

**ICANN Singapore Meeting  
IPC  
TRANSCRIPTION  
Tuesday 21 June 2011 at 15:00 local**

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J. Scott Evans: All right. We're waiting on (Akram) and (Wandi) in here because they're going to be making a presentation to us on the ICANN budget for fiscal year 2012.

But while we are getting started why don't we start with you Jonathan back in the corner there and go around the back wall and everyone just introduce themselves? So we'll start with you sir.

Man: (Unintelligible)

Man: (Unintelligible)

J. Scott Evans: J. Scott Evans, Yahoo IPC.

Brian Winterfeldt: Brian Winterfeldt, (unintelligible) - IPC.

Susan Anthony: Susan Anthony, United States Patent & Trademark Office.

Man: (Unintelligible)

(Bill Moreno): (Bill Moreno), (unintelligible) - IPC.

Kristina Rosette: Hi. I'm Kristina Rosette, Covington & Burling, IPC rep on the GNSO council.

(Joel Adams): (Joel Adams), (Mayor Brown), IPC.

Mark Partridge: Mark Partridge, Partridge IP Law representing the American Bar Association and the IPC.

Jonathan Cohen: Jonathan Cohen, ICANN junkie.

Woman: (Unintelligible)

William Rowland: William Rowland, regulatory authority in South Africa.

Nick Wood: Nick Wood, (unintelligible) - representing (Marks).

Man: (Unintelligible)

J. Scott Evans: All right. Now at this point I need to call upon the generosity of a kind soul to be our scribe and he's bowing his head in sadness because I always ask Nick Wood if he would do that for us.

So today we're going to start out. We have already done our appointment of scribe, sign in and introductions and in about - we are now waiting on the ICANN staff that is going to come in and they're going to give us a presentation on the budget and then we're going to do at 3:45 we'll have a committee and budget update.

Stacey King was unexpectedly called away and could not be here today due to a federal judge eastern district of Virginia I believe who required that she show up for a hearing. So she had to fly to the United States rather than Singapore so she has emailed me a report that I will be reading into the record. We have Brian Winterfeldt who is going to talk about the budget updates.

Then we're going to cover some GNSO issues with both David Taylor and Kristina Rosette who are our GNSO representatives. And then we have the ICANN compliance staff coming in at 4:30 and they're going to present for

about 15 or 20 minutes. That's we're meeting the new head of ICANN compliance, (Maggie) - what's (Maggie)'s last name? Surratt - is going to be joining us.

And I'm sure Stacey will be coming with her as well so we're going to be having that. And then I think we have added something to our agenda and that is something that came up in the commercial stakeholders group meeting this morning and that is having Steve - you want to talk about it's a budget committee isn't it?

Steve Metalitz: Yes. It's to have a working group of the commercial stakeholders group that would work over a longer term on the ICANN budget issues.

J. Scott Evans: Yes Nick.

Nick Wood: (Unintelligible)

J. Scott Evans: I have already - the sign in sheet is already going around.

Steve Metalitz: And I think it is being recorded and streamed.

J. Scott Evans: I am not sure. I did send in dial in details but given it's 3:00 in the morning on the east coast I believe and midnight on the west coast there is a chance we may not have any participants from the United States.

I don't know about Europe but I did send in dial in information to the list. I think real quick while we're waiting on our ICANN staff folks to get here Steve, could you take a couple of seconds and sort of bring those that were not up - did not attend the CSG meeting this morning, just give them an overview of how, what we did in that meeting?

And then where we - what we talked about with the board from 11:00-12:00 today when we had our session with the board?

Steve Metalitz: Sure. We basically working with our comrades in the business constituency and the ISB constituency, we met together with the board as the commercial stakeholders group this morning.

And we really addressed three topics. One was implementation of the accountability and transparency review team recommendations. These are 27 recommendations that came out of that review team under the affirmation of commitments. And they cover a lot of issues of concern to us for example regarding the public comment process.

And we were told there that actually we're going to know a lot more on Friday when the board will apparently adopt a resolution providing more information and setting out some time tables for implementation for some of those important recommendations. The other second issue that we discussed to great extent with the board was the fiscal year '12 operating plan and budget, which I know we're about to have (on).

And that is the source of this recommendation that we ought to engage with these issues on an ongoing basis at the commercial stakeholder group level. But we did have concerns both about the process and about the substance of the fiscal year '12 budget that were explored with the board. And then the third area that we talked about really had to do with how ICANN is situated now in a larger Internet ecosystem and particularly how the ICANN board is dealing with the governmental advisory committee.

