

First part of audio is garbled up until 00:00:06

Margie Milam: ...both new gTLDs and existing gTLDs and the GNSO Council is not looking at it only from the new gTLD standpoint. They're thinking that if there should be a policy, it should apply to both the existing registries such as .COM and .NET and also the new ones. And so that presents a problem for us from the staff perspective, because we have existing agreements right now with VeriSign and NeuStar and Affilius, and those contracts have limitations on what we can change. And there's this concept of the picket fence, it's a term of Art in our group, but basically it's this idea that if the GNSO develops what is called a consensus policy, that the registries have to comply with them and the question is whether if we were to come up with rules on vertical integration, whether they are the types of rules that are appropriate for consensus policy development.

And so for our issues report we talk about the fact that it's unclear right now whether we can make policy that would be enforceable on the registries and that's just a question that we're going to have to deal with when we start our Working Group deliberations.

I don't think I really need to go into this, only to give you some background on how we got to this point.

The issue of vertical integration could have been addressed a long time ago when we developed the new gTLD process. It was just something that the GNSO didn't focus on when they first did their work. They did their initial recommendation to launch the new gTLD program in September and then the Board approved it in June – September of 2007, it's been several years now – and then the Board approved it in June 2008.

And in those policy recommendations that the GNSO Council made, one of the recommendations they made was that – Recommendation Number 10 – that once the program starts, there needs to be a base agreement that's provided to the applicants at the very beginning of the process so that the applicants know what they're getting themselves into. It's, you know, it was an important recommendation that the GNSO Council made and that's the recommendation that causes us concern because the vertical integration issues – like a rule, for example, that would say that a registry can't own a registrar – that would have to be written in the base agreement and that needs to be done at the very beginning of the application process.

So this explains why we have this concern that if the GNSO is going to do work, that they have to do it very quickly so that they can get it incorporated into the base agreement.

I don't think I really need to go into this, this is just more background on vertical integration. I think I'll just give you just some examples of the discussions that have been going on in the community.

One of the reasons that the NCUC asked for an issues report is because they felt that the GNSO Council had to make a policy before the existing status quo could be changed. And we just highlighted the fact that there really is no status quo at this time. We did a bit of analysis on all of the registry agreements and there's different models with different terms in them. And the current practice has changed over time, there's been changes from the very beginning until now and most of those changes have been done through the negotiations with the registries instead of through a GNSO Council process.

This is just information on what the charter is going to be dealing with and I think this might be useful for anyone who might want to participate in this. Essentially, the Working Group, if this charter gets approved tomorrow, states that the Working Group will evaluate policy recommendations affecting both new gTLDs and existing gTLDs.

Sorry, we lost our place...

There are several objectives that the charter group negotiated but one of them that was important for the Working Group is that they want to perform their activities in a manner that does not delay the launch of the new gTLD program. And that's one of the objectives that are included in the charter because they really don't want their work to interfere with the new gTLD program and are hoping to complete the work in 16 weeks so that they can be, provide timely advice to the Board and to the staff in order to develop the new base registry agreement.

And I think that's basically it. I hope that was a good enough overview so you can understand what's going on in the GNSO Council right now.

Cheryl Langdon-Orr: Thank you very much Margie, appreciate that. And I do know, for example, that the Latin American/Peruvian region has had some discussions on this. It may be a question worth me asking. If we do get our regions to respond to be part of these processes with the very short timeline you've outlined, is there going to be English language requirements because we don't want to bring enthusiasm in and then a layer of complication if English is a mandate. They're used to working in our workgroups multilingually as we

get more and more of our lot into your space, you're going to have to meet those challenges, but you may not be ready to meet them just yet.

Margie Milam: We're not ready yet. I mean, you have a fine example of how to work with multiple languages and hopefully one day we'll mimic what you do here. It's very impressive. But unfortunately on the GNSO side, we're operating in English.

Cheryl Langdon-Orr: So if that's something for the regional leads can note, that we're very keen to get regional input, these are ALS rank and file members, involved in this process, please ensure you don't set out false expectations and make sure that the understanding is that it will operating not only in short time but in English.

Okay, I'm opening the floor to questions.

Go ahead Evan.

Evan Leibovitch: Hi there. I guess my curiosity is at a general level, trying to find out about what the interest is to At-Large of the concept of vertical integration. Whether or not this is something that is a matter of competition between the contracted parties and to what extent At-Large actually has a stake.

I remember going to a meeting once where I actually raised the issue of couldn't there be some circumstances where indeed a registry directly sold its domains to the public? And everyone looked at me as if I'd personally insulted their mothers.

And all I'm trying to say is, you know, this issue of vertical integration, I can see that there is a viable registry reseller arrangement that can be had and has been useful but it's always astounded me that ICANN has restricted registries from adopting a business model of selling direct should they decide.

I understand why registrars have an issue with this. But I'd like to find out why it's, who believe it's in the public interest to force this relationship on registries?

Cheryl Langdon-Orr: Did you want to, no? Okay. I really can't answer that question.

Margie Milam: Unfortunately we're in the situation where we have existing agreements and existing structures to deal with and so change comes slowly. But a lot of people have made the observations that you've made, especially with maybe small new gTLDs, maybe special community focused gTLDs, and it might, you know, make sense from a marketing perspective certainly to do that but that's something that the Board is currently looking at, you know, and now the GNSO is looking at. I mean, and all these issues will be discussed.

Evan Leibovitch: I just meant from an At-Large context whether this was something that we wanted to bring up in saying we wanted to encourage ICANN as it moved forward with new gTLDs not to force a business upon registries that force them to work with registrars.

Cheryl Langdon-Orr: Well perhaps that's something that can be met in two ways. First of all getting RALO and ILS people involved in the work groups so that those voices can be both heard. But also, if at your meeting, you all think that's an issue, then the ALAC can take that up and ask those questions. We can establish that through our own survey mechanisms and get that.

Alan, go ahead.

Alan Greenberg: Even the most fervent of those who say there should be no integration and we should maintain the current model to the extent there is a current model, have generally agreed that for small, community-based domains or the corporate TLDs, the registrar model is not likely to fit and there should be exceptions for those. So we really need to take those out of the discussion because everybody has agreed that the separation model will not work for those.

So I'm not debating pro/con integration in this particular statement, I'm just noting that they are carved out so they aren't part of the discussion.

Evan Leibovitch: That isn't what I meant. I meant that any arbitrary gTLD should have the option of, if they want to sell direct, sell direct.

Cheryl Langdon-Orr: Olivier.

Alan Greenberg: Sounds like we have a work group participant.

Olivier Crepin-Leblond: Thanks very much Cheryl.

I'm sorry, I haven't read the full proposal, I'm just working on what Margie has said.

Yes, but I do have a question from discussions that I've had the past couple of days over a few beers and ideas sort of come up, how easy it is to game the system. Because at the moment we're looking at registry and registrars but we're not looking at the other layer which is agents and in general, most registrars have a number of agents in the system. And what I've heard is that one could have a contract between a registrar and a registry to basically have an agent sell the domains on behalf of the registrar thus bypassing this policy all together.

Cheryl Langdon-Orr: I think you're talking about resellers? Is that right?

Olivier Crepin-Leblond: Resellers, yes.

Cheryl Langdon-Orr: Resellers, yes. That's part of the discussion is it's so hard to keep these rules clear and there's always ways, through contracts and you know, other things, joint ventures, to get around some of this. So that's some of the discussion that's going on.

We have this concept right now called "equal access and nondiscriminatory treatment," and so what that means is that, at least at the registrar level right now, a registry is not allowed to use only one registrar and has to make its services available to all ICANN-accredited registrars and treat them all equally and nondiscriminatory. And so that's the big issue now is if you had a situation, assuming that it was okay to have a registry owner registrar, do they still have to deal with all of the other registrars as currently required and treat them all the same even though they maybe have business reasons to only deal with their one particular registrar? And then right now there's no rules on resellers, so that's one example.

Olivier Crepin-Leblond: That's a loophole isn't it though?

Margie Milam: In some sense, it's, you know, I don't know if it's a loophole, it's just that we don't have rules addressing it. I mean, there may not be anything wrong with, you know, from a business standpoint, loophole sounds like it's something wrong, I mean, it may be perfectly, from a business standpoint it may make sense to have a reseller. But our contracts don't address, you know, that situation.

Olivier Crepin-Leblond: Well, I think that including the resellers in this separation might be something that you might wish to consider because it's just a way to get around it. Thank you.

Cheryl Langdon-Orr: Thank you. Looking at the Adobe Connect room I see none of the remote participants raising their hands. Is there anyone on the phone bridge?

No?

And anyone left in the room who wishes to ask a question, make a point or do other than join me in thanking Margie for her time and effort and energy this morning.

