David Maher: Hello. I think because of the time constraints, especially the limited time that our guests have, we ought to get started. And I think the first thing to do is our traditional introduction of ourselves and our guests.

So, Mr. Subrenat, could I ask you to start the proceeding?

Jean-Jacques Subrenat: Certainly. Thank you for this opportunity and the invitation. Jean-Jacques Subrenat, member of the Board.

Male: (8:54 Unintelligible). Dot Guard.

Male: (Unintelligible) Dot Guard.

Male: (Unintelligible), incoming liaison from the TLG.

Edmon Chung: Edmon Chung, Dot Asia.

Nathiam Brussia:Nathiam Brussia, Dot jobs.

Ray Fassett: Ray Fassett, Dot Jobs.

Carolyn Hoover: Carolyn Hoover, Dot Coop.

Byron Henderson:Byron Henderson, Dot Travel.

Harald Alvestrand: Harald Alvestrand, Board Member.

Michael Young: Michael Young, Afilias.

Ken Stubbs: Ken Stuffs, Afilias.

Alexa Raad: Alexa Raad, Dot Org.

Wendy Seltzer: Wendy Seltzer, lame duck Board liaison.

Jeff Newman: Jeff Newman, NewStar.

Peter Dengate-Thrush: Peter Dengate-Thrush, Board Chair.

David Maher: David Maher, Chair of the Registry Stakeholder Group and Dot Org.

Rod Beckstrom: Rod Beckstrom, ICANN CEO.

Thomas Roessler: Thomas Roessler, WC3 and outgoing TLD liaison.

Roberto Gaetano: Roberto Gaetano, outgoing Board Vice Chair.

Raimundo Beca: Raimundo Beca, Board member.

Katim Touray: I was getting worried that this thing will find me with my mouth full. Katim Touray, Board member.

Vladimir: Vladimir (10:18 Unintelligible), Dot Tel.

Steve Holston: Steve Holston, VeriSign.

Chuck Gomes: Chuck Gomes, VeriSign.

Vanda Scartezini: Vanda Scartezini, Vice Chair of ALAC, ongoing on Board liaison.

Caroline Greer: Caroline Greer, Dot Mobi.

Tim Switzer: Tim Switzer, NewStar.

Kerry Carp: Kerry Carp, Dot Museum.

Catherine Sigmar: Katherine Sigmar, Dot Pro.

Matt Buckland: Matt Buckland, Dot Pro.

George Sadowsky: George Sadowsky, Board member in training.

Bruce Tonkin: Bruce Tonkin, Board member, and by way of disclosure, an employee of Melbourne IT.

Dirk Krischenowski: And Dirk Krischenowski from Dot Berlin.

David Maher: We could hear from our other guests.

Male: (11:10 Unintelligible) Board member.

David Maher: Thank you.

Steve Crocker: Steve Croker, Board member and Chair of SSAC.

Barbara **Frazier**: Barbara **Frazier, Pir** Dot Org.

Kurt Pritz: ICANN staff.

Denise Michele: Denise Michele, ICANN staff.

Thomas Narten: Thomas Narten, the IETF Liaison to the Board.

Gonzalo Navarro: Hi, Gonzalo Navarro, ongoing Board member.

Patrick Jones: Patrick Jones, ICANN staff.

John Jeffrey: John Jeffrey, ICANN general counsel.

Craig Schwartz: Craig Schwartz, ICANN staff.

Male: (11:43 Unintelligible)

David Maher: Do I see Suzanne?

Female: (2:06 Unintelligible).

David Maher: Welcome all. I think we can – you certainly should go ahead and have your lunch, but I think in view of the time limitations, we ought to get started.

                 We have a short agenda, but I think it's easily going to consume the time that we have. The three items, the key topics, vertical integration number one, number two are the new gTLDs and in particular, the question of the Fast Track for the country codes versus the treatment of the gTLD IDNs. And then, number three is what the Board might want to bring up to talk about with us.

So, on vertical integration, I think almost all of us attended the really fast knitting debate yesterday, which contributed at least some light in addition to some heat on the subject. Would anyone care to volunteer to open the vertical integration discussion?

Jeff, go ahead.

Jeff Newman: I'll take the plunge. Jeff Newman with NewStar.

I guess the main question that we have, obviously, we'd love to know any thoughts that any Board members have on this subject or any questions that you all might have that maybe wasn't answered yesterday, or just anything from an information standpoint. But, the main thing we want to understand is really the path forward as to how we get to some sort of resolution to this matter and basically timing and what the next steps are.

Male: I'm trying to get the mic here. Looking around for staff support…Kurt, do you want to chime in and help? Are you looking for a step for an ICANN organization staff response to that or a Board level response?

Jeff Newman: Well, Kurt already explained the staff level response to us earlier, but I'd love to hear a Board level response.

David Maher: I'll let Peter speak to that.

Peter Dengate-Thrush: This is funny, because I managed to get away with what **Rod** did this morning the other way. So, this is the payback. He said when we go to the next meeting, it'll be my turn…yes.

I just don't know. I think part of the exercise, part of the useful information that came out of yesterday's very good session – and thank you for all (14:51 unintelligible) it was very well attended and done in a very good spirit. It was just the how complex this is, and the audience was pretty split. There's good arguments on both sides.