And what needs to be done to kind of put that relationship on a stronger footing now in the aftermath of the debate between the GAC and the ICANN board over the new gTLD program, what can the commercial stakeholder group, which consists to a great extent of people who have a lot of experience dealing with government and some sense of how governments may view some of what ICANN is doing.

How can we help to kind of facilitate a more productive relationship if you will than what we have seen over the last - these are my words, I'm not characterizing this for anybody else's behalf - but a more productive relationship, smoother relationship than has been the case over the last several months with regard to the new gTLD issues?

So that's a brief summary of that discussion. We thought it was - this was the first time we've tried this particular format of meeting with the board. I think everyone who was there was fairly pleased with it. We had an hour to prepare, then we kind of had an hour session. The board members were all there, all attentive and a lot of them participating, which has not always been the case in our previous interactions with the board.

So, so far at least this first time I think it worked well and we're going to be having some more discussions about what format to follow in the future.

J. Scott Evans: Super. Okay. At this point I want to introduce Juan from ICANN staff and let him give us sort of an update on where we are in the budget process and you know, when everything - where our update is.

The last time we knew that you were taking in public comment and you had been looking at some submissions that had been submitted by the various constituencies regarding requests and those types of things. And so just bring us up to speed I think now that we have got you here. We have moved forward another -- what is it, 2-1/2, 3 months where we are in the process and where we go from here.

Juan Ojeda: Well, thank you and thank all the members of the IPC. For the record, this is Juan Ojeda, Controller for ICANN. And where we are I guess maybe where we started initially when we began development of the FY12 operating plan and budget, we began through a bottoms up process if you will within staff in terms of compiling all of the individual requests and summarizing them and synergizing them.

Initially that operating expense, the sum of all the individual requests came to about \$73 million whereas revenues were at about at that point they were about \$67-68 million. We did some further refinement, looking to see where we could cut back, trying to see where we could find some redundancies and/or efficiencies so we could scale back any projects that we could defer, any hiring requests that we could defer.

So we brought that down to an operating expense budget of \$67 million and also through further communications with registries and registrars as well as a closer look at specifically sponsorship income, our revenue budget increased to about \$69 million. So if you'll recall, when we presented the framework initially we presented it in a net deficit position.

And through a lot of public comment there were comments going for a net deficit position but more than that, you know, a pass through for a balanced budget. We were able to achieve that as part of the draft operating plan and budget. One new process that we introduced in this coming fiscal year as well was a vehicle if you will for all the different stakeholder and constituency groups to submit additional budget requests.

The original intent of the process was to summarize these and post them on our Web site for public comment. And the initial thoughts were that the public comments would drive the prioritization process. Unfortunately that did not happen so then we had to go back to executive team and staff to try to develop some kind of a process for prioritizing them.

So along the way there were definitely some bumps in the road and while it certainly was not a perfect process this year we still believe that it can be a very effective process. So we look in the future fiscal years ahead to continue enhancing and developing this through public comment on the process. So at some point in time prior to the commencement of next year's fiscal budget we'll certainly revisit that and see what we can do.

We also, one of the challenges in developing this current fiscal year as well is that we in essence had to create two separate budgets, one for no gTLD launch and now one with a new gTLD launch. And as one of the comments specifically that the IPC made was in regards to this I believe at the time it was about an \$18 million surplus.

So as we have attempted to clarify in previous conversations specifically with some members of the IPC, it's really not an \$18 million surplus from a P&L perspective. It's more of a cash flow position if you will. In the consolidated budget, which will be presented as part of the adopted budget, it shows about a positive cash flow of about I believe \$9 million, 12.5 of which is mostly made up of the transfer of \$25,000 application fee.

And it's partially decreased by increased efforts to make sure that ICANN from an operational perspective is ready. I know Steve has made the point about ensuring the contractual compliance is more robust or more ramped up above and beyond what it is currently in the budget under a no launch scenario.

So there is a line item in the consolidated budget under the with launch scenario of \$3.9 million for ICANN operations readiness that is meant to capture any of the funds necessary to ensure that as Steve said, we don't go from zero to 100 kilometers per hour as we're merging onto the freeway. So, one other main comment that we have heard on the budget through these meetings is that although the draft operating plan and budget is about 77 pages long, there is more detail that is desired from the community.

Whether that is either more numbers or more text or a little bit of both so for myself being that the first time developing the budget at this very interesting world known as ICANN it's definitely I take that to heart. And I look forward to the future developments of budgets to really create a bottoms up process, multi-stakeholder process for the development of this budget.

At the end of the day this is a tool. I see this as a tool that the community needs probably more than staff to be able to gauge project prioritization and just to gain a trust at the end of the day is really what we're after. So with those opening comments I'll pass it back to you.