(Applause)

And also to ensure that we get this out to our people in the fastest way possible, can, I know there's the normal way that things go out, could we just fast track straight to Mateus who deals directly with the regions...

Margie Milam: Sure.

Cheryl Langdon-Orr: So that he can push the call for participants and you'll get English-speaking diverse voices coming from our community into the process.

Margie Milam: Great! Thank you everybody. Bye.

Cheryl Langdon-Orr: Thank you.

All right, ladies and gentlemen, we are now moving to, if she desperately finds the fine print in front of her, oh there we are, compliance information and feedback from my very good friend Pam. Hello Pam.

I do apologize for your being at plus fifteen, everyone is going to be plus fifteen this morning, I do apologize for that but technology beat us this morning. We have new interpretation equipment and unfortunately whilst the microphones were working beautifully, the interpreters couldn't hear it and then the headsets weren't working. So the technology gods were against us.

Over to you.

Pam Little: Hi everyone. Thank you for the opportunity to give you a brief presentation.

I've been asked to give the group an update on the recent contractual compliance enforcement activities and the NORC WHOIS accuracy study.

I know we're pressing for time so I'll get started.

So if we have time, apart from these two main topics, I would also like to talk a little bit about the sub-bullet points under the first one. So you can read those and I will talk a bit more about them as we get there.

I want to share this next slide with you because I thought it would give you a good overall picture about what's happening in the last few years in terms of enforcement activities within ICANN contractual compliance.

You can see from this chart here, in 2003, I don't know what actually happened maybe there as a mass delinquency or so therefore was a mass termination. But over the year, the figures have been very stable until 2008 and actually really ramped up significantly in 2009.

And I think there is an explanation for this. As many of you know, in – can you hear me? In ICANN, we didn't have a contractual compliance department as such until in late 2006 Stacy Burnette, my colleague, who is the Director of Contractual Compliance, actually set up the whole department. And I guess it took her some time to get things sorted and you know, find her

bearings. And then subsequently we have more resources, hire more people, so in '08 and '09, you could actually see the increased activities and reflected in the number of terminations.

So, so far we have 46 registrar terminated or non-renewed since 2003 when we started tracking this data.

So these are the stats for the recent T2 enforcement activities and you can read all these numbers yourself but I just want to share with you maybe just think about reading those bullet points from the bottom up. And you can see how activities evolve. We detect noncompliance through a major source which is consumer complaints received by ICANN. So we process those complaints and we investigate them and then we try to find out whether they are non-compliant and then we'll pursue the registrars if they are actually non-compliances.

And so we pursue them by sending them enforcement notice, which is sort of a nice way of saying, please, would you please comply? And if they don't react to that, don't become compliant, then we get nasty. That's when we send them breach notices.

And breach notices actually would have consequences. In the breach notice we say, "If you don't remedy, cure your breach, or breaches, then we might exercise our right to terminate your RAA in accordance with the RAA."

And you can see in T2, the last four months, we have terminated 9 registrars and 2 were not renewed.

And out of those terminations or non-renewals you can see here are the sort of common grounds or causes for non-renewals or termination.

So these are really the usual suspects. Registrars who are not depositing their RDU data as required under the RAA. Or they've failed to meet their WHOIS-related obligations such as providing the access and other obligations. And also the very common one is the failure to pay ICANN accreditation fees. And sometimes it is a combination of all of these. But then failure to pay fee normally is a good indication that the registrar isn't doing well.

I want to specifically mention about the last one which we started to use and I just found it really a very effective way of terminating a registrar to end that relationship. It's like an amicable divorce, if there was ever one if you like, saying, "You know, the business is no longer viable for the registrar or you're not really playing with the rules so we might as well end the relationship." So we then persuade the registrar to voluntarily terminate their contract with ICANN. And they can do so under the RAA.

As you know, there's only the registrar who can terminate the RAA but for convenience but there's no such right for ICANN.

So we found this to be very effective. One is that we get paid. And the second is, we don't have the hassle of bulk transfer. Usually if we can come to this amicable arrangement with the registrar, they would cooperate with the transfer; they could nominate a bulk transfer recipient registrar who we would approve. And so maybe arrangements are a lot easier. And I think that's a good protection and outcome for registrants overall as well.

Now, this was one of the things that I was going to mention about the new RAA, the new 209 RAA, which gives contractual compliance or ICANN more enforcement tools. And we really fully intend to use these tools when appropriate.

We're not saying when we're going to use it, we're going to use it all of the time. But I think this actually just by being there in the RAA, hopefully will have some sort of deterrent effect. But we do intend to use them and you can see some of these are very powerful tools and I also hope they really are effective deterrents.

The next I want to talk a little about the registrar data escrow program. As you know, ICANN spent a huge amount of money since it was rolled out just over two years ago. And the program actually has two aspects to it.

One is the data depositing by registrars and the other one was the data audit. In terms of data depositing, we have been doing quite well. I actually have the latest figure that my colleagues gave me is 821 registrars as opposed to 811 there. So over the last few days we actually had a few more become compliant and started to make their deposit with mostly Iron Mountain. I think there's only one registrar selected as the party provider as the escrow agent.

So that means, 821 is actually close 99% of registrations data is being escrowed. So we have 79 registrars who do not have domain name registrations. So for them their obligation to escrow data doesn't kick in until they have names.

Unfortunately at this point we still have 18 registrars who have signed the escrow agreement, the tri-party agreement between Iron Mountain, ICANN and the registrar but who have not started to deposit data. We are obviously going to pursue them actively. And we also have 22 who haven't signed the escrow agreement and we're going to convince them to sign. Sometimes there's language barrier, sometimes technical barriers, so we try to sort of, you know, help them to become compliant and if then they don't then we will

pursue them, you know, down that path I showed you earlier in one of those earlier slides. Then we will send them breach notice and we may eventually terminate them.

Next slide is the IRTP audit, I presume everyone is familiar – IRTP stands for the Inter-Registrar Transfer Policy. ICANN received a lot of consumer complaints relating to transfer problems.

Just to give you an idea, we have about 12,000 consumer complaints a year out of which more than 20% relate to transfer problems. So we thought it was time we actually try to find out and do something about it.

So we'll do an audit throughout the remainder of this year, I'm the one who is tasked with drafting the audit plan, which is almost finalized, ready to go. And this is just really a heads up. We'll do three monthly audits; we're not telling registrars which month we'll be carrying out audits because we don't want them to plan their behavior if you like.

And there are three groups of registrars who will randomly, who will be selected. The first one are those registrars who we call transfer losing registrars, whose net rate exceeds 20%. This is very technical but I can talk to you about it a bit later.

So these are the three registrars. Basically this means that there is something maybe quite unusual about this very high percentage of net rate so we want to look at your business practices and processes.

The third group are those registrars who are generating most complaints for ICANN. So we also want to look at their business and practices.

So we'll send audit notices to them. As the earlier slide I mentioned one of those new enforcement tools we have is to conduct audits. So we'll give registrars 15 days notice and within those 15 days they have to produce the documents and information that ICANN requests and then ICANN will review those documents and information and determine whether they are compliant or non-compliant with the IRTP, the transfer policy.

And we do intend to use the other enforcement tools we have if we find registrars are not compliant. And we also are considering publishing the audit results so that the public could have information about which registrars are really the good guys, which registrars maybe have room for improvement.

(Applause)

Cheryl Langdon-Orr: If we had more energy, you would have a standing ovation. It's something that the community has been screaming loudly for so that's great news.

Pam Little: Thank you Cheryl.

The next one, I think I heard someone mention about outreach or education. And this is actually what contractual compliance is also doing as well. We feel a lot of non-compliance really is a consequence of lack of understanding from the registrar's perspective or part and we want to help them understand their RAA applications and help them to become compliant.

So we have some publications as well as sort of outreach effort which means we physically visit registrars throughout the world. And you can see here, I have only just joined ICANN in August last year, but I have visited so far, physically visited 16 registrars in the Asia Pacific region and one in the United States.

We want to know what registrars are doing; we want to understand their operation, their business model. We want to even check out whether they have a legitimate operation in the country they say they are operating business from.

So this is the outreach that we're doing and we're going to continue to do this.

Thank you Cheryl.

Now, we'll move on to our favorite topic, the WHOIS Accuracy Study.

I must confess, I'm not the subject expert in this area and as many of you know, this study was done by an external research house, NORC, so I can only give you a very high level overview of the study.

Okay. And the latest is, the report was posted on ICANN website on the 15<sup>th</sup> of February and is open for public comment with a 60 day period which would end on the 15<sup>th</sup> of April for those of you who want to comment on the report, please do so.

We want to have as much, you know, public debate and comments as possible.

I also want to let you know, there will be a workshop at the ICANN Brussels meeting in June so come a long to the workshop if you're very interested in the topic.

And Jenny Kelly, the author of that report, will be co-hosting that workshop with contractual compliance.