I think we're in the (15:05 unintelligible) quite like Kurt or Doug to repeat what Doug said this morning about the way there seems to be some developing plan for how to take this forward, but I'm not quite sure of the details. Kurt, can you help me out here?

Kurt Pritz: Sure thing. So, luckily Peter, I gave exactly the same answer you did earlier which was I don't know. I conveyed that the purpose of the Webinar a week or two ago and this session here were meant to shine a light on a set of complex issues that the people in this room certainly understand and registrars understand, but the broader community, even those they opine on the issue, probably do not.

                So, to the extent that the session yesterday sharpened that knowledge, which it did as you could hear the people walking out understanding the complexity of the issue, that was good. But, it probably didn't drive us closer to a compromise or a final solution.

                So, going forward, there will be some continuation of the discussion and publication of the materials in an attempt to arrive at some sort of compromise, or at least areas of compromise to reduce the number of contentious issues before they'll be some sort of staff paper on it and Board consideration.

David Maher: Alexa, I think…

Alexa Raad: Thanks David. First of all, I want to comment that Peter, I think he did a great job moderating the session and focusing on some of the key issues. One of the things that I hope the Board members picked up was the idea of mingling of data. One of the concerns that we've repeatedly tried to raise is that the Enom and Richard has mentioned that they want to stay with the equivalent access and also, the non-discrimination, and that the data that they see is completely open. Everybody else has access to it.

                It's important to realize that the benefits of vertical integration, that they talk about is really based on deriving efficiencies from co-mingling of this data. And in fact, what they are able to see by virtue of being a vertically integrated registrar is the 100% of the type-in traffic for available names and that is exactly the kind of information that would be needed to bring about another type of domain tasting.

                So, I hope the Board took note of that and was able to distinguish between the generalization and the very specific type of assertions that we're making with respect to data sharing.

Thank you.

Peter Dengate-Thrush: Alexa, thank you for that. I think really the reason for the success of it wasn't the chair. It was actually both sides were so well prepared. I think it was actually very good presentations from both sides, and that's because this is the debate that actually been percolating for a while and the parties had actually got to the stage where they got their points down to some very clear ones.

I certainly did hear – and I think other members of the Board did hear that point. And, without indicating too much, it seemed to me an interesting from Richard that this is a situation that other people could – there was no denial of the fact that they've got to use the data that way and (18:33 unintelligible) where other people could be doing it too seemed to be the response. But, we certainly heard that.

Other Board members want to respond?

On the general issue on timing, I personally want to start closing these issues. We want to start crossing those issues off, so there's absolutely no interest on the Board in delaying this. There are people asking us questions are we ever going to get new TLDs. Damn straight we are and that's what we've been doing, and we want to close this off. So, we just have to make sure we've done it right.

We're still governed by the first do no harm rule and we just have to make sure – and that includes the network, but it also includes the rights of registrants, and it includes the businesses of registrars and the interests of registries trying to get the balance of that right. But personally, we're all very keen to bring this to closure.

David Maher: I'd just like to comment on the claim that every registrar will have access to this information. I think there's something being missed here. The fact is that what's contemplated in registry registrar cross-ownership is a probably a combined balance sheet. And if you look at a consolidated income statement, if you look at it, this guarantees that there will be tasting on a massive scale because the present ICANN rule against tasting applies only where there are separate financial entities. The registrar who tastes pays,

and pays a lot of money, and it's killed tasting. It's been very effective, and Dot Org takes some credit for that.

But, if you have two entities operating out of the same financial pocket, tasting will be back with a vengeance, and at least one of the registrars has already patented what amounts to a full-scale tasting system with the expectation that this is going to be the answer to the income flow for the registrar system.

We have some other comments. Jeff, go ahead.

Jeff Newman: Yes. I think one of the other points that I think that was briefly touched on yesterday but I wanted to make sure it was emphasized was that if the Board is using as a justification for vertical integration arguments like economic efficiencies and doing what's more economic efficient for the registrant, then the Board should also look not only at that one side of the distribution chain, but also needs to look at the entire distribution chain.

And even as the ICANN economist had said, or the economist that was retained by ICANN has said on the Monday Webinar, that requiring a registry that's a non-dominate market player to provide equal access to all ICANN accredited registrars is by definition economically inefficient. Meaning as a registry that's not a dominant one like Dot Biz for example, having to offer all ICANN accredited registrars who are selected not by NewStar but are selected by a third party, ICANN, requiring us to use every single ICANN accredited registrar, provide them the same amount of resources, i.e. connections to our registry, giving them the same price, is actually inefficient.

The example Richard used yesterday on the mic was about Apple. But, I will tell you that Apple does not have its resellers chosen for it. Apple chooses which resellers it wants to do business with. Apple also provides differential pricing to all of its resellers based on what the reseller is going to commit essentially to Apple. In other words, is the reseller going to commit to a larger volume of computers, for example, in which case it might get a lower pricing? Or, does it commit to more marketing?

The current ICANN model does not allow for that. So again, the basic point is if ICANN is going to, because of economic efficiency, allow vertical

integration, then it also needs to completely re-examine the equal access requirements and in fact, the use of registrars in the first place.

Peter Dengate-Thrush: Jeff, that's absolutely right, and I think that's part of what we're facing is a transition out of a really strange and constrained market in 2000. There are other ways of developing that.