J. Scott Evans: Okay. I guess one of the things we're probably most interested in and we've been waiting for now years so is to find out what monies have been allocated to providing a toolkit to the constituencies?

Because you know, we have been trying to budget ourselves in what we need to supply. We have been through this process, required to do a great many more things when it was restructured. We had more information we have to give out, there are certain obligations we have. And when we went through this process initially we were told there was going to be a toolkit of tools that ICANN would provide the constituencies and in a good faith, even keel basis.

And we have not ever seen that that I'm aware of. And I'm just wondering if there is money set aside and where we are on sort of that toolkit of services for policy development at the constituency level.

Juan Ojeda: Thank you. So I don't have that information in front of me but there is a GNSO toolkit that specifically covers certain areas of support. Off the top of my head I believe that's secretariat support, teleconferencing, translation, subject matter expertise - things of that nature.

That is in the budget and I was under the impression that all constituency groups received a checklist of items that they need and that they requested. This is the word I got from the policy team through possibly your liaison, I might be - is it Glen?



J. Scott Evans: The only person I have received anything regarding a toolkit in the last six months was Rob Hoggarth.

Juan Ojeda: Rob is the one who is driving that. So I don't know what happened with that communication but I have spoken to Rob and I was under the impression that that had been communicated to the IPC.

So I would suggest that somebody from the IPC contact him directly but I have had conversations with him and that is mostly definitely available today.

J. Scott Evans: But there is money budgeted to take care of this. We just need to find out what that means from Rob?

Juan Ojeda: Correct.

J. Scott Evans: Okay.

Steve Metalitz: Just to thank Juan for the presentation and the input on this, I think yes, this is your first time around on this process. It was very stormy last year and we had hoped for a lot of changes and improvements.

And there have been changes but I think from our perspective we don't see the improvements yet in terms of the input into the budget process transparency and enabling us to try to do what we want to do in this process, which is to give our views on the spending priorities of the organization. This is not really about what can be spent on us.

It is about how we think the money of the community of registrants who provide 99% of the funding of this organization, how that ought to be spent in the public interest. So but this is why I think the proposal for us to set up a little group within the commercial stakeholder group to work throughout the year with you and your colleagues will really help, I hope will help to improve that.

Because rather than wait for something and then respond to it in a public comment period, let's try to get this to be a little bit more of a continuous process where we can hopefully have a better process in the year to come.

Juan Ojeda: Thank you Steve. I could not agree with you more and I look forward to this really should be truly a year round process and too in the spirit of the multi-stakeholder model, I look forward to working with a working group from this constituency.

J. Scott Evans: All right. Kristina.

Kristina Rosette: Yes. Thanks Juan. I was just hoping that perhaps you could give us a little guidance in that I'm looking at the chart of the fiscal year '12 SOECSG requests.

And of the requests put in by constituencies and stakeholder groups within the GNSO if I'm reading this correctly, the only one that was approved was one that was put in by the NCSG and they weren't really calling for one that was stakeholder group specific. They were calling for translation of the ICANN guidebook into an appropriate number of languages.

So I guess the question I have is that I think it might be kind of a help us help you request mainly to get a better sense from you as to the extent this process is intended or that there is a possibility for stakeholder groups or constituencies to put in funding requests to have a clearer idea of is this in fact what this process is intended to incorporate?

And to the extent that it is what categories of requests are considered appropriate for consideration because I don't think it's a good use of our time to come up with requests that you're just automatically going to reject because they're inappropriate and that's not a good use of your time either.

Juan Ojeda: Thank you. That's a very valid point and interesting in that it was one brought up by another advisory council. What I want to be clear that prior to the commencement of this process there was no "preconceived notion" of which types of requests were not going to be accepted.

So from that perspective I just don't want it to - I want to make it clear that there was never an intention to waste anybody's time, neither communities nor staff. No, because I have heard it. So like I said, initially the idea behind this was to use a community input to prioritize. What ended up happening was at the end of the day no constituency group or no stakeholder group really wanted to throw the first stone if you will.

Nobody really wanted to be critical of anybody else's requests nor did they want to I guess be perceived as grandstanding for their own requests. So that is something in the process that we need to enhance. On the second point, through then the prioritization of the executive team is that where we received there were two issues.

One was parity and one was trying to receive some kind of economy of scale. So for example, we had some requests where certain constituency and stakeholder groups were requesting travel for non-ICANN events like IGS and so forth. And so whenever funding additional travel support we try to focus on building up or yes, building up more attendance to ICANN meetings first given our limited resources.