This slide everyone probably knows already that it's just these three criteria – the study...

Cheryl Langdon-Orr: ...excepting the latency. I apologize for those online and looking remotely, the latency means that the mismatch is on the screen at the moment. We've got, okay it's coming up now? Okay, thank you.

Pam Little: Yep. Okay. All right.

This slide shows the three criteria NORC used to verify the accuracy or to make the assessment as to whether a registrant contact information is accurate or not.

So I won't bore you with those three criteria. I will just move on to the next slide.

And this other findings – so this is self explanatory – and I thought what was interesting in the findings was the nature of inaccuracy.

According to NORC, the inaccuracies is mainly caused by registrars concerns about privacy or the limited requirements regarding identify or lack of proof of identity or proof of address at that data entry point. And there's also some confusion in meaning of registrant and there's carelessness on the part of registrant and also there's perceived little value in domain name ownership and the ASCII translation.

So this actually is the nature of or the causes for inaccuracy but also give us some idea about how to improve accuracy, I guess.

So if we translate the last (inaudible 00:28:40) to this one and we can say, if we look at glass half full, if you like, say nearly half may be deemed accurate, so 23% is completely accurate, they satisfy all the three criteria. And then 24% actually satisfy two out of the three. And there are 25 borderline and 8% totally false, means blatantly inaccurate information.

So this is basically the findings.

And I'm just going to read you some, this is just out of the report, it says, "Some of the inaccuracies records might have been total failure because of the registrants was deliberately and fully concealing their identity for more dubious reason than privacy concerns, however given the relatively innocuous root causes of so many of the failures, it would seem that substantial improvement in inaccuracy is achievable, albeit at some investment."

So there's hope.

Okay, so that was all I have in terms of slides and what I wanted to share with you. Are there any questions?

Cheryl Langdon-Orr: Certainly is, Adam go ahead and then I see Hong and, looking around the room, okay go ahead Adam.

Adam Peake: I thought it was unfortunate that the press coverage about this report was mainly that 70% of the WHOIS is rubbish which is, if you bothered to read the thing, is not what it said at all. And it's sort of like Kearin (sp??) has basically gone back to being Kearin (sp??) having left ICANN. But that's the nature of his reporting and it always was. That's how Kearin (sp??) reported when he wrote for the registrar, that's why we love him.

But there were other parts of the report I didn't particularly understand. When they talked about you know, limitations and they're talking about, "Well, we couldn't contact people to interview them," you know, and that doesn't sound like a, that's a failure of the survey, that's not necessarily, so there were parts of that table that I didn't particularly understand where they're talking about – I think it was the middle ground – you have limited failure, unable to obtain an interview. And then when they walked about why that happened, it's basically because, you know, how many of us actually bothered to respond, so you know, that's a failure of the process, it's not a failure of WHOIS in any way or form. So that was a bit of a concern as well that you have an indication of WHOIS failure when it's basically a very natural human reaction to saying, "No, I don't want to answer your survey." And that wasn't really reflected or clear to me in the report.

Pam Little: Yeah, and I think that's a very fair point. And in terms of that unfortunate press coverage, I guess it's really sort of sensationalize the report if you like or the headline grabbing. And yeah, it is a survey, as I understand it, so it's really not just a study and it is done as part of a survey. So sometimes yes, they are constrained by whether the person who was contacted was willing to actually answer any questions.

Cheryl Langdon-Orr: Thank you. Hong, go ahead. And then I see Carleton.

Hong Xue: Okay. The WHOIS study is indeed interesting. The conclusion is even more interesting, it seems to assume that the accuracy compliance is not possible at all and it would considerably increase the cost and financial burden to many parties evoked. But my question is that, it seems the compliant department is really the enforcer of the RAA and is one category as failure to comply with the WHOIS obligation so my question is how many registrars have been

terminated, whether forcefully or voluntarily, for failure to comply with WHOIS obligation, for WHOIS inaccuracy, this first question.

And the second question is about RAA itself. It's a simple one and I'm sorry for my ignorance. Does RAA only mean registrar accreditation agreement or it could possibly cover registry as well? That's the second question.

The third one, the third one is related to the second one. If this does include registry accreditation agreement, then of course the compliance department should also enforce agreement between registry and ICANN and we can see some very interesting tendency now on the registries obligations on trademark protection. I want to refer to the PDDRP. It seems ICANN would like to outsource this specific contract compliant issue on trademark protection to a dispute resolution service, a judgment, instead of doing it itself.

So there's three questions.

Pam Little: Okay. I'm not sure whether I remember all three but I'll deal with one by one first.

One is whether ICANN enforces inaccuracy or ICANN contractual compliance can enforce inaccuracy is that correct? In terms of WHOIS?

I think the short answer is not, because the inaccuracy really is to provide accurate and complete WHOIS information, is an obligation on the registrants. ICANN does not have an agreement or a direct contract with the registrants. We have the agreement with the registrars. And registrars have an obligation under their agreement with ICANN to include in their registrar/registrant contact requiring registrants to provide accurate and complete information. But if registrants do not do so, garbage in/garbage out if I can use that phrase, then you still get garbage right at the end of the day. And all we can do is asking registrants – at the moment there's a WHOIS accuracy reminder policy – so basically registrars are required to send every 12 months to their registrants saying, "Please look at this WHOIS information and if it's incorrect or incomplete, please update." Okay?

So there's no enforcement mechanism against registrants in terms of them providing inaccurate or not updating current information.

Sorry, the second question?

Hong Xue: Definition of RAA.

Pam Little: Okay, sure, sure, I'll come to that.

RAA – I think apart from the Registrar Accreditation Agreement – registrars also are bound by all the consensus policies, ICANN policies or procedures. And it's an interesting point in the context of WHOIS accuracy, section 3.7A, if I remember correctly, actually has two prong WHOIS obligations on the part of the registrars. One is for them to investigate inaccuracy if they receive a report from third party, which is the WDPRS, the WHOIS reporting system ICANN currently has in place. So you and I or anyone can send an inaccuracy report by logging a complaint there and then it'll be forwarded to the registrar who sponsored a domain name and ask them to verify with the registrant whether there is an inaccuracy. That's the inaccuracy verification. But there's no – there's also another prong which is requiring registrars to verify the accuracy of the data at the point of registration. The RAA contemplates that registrars will need to comply with that verification obligation at the point of registration if ICANN has procedures or policies in place. But my understanding is currently ICANN hasn't had such policy or procedure in place. Maybe in light of this study – and it does point out that – verification at the point of registration might go a long way to improve inaccuracy or improve accuracy rate. So that might be something that the community want to think about.

And, you know, there's one comment on that report – we've received six so far – was about this – exactly at the point of registration there should be a verification mechanism before a name can be activated, a central verification process.

Cheryl Langdon-Orr: Does that answer your question?

Pam Little: Okay. And in terms of registry – I'm not familiar with the – we do enforce registry agreement as well, but as you would appreciate that most of contractual compliance resources, time and effort, is spent on enforcing RAA a lot more than registry. We do have some registry issue arising out of their contract with ICANN, their conduct or behavior, but nothing like registrars.

Cheryl Langdon-Orr: Carleton and then Olivier.

Carleton Samuels: Thank you Chair.

Just to say that we have a standing WHOIS Working Group. And we are preparing a response to the report – Knudson who is an ALS from North America is involved, I have been in contact with them and we are working through a response.

But the two issues that seem to bubble up to the top is that verification obligation and whether or not it should not become part of the requirement inside the agreement.

The second was, if you look at, well – I don't want to misquote him but I agree with him in principle that the survey and the benchmarking was really low hanging fruit. And coming up with almost 50% inaccurate and yes there is, it is true that as Adam says, is the survey itself was flawed. We do believe that. But you know, Kiernan (sp??) might have been a little bit alarmist in his response.

Unknown female: Oh, you think?

Carleton Samuels: But what Knujon and I are committed to doing is to look in that inaccurate data because we believe that there is some gems to be extracted from that inaccurate data.

So that's it.

Pam Little: Yes, I agree. And I think the study, the mechanism or methodology may not be perfect. But it's a good start, right? It gives us a baseline measurement in terms of level of inaccuracy or accuracy.

Cheryl Langdon-Orr: I have Olivier, I have Beau, I have Alan and then I think have an end to the discussion. Go ahead.

Olivier Crepin-Leblond: Thank you Cheryl.

I agree totally with what Carleton has said there and I applaud that ICANN is finally going to deal with this. The current system is very much "Disneyland." You think that everyone is very nice and is going to supply their real details. There are quantities of "Donald Duck's" out there who have registered sites. Thank you.

Pam Little: Thanks. I'll take that as a comment.

Cheryl Langdon-Orr: Yeah, I'm not sure you can answer that one.

Beau, microphone's yours.