For example, if you have to review that, why don't we go back and review what the harm of tasting is to start with? What's wrong with tasting in an environment where there are ten of or hundreds of TLDs to choose from? Tasting in the previous environment is part of the old environment.

The problem with tasting was a very limited number of TLDs. What's wrong with tasting one might ask when you've got hundreds and hundreds of TLDs to choose from? Why shouldn't the supplier find out which of his products are really valuable and price them at the top of the market? So, you've got a different set of economics when you've got a huge range of TLDs to choose from.

The other argument that I thought was interesting from the registrars was rules abut market power really only apply to the few in the market that have power. And the sedition is that we're talking about imposing the same rules on everybody in the market. That's not how economics or competition regulation works. You create a system and then you apply it to the top, not to everybody.

So, there's lots of fundamental rethinking, I think, or thinking that needs to go on.

David Maher: I'd like to respond to that. That assumes that the purpose of the domain name system is an investment vehicle for domainers and I remember a time when the domain name system was intended to provide opportunities for anyone on a first come first serve basis to get a name that they found useful or interesting. It was not a real estate scheme, which is the direction we seem to be headed.

But anyway, we have a couple of people in the queue. Edmon, I think you were, then Jordi and then Ray, and Alexa – Ken, pardon me.

Edmon…

Edmon Chung: Yes. I sort of want to circle back to what Jeff started with and get some clarity on the issue. I'm not sure I'm speaking – in mind, what Jeff was sort of asking was what the process forward is going to be, and in terms of that, I guess whether the Board or staff feel that it is a policy decision or whether it's an implementation issue. And, that could take very different paths.

So, from what Kurt has mentioned, it seems to me that that implies that the Board feels that it's an implementation issue, at least at this point. Am I right with that?

Peter Dengate-Thrush: My question was I just don't know what the timetable is going to be and what the next – whether it's going to be published discussion – where we're at with that.

David Maher: **Jordi**.

Jordi: Thank you. I would like very briefly to highlight an issue that Jeff's just pointed out, and the affect that the registrars will not bully somehow or (26:00 unintelligible) have on the small domains, on the small TLDs, for instance, Dot Cat. I mean somehow, registrars may act as a bottleneck to implement new policies, for instance, DNS Sec, IPv6 or whatever, and also, in the broader scheme or the hosting.

So, as we are a small domain, they are not following our proposals because we do not represent an important market share of their earnings. So, this really poses an issue for the small TLDs to really be able to grow, but the need to compete. So, let's keep that also in mind. Small registries also want to compete and offer innovation. It's important for us also to be able to select the registrars and to be able to compete against them.

Ray Fassett: Thanks, I'm going to pass.

David Maher: Ken…

Ken Stubbs: Yes. I'd like to use an example that Richard did yesterday and try to bring this down to a basic level on some of the issues that you may have to live with in the future.

Costco used in Richard's example is not an authorized Apple reseller, but rather, purchases Apple's through a gray market. As a result, when somebody purchases a product from there, there's no guarantee that you're going to get the warranties that you have. So, what you have is a classic case where somebody is using a system and may end up perverting it, and I'm very, very concerned about the opportunities for perversion with the models that are being proposed here.

So, those of you, the next time you think about buying your Apple at a discount place, you might want to find out whether or not you're really going to get the warranty that you're looking for. That's just…

You know, I think the last issue that we had, we had discussed with staff and just to, I guess, bring the Board in on it is that in the end, you not only have to make all of those decisions, but then you have just take into consideration how anything you come out with affects the existing registries. So, for example, were the restrictions imposed on the existing registries like NewStar for example, back in 2001, are they still relevant today and should they be discontinued. If you're going to do that on a going forward basis and ration that if you use a certain rational to justify that, then you need to also go back and apply that same rational to the existing registries. Otherwise, you'll unreasonably constrain their ability to compete. So, that's, I guess, a further complication of that issue.

David Maher: We haven't heard from any of the other directors. Bruce, go ahead.

Bruce Tonkin: Really, just some questions or wider ways of thinking about it. In the discussion that I heard yesterday, it seemed to be focused on a single TLD, and I guess if that single TLD was small, you wouldn't think it would have a big impact on the overall system. Let's say the TLD had 100 names. It doesn't really matter whether there's much integration going on there.

I was just wondering is the concern partly about the fact that you can use data from one TLD to be used to go after valuable names in another TLD, because there didn't seem to be any discussion around the cross-TLD issue. But, it occurs to me if you were operating something like some version of Dot com, let's say it was a Dot Web and you had 80 million names, then you have

far more information on the industry from operating a really big registry that you could use across the whole industry.

So, I just wondered if the registry members had any comments on cross-TLD issues.

David Maher: Jeff, go ahead.

Jeff Newman: I think it's a great issue, and I think it's one of the ones that I've certainly thought about, especially in the way that they deal with other registrars. So, if you're Demand Media Enom and you're running a Dot Web, and you see all the activity of all of the registrars in Dot Web, you may be able to extrapolate the same types of activities that might occur in a Dot Com for example. And, you may be able to use that information in a certain way that disadvantages other parties.

So, there may be ways in which you can use data in one TLD that could affect or let you extrapolate sensitive information in another TLD that is totally unrelated to the one that you actually operate.

Male: So, does that all come back to market power then? So, it depends on the market power of the TLD you're operating. I'm just trying to understand the magnitude of the effect. Like, you can describe affects in theory. I'm just trying to understand what impact that has on the industry.

