deposit structure and so on would add complexity and cost. Lots of things add complexity and cost. Some things are worth adding complexity and cost.

If we're talking about figuring out how to get the vast majority of the world engaged in ICANN processes and engaged in, you know, the DNS environment it seems to me maybe we could do more thinking about more

creative approaches here to tackling that whole nexus of issues. Simply to say we can't be unfair to somebody else by giving preference doesn't seem to cope with the nature of the challenges that are being faced in Africa, in Latin America, in Asia, so on.

So I just wonder if you could talk a little bit more about how you see these - such an important political issue going forward for ICANN.

(Kurt): Yeah. So the, you know, those are all really important issues. And they go right to the, you know, raison d'être of ICANN.

So I think those issues are exactly the same whether we do an EOI or not, right? So if we conduct - if we don't conduct an EOI and we just launch the gTLD process, we essentially have the same set of issues: what, you know, what application fee to charge, whether there should be different sets of application fees, what outreach and communications are required to ensure that, you know, potential participants in developing countries or those in regions where, you know, ICANN doesn't necessarily, you know, visit or whether there's an ICANN chapter, you know exists. You know, those are the same issues whether, you know, whether we do an EOI or not.

So I think that, you know, we've talked a lot about, you know, how to make accommodations for those that find it difficult to participate in the new gTLD process, how to make accommodations and when to make accommodations.

So I, you know, I think those are all good issues. I think, you know, to an extent they've been answered that where we can we are making accommodations. Where it's difficult or may overburden an already complex process initially that in the second or third round, you know, in the second round that accommodations could be made to ensure that participation is widespread.

But don't think that ICANN treats those issues, you know, ICANN staff or those that are working on implementation plans treat those issues with disregard or cavalierly. It's kind of why we all come to work every day.

(Bill): Thanks.

(Stefan): Rafik?

Rafik Dammak: My name is Rafik Dammak. I agree with (Bill) about that - the point that he raises. And I think that the whole situation's not enough for African region. And so I have really two questions so that - about the deposit with the real buyer to - or applicant from developing countries.

I think that some specificity in - even in Africa they don't have the - how much is - five - 55,000 as budget - annual budget. And so what is the solution for that - for Africans from this region?

(Kurt): You know, I don't know. So part of the discussion we've had so far, you know, part of the discussion we've had for a long time is about the application fee.

And the application fee is intended to cover costs, not create profit. And so how do we create a, you know, how do we create a fee structure that is subsidized in some way and by what?

And so I think what you're suggesting is important. And like, you know, I was genuine in what I said before. That is, you know, a big part of ICANN's role, to engender regional participation in the internet and the new gTLD process.

And so I, you know, in the first - but, you know, balancing that against, you know, in the first round there's a great deal of uncertainty as to how many applications would be received and how they'll be processed, what kinds of controversies will occur, what kind of combinations there'll be, what sort of

gaming scenarios there would be for those to qualify for reduced fees without at least going to school or gaining some understanding and some real time experience.

And so that's why, you know, initially anyway we've stayed away from diversified fee structures. Just because of the risks that they pose to the whole process but with the view that, you know, with the view that, you know, it's for ICANN to take measures to engender the, you know, participations in different regions, especially in developing countries and in some way support the development of new gTLDs in these areas.

So, you know, it's a question that has been asked by the GAC members many times about reduced fee structures and in other areas. And there's been inconsistency in...

Rafik Dammak: Surely. But I think that ICANN is not perfect. So I don't understand too much why the need of sky-high fees so especially for developing countries.

(Kurt): Just - it just pays for the evaluation. So if - so where does, you know, so...

Rafik Dammak: Is there - you think there will be some - I don't know how much applicants. I don't think that all these fees did - don't - is really needed. I think it's it's really sufficient. It's needed to low applicants from developing countries to apply for a new gTLD. Otherwise it's - we will keep the same model and we would have bridges to be more for - from - mostly from United States or from Europe.

(Kurt): So to give you some insight, you know, as part of the evaluation process ICANN's retaining the services of (Dick)'s evaluation panels, three dispute resolution providers and then a fourth, an independent objector and other entities to aid in the evaluation of the applications.

The (STL) would be around the fee for a fine was \$55,000. I'll tell you that. ICANN spent a lot more than that in processing and evaluating the applications so it's just done on a cost recovery basis.

And what I'm suggesting is the path for subsidizing those costs for some applicants should occur after we get past the first round and some of the uncertainty about it is over where the combination of uncertainty and subsidy could pose some risk.

(Stefan): Okay. Rafik, if your point is that 55k is too much for certain developing countries which is well understood...