Beau Brendler: Yeah, my question is about the WDPRS system. Do you have any data on the current reliability and functioning of that? Because frequently it breaks down and doesn't work and frustrates users who try to submit to it.

Pam Little: Yeah, I understand there's some technical issue with that system and we actually made a request to the management to enhance that system. It actually underwent some enhancement about just a year ago and I think there's always room for improvement and we did receive feedback from the registrar community in terms of the number of reports they received and the way they responded to the system, it's not working or there's some problem. So we're

trying to fix it. So hopefully even under the current sort of budget pressure, we do get resource or funds to improve that system.

Cheryl Langdon-Orr: Alan? Go ahead.

Alan Greenberg: Just a quick comment on something that already got you some applause. But I'll elaborate more.

I live in a place, in a city where, as in many places, the city does health inspections of restaurants and a number of years ago, they refused to publish the results because if you publish results about a restaurant saying that they're not following proper practices, their business might go down.

(laughter)

I encourage ICANN to follow the more enlightened model of telling people what the results are and I hope you will be consulting with your legal people to make sure it's done in a way which doesn't get us sued and at the same time lets users know what's really working and where they should put their business.

Pam Little: Thank you Alan. And we definitely will get legal clearance before we publish – name and shame people.

Cheryl Langdon-Orr: That said, when you've got a mechanism up and running, you've got 27 people around this table who have networks below them which are happy to distribute far and wide such information.

Pam Little: Thank you.

Cheryl Langdon-Orr: Pam, thank you so much. I think it's really exciting and very important to take back to so many of our regions. Certainly NARALO has been a region that's raised very specifically a number of the issues that clearly Compliance is starting to address now. There's still hard work to do. Don't know how you're going to manage to fit it all. But thank you for your time and thank you for all of the work that's happening right now.

Pam Little: Thank you everyone. Thank you for your time too.

(applause)

Cheryl Langdon-Orr: Our pleasure Pam.

Next we have Karen and hopefully the technology will be a smooth transition.

Karen is, I think, we can't have these meetings without you at the table. You've become a regular feature. It's only aspects however of the new gTLD program that we'll be talking about today. We're focusing specifically on the IDN 3-Character and IDN variance, feedback from new gTLD Workgroup meeting with the GAC, which I'm going to toss to Evan for. And then later on we're moving on to other issues.

But Karin, the floor is yours. And again, I have to apologize to everyone else, sorry about the technology pushing us late into the day.

Karin Lentz: No problem.

Thank you everybody for having me again.

When we last met in Seoul, Applicant Guidebook Draft version 3 had just come out. We got again a lot of comment on that and what I spend most of my time working on now is Draft version 4. That hasn't been published yet for this meeting. We expect it in June.

But we have published before this meeting some updates on things that were complete to the point where we're looking for comment on them.

So what I'm going to do today is go through that set of documents. And I'll try to be fairly brief about it.

I've learned from questions I've gotten this week that the set of documents that we have up there is a little bit piecemeal. It's stuff from here and there and different stages of the process, so I'll try to give some context to that as well.

But I have, on each of the slides covering each of the documents, a link to the specific document. So I presume you'll have access to these slides afterwards and can refer to the originals.

So the URL up there is the announcement where we have the full set of, I think it's about 15 documents.

So the first couple of documents concern the issues of trademark protection. This is one of the major issues of discussions surrounding the new gTLD program. The two drafts that you're looking at on your screen there are based on work that was done in the GNSO by a group that they formed called STI which stands for Special Trademark Issues. And what they were asked to do was look at these two proposals that were on the table for trademark protection and determine whether they were consistent with the policy advice that had been given by the GNSO based on or concerning rights protection.

So there's a new draft of the trademark clearing house model. What that is is a model for a database which would contain authenticated trademark information all in a centralized location so that new gTLD registries would only need to use one, you know, go to one source for authenticating trademark information and trademark holders would only have one place where they would need to submit their data for purposes of new gTLD startup registrations.

The second document down there concerns the URS or Uniform Rapid Suspension process. That is drafted as a compliment to the UDRP concerning infringing names post-delegation. So once you have a new gTLD launched, registering names, this provides a mechanism where trademark holders can file a complaint and get a rapid take down where the name is suspended. It's intended for very clear, blatant instances of trademark abuse where that extra remedy is available.

The other piece of trademark protection that's under discussion right now is the post-delegation dispute resolution procedure. That was not one of the things that was referred to the GNSO but it has been updated based on the comments and discussion that we've gotten since the last version we published. What it is is it's a mechanism to address cases of infringement that occur after a new gTLD is delegated. So at the time of the application there is an objection process based on trademark concerns, there is recognition that that might occur after a new gTLD is delegated and begins operations. So this is intended to provide a forum to look at those issues.

Turning now to malicious conduct, this is another one of the big topics of discussion around new gTLDs, people expressing concern that a greater number of gTLDs would mean there would be more opportunities for conduct that would be, would enable spread of abuse or undesirable behavior that we don't want to encourage. For draft version 3 of the Guidebook there were several changes made that addressed, you know, that strengthened the safeguards against malicious conduct.

There are two tracts that are kind of still going and working toward coming to fruition on this. And they're both being driven by working groups out in the community.

One is the High Security TLD Initiative, there's a group for that. What they're working on is trying to develop a framework for control standards and incentives for new gTLDs so this would be for those applicants that wish to indicate that they have met a higher level of security and control practices than what the baseline is for all TLDs and that would enable consumers to have more awareness of the various types of TLDs and actors out there.

The second one is concerning zone file access. How that works now is each registry makes available access to its zone files but it does so on an individualized basis so those that are working in the malicious conduct field need to go to several different places to get the information they need. And what the Zone File Access Advisory Group is doing is working on a solution where, to sort of streamline that process, where an environment with a number of gTLDs to introduce efficiencies and possibly a more centralized way of doing it.

So both of those groups have papers out there for comment.

In terms of pieces that are part of the Applicant Guidebook, we have done a complete summary and analysis of the public comment that we received on version 3 and that's at the top bullet there.

The second one concerns the IDN 3-Character requirement. This is, in all of the previous drafts of the Guidebook there's been a requirement that a gTLD must be at least 3 characters in whatever script it might be in. Since the very beginning actually there's been a lot of comment on that, that that is problematic for some scripts where a character or two characters might be a full word, so it would really reduce the usefulness of gTLDs in some cases.

So there's been a group formed that's been working since I believe Sydney to develop some solutions for that. They did finish their work and I believe it was posted in December. And so the link that's up there is draft implementation of that including an excerpt of what would be in the Guidebook concerning a recommendation for rules to relax that requirement. So there are cases where a gTLD of two characters in the script is allowed.

Also on the topic of IDNs, the same group that I mentioned was tasked with developing proposals on IDN variants at the top-level and the link that you're looking at there is a similar implementation language that could potentially be in the Guidebook for how variant TLDs would be handled. What it proposes is that variant information is collected from gTLD applicants – when they apply they supply their IDN table, they supply the variants based on that table – the variant TLDs are not to be delegated at this time. There is a recommendation that a mechanism that would be technically sound to enable variant TLDs to co-exist in the root – should be tested and then variant TLDs can be delegated once that's developed.

There was something else I was going to say about that. Oh well.

The other part there that you've got there at the bottom – it's got a long name but it's basically addressing is community based applications and a concern that an applicant might submit an application for a gTLD, say that they're going to be community based and serve a particular community, have

restrictions or rules in place that will serve that community, and then later one, five years or ten years later, they decide they're going to do something else. So this dispute resolution procedure is providing a forum to address those types of issues.

Two more things there. The top one is part of the registry agreement. That agreement is posted in draft, that would be the agreement that successful gTLD applicants would sign.

And one of the, there are a few still outstanding areas of that that are being discussed a lot. One is the process for how that agreement can be changed. So the intention is that all applicants would sign essentially the same agreement and there would – you know, in the past drafts that we've posted, there's been a procedure posted whereby ICANN would propose an amendment and then the registries could, you know, discuss and accept. There's a sort of system of checks and balances that was proposed where there was Board action and a veto.

This is something that we've gotten a lot of comments on from the registry, from the existing gTLD registry stakeholder group. Not a lot of discussion on it outside of that. But it's – the paper that we've just published outlines all of the models that have been proposed previously. The registry stakeholder group has proposed a new model and so we're looking for comment on all of those or another model that might work for a future case when conditions have changed to the point where it makes sense to change the conditions of the registry agreement.

The next paper on there is called Benchmarking of Registry Operations. This was something that we performed to try to inform the evaluation criteria for applications and the process for evaluation as we continue to get operationally ready to receive those applications. This study was done by a third party and the intent was to collect industry data from existing registries, it included both gTLD and ccTLDs. There's a lot of data in there and the intent is to inform the evaluation process so that those that are performing the evaluations are aware of the current status of things in the industry today and at least are all working from a common set of information. So the link to that is there and that's up for comment as well.