So, a TLD that's running 100 names, let's say they are vertically integrated and let's say they choose the 80 best names out of the 100 names. That probably doesn't have a huge impact on the industry. But if something had market power and it's got huge numbers of names, potentially, the names are that two thirds of the industry is involved in or the registrants are massive, then you would say that TLD perhaps has market power. And then the issue of separation becomes more relevant. I heard very little discussion about market power yesterday, and again, that seems to be an important factor in the propositions you're making that if someone has market power, then the damage that can occur from let's call it data co-mingling, seems to be larger than if it's a very small registry.

Michael: Can I get in here David?

David Maher: Go ahead Michael.

Michael: I'd like to address that by narrowing it down to a simpler example of where the data sharing becomes a big issue. And if we're going to talk about market power, we have to realize that we're talking about market power in a bunch of little markets. We're talking a bunch of little registries because they are, in effect, a chain a monopolies or individual market places of their own. And, we haven't really talked about it that way, but it's true.

                 So let me give an example of how the data sharing can be problematic. You've got a small registry say a 100,000 domains in it, and also, I operate this registry and I also operate a registrar that I'm allowed to register names in. Ownership really doesn't matter here. It's the fact I'm allowed to register names in that registrar for my own TLD.

                 Now, the way DNS works is I can actually not just see the queries that are coming in for names that are actually registered, I can see the queries that come in and ask for names that are not registered yet. So, I can look at example, Dot Example and see that somebody's really interested. I'm getting a lot of hits on this name. It's not registered yet. I now have the opportunity to front run, because I know that. I can go to my registrar, I can register the name and put it up for auction. And that is a perfect example of the primary concern.

David Maher: (33:14 Unintelligible) go ahead please.

Male: Vanda – I just want to add one more point in this difficult issue is the point of view of the registrants. We don't have – at least we haven't heard about the impact of this new model in the registrant's side, so it's something that we need to pay attention on that. And, the Board needs to know better before deciding.

David Maher: I couldn't agree more. Thank you. Any other…? Alexa, go ahead.

Alexa Raad: Thank you. I want to also make another point that Richard made in his presentation. What he said was "Well guys, you know, don't be worried about us doing anything wrong, because it's actually not in our best interest." So, I want to use an example. Well first of all, if you believe that, then frankly, all of the corporate problems that have happened in the past wouldn't have

happened, because it's certainly not in Enron's best interest to damage their reputation.

The reason it happens, and I'll give you an easy to understand example, and I'm actually stealing it from somebody else. We all know that it's not right for us to speed. It's actually against our own self-interest to speed. However, if you believe Richard's argument that nobody in this world, when driving, speeds, what happens is you do it because there's short-term gain, there's plausible deniability because there's no way to actually check whether you've done it or not, and the fine that you may get, the probability of the fine and the amount of the fine is less than the gain that you might get.

So, you're going to speed through your neighborhood and you're going to do it even though there's a sign, because there's no cop, there's no traffic cameras, and you need to get to a doctor's appointment faster, and you're late. So, you're willing to risk it, and that is the human condition and that is a simplification in his example that is actually a huge one. It's an understatement, and I think this is what's going to complicate not only ICANN's compliance and enforcement problems, but also unfortunately, it is going to affect the health of all of us. Because, like the financial markets of a couple of years ago where the health of a few organizations were affected, it ended up affecting everybody else, it will also affect the health of the Internet and this industry.

Thanks.

David Maher: Harold, please…

Harald Alvestrand: Just I heard some words that triggered my technical nerve because I suddenly realized that what you have been talking about was traffic analysis, which you do at the domain name servers, which means that you are now arguing for a registrar to domain name server operator separation. It's not the same as the registry registrar (36:33 unintelligible). I mean, one of the things that I think we have a need for is to be more precise in what we are trying to achieve. I like the scenarios among other things because it allows me to pick and pick and pick to figure out, as Peter says, what's the harm we're trying to prevent. But, I don't believe Peter (37:04 unintelligible) so I'll pick at that too.

But, being as precise as possible in what we're trying to prevent, what's the goal of the policy is probably a good thing.

David Maher: Thank you. That might be a good segway, as we say, into our next topic, which in one sense is highly technical; the question of the introduction of the country code IDN TLDs and the introduction of gTLD in IDN forms. To me, one of the most interesting pieces of the presentation yesterday regarding new gTLDs came at the end.

Tom, I think you were the one who made the talk about the comfort level of introducing some particular number of new TLDs, and one of the conclusions that I drew, which may or may not be correct, is that the IDN country codes will fill up the available space given the requirement to test them, find out what the stress levels are on the system, which just further delays the introduction of the IDN gTLDs. Is that a legitimate conclusion, or am I…

Male: David, let me just help with that for a moment. We've got two paths to the IDN ccTLDs and the part we're talking about now is the Fast Track. We're talking, I think – and staff can help me here – I think we're talking about a likely application number of under 30.

Male: (38:58 Unintelligible) less than 30 applicants (unintelligible).

Male: So, that's well below any currently discussed sort of number. So, they won't all be gone. We're looking at a probably two-year PDP through the ccNSO to work out what the real rules are for adding IDN ccTLDs. So, it's really unlikely in my view that we will first of all have a Fast Track, would have no other new gTLDs, and then we'll have further IDN ccTLDs coming through in any kind of threatening time scale.