The second point is that in the spirit of trying to achieve some type of parity the prioritization brought us to the point of if we (give) to one constituency group within the GNSO then we should offer it to all constituency groups. And unfortunately I know we had an issue in regards to increasing travel support for the ICANN meetings.

And that conclusion through this prioritization process precluded us at that point from increasing travel support for the ICANN meetings. The third item

that came up is that in trying to achieve some kind of economies of scale in what we fund, so we had various stakeholder groups requesting outreach support, eight or ten groups that they may be.

And rather than funding \$25- \$50- \$75,000 per stakeholder group, it seemed like that would be a fractured way of trying to achieve our goal of outreach. So what's being discussed is through I believe the PPC - don't quote me on that but I believe it's through that committee trying to develop an overall outreach program that will work with each individual constituency and stakeholder group to be able to collectively and collaboratively be able to impact everyone's outreach in a positive manner.

J. Scott Evans: Any other questions? Steve.

Steve Metalitz: If I could just follow up on that, I think Juan, that your exchange with Kristina really illustrates one of the problems here. I mean you're basically - all of those decisions are policy decisions that you just narrated.

They are really not decisions that should be made in the context of developing the budget and operating plan. You state that if one constituency asks for something that it will only be granted if it can also be granted to every other constituency group. I don't see why that's necessarily the case. Different constituencies have different needs.

And there may be something that one constituency needs that another constituency really doesn't need and shouldn't have. And you're basically saying you won't consider the first one on the merits because others might ask for it. Similarly, outreach, the fact that different constituency groups ask for outreach, different constituency groups may have totally different outreach strategies.

And certainly the way we would do outreach in the IPC is very different from the way perhaps the non-commercial stakeholder group would do outreach.

So I don't see that you know, it may be that the policy decision would be that you can only - outreach has to come from a centralized fund and be administered in a centralized manner.

But that's a policy decision it seems to me and not one that is really a budgetary decision. So I hope that if you look at this list that is on Page 19 and 20 of the operating plan and budget and you look at the requests that were put in by entities in the non-contracted parties house, the part of the GNSO that isn't under contract to ICANN, the business constituency, this constituency and the non-commercial stakeholder group.

And they put in ten requests and zero of them were granted so something is wrong with the process because we put in the wrong requests or you denied them for some improper reason. It doesn't make sense to have a process if we're going over again. So let's try to work on that over the year to come and have a better sense of which types of requests will be considered.

And let's not conclude on an upper oriented, top down manner dictated by the staff that for example all outreach has to come through a centralized process. Maybe that's the right decision but let's have that discussion rather than simply being told that's the way it's going to be.

Juan Ojeda: Okay. Just to clarify, and I apologize if this came out this way, the decision was not this is the way it's going to be and then once it's developed it's a one size fits all for a stakeholder constituent group.

The decision was made to look into this further, to study the possibility this may be a pooling of resources. And if and when this would come about, again it would not be a one size fits all. We are keenly aware that outreach support for IPC could be completely different than outreach support for ALAC for example.

So point taken and I apologize if my comment you know, came off that way. The other point I wanted to make is that although on the schedule it comes off as a zero, that's not necessarily to say that something wasn't granted if you will. So for example, the business constituency group submitted a request to increase headcount in contractual compliance.

That was actually done so to a headcount of 15. The reason why it's on the schedule it's listed as zero and maybe we just need to add another column is because that wasn't part of the pool of resources allocated to SOAC requests. That is part of the general operating expense budget.

J. Scott Evans: All right. Anyone else? Okay. Thanks Juan. We appreciate you coming and joining us today. We appreciate it once again. So we'll just move on to our next and you can run away.

Juan Ojeda: Thank you so much. I appreciate it, guys.

J. Scott Evans: I'm sure there is somebody else that wants to ask you the tough questions.

Juan Ojeda: I think I'll share (the fight) in the hallway. Thank you again.

J. Scott Evans: All right. So now I'm going to let you know Stacey King sent me a report to say that we have just about completed our audit of our membership rolls and that we're happy to report that we've accounted from almost all of our members and we have actually increased our membership.

So that's good news. There still are one or two outstanding contacts so if you are a member of an organization and not an individual member, you're either a member through a company or through one of the larger IP organizations, you need to check to see if your organization has responded to Stacey because we are afraid these things are falling into black holes and are not getting responded to.

And we can't get the contacts up so that would be really good if you would check with your own organizations to make sure or check with Stacey to make sure that your organization has given them a new contact if the contacts have changed or confirmed the contacts. We are also in the point of going to issue invoices. But before we can issue our invoices we are going to need to get our budget approved.