The last topic that I want to mention is the Expression of Interest model. This is also referred to as EOI. This is a proposal on the table to conduct an Expressions of Interest process prior to actually receiving full applications for new gTLDs. So what it would be would be those who are interested, at a preliminary stage would submit a limited set of information that ICANN could then use to, you know, complete the rest of its operational steps and resolve whatever remaining issues needed to be settled before that. There was a draft and model that was posted for comment in December. I note that we

did get comments from At-Large on that. The explanatory memorandum that's posted now is kind of a recap of the proposal on the table and how it came about. The memo talks about the objectives of the proposal, it goes through some elements of the proposed model, it discusses the cost and then has some operational detail about the prerequisites and timing on it. That paper also includes a full summary and analysis of all of the comment that we got on the EOI. There was a session yesterday that discussed the EOI proposal, I know Olivier was on the panel for that, and that is on the Board's agenda for their meeting here in Nairobi.

I just wanted to – this is the last slide I have – I just wanted to quickly review what the EOI model is that's currently being discussed. It does – the way it's constructed – an EOI would be mandatory for eligibility to submit an application once the round opened. That would only be in place for the first round. There would be several additional rounds which would open to anybody. So the EOI would kind of be a onetime thing.

The model does have a deposit of \$55,000 which is credited against the eventual fee that's due from all applicants. There's a caveat that refunds would be available only in very limited circumstances. You know, I guess I should have put this up there, but you know, it's the intention that those circumstances would be very clear to everybody who is participating up front. So certainly if the application process was cancelled for whatever reason, everybody would be entitled to a refund. There might also be certain additional circumstances where a refund would be appropriate. But it is certainly the intention to have those very clearly spelled out for everybody that participates.

The EOI would collect a limited set of information. It would be, you know, identifying information about who the applicant is plus information about the string, the TLD that they intend to apply for. It is contemplated that that would be made public once all of the submissions are received so that all of the participant's information would be visible.

And the last point – the EOI process involves collection of information only. There's no idea that ICANN would start evaluation based on just the participants bringing information, not do any objection or dispute resolution or other processing actions.

And what I don't have on the slide and I probably should have had is a couple of the assumptions that accompany this model. One is that if we're going to conduct a process that's mandatory for being able to apply later, it's absolutely critical that we communicate fully what that opportunity is and the implications of it are. So there is a communications campaign that's in development for that should the EOI go forward.

The other point that I should make about the EOI proposal is that a lot of the comment concerns the fact that there are certain areas of the gTLD implementation that are not complete and that do remain uncertain. And so people have expressed concern about that level of uncertainty – conducting an EOI, actually taking submissions and deposits when there is still that level of uncertainty. So it's an excellent comment. The intention is that the Guidebook will be as close to final as possible before we would do that. Certainly it would not happen until at least after Version 4 of the Guidebook is published. And again that Version 4, you know, we expect to be able to include substantive solutions to a lot of the issues that are still outstanding. So it is the intention then that that would be as close to final as possible.

And that's the end of my slides so I'll take questions.

Cheryl Langdon-Orr: Take some questions. Thank you very much Karen. It's I think something that is a fair amount of information and obviously some of the input you've already had and noted from – comments have come in – I'm not planning for us to rehash any of that. But I would be surprised if there wasn't a couple of questions, particularly in the world of variance and 3-Character, coming from Asia Pacific so whilst they get themselves organized perhaps I'll look around the table and see if there's – thank you Alan, go ahead.

Alan Greenberg: Just a quick one on something that's come up in the last couple of days that I hadn't heard before.

By making the EOI mandatory, you're saying no one else can come in later and say, "I also want that name," but the converse is not true. You're giving people an awful lot of time potentially to build cases, use various intellectual property tricks to allow them to build a case for objection. And that in the last couple of days has become a very significant problem that simply publicizing the strings way before you start the evaluation process gives people time to campaign – especially in the community-based ones – to build cases against a particular domain, even if they can't get it that round they may be able to kill it, kill someone else.

Cheryl Langdon-Orr: Figuratively.

Alan Greenberg: Yeah. I mean, you can protect against some of it by saying any intellectual, any trademark has to have been registered before the EOI was published and things like that. But campaigning and building constituency cases you can't stop. And that's very worrisome, especially for small community-based TLDs.

Karen Lentz: Yeah, I do understand the comment. It's what you might call an unintended consequence. I mean, it was never the intention in building the model to say we want to give more time for people to gather ammunition against

applications. I think you can also look at it the other way that people who would be in the position of objecting or wanting to file an objection, which includes, you know, could include certain communities, do have more time to gather their resources. But I do understand the way that the model is structured that that could be an element.

Cheryl Langdon-Orr: Thank you.

For reasons unknown the Adobe Connect room has now lost everyone who was in line and I did not want to share your screen Hong. I have no idea why it decided to ask you to share screens with me.

So, the speaking order at the moment is Sebastian, Hong and Evan. And if anyone is in the Adobe Connect room and is trying to put their hand up and I don't see it, I'm not seeing it now, please use Skype to ping us or something, or throw something at me. Sebastian, go ahead.

Sebastian: Yeah, I will re-ask the question as during the GNSO meeting on Saturday because I think for this community it's quite important. ICANN staff published a lot of documents three weeks prior to the meeting. It was on schedule but just in English. And the answer of Kurt was, "Yeah, it will be one day and you will have 45 days or 30 days, the same amount of time to comment." And I want to really be clear here. It's not the same thing to comment on writing and to be able to exchange with our colleagues than to be able to have those documents prior meeting in our own language or at least in French and Spanish here for the moment but maybe the six U.N. language one day. And it's very important for us to be really involved into and to have our community involved in that project. And that's not fair at all that we are in this situation where we have just English document.

My second point is that it seems that there are two names for two things. One it's the Draft Applicant Guidebook and now it's not anymore the Draft but it's still the same type of version and I would like to know why these changes were made and what is the importance of that. And the second, it's here you talk about EOI but in the presentation made by Kurt in the public forum it was also /First Phase or, I don't remember the name exactly, wait a second, but first phase of the application. And that's also concern me about, not just the wording, but what's behind this wording. And I am sure that – you talk about DAG and here it's written "AG" and there is something here. Thank you.

Karen Lentz: Okay, thank you for the comments. On the translation issue, I am in complete agreement with you. With regards to these particular documents, they are all in the process of being translated. Obviously we don't have them yet or they would be up there. But it is definitely a challenge to meet the deadlines that we have for publication and have all of the translation, you know, following that parallel path when there are, you know, big and small changes that occur

up to the last time that we post it. So it's something that I can tell you I bring up personally in every meeting that we have about the schedule. It is definitely something a place that we want to get to and I hope that you'll continue to bring it up.

On the point about the EOI – I don't have my slides up there anymore – but the full name of the proposal is Expression of Interest and Pre-Registration Process. Those are essentially synonymous things – you're submitting an Expression of Interest which also functions as a Pre-Registration for applying. And if I did in fact leave that out on my slides, I apologize, the error is mine. We abbreviate it as EOI. I call it EOI because it's easier but the correct name for it is Expression of Interest and Pre-Registration Process.

And then the question about the Draft Applicant Guidebook, I'm not sure I understood. It is a draft Version 3. It is definitely still in draft. The excerpts that were posted don't really have any formal status as any type of version or anything; they're just some interim language that's being posted for comment.

Cheryl Langdon-Orr: Hong and then I have Evan and Tijani.

Hong Xue: Okay, thanks.

Our comments on the 3-Character and the variance issues. These are for IDNs and IDNs are for non-legend, non-ASCII communities. So for translation, I fully agree with Sebastian. Even though staff has a very tight publication schedule, they should manage to at least publish the IDN version of translation for this IDN issues so that people can look at it and comments.

I have other points on this variance 3-Characters. I've noticed that the Working Group has completed their final report and the public comment period has completed. To my understanding, the report should now be submitted to the Board for their consideration. I really want to know, what is the status now? Are they going to be drafted into DAG Version 4, well, okay, so.

Karen Lentz: Okay, thank you. I know that the information has been presented to the Board. The language that is out there is for potentially being included in the Applicant Guidebook but that is subject to comment which the Board is looking for also because that's new detail, new proposals that haven't been made before. So we're looking for comment before we, you know, say what the next steps are.

Cheryl Langdon-Orr: Evan?

Evan Liebovitch: Two questions. First about the EOI. I guess I had no opinion of it really one way or the other until I heard the session on it yesterday. And I really found

compelling the arguments that were saying that under the current mandatory system it's effectively a first round of application as opposed to simply a statement of interest. Do you anticipate that given the kind of feedback that was received yesterday that there will be some changes made to things? I mean, was that a substantive, did that provide substantive information to guide further work on this?