David Maher: Thanks. Bruce, go ahead.

Bruce Tonkin: First, add one other thing to that just in terms of roll out of timing is that the IDN ccTLDs is actually a two-phase process, which is a bit different to gTLDs. So with IDN ccTLDs, the first phase is really selecting and getting approval for the string. And then the second phase is an IANA ccTLD delegation. The IANA ccTLD delegation is usually not a fast process either, so that's the equivalent process that Dot ME went through for Montenegro most recently, just as an example.

So, the first part of that was approving that ME is a country code for Montenegro so that was essentially, in that case, I guess it's the ISO or whatever to get the ME. And then, the second part of that was ICANN going through the normal IANA process to decide who would be the operator of Dot ME.

So, with IDN ccTLDs, it's the same thing. The first phase is really building the table, so the process that Tina went through yesterday is building the table. It's like we're deciding what the string is and what country that string associates with. Then it's a completely separate process such as the IANA ccTLD delegation process that they have to go through. So, I don't know what the average time of those processes is, but the staff could probably tell you. But, I'm gathering it's months, not weeks, the timeframe for that second phase.

David Maher: Ken…

Ken Stubbs: Yes. Pardon me, but I'm clearly not a techie. There has been some significant concerns expressed and some studies that have been done recently with regard to scaling. And, given the discussion and the comments that were made on the potential ability to add new names to the root in any large bulk, how do you reconcile, Peter, the situation? Let's assume that we do the CC Fast Track and then let's assume we go through the regular process for adding IDNs in the future. Now, all of the sudden, we have a potential conflict down the road, because they've finished it all out, and you know I have applications for another 80 to 100 ccTLDs that want to use IDN space. The only problem is that if – and this is where I still need clarity. I think the community needs clarity on the scaling really. I mean, most people do not understand it. There are people in this room that do, but there are an awful lot of us that don't.

Are we going to run into a situation two years down the road where all of the sudden, you have 80 or 100 ccTLDs that want to add IDN space, and somebody comes along and says, "Gee, I'm sorry guys, but we can only take so many, and we're not even sure how many we can take." So, I see a problem here, because I don't think we're – we need to figure out how far out we can go and what we can do, because ICANN is all about stability. We can

talk about all of the other rights, but your rights don't mean anything if you can't use them if there is an unstable environment that you're trying to….

Male: Ken, I'm not going to try and answer the questions about the scaling studies now, but I think I agree with you completely. That's relevant, just come out, and there now needs to be quite a lot of time of explanation and language that boys like you and I…

Ken Stubbs: I wasn't asking for elaboration now. I just think that's something we really need to look at, especially at the next meeting.

Male: We do. We need to get that information out in understandable language. But, let me just give you a high-level response to the allocation issue that you raised.

            If we end up as a result of any information, security, stability, scaling, whatever, on having constraints on the numbers, my view is that we would probably have to go back to the GNSO for a new kind of policy advice on what should the allocation rules between competing applicants.

Male: …get into any depth what sort of legitimacy would the GNSO have in trying to develop an allocation program for the introduction of ccTLDs, that's the point I'm making. It's a much higher level it would seem to me than at the GNSO level.

Male: That would have to go back then to the combined working group of both of them.

David Maher: Did you have a comment?

Male: To put it another way, I don't think the Board would want to take it upon themselves the job of saying let's give it all to the cc's or let's give them 10%. I think that's something that's going to have to be a bottom-up policy community development process, and obviously, each side will argue their corner as vigorously as possible. And then you'll get national sovereignty claims from governments supporting cc's. You're get market claims from marketers. And somewhere out of that noise, we'll have to come up with the least offensive allocation policy.

David Maher: Edmon…

Edmon Chung: I have a different item on this topic and that concerns the issue of variants, I guess. The last time in Sydney, the Board asked for a – well, there was an implementation team that was put together. I understand that the report is supposed to be out or is coming out very soon, but it's not there yet. But what I really want to say is that I think Peter, you know as well that the Asia Pacific community has spent a lot of time on that issue and it's a very important issue for the communities here. So, I really think it needs to be dealt with before the implementation plan is implemented to the satisfaction of the people who really spent so much time in the last ten years, really, getting us to this stage.

Peter Dengate-Thrush: Edmon, I'm not sure what response I can give other than yes, the Board has now become very aware of that and we're aware of the working group, and we're waiting for the report. We're also aware of the RFC that's in relation to this and the fact that China has been running this internally for something like six years, I think. I'm reasonably confident that we will get a solution.

David Maher: Harold…

Harald Alvestrand: Harold, as co-chair of the working group, I apologize for our tardiness. I hope we have the report public by next week.

Peter Dengate-Thrush: Harold, without spoiling the thunder of the release of your report, is there an indication that we're going to have a solution?

Harald Alvestrand: There's an indication that this (46:21 unintelligible) party is going to have to do more work, because on the short strings thing, we figured out that there was no technical objection to (46:46 unintelligible) domain names, but there sure as hell was (unintelligible), which we were not chartered to tackle such as how to handle the situation if we allow applications for single letter ASCII domains. So, those are going to be kicked up.