I don't know how many people pay attention to the list but the budget was posted to our list a couple of weeks ago in a draft form and we have had some discussion and I'll let Brian speak to this in a minute regarding our category 1A I think it is membership dues, which just for the record for those of you that don't pay attention to the emails we send you, we are going to be increasing our dues this year.

First of all, no one paid any dues last year because we didn't know what if any funding we were going to get from ICANN in the toolkit. So we decided because it is quite the arduous task to collect our dues to forego that and see what ICANN came up with and we would adjust our budget accordingly. So we have decided to raise category one, which are individual members from I believe \$75 to \$100.

By the way, this is the first increase since the IPC was created in 1998. So it's been a long time folks that you're having to pay an extra \$25. I think we're taking category 1B, which is like Yahoo, my company, pays \$350. Now it'll be \$500. And (cat 2) I believe was like \$900, we're going to 1000 or so and then category three is going to \$1500, so this is the large organizations.

One of the reasons is because as I said when I talked about the toolkit, we've got a lot of burdens being put on us by the board through their rejiggering of what the responsibilities of constituencies are and what they have to do in order. So we need like to get a professional secretariat, someone who can monitor our Web site and get things posted, something to run our elections for us and those kinds of things.

Unfortunately, unless anyone knows of anyone, I don't know anyone who would do it for free. So we have to pay for that. So we have been fairly frugal but we're going to have to start spending a little bit more money. So we are hoping to get invoices out once we get this audit. We were trying to make sure we'll get them out hopefully in the next month or two and then get those back in.

But we have got to get the budget approved first. I'm going to turn it over to Brian right after this. Another thing is we have finalized our initial call for committees and we have gotten some responses. If you have responded and can't remember which committee you're on Stacey says to contact her and she'll let you know.

I think two of our committees are currently working on some comments. I think it's called ICANN operations or ICANN internal operations committee, which Steve as executive vice president or vice president is charged with sort of spearheading the comments on the budget. They are also going to look at the PDP and then we have Mark Partridge is working with another group, I think it's the registrar, registries and RPNs group.

They're going to look at the (PDRP) staff report that has recently come out and formulate comments to those. So we have got those two up. We have constituency operations committee, there are about three of us and we are going to once we get this budget passed look at whether we need to have more increases to the dues or whether it needs to be any.

Because we have two schools. We have a very small minority that thinks we shouldn't do anything and we have a large minority that thinks we're not doing enough, we're not raising our dues enough. Now other constituencies within this charge a lot more than we do. I have been members of them. I'm talking about \$3500 to be a member and they have much more fluid Web



sites, much more fluid communications because they have the money to do so.

And that may be something that we want to consider doing. So we're going to put together at the behest of Jonathan Cohen a group that is going to come out of this constituency operations committee. We may ask others if they'd like to join to consider these particular issues as we prepare for budgeting for fiscal year 2012.

So once we get the dues out, once we get the invoices out and you join, if you haven't signed up for a committee we're going to assign you to a committee. So I would ask you if you haven't or your organization hasn't signed up and you have a particular interest, this is your time. We're going to assign you to a committee because the work is falling on a very small group of people.

The intellectual property constituency is a volunteer organization that has a lot of work to do. We are not a mailing list so that you can write newsletters to your clients. That's not what we're here for. We might choose to have a membership category that allows you to do that but we'll charge you to do so. There have been a lot of people who have just monitored our list and that's all they're doing.

And it's sort of - there are a lot of people who have to justify to their business partners and to their bosses why they're spending so much time. So we need to get some more help and we're going to have to be a little bit more strident about getting help and making sure that people are actually doing what they say they're going to do.

So we're going to explore some of those ideas. With regards to budget, I'm going to turn it over to Brian.

Brian Winterfeldt: I don't have a lot more to add. As just got mentioned, we distributed the budget on the IPC list. There was some healthy debate. Again, we had a minority of people that were concerned about the increases being too much.

We also heard voices from people who thought they should be increased more. I'm hoping that we've sort of worked through the issues. I think through the debate on the list it seems like people ultimately became comfortable once they understood the points that J. Scott made about the fact that there were no dues charged last year and these are the first increases in over a decade.

I think people were ultimately comfortable so after this meeting I'm going to actually put the budget out again. The hope is that we can get a consensus and we'll be able to move forward with the existing budget and then we can continue planning and start thinking about next year as J. Scott mentioned.

J. Scott Evans: Yes. What we have typically tried to do in order to move things through with the least amount of administrative burden is to put things out and not have a formal election unless there is a huge objection.

So we try to have everything just accepted by putting it out there and saying unless you have an objection we're going to assume it's passed. One of the reasons is because now under our bylaws the category one members have to vote as a group. And so we'll have to figure out a whole mechanism to do that and I'm willing to do that but we need to get this organization funded.