I have another question but...

Karen Lentz: So the question is, because it's, you know, because it does in fact initiate the application process will there be something changed? I don't think so. I think that that's actually the intention. It's a little, it seems to have created some confusion among people that first it was an expression of interest and then it became a pre-registration process. To my way of thinking anyway, those two aren't necessarily so separate. When we were talking about, you know, the initial objectives which were to gather information, really the issue of whether it's mandatory or voluntary was driven by that goal. You know, if we want to get good information which is the point of doing this, we do have to make it, you know, a commitment of some sort, to do that at least that's the way that we have it and the way that it's constructed. So it's not, you know, I don't see it as necessarily having changed in that respect.

Evan Liebovitch: Okay. I was just thinking it might speed things along and clarify things if it was simply called the Pre-Application, Preliminary Application Phase, as opposed to this entire other dance of it being something else.

Karen Lentz: Right. And that comment has been made a lot, especially in terms of a communication. I definitely think that has been, I mean, that's a very useful comment. So I think that will be taken into account.

Evan Liebovitch: Okay. My other question has to do with the high security zone program. Sorry?

Cheryl Langdon-Orr: You're sneaking in a third, you said two.

Evan Liebovitch: No, that was the first.

Cheryl Langdon-Orr: Oh, okay. Sorry.

Evan Liebovitch: And I'm going to be talking a little more later on it but my specific question to you has to do with the mandate to this group. We've been at this since Seoul and we still have people within the group that are debating first principles of whether or not to even have it. And I guess what I'm asking from staff is some really clear direction. If this is the place for people to debate to have it or not to have it, I was under the impression when I first joined the group that the idea was let's put out an idea, let's put out a proposal and then have the

community bash it around, say “yes,” “no,” or whatever, but what we’re doing in the group right now, we are accomplishing next to nothing. Because we’re highly populated by people that are saying, “We don’t need to have it in the first place.” Can we get a little better direction that helps us move forward on it?

Karen Lentz: Well, I’m not part of the group and I don’t really think I can give direction to the group. But I think that – Dave Pescatello? I don’t believe so, he’s not in Nairobi. But there, you know, the reason the group was formed was that there was an idea floated by some segments of the community that this is something that could address some of the malicious conduct concerns. We had developed a very, you know, a pretty loose concept, concept-level explanation of it in Seoul and then volunteers were sought to help, you know, take that to the next level, to flesh out what actually would be the requirements of this program. That was my understanding, you know, from the very beginning of what the group was intended for.

Evan Liebovitch: Don’t get me wrong. This is very necessary. My frustration is not that it’s not necessary, but there are so many obstructionist movements and maybe a little better direction of, you know, you’re not there to argue “yes” or “no,” but how.

Cheryl Langdon-Orr: I think it’s important Evan that we take that to the appropriate people to take it the appropriate people. You can note it and we’ll make sure staff follow up.

Tijani, go ahead.

Tijani: Thank you Cheryl. I think that the EOI, yeah that’s it, is disadvantaging the community applicant, community-based applications and they were disadvantaged from the beginning, because the application fees was very high. And by the way, in all the public comments, people always say the application fees are very high. And always they say we have to put categories of applications, especially for developing countries and for community-based applications. So now with the EOI, we have another problem, because for those who will be able to have this money, if they are not sure to get it, if they have another, if you want barrier, because they will do their intention now and you know there is people who will try to oppose it, to those applications, and as Alan said, it is, especially for those people. So the big application will not be effected but the community-based applicant and the developing countries will be really affected.

Karen Lentz: Thank you. If you were at the session, you know that that was, there was a lot of time spent on the question of fairness and whether the way, both in terms of the process and procedure and in terms of the fee structure, certain types of

applicants might be more or less favored by the way that it's set up. So that's input that is certainly, the Board will certainly have heard as well.

Cheryl Langdon-Orr: Some things do constantly bear repeating however. I do have the final speaking order and it is a final speaking order and seeing as you're holding yourself up from speaking, I'll remind you of that. Brief comments from Vanda then Adam then I see you Olivier and I would suggest you then go straight into the next session which is the work from – the sooner you stop, the sooner you start your next session. Go ahead Vanda.

Vanda Scartezini: Just to talk about the feelings that I am seeing around is the feeling that the EOI is not anymore necessary. It took so long that, you know, everybody asking should we go to this, it's I think important to do that because we don't know a lot of things and to have a, you know, a pilot, it's a very good thing. But when this pilot not become anymore pilot, you know, a lot of other issues come out and you have the problems that Alan raised and so on. So I guess it's time to think about what really we're doing to do then. Thank you.

Cheryl Langdon-Orr: Adam?

Adam Peake: Yeah, just a quick thought about this, you know, all the different fee ideas, \$55,000 now for a potential applications in 18 months or whatever it may be, whatever the process is going to be. One of the things that we're hearing about from the potential applicants is particularly from cities and towns and prefectures which possibly and quiet likely operate under different budgeting and funding type arrangements, and I wonder if under these types of, you know, process that may happen in 18 months time or whatever the timeframe may be, they simply won't be able to apply because they don't have the method of accessing funds in that way. They aren't venture capitalists, they operate under budgets and under public control and I think these types of things will be worth looking at. And unfortunately worth looking at globally. And I know these types of things take a lot of time. But you know, you can't expect a city to basically look at what may look like a slush fund. So a lot of care with potential applications otherwise this whole program is going to be steered towards typical, as normal, type of big business, North American, European type entities.

Two quick points. Please do global outreach, make sure it's very clear and if it's not an EOI, let's not call it an EOI because that's just not going to be good for anybody.

Cheryl Langdon-Orr: Thank Adam. I'm not sure what you can say back to that other than take it on board. Go ahead Carleton. Oh, you've got a field there, use the tools you have in front of you. Olivier and Zumi you'll have to catch up in afternoon tea time. No, I've called a halt, sorry Zumi. Go ahead.

Olivier Crepin-Leblond: Thank you Cheryl. I hear rumors that the economic study, if it comes back with results that are unfavorable with regards to commercial new gTLDs might actually delay the process even further because of the fact that it might not be very sustainable to have so many new gTLDs being created for commercial applications.

My question doesn't actually relate to that. My question is, why has so far the system seemed to be favoring a single model, one size fits all, for absolutely everything whether it's the economic study or the fees or other parts of the process. Thank you.

Karen Lentz: So one of the things that was discussed by the GNSO in their policy development discussions was that there should, you know, that we wanted diversity and you know, variety in the applications in the new gTLD space. That includes you know, it includes having IDNs, it includes you know, it should be accessible to various regions, it should be, it should cover a variety of business models, etcetera. One of the things that they I think called out specifically was that in the technical and financial portions of the evaluation that they should be evaluated against whether their proposal was, you know, whether their technical capacity and their financial capacity was appropriate for what they were proposing to do, not for something well beyond what they were trying to do for example. Or below. So there is, you know, intended to be a flexibility in the criteria. And then that's, having spent a lot of time working on that criteria, that's one of the places that that shows up. You know, if we have criteria that will work to absolutely exclude certain classes of people who might want to, or gTLDs that might well serve the named space, then we haven't written the criteria well. I think there are, that's one place where the goal to have variety shows up. In terms of communities, there is this also potential option where there is another track in the event of contention where the community applicant is going to get priority if they, you know, over and against a possibly a large commercial application, in a contention situation so it's, you know, it's not the intention to create a one size fits all model. It is the intention to have a process that will work and that will be able to address the various types of applications that we'll see. It's a hard thing to do but that's the goal that we're trying to get to is more diversity in the named space.

Cheryl Langdon-Orr: Thank you very much. And I am sorry to have to close it off but we are running fifteen minutes over schedule and coffee doesn't wait for anyone and we need to hear very important information from the Nominating Committee. So if they'd like to gather forward and I'd like you all to thank Karen, one of our regular and star performers, thank you Karen.

(Applause)

Switch of the hot seat. Lights, camera action and I think it's important – Jose, could I ask you to find a space sort of so we can all see you and look longingly at you because we miss you being around the table? I think all of the Nominating Committee present should be up front and present. There's a seat just here next to Mateus if that would be excellent.

Wolfgang Kleinwaechter: Okay. Thank you very much. My name is Wolfgang Kleinwaechter; I'm the Chair of the Nominations Committee in the year 2010. And I think the majority of you are familiar with the procedures of the Nominations Committee. I see many faces here who have been either served on the Nominations Committee already or has been appointed by the Nominations Committee.

So that means every year the Nominations Committee, you know, has the difficult task to select leaders for ICANN, we select in total eight members of the Board. That means the majority of the Board members goes via the Nomination Committee. We select in total also three members for the CNSO Council and the GNSO Council. And we select five members for the At-Large Advisory Committee. That means five people from your group come to this table here via the Nominations Committee.