On the variants thing, we identified a couple of places where we need more technical input as to which mechanisms work and until we have a mechanism that we're sure can work, the best we can do is what Tina said in the IDN ccTLD presentation with a server. So, we want to go as fast as possible to

do what these people who want variants want. And important part of the work was identifying exactly what the variant is and how it should work. But, we think it's possible to deploy variants. With a little more technical work and a little more policy work, it should work.

By the way, the implementation issue of variants is 1% delegation, 2% DNS and 97% applications.

Male: Harold, a question for you. Did I understand you to say that the concern about single character IDNs, a problem with that is what do you do with single character ASCII?

Harald Alvestrand: The problem is that there is no technical basis for discriminating between single character and single character. So, if we are going to release single character IDNs, there's no technical basis for not releasing single character ASCII. That's a policy issue. The policy people are welcome to sort out exactly which single character domains they want to release.

By the way, there are a ton of ASCII characters that are actually IDNs. There are various things with accents, the special Norwegian characters, the special German characters, and so on and so forth. There are – this space doesn't fall into simple categories.

Male: I haven't checked it yet, but I wonder if Chuck remembers that I think there is a policy recommendation from the GNSO on this specific issue already.

Chuck Gomes: Yes, the Reserve Names Working Group made some recommendations and they were moved forward through the GNSO Council recommendations that single character IDN names were okay, but not for ASCII. So, there was some policy work already done on that. I'm talking about top level.

Male: Chuck, in addition to what Harold said, there are other issues that have to be dealt with in IDNs for single characters. It's possible for example to have a three-character domain name that looks like it's three characters, except when you put them all together, it actually falls into what looks like a single-character name. So, there are issues beyond just what seems apparent and obvious.

So that's why I think what Harold and I, this Implementation Working Group is doing is to say there are policy issues and the Councils have to come back and look at it. It's possible in GNSO if you already have the advice, you take it and you move it back and you say, "We're good to go." But across both sides of the coin, it's more complicated than what it just looks at the first level.

David Maher: Any other comments on this topic? If not – Steve, go ahead.

Steve Holsten: I guess before we go on to the next one, the topics for discussion submitted by the Board, may I give the Board a very brief recap of the discussion that we had with Kurt?

I think I want to raise to the attention of the Board, because I don't think that you probably heard this particular issue. It involves the registry agreement in the Draft Applicant Guidebook. As I frame this issue, I think it's important for you to think about if you are personally entering into a contract, would you agree that the other party to the contract could change the terms?

So right now in the draft registry agreement, despite our objections, that unilateral ability by ICANN to change the terms of the agreement still exists. It's obviously a big issue for the registries. I think it's a big issue for the registrars as well that if ICANN can change the registry agreement, why can't they change potentially other agreements and contracts.

It's obviously a big issue with the applicants for new gTLDs. They have to justify to their investors that they've got a business plan, they've got a scheme in place, but the rug could be pulled out from under their feet if the other party to the contract just decides to change them.

And I think it's also an important issue for the broader community at large. The brilliance of the scheme to this point has been there's tremendous certainty within the contract, but there's flexibility within the bounds of the consensus policy to make changes that are vitally necessary for security and stability, and so forth. I think that if ICANN is given the unilateral ability to change contracts, it puts that whole scheme in question, and in the draft Applicant Guidebook right now, the very consensus policy could be amended. The definition of security and stability could be amended. Virtually anything could be amended, and that of course, is a very tough pill to swallow for the registries, and I should think for the rest of the community as well.

Deleted: Crocker

Peter Dengate-Thrush: Can I just bend that straight back to Kurt? Kurt, do you agree that there's open-ended ability to amend everything in the contracts, and if there is, why is it so broadly put?

Kurt Pritz: Thank you Peter. The proposed registry agreement does provide for ICANN to make proposed amendments to the agreement.   There are some safeguards.   There's a public vetting process.   It can be vetoed by the registries by a 50% vote. The Board can overcome that veto.

The purpose of course, is reflected in the difficulty we've had with the registrar accreditation agreement and the inability of that agreement to address an ever changing market where our community has asked us to act in response to certain registrar behaviors, but we've been unable to because it's so difficult to amend that agreement.   So, we've proposed then and continually amend it as different guidebooks come out versions of this amendment plan that are meant to address this issue.

Male: Did you understand what I said?

Peter Dengate-Thrush: Yes, I did. I've also got the contract in front of me, and I have to say looking at it at the moment, there is no way I, as a lawyer, would advise anyone to sign it.   So, we obviously need further discussion, but it's quite clear we have to have the ability to amend the contracts. And by the time there's another hundred registries, we have to have a process, obviously, that we can put changes.   So, I understand where the staff are coming from. Perhaps we need to take this away and have a look at exactly how broad these amendments are.

Steve Crocker: Right. So after this – there's a lot more detail than what you just read, but after the meeting this morning, we agreed to convene a group to have a discussion about that.

David Maher: Ken…

Ken Stubbs: Yes. I'm pleased to see that your counsel would be well taken as well. I mean frankly, it's far too arbitrary and capricious at this point in time in my opinion. Those of you who would be asked to go into a business where somebody you had a contract with could change the financial terms of the

contract at their own will without you having any opportunity to do anything about it, it would make most business models very difficult to deal with. And having been on the other end of negotiations with ICANN in the past, I would hate to get all the way down to the end where somebody looked me in the eye and said, "Listen, take it or leave it, because if you won't take it, I got ten other people standing in line behind you who will."