Rafik Dammak: Not just for developing countries but I am also talking about communities.

(Stefan): But you do have to wonder if they - that sum is too much are they able to run a registry.

Rafik Dammak: It depends if you are talking about profit-wise. If you can - so the example of subsidy.

(Stefan): There's still a basic cost to run a registry whether it's a profit or nonprofit. Anyway, let's - (Wendy), you were next I think.

(Wendy): Okay. I want to - thanks. This is (Wendy).

Wanted to start with a point that I made in the chat which is if we're talking about clear communication particularly to ICANN outsiders I think it's critical that we call this what it is, the start of the application process, not a mere expression of interest.

And I think that helps clarify things for us too. If we say this is the beginning of the application process we want to have clear steps documented of what it takes to get from the beginning to the end of the application process. And we

need to especially again to invite non-ICANN insiders into the process, we need to give them a sense of when they can expect the process to move forward, what contingencies we would allow to deflect that path if we don't think we have everything figured out.

And then the - it's critical that as we start this pre-application process that we don't let the announcement of the pre-application be an instrument of further delay. But it should be assumed the this will be the start of the process and the process will move forward from here, not that it's an opportunity for further bickering.

And I say that all in connection with the recent independent review panel emphasizing the importance of neutral, objective and fair documented policies. I think that's what we are moving towards here with the guidebooks. And I think it's also important that we include a clear guide - timeline in the process.

(Kurt): Yeah. I think that's right on.

(Stefan): Thanks. So we're nearly at the end of our session. So I will apologize in advance to all the non-counselors who would like to ask questions and I'm not going to be able to fit you in because (Kurt) has to go.

(Rahid), I think you had one question. I - if there are any other counselors that wanted to ask a question please let me know. I think I've done the full list of counselors.

And then we'll have to cut this session short. I'm sorry about that but we are in the - well not short. We'll just have to end it. Yeah, absolutely.

(Rahid): Hi. This is (Rahid). First of all I mean the - as a counselor for representing the (B.C.) I think that I can safely say that our draft statement's going to come out

in opposition to the EOI process. That's largely what it's looking like at this stage.

But what I'd like to sort of mention is that on a personal perspective the confidentiality aspect has - does affect two people. It does affect, Number 1, certain businesses who may not want to disclose what strings they're trying to use or what their entity may be.

So I would, you know, (Christina) made a point earlier and I think this also speaks to state. Certain governments don't want to say whether they're going to be launching this and they don't want to get into the first round maybe. Or they may be trying to think whether they should be in the first round to make sure that the other guys' not able to get it.

But more importantly I think - and I would concur with some of Rafik's points. I see that the fee is there for \$55,000 but the document I've got here says that the evaluation or the cost of administration of the EOI process will not cost more than 5 to 10% interest of that amount if I'm reading it correct.

So just if you know which one I'm referring to should I read it out? Okay. It says: it is expected that the administrative cost would amount to no more than 5 to 10% of the current recommended deposit amount. So that means that the actual cost of doing an EOI is much lower. So that may help to sort of look at some of the issues Rafik rose - raised.

Then there's the outreach aspect. I've looked at the draft plan for outreach, etcetera and communications. It's - I think two things. One, I must commend the staff for saying it's actually taking on the GNSO recommendation for a minimum four months. That's there in the document. That's a good thing.

But the plan with regard to global outreach just says global outreach. And there's no sort of details about how we're going to do it. And I'm concerned

about this being sort of replicated as the IRT outreach which was New York, London, one in Sydney and one in Hong Kong.

And it needs to be probably a lot more than just that because if we're going to reach out to developing countries I think it's important that we just don't do it when we're having ICANN meetings but with the sort of concerted focused effort if we're going to do it that way.

And the last point I would also think that (Bill)'s making a good point. On a larger perspective in the (IGS) and other places, ICANN is being looked at. Now we are going to be perceived as creating through this EOI process a situation where we may be perceived to be creating a monopoly for the developing economies or the incumbents who'll have this knowledge now can reserve slots, come up with the money and do all of that. Is there - it's (unintelligible) procession or not we need to be a little sensitive to that.

And the certain points I just made right now may not just be applicable, I completely understand, to the issue of the EOI. But they also are sensitivities that may be applicable to the new gTLD launch.

And that is just my comments. Thank you.

(Kurt): Thanks (Rahid). So just briefly the - so the EOI fee is intended to be a deposit on the application fee. And it was really determined after considering public comment that, you know, it was thought to identify a fee level that would prohibit the sort of behavior that, you know, where an artificial - where a low fee would encourage people to sort of bid on slots or TLD strings without meaning to carry through if there was interference.