So this is a process that every year we have to fill every position. And this year, you know, we have to fill three seats on the Board, one seat on the CNSO Council, one on the GNSO Council and two positions for the At-Large Advisory Committee.

The way the system works is as follows – that we had the call out already after the Seoul meeting – we have a website where you will find all the explanations, the information and the documents. If you are interested to apply for ICANN leadership position, you have to send a statement of interest and then you have to, you need some support for this statement of interest from some references. But you yourself select the references which more or less support your statement of interest.

The deadline for submissions is April 2. We had the discussion whether it should be April 1 and we say this is dangerous, then people will think that it is just a joke. So it's not a joke, it's a very serious business, that's why, you know, the deadline is April 2 and not April 1. And so that means, if you're considering to become a candidate then you have one day more to think about it. So but if it's April 2 then the whole thing is closed.

And we will select the candidates after the Brussels ICANN meeting, end of June. And the work of the new selected leaders from ICANN start then with the December meeting in Latin America.

I think we should go to the next slide.

This is, you see on the slide, this is what I already outlined what we have to do this year. We're working also as always under several different timeframes. So that means the Director is for three years and the member of the CNSO is also for three years while the member for the GNSO and the At-Large Advisory Committee is for two years.

And for the At-Large Advisory Committee, we have a certain obligation to follow the rules of geographical diversity. That means one year we select three candidates from – one from Asian Pacific region, one from the Latin American region and one from Africa region – and the other year we select one from Europe and one from North America.

And this year, you know, we have to select for the At-Large Advisory Committee a European and a North American candidate, man or woman.

Next slide.

Though I think it's important if you consider to write an SOI that you understand the selection criteria under which the NomCom is operating. Within all these nice words here – integrity, objectivity, intelligence, sound judgment, open mind I think is of particular important capacity for thoughtful and group decision making. You have to understand ICANN's mission, have to show a commitment to the ICANN model of participative governance and you have to certainly be familiar with aspects of the Internet in practice. So that means, and you should have a willingness to serve as a volunteer without compensation other than the reimbursement of certain expenses. And I think this is important, you have to have the ability to work and communicate in English, even, you know, I encourage in particular people from other speaking, from other cultural regions, from France, from Spanish, from Chinese, India, Russia and so on, because we have to have the cultural diversity. On the other hand, you know, for practical reasons, it's much more easier if you – next to your local language – that you can also communicate a little bit in English so that otherwise it's an additional burden and we all know that if we work on the basis of literal translation this eats away a lot of resources. On the other hand, you know, I understand fully and in particular Sebastian is fighting for French since many, many years for this, has been successful and we have achieved a lot. But, you know, my personal position here is, while I'm very in favor of diversity, language diversity, cultural diversity, I also see the benefit if a candidate, you know, has at least a basic knowledge in English so that we can communicate much more easier. This is really helpful. I think this should be considered.

Next slide.

So, how to proceed. Once again, it's very simple. Go to the NomCom website and send an SOI and do it before April the 2<sup>nd</sup>.

What I expect in particular – and this is my last word – from your group and where the NomCom, you know, needs your help – this is in two directions. One is that, you know, members of your community should, you know, consider themselves to apply. But with your contacts, you should do also outreach in your region, in your community at home. That means a lot of people that are not yet involved in ICANN. A lot of people who have just heard something but you know, are probably, could bring additional value to the ICANN process. This is needed. My argument always is ICANN is as good as the leaders. And when you are critical against ICANN and say, “I am dissatisfied with this and this and this issue,” then please, you know, bring this to the process and apply. Because you can do much more if you are inside the process than just, you know, criticism from outside. And I think if ICANN, you know, wants to move forward, it needs also fresh ideas. That means it's not so good if always the same people are re-appointed and re-appointed. We have certain legal hurdles that that. That means a Director can serve only twice on the Board. In other words, you know, there is a certain limit but on the other hand, we need also the next generation. And in particular the At-Large Advisory Committee is a great place where we can open the door for the new generation so that people are pulled into this process and become the Internet governance leaders of tomorrow.

More or less this is what I wanted to say. Cheryl, I'm very thankful that you gave us this opportunity. It's I think in our common interest because also your committee will benefit, you know, from good people the Nomination Committee will send to you and that we can send good people to you, this depends also from your activity with regard to outreach.

Thank you very much.

Cheryl Langdon-Orr: Thank you Wolfgang. And we do already have questions. So are you willing to take some questions?

Wolfgang Kleinwaechter: Oh yes.

Cheryl Langdon-Orr: Sebastian, go ahead.

Sebastian: Yeah, first of all I would like to thank you and your committee for the hard work that you are doing on this matter. And I think it's a very good thing for ICANN to have you as Chair of this committee.

Now forget what I say, I just want to add you in your category about the people around this table, you have one category you forget, is the one who lose each time they put their candidacy within this process and they will, I'm

sure, continue to put their candidacy into the process. But that's also one type of people who know that already about the process. Thank you.

Wolfgang Kleinwächter: Yeah that is, it's just a statement so that's not a question. Just to explain a little bit, this is a difficult task. This time for instance, if it comes to the Board of Directors, we have three outgoing European Directors with specific skills. Alvestrand has a specific technical skill, Subrenat has a specific diplomacy skill and Dennis Jennings has a specific business skill. So that means if we look how to populate the Board, it's not just, you know, the individual persons. So we are looking also for the very specific skill because the Board has to have not only a geographical balance and a gender balance but also a skill balance.

Because three Europeans are going out, it will be difficult to re-appoint again three Europeans. On the other hand, these are the only three voting Europeans on the Board, that means, if we nominate no Europeans, this would be against the By-Laws, that means we have to have at the minimum, one European but probably two Europeans, this would be fair, if Europe would be represented with two Directors. Africa has now two Directors.

So on the other hand, you know, we had this discussion, Hong is also here from China, a member of our Committee and Olivier is a member of the Committee and Jose is a member of the Committee and Olaf from the staff is helping us. So we have to – the Asian Pacific region for instance – is a little bit underrepresented because it's represented by a New Zealander – it's the Chair of the Board and by a guy from India. But, you know, the largest Internet communities, China, Korea, Japan, are not represented.

Sorry? Yeah. So that means these are the difficulties, you know, we have to settle. So that means it's not so easy and I will also say to everybody and if you do outreach, please mention this to potential candidates, an application for 2010 means you will remain for three years in the pool. So we have a box in the statement of interest where you can say, "Okay, please if I'm not selected," automatically you remain in the pool for next year because very often the final decision has nothing to do with the individual capacity of the person. It's just a result of a certain process and if you are not accepted, that doesn't mean that you are not qualified for the job. That means in this year you do not fit into the scheme. The scheme, you know, will change probably the other year and then your skill is needed.

And so far, you know, we have also the principle of confidentiality, this is also a principle which is discussed again and again because some people say, "Oh, there's a conspiracy in the NomCom," you know, some people sitting together making dark deals and horse trading and you're trying to find positions for their friends and things like that. This is nonsense. There is no more democratic process within the NomCom than in other committees so it's

a very fair process. But the principle of confidentiality is important to protect a candidate. That means that nobody will know if you are applying, that you have applied. That means that if you're not selected, you are not a loser, nobody knows it. And you did not lose, the question is you did not fit into the scheme in this year.

So, our approach will be that we go forward by certain steps so that means we have a group phase and then the quarterfinal and then the semifinal and then the final candidates will be considered in our final meeting in Brussels. So this is the way how it is.

But if you apply as a candidate, you can be sure this is under confidential terms, nobody will know that. If you disclose it to your friends, that's up to you.

And then you have to live with the consequences from your own disclosure but this is not the business of the Nominations Committee.

Thank you. More questions?

Vanda:

Hi. I believe a lot of people around, like myself, we'll be asked to support some other friends or knowledge or account. So what is the best to do? How the Committee expect that you support, what do you expect us to talk about the people who asked us? What is the best way to do that? Because sometimes you know people from other issues, so how this can fit in your selection, so some kind of orientation that probably a lot of people here will be asked to support others. So it's good to have some kind of orientation. You should talk about the way people behave or the way, some ideas about that.

Wolfgang Kleinwaechter: I think if we go back to the selection criteria, you have all the guidance there. So that means you should ask people who really love the Internet. I think this is the first criteria so people who are really excited about the Internet, love the Internet and want to make a contribution that the Internet continues to work freely, open, transparent, secure and stable. I think all of this, if you go to ICANN's mission statement, then these are the principles and we have to have people in ICANN's leadership positions who, you know, love these principles and want to support it. And want to improve it. Because as we know, the By-Laws are on paper, the reality is a little bit different. You just discussed the gTLD process so if you go to the original version of the By-Laws from 1998, it's already said that it's the duty of ICANN, you know, to introduce new generic top level domains and if you look what has happened in twelve years, it's only a little. ICANN should have delivered more.