And so one of the things we need to do is \$25 I think is a silly thing to argue back and forth on when you consider the fact that if you divide it over two years, you're actually getting \$25 discount for two years. So you're not going - we're going to really look at the budget next year. So I would say you know, if we could just go ahead, let's just post it to the list.

Unless there is a huge outcry say that it's passed by being out there and receiving no objection. If we get an objection we're going to have to run an election and we will run an election according to the bylaws at that time and figure out how we're going to get the category one members to do their voting so they can submit their votes to the list.

So that's where we are on budget and on our committees. So yes, Kristina.

Kristina Rosette: I think it's been decided to go ahead and do this but if not I would really strongly encourage us to set up a PayPal account to facilitate payment of these. I think it'll just make collection a lot easier particularly for people who have to do transfers or go through like a formal check request process and the like.

Brian Winterfeldt: Yes. We are going to set up a PayPal account so hopefully when the budget will be approved, we'll get the invoices out. I'll make sure that there is an account so people can either send in checks or will be able to pay electronically through PayPal.

J. Scott Evans: So that should facilitate making that a little easier. Okay. Now we're going to unless there are any questions or comments or concerns or objections or - and just so you know, for those of you all who haven't looked at it, our overall revenue based on historic numbers, we're looking at probably about \$34,000 coming in in total dues and putting out about \$30,000.

So we'd have about \$4000 of cushion for us you know, it just depends. But that's where we find ourselves in the budget. And it's all gone out. You've all got it. If you're a member of the listserv, it's on the listserv. For those of you I think Jonathan, I don't know. You may not have a copy of it. I'd be glad to recirculate that to you individually and I think (David Wislow) who is an attorney in Chicago who joined after we did this.

I'll be glad to circulate but everyone else who is on our listserv has gotten it more than once. You've gotten it like three or four times.

Brian Winterfeldt: Real quick J. Scott, I should know this. I apologize but you mentioned real quick what a category 1A and B is but what is a category two and three? I'm still unclear what that is.

J. Scott Evans: Category two is for regional or like the American Bar Association is a category two member. If it's a regional it's category three are for international organizations.

So that's how we originally structured ourselves. Category two was put into place because we didn't want to become dominated like by one particular jurisdiction such as the United States. And people saying well, the Kentucky Intellectual Property Association should get the same parity as the International Trademark Association, SICP, ECTA.

And some of the national organizations - SAP, some of the very large organizations, AIPPI. And that's the reason it was done in that particular is to sort of help control capture and that's the way we have always done it before. Okay. So let's move on now to our GNSO issues. I'm going to let David and Kristina go through this for us.

And this will include since it is one of the big issues in front of the GNSO, the UDRP discussion. And as we get this started, I think I'd like to ask Jonathan Cohen to sort of brief us on the session that is going to take place I believe tomorrow morning on the UDRP. And would you explain to this group what the session is, what it's set to accomplish and I think it would behoove as many members of this organization to be in that room as possible.

Jonathan Cohen: I'm sorry you didn't warn me. I wouldn't have had that beer. Tomorrow's session is at 8:30 am so we're not expecting a huge turnout but we'd love it if there were.

It really is going to look at the first effort of the staff to do an issues report about the UDRP and whether or not there should be a PDP, a policy development initiative to amend it. The staff put out a report based on feedback from the community and a webinar that it held that suggests or they said suggested resulted in not a lot of interest in doing it and that this wasn't the right time.

Now I understand although I wasn't there that at one of the GNSO meetings that there was some push back on this and that at least some of the people there were suggesting that maybe that wasn't how they felt. This exercise is to get some of the people who made comments during this process and including a number of the UDRP providers meaning WIPO who are here and (unintelligible).

I think there are people in the room from each of them to get there as we're going to have panelists from them and Mary Wong and I are going to moderate. And Mary and I have met and what we're going to try and do is taking what the staff report is on this first issues report is try and feed questions first of all to the panel that probe their decisions and give them an opportunity to explain to the public what they're thinking and why.

And then to open it up to the public and then let's see what people in the audience, whether here or remotely have to say about it. So J. Scott's right. The more people who have an interest in this and in the outcome of the process, the more people should come and say so. Although ultimately it is up to the GNSO council to decide what it's going to do.

Man: (Unintelligible)

Jonathan Cohen: That's it. It should be a lively discussion.

David Taylor: I was just going to say there are category four members on the screen. We've got an update on this on the GNSO council meeting tomorrow as well. This is a presentation really just picking up where Jonathan so it's overlapping a little bit on what he said about what it's all about this UDRP issues reports and the webinar.