So the result would be - if the fee is too low the result will be that the information given from the EOI will not be accurate or helpful in any way. So it - the fee can't be too low. And we tried to not make it too high so in the end

struck on the amount of the new gTLD evaluation fee that is in fact at the end of the day non-refundable so 30% of the total fee, \$55,000.

And the public comment, you know, was around that, that fee should be \$50,000, \$50,000 around that given those two goals in mind, you know, to discourage gaming and keep the fee as low as possible.

So that's - so the fee of the EOI doesn't match the cost but it is intended to be a deposit on the evaluation fee which is a cost recovery fee. But at the end of the day it's just costs that are recovered.

And then finally at the end, you know, I agree with you, (Rahid). And, you know, I think (Karla) would say the same thing if she cares to that the communication plan isn't intended to go into an auditorium and discuss aspects of the new gTLD program.

It's to be outreach and with very specific targets to inform those of the availability of the new gTLD program if they choose to participate, with the goal that - and, you know, it's kind of a lofty goal and hard to meet, but the goal is that at the end of the day somebody doesn't raise their hand and say gee I didn't know this was going on. That's the goal of the program.

So, you know, thanks for, you know, a stimulating three hours. I appreciate everybody's thoughtful commentary, their contributions to the online forum. I think the model that you see for the EOI is, you know, a true amalgamation of the, and synthesis of the public comment.

You know, in response to Chuck's question there's the new gTLD mailbox to send additional comments to. And there is a public comment forum session on the panel discussion that I hope will be good on Monday. So see you there.

So thanks for sitting in this hot room and enduring this. And thanks for your attention, everyone.

(Stefan): Thanks very much, (Kurt). And just to say then that we have a short, very short, ten minute break and then we'll do some working group updates before finishing up for the day.

Operator, please note that this call is now closed. Thanks to everyone. And we'll reconvene at 4:15.

For those of you who couldn't get your questions in please note there is a new gTLD - public new gTLD session on Monday I think it is that. Thanks very much.

Attendees:

Marilyn Cade - CBUC
Martin Sutton -CBUC
Ron Andruff -CBUC
Alan Bidron - ISP
Steve Delbianco-CBUC
Flavio Wagner -ISP
Berry Cob-CBUC
Norbert Klein -NCSG
Thomas Roessler - W3C
Werner Staub -Core
Brendan Kuerbis - NCSG
Alex Gakura - NCSG
Amadeu Abril |Abril - CORE
Jon Nevett - Registrar
Jeff Eckhaus -Registrar
James Bladel - Registrar SG
Jothan Frakes - Registrar SG
Judy Song Marshall -Neustar
Paul Foody - individual
Aysha Hasssan - CBUC
Dirk Krischenowski - dotBerlin
Katherene Olmar - DotBerlin
Chris Chaplow - CBUC
Marcello Fernandes Costa -Conselheiro CGI Brasil
James Prendergast - GalwayStrategy Group Fairfax Virginia
Jon Lawrence - aus Registry
Fabien Betremieux - AFNIC

Avri Doria – NCSG
Robin Gross - NCSG
Paul Stahura – DemandMedia - Registrar
Richard Tindall – DemansdMedia – Registrar
Carlos Afonso – Brasil
Sebastien Bachellot – ALAC
Fred Kreuger – mids amd machines

Remote Participation

Mike Palage
Mikey O'Connor - CBUC
Paul Diaz – Registrar SG
James Bladel –Registrar SG
Michael Young - Afiliis
Steve Metalitz - IPC
Jothan Frakes - Registrar
Milton Mueller – NCUC
Jeff Neuman – Registry SG
Eric Brunner-Williams CORE
M Bahir

GNSO Council

Stephane van Gelder – Registrar SG
Tim Ruiz – Registrar SG – remote
Adrian Kinderis - Registrar SG -remote
Chuck Gomes – Registry SG - GNSO Chair - remote
Caroline Greer - Registry SG - remote
Wolf-Ulrich Knoben -ISP
Jaime Wagner –ISP
Zahid Jamil – CBUC
David Taylor – IPC remote
Kristina Rosette – IPC remote
Andrei Kolsenikov NCA
Wendy Seltzer – NCSG
Bill Drake – NCSG
Rafik Dammak – NCSG
Mary Wong - NCSG
Alan Greenberg – ALAC Liaison

Staff

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Marika Konings
Marco Lorenzoni
Olof Nordling
Tim Cole
Rob Hoggarth - remote
Karla Valente
Tina Dam -remote

END