So that's why I say we have to have people who have also the courage and the energy to change things and to say, "Okay, this has to be done and this has to

be delivered,” and not to postpone it, postpone it, postpone it. Somebody has to be now on the Board who says, “We have now to make a decision and not to have another study and another study and another study,” so personally I think the WHOIS and new gTLD program are not, you know, the largest achievement so far under the ICANN umbrella. That means we have to have people in the Board but also on the other Councils who are really willing to say we have to move forward, we have to change this. So that means people who have a certain personal standing who are not just coming and are silent on the Board and are saying, “I’m happy that I’m here, I can state my quip and then I will be silent.” This is not enough. So we have to have people on the Board who make their voices heard and to have a vision. And the vision again, is in the By-Laws. So that means, if you read the By-Laws again, sometimes it’s like as a citizen of your country you do not really know what’s in your Constitution. But from time to time, it’s good to go back to read your Constitution and to notice these are your rights and these are your duties. And in your country and this is for ICANN the By-Laws are more or less like a Constitution and it’s sometimes important to go back with our values and what is our mission.

Cheryl Langdon-Orr: Zumi, go ahead.

Zumi: Yeah, you mentioned about the geographic distribution that the three members of the Board from Europe will expire so that two might likely be selected from Europe. If you look at the cc Council for example, there are three nominated and this year one is retiring from Africa and there is one from Asia Pacific and one from North America remaining. That means that the chances are very low, if you belong to the Asia Pacific or North America, to apply for the cc, am I right?

Wolfgang Kleinwaechter: You know, we are not so strictly, you know, fit into the geographical diversity issue if it comes to Councils. So there we have more flexibility because the geographical diversity in the Council comes with the nomination from via their own constituencies. So that means the NomCom representatives in the Councils, you know, are more or less, should bring additional value to the Council. Certainly it’s good if they, you know, strengthen the geographical diversity in the Council but for the NomCom representative in the Council, it’s much more important to bring additional value. So that’s why we had a discussion in previous NomCom whether for instance, a ccTLD manager, if he wants to go the CNSO Council via the NomCom whether this is the right way. Because we probably are looking for people who bring additional value and not, you know, just repeat the skills which are already in the Council. But these are very delicate issues which have to be discussed and with regard to a very concrete individual. And so but I would say, you know, for the Councils, we are not so limited like for the At-Large Advisory Committee. Here we cannot accept this year SOIs from the Asia Pacific, from Latin America and from Africa. So but nevertheless I

would also encourage our Asian, African and Latin American friends to do outreach also to make known to their friends that then in the other year is a chance for them to apply for the At-Large Advisory Committee because this is an ongoing process. So my term ends with the end of this year and there will be another Chair of the Nomination Committee and so I see those as my responsibility already to help then the next Chair that he can, you know, continue the work based on the right information which is already there in the community. So that means, please, even if we have only Europeans and North Americans for the At-Large Advisory Committee this year, talk to you friends, talk about ICANN and say, "Okay, next year it's a good chance," look through the process and then you can be the first one who will apply under 2011 rules.

Cheryl Langdon-Orr: And I must say from Asia Pacific at least one of us will be suggesting that the outreach goes to something called Women on Boards that acts in Asia Pacific and particularly Australia. So there are organizations that we can use and the regions should be looking for those now to prep up for next year as well.

Wolfgang Kleinwaechter: You know, because you just mentioned this, we have a great imbalance by the way on the Board and that's gender. So because there's only one voting woman now on the Board, this is Rita Rodin.

Vonda Scartezini: Yeah, it's the Board member is just Rita.

Wolfgang Kleinwaechter: Yeah.

Vonda Scartezini: And the non-voting members are Suzanne and myself.

Wolfgang Kleinwaechter: Yeah. So but if it comes to the voting members, because...

Vonda Scartezini: Yeah just Rita now.

Wolfgang Kleinwaechter: And Rita goes in 2011.

Cheryl Langdon-Orr: Yeah, we need to work on that.

Wolfgang Kleinwaechter: So, that means, ask your girlfriends or your ladies around you.

Cheryl Langdon-Orr: Well, I'm not going to ask my girlfriend. However, I will ask a whole bunch of girls and the rest of us need to as well.

Wolfgang Kleinwaechter: And by the way, we have on the table there, our flyer, we have also this bookmarks, so we have some outreach and information material here and take it also and distribute it among your friends. This is really helpful and in particular, our NomCom members like Hong, Jose and Olivier are also good

contact points and will answer all questions. Olivier, do you want to add something?

Olivier Crepin-Leblond: Yes, thank you Wolfgang. I'm going to ask a question which is also often being asked to me. Which is, is it better to apply for a specific post or to say that you'd be ready to serve on the Board, on the ccNSO, GNSO, etc.?

Wolfgang Kleinwaechter: Yes, you know, you can do both. That means you can say, "Okay, I just apply for a Board position, a Council position or an ALAC position," or you can click all of the boxes and say, "I want to become an ICANN leader and..."

Cheryl Langdon-Orr: There's a slight disagreement there.

Unknown male: You only allow three selections, not four.

Wolfgang Kleinwaechter: Okay, three, that's right. Yeah.

Unknown male: You have to make a choice and you can say you are okay to be considered for the other.

Wolfgang Kleinwaechter: That's fine, yeah.

Unknown male: That's not the same thing like last year where you were supposed to choose.

Wolfgang Kleinwaechter: Yeah, yeah. That's correct. You have to mark your priority. But if not, then I agree to be considered also for this and this position. So this is very precise the regulation under which we operate in 2010.

Cheryl Langdon-Orr: Wolfgang.

Wolfgang Kleinwaechter: More questions?

Cheryl Langdon-Orr: I think we may have come to an end of the questions. But we certainly would like to think that each of the regional leaders in particular because ALAC is pretty convinced about our need to do some outreach but it's the regional leaders and their At-Large structures that we need to get this information out to. And, of course, we're not going to have a whole lot of time between now and the 2<sup>nd</sup> of April but I'm pretty sure we're going to work very, very hard for a bit of preemptive planning for the 2011 series, particularly on the gender base, if some of the girls around this table have anything to do with it at least.

Thank you very much.

(Applause)

Wolfgang Kleinwaechter: Thank you. By the way, on Wednesday, there's also a workshop of the NomCom. That means if you have very specific questions, you are invited to come to the workshop. Thank you very much.

Cheryl Langdon-Orr: Thank you Wolfgang. And thank you Jose. It's good to see you back in the room, we do miss you. Oh, he's so polite.

Okay. A little tiny bit of housekeeping and then you are released for a much needed bio and caffeine and tea break. A little bit of housekeeping goes as follows, at 11am I need some people back in this room. Let me tell you why.

Beau is going to be presenting in Impala. We are talking about the Board meeting with the Non-Commercial Stakeholder Groups. Sorry, did I say Non-Commercial Stakeholder Group? The public record actually shows this is a meeting between the transition of the NCUC to the Non-Commercial Stakeholder Group. There is a very, very important issue on that agenda with the Board and I believe anybody who, in a region, thinks they have anything to do with consumers, should be in that room.

So all I need is a core eight group to discuss what only the ALAC can discuss which is the AOC review team, in the room at 11 o'clock here I expect Dave, Adam, myself, Alan, Carleton, Sebastian, Carlos and Vivic (sp??). The rest of you, I would encourage to be in Impala. And when you're finished with that lot up there, come back to us and let us know how it went.

Thank you.

(Applause)

Beau Brendler: I'm sorry, I have a small housekeeping matter of my own. Since the hotel that was provided for the At-Large by ICANN does not have Internet access and has not had Internet access for the last three days, I did not read or hear anything about all of this other stuff until I opened my e-mail just now. So, if we could just have a quick talk before I go to Impala, I was just planning to go over there and have a friendly, this is what the consumer constituency is all about kind of meeting.

Cheryl Langdon-Orr: Beau you haven't missed anything. Nobody saw anything. What time did you send your e-mail, 3am this morning Vanda?

Vanda Scartezini: Yeah, probably.

Beau Brendler: Oh, it was 3am. No wonder I didn't see it. Sorry.

Cheryl Langdon-Orr: Impala at 11. Have your coffee, upstairs, Impala, level 1 correct? Go ahead.

Beau Brendler: Okay no problem.

Cheryl Langdon-Orr: Go ahead.

Unknown male: I think we need to summarize. One of the items on the discussion is the creation of a new consumer interest group which is the informal thing within NCUC NCSG as opposed to a consumer constituency. Just the potential interest.

Cheryl Langdon-Orr: None of which is on the public agenda. So it would be very useful for all of you to go and find out what is on the actual agenda. Be in the room, you are the community, you are At-Large, make your voices heard.