What we're looking at, which everybody in the room will know, is the UDRP has been around for over ten years. It's recognized certainly as one of the successes of ICANN, less expensive, quicker. Overall it's considered consistent, predictable, efficient and fair. It hasn't been reviewed since its inception.

There was an issues report back in 2003, which considered it and that recommendation there was basically to leave it alone. So whilst it hasn't been reviewed, it certainly has evolved and just in March 2011 there is the WIPO overview was published (due point north), which covers some 50 issues with the UDRP or issues which are considered by the UDRP.

And that is well worth a read if you haven't read it already. So we've got this preliminary issues report, which was at the request of the GNSO council. It's pursuant to the registration abuse policy, the RAC's final report. And so its aim is there to describe how the UDRP has addressed the problem of cyber squatting to date and whether there are any inefficiencies or inequalities, identify them and then make recommendations on whether to initiate this PDP.

So the council will be considering whether to commence a PDP or not. That is de facto. What work has been done prior to this preliminary issue report? Well, there is a drafting team convened by the GNSO council. Kristina and I were both on that and that was to guide staff in conducting its research and analysis.

There was a questionnaire, which was prepared and sent out to each of the UDRP providers and they all responded to that and the aim of that was to get factual data so that we could actually decide what we were talking about rather than the necessarily anecdotal data that is often bandied around. That led to the webinar, which Jonathan has already mentioned on the current state of the UDRP back on the 10th of May 2001.

And again, the aim there was to get a broad range of experts so there were representatives of each of the UDRP providers, registrars, ICANN compliance staff, a number of panelists and the panelists recommended by the UDRP providers and complainants, respondents and academics. There was quite a wide bunch.

I think - how many were there - 18 people in two hours if memory. What came out of that webinar I put in there the community view. Certainly a broad agreement that the UDRP has won international respect. It's only the very, very rarest of cases that UDRP decisions go to court in the first instance and even less so are successfully challenged.

So that's really a huge tribute to the system itself. The fact that UDRP decisions are not made on a straight default basis, if there is no reply it's not an automatic transfer. There are numerous decisions which go against that and don't transfer even if there is no reply. Many people said that now is not the time to review the UDRP with what's going on with new gTLDs.

So that really came through. The focus should perhaps not be on the UDRP but rather on the practice of cyber squatting itself. If there is anything that needs to be looked at, we talked in the webinar there are procedural aspects raised potentially some of them potentially supplemental rules provider supplemental rules may need consideration.

But the overwhelming sentiment from the UDRP webinar was that the UDRP should be untouched. So really what we have got now is two sides to the

coin. We've got the arguments there that there is a lack of due process and protections for free speech and thus a review is needed. I'd probably counter that there is a fair use defense because Article 4C of the UDRP policy is clear there that if there is general non-commercial use then you wouldn't transfer.

On the other hand, we have got certainly a potential inefficiency in the process. The rights holders - there is definitely a difficulty in identifying the registrants and there is a disproportionate cost to brands of funding UDRPs compared to cyber squatters to register the domain names themselves. So the big issue is how to get everyone on the same page and the never-ending search for the holy grail of consensus.

So this preliminary issue report as Jonathan mentioned that came out very clearly stating that the UDRP should not be initiated at this time. And based on issues and concerns expressed by the community stated that if the council nevertheless believes review is needed the staff recommends that a small group of experts should be set up to produce recommendations considering the process or implementation of UDRP policy.

And then pursuant to those recommendations potentially issue a more focused PDP - now this is a preliminary report. It's not the final report so this may well change over the course of the next month. So what's next? As Jonathan mentioned, 8:30 am tomorrow morning with your croissants the UDRP session's running for two hours.

Then there is a public comment period, which is currently open on this preliminary issue report. It closes on the 15th of July so I'd certainly encourage everyone here to comment on that and we do really want to see what people think. And we can probably have a short discussion today if need be.

The final issue report then will be published after the Singapore meeting but also after this comment period closed so some time at some point after the



15th of July we'd see this. And then it would be presented to the GNSO council and they'll be the decision on whether to initiate a PDP or not. I thought we'd just have a quick glance at the past and look back at the 2003 issues report and the conclusions there, which I think were quite interesting.

It was thought that revision of the UDRP is likely to be contentious. How unsurprising is that? There are not many if any areas that are obviously amenable to achieving consensus and it was noted that the UDRP is a consensus policy and should be revised only by consensus. You wonder how many times you can get the word consensus into a sentence.