And, I think the other thing that would be of serious concern to me would be the possibility that there would be an attempt in the future on a renegotiation of contracts of existing registries to try to impose those terms on the existing registries. And, I'd look at that as an investor and a director and chairman of the audit committee at Afilias, and as CPA, as something that would really concern me.

There's has to be predictability on both sides. That's the key.

Male: I want to say something really good that ICANN staff did in the agreements was add a bunch of specifications for the technical requirements. I mean, I think they went a long way to do that in a number of the appendices. The issue is that in every single one of those where they added it, it has the line that we all lawyers love, which is that ICANN may amend from time to time at its reasonable discretion. So, other than that, the rest of the exhibits are fantastic and I think you guys did a great job in it.

But obviously, if we're building systems based on those specifications and we're living up to certain service levels, the unilateral ability to do that – and that's even outside of that provision that you're looking at, which is the notice section. These are separate sections that allow ICANN without any consultation to make any changes.

Peter Dengate-Thrush: Thank you for raising this. I think we've got it now. Let's move on.

For members of the Board who don't have the contract in front of them, let me just explain that it does not allow ICANN to increase the fees unless we want the money. So there's clearly a problem and thank you for raising it. We need to go away and work out exactly what the flexibility – there clearly has to be some flexibility here, but maybe we need to look at that. So, thank you for drawing that to our attention.

David Maher: Chuck, did you have a…?

Chuck Gomes: Kurt actually covered. I was going to say that we agreed that we would work on this together and try and address this in a way that works.

Peter Dengate-Thrush: If I can help with that all, I've had exactly the same problem with the ccTLDs over the years. They argument there was the same. The original contracts there had put all the powers and no ccTLDs were going to sign up to the CCNE out of the bylaws, because the Board could at any time change the bylaws. So, we've had this kind of discussion before and I think we'll work our way through it.

David Maher: This may be the time to move to topics for discussion submitted by the Board.

Male: Just a couple of quick ones if I may. First of all, let me congratulate the constituency on what looks like a fabulous turnout. I don't think I can recall having so many of the registries around the table all at once. That's great. I'm absolutely delighted to see that listed as one of the participants it Dot Berlin, which to my knowledge is not actually a registry yet unless something happened while I was away.

So, my question is I'm very keen to see a place in ICANN, and I think it has to be in the Registry Constituency, for all those people who want to become registries but are not yet under contract. I think we need to hear from the incoming aspirants, but quite clearly, they're not under contract so they can't be members.

So I guess the question is how is the observer sort of category working and is it bringing the people in?

David Maher: Well, at least from the Chair's point of view, it works very well and we've been happy to have **Dirk** with us for actually several years now, probably longer than he wants to contemplate. The issue came up recently with a number of the new applicants or the people who are proposing to become applicants, and we recently adopted the charter of our stakeholder group, which continues to provide for observers. And observer status, I believe, is working very well. But, Dirk, if you want to comment on that.

Dirk Krischenowski: Thanks David. Yes, we appreciate well that we're invited here to join, even the closed sessions and invited to participate in the mailing list and all the kinds of communications of the Registry Stakeholder Group. So, that's in between and before our approval as a registry and a contracted party, that's a good solution, and we're happy for that.

David Maher: Thank you. Yes, Roberto, please.

Roberto Gaetano: I have an issue that is related to this. In the framework of the new applicants, we had the discussion about how to build interest groups also when we are going to have new gTLDs that will have categories, like IDN TLDs or ccTLDs. And, this topic, I understand that it's not yet an issue for the Registry Stakeholder Group, but since we have in the non-contracted party house issues about what does the concept of constituency change, we are evaluating also (1:02:37 unintelligible) that are related to what you proposed in terms of interest groups.

So, in short, I would invite the Registry Stakeholder Group to start thinking about how the interest group could work, because what you come up with the model can be used also for other stakeholder groups, the ones specifically that right now have an interim charter, a transitional charter, because we are defining at this point in time that transition where it has to be (1:03:19 unintelligible) a new definition of what the constituency is, is among the possibilities for work. So, I would be very much interest if you have this discussion going on to be informed of the – yes, I see, I should say, because I will be soon leaving. But yes, I see has this on its agenda so the future chair will be interested.

David Maher: Thank you. I can practically guarantee that we will take that subject up.

Ray…please. Oh, I'm sorry.

Male: And for the next meeting, if you could have longer cables…

It's just to express my recognition as the Board liaison to the GNSO improvement and for the installing of the new GNSO Council, and in all the discussion, this constituency was very cooperative. In particular, Chuck Gomes was really had a very, very good participation in that. And, as we were speaking about constituency, the original charter was about a concept

of voluntary constituency, which is not a bad idea, but it was a very bad idea in that moment, because we had to (1:05:04 unintelligible) only one category of constituency. (1:05:06 Unintelligible) at least doubled the complexity, and he accepted that to change the name to voluntary constituency to interest groups, and then I think I have to express recognition for the flexibility.

David Maher: Thank you. Ken…

Ken Stubbs: Yes, if I could take you back just a couple of topics back to the observer. We worked very hard in the Registry Constituency to encourage participation and welcome outside observers like Dirk, and I think Dirk will attest to the fact we give him more than an adequate opportunity to participate and give his opinions.

This last weekend, there was a very troubling motion that was put forth in the Names Council to attempt a limit on the weekend sessions participation by observers, their ability to make contributions and so forth. And, I honestly believe this was not at all in the ICANN spirit, and this was a policy that really, having been former Chairman of the Council, I've got to give Bruce credit for the guy who really kicked it off and really encouraged this participation.

Now, there's an attempt to limit that participation to make it very difficult. I think it's very troubling to see that kind of thing happen at the GNSO Council level and I'm hoping that you guys might at least take a look at that. It's not something that I think that you would normally condone. Just food for thought.

David Maher: I think we're approaching our time limit and before I call on Rod and Peter for a final word of wisdom or a parting shot, I'll volunteer my own parting shot. It's reflecting on some of the things that have been said today.

The interest of ICANN in preserving and encouraging competition, I'm concerned that what I'm hearing sounds like ICANN being run for the benefit of the domainers, and I know the secondary market will always exist. There's no question about that. The decision was made long ago to allow transferability of domain names.

But, the domainers and their economic interests are often at odds with those of the ultimate registrants. This is partly the experience of Dot Org where our

interest is in serving the non-commercial, non-profit world that can range from soccer moms in a small community to a church or what have you, and the availability of names is important to the registrant. I hope that the focus of the Board will always be the public interest in serving the needs of the ultimate registrants as opposed to the people who are making large fortunes, in some cases, from treating the domain name system as an investment system. To me, that's an overarching issue and I'm concerned that it's not getting enough attention.

So having unloaded my personal views on you, I'll ask Rod to start.

Rod Beckstrom: Sure. First, I'll just thank you very much for the opportunity to be here and to join. And I just have to say this is the first time I've attended this meeting and I'm just extremely impressed by the quality of the dialog, the discussion. And particularly, this is just a very solutions oriented group, which I guess I shouldn't be surprised, because you're running operations. You're effectively running the engine room so the DNS, by running the registries.

So, I just want to say coming into this fresh, I'm very impressed by how you're looking at these issues very much in a constructive spirit. It just convinces me that this ICANN stakeholder model is right and that this is a very healthy stakeholder group here and constituency, or rather SO, that's running in an excellent fashion.

So, I also want to thank Chuck and Mark at VeriSign for having organized a CEO dinner for the registry operators that Carolyn was at and I was at in D.C., which was very interesting and extremely helpful. And I thank all of you for your patience while I get up to speed on this huge smorgasbord of issues that you're dealing with, but kudos to you for the great work that's taking place here. Thanks.

David Maher: Thank you. Peter….

Peter Dengate-Thrush: I'm sorry to disappoint. No words of wisdom. I don't think I'm wise. I think I might be experienced, but no claims to wisdom David. When I may be a little bit older like…

David Maher: Have the alternative of a parting shot.

Peter Dengate-Thrush: Let me just clarify that I hope nothing that I have said indicates that I think we need to be disrespectful or not pay a huge amount of attention to the rights of registrants. You may be thinking that I referred to the fact that we might for example reexamine the evils of tasting from a different perspective. I was simply using that as an example of the fact that as we move into a totally different economic environment, we need to go back and make sure we've thought this through very carefully.

And the reality is we have to serve the way stewards and the public interest of the entire Internet, and registrants must play an important role, but let's just be clear. Domainers have rights too, and registrars have rights, and everyone has rights, and the issue is trying to get that balance right, and this is where the beauty of the multi-stakeholder model comes in.

We have processes in which those claims and those contests of competing rights can perhaps best be judged. So, yes, I'm alive to the problem.

I'd like to leave you with a question. We've got the affirmation of commitment reviews coming. Different from the bylaw reviews of you as an organization, we're going to have a review across the entire organization as to how well we're doing. We're going to be coming to you soon I think and asking you what will success look like in these reviews. So, I'll leave you with that thought.

David Maher: Thank you. Chuck, go ahead.

Chuck Gomes: I know we have some Board members that are departing and I just want to take this opportunity to ask here for us to express the appreciation for all that they have committed. I'm looking at one to my left here who we got to know each other in the Internet forum for the whitepapers.

Roberto and I become friends and have been friends ever since, and what a huge contribution he has made over the years from, of all things, being in the GA, the General Assembly and participating there. And, some of us know what that means.

Male: Wasn't he the leader of the GA if I remember correctly?

Chuck Gomes: He was. But, looking back, and we were kind of on different pages way back
                 then, but we could listen to each other and we could share and learn and
                 grow. And I thank not only him, but all of the Board members and all that
                 they do because it's a tremendous investment of time. So, thanks very much.

Roberto Gaetano: (1:12:59 Unintelligible) just one word is we go back to that time, the ICANN
                 community was not working in such a relatively harmonious way. There were
                 well-established trenches and everybody was suspicious about their
                 neighbors. So, I have to say that with Chuck Gomes at that time, a network
                 solution was the big enemy of Core, which was the Council of Registrars that
                 I was representing. It was kind of amazing that we could talk to each other
                 and I was personally amazed of the fact that Chuck didn't have horns and a
                 tail, and not a big fork. So, that was kind of, for me, the beginning of a nice
                 experience.

                 Thank you.

David Maher: Well, thank you all of our guests. Peter, Rod, all of the directors, we
                 appreciate very much your taking the time to be with us and I think this has
                 been another wonderful example of what we can accomplish by getting
                 together that these meetings.