You can see what's needed and there while some areas for improvements may be possible there is not an urgent need for revision. Again, I'd say that's pretty much what we've got today is a really urgent need for revision. And the GNSO council has other issues. Funnily enough, who is still there? The same issues.

But there is clearly a lot going on so the real question is, is now the time. And so a few final thoughts I put DT personal as they're not necessarily IPC thoughts but hopefully some of them are. The UDRP is certainly not perfect but it works pretty well for all concerned. I think we all need to be careful what we wish for.

Now is not the time to be dabbling with the UDRP, which is one of the no-win RPMs for gTLDs which we all know are really around the corner now. And any sincere effort going into this needs to look at the process drivers and who really are the beneficiaries of cyber squatting. And I'll hand it over to anybody who may want to just or not.

J. Scott Evans: Mark.

Mark Partridge: One of the things that struck - this is Mark Partridge and I'm a panelist. I've been a panelist since the start of the UDRP. One of the things that struck me

about the report from that webinar was that the remarkable agreement between advocates for registrants and advocates for the complainants in that the UDRP is a process that works well.

That it's forgive the phrase, fair and balanced in terms of dealing with the interests of registrants and complainants both. And that came from attorneys who regularly represent registrants in this process so as far as the people who use this the most, it's seen as something that is working quite well. And then the other thing that strikes me about this is it's one of the processes that adds stability to the domain name system.

With the introduction of new gTLDs and lots of different rights protection mechanisms there is a lot of uncertainty in how all this is going to work, which understandably would make registries, registrars, brand owners, everybody in the system a bit nervous. And that's not the time when you need to be dealing with a process that the people how are regularly using it on all side seem to think is working well.

Man: (Unintelligible)

J. Scott Evans: I don't know the answer to that.

Kristina Rosette: I do. You know, not surprisingly the big push to have a review for purposes of adding a defense specifically relating to free speech is coming from the non-commercial stakeholders group.

Somewhat oddly in my opinion on the contract a party has Jeff Neuman from Neustar is making a big push for this review. It's not clear to me at all whether that is the position of the registry stakeholder group or not. Thus far the registrar stakeholder group has been silent. The voting threshold for going forward with the PDP is sufficiently low frankly that if either stakeholder group in that contracted party house decided to support it, it would probably go ahead.

So I think it's my personal view is that just in the interest of strategy we should probably assume that there will be a review of some sort and the question is is it a PDP or not and what should it cover?

Jonathan Cohen: Thank you J. Scott. I just wanted to mention as David mentioned, there is a public comment period that closes on July 15th. And I thought I would slag for the IPC that prior to the May 10th webinar the WIPO arbitration mediation center with its experience of administering over 20,000 UDRP cases to date, submitted a letter to ICANN stating its positions on whether a PDP on the UDRP is appropriate at this moment in time.

And I will send a link and a copy of that to the IPC leadership. Maybe that can make its way onto the IPC list and that could be useful for individuals when they are looking at submitting comments.

J. Scott Evans: You know, I was on the webinar and I think what I found to be one of the most fascinating statistics was something that John Berryhill who represents - is famous for representing respondents, not trademark owners, was that there have only been 30,000 UDRPs and there are 90 million domain names in dot com alone.

So I mean statistically this is a very, very small, small, small effect on the system. And but there is an overwhelming sense of stability to people who are making business decisions about becoming registrars and registries in forms of liability based on this system, this process that in the United States has gotten them a safe harbor from certain liabilities.

And it's not just trademark owners that would benefit from the stability that when we're going through an already changing landscape of hanging on. I would also note that during the GAC session Peter Dengate Thrush said three times to the Europeans at the table that they didn't need to worry about the ERS or the RPMs because they had the UDRP.

I assume that when you make that representation to the governments, you mean the UDRP as it exists today and not some former thing that nobody understands what that could be. So I mean they're hanging their hat pretty heavily on the fact that this system works and that there are people making a lot of decisions around the workability of it as it exists.

So I think that is a message that needs to be strongly given not just from trademark owners but probably for potential applicants who benefit from knowing that that one system, they know how that works. And that there are some advantages to that and from a resource level the GNSO is barely keeping up with the work it has to do now.

And it's slow and they've got to look at the ERS in what, 18 months to two years anyway after the first round. So if you're going to look at one mechanism that is very much tied into the other mechanism just by the way it's created, if you're going to do anything that might be the one you want to do just from a resource perspective.

So I don't know but I think that this is something that we're going to have to face. We're going to have to realize and we're going to have to be very clear about our message. I think one of the things that the webinar showed was that there are some issues with regards to how the policy runs within different registries and registrars and different providers that cause some frustrations to all the practitioners on both sides of this.

And but the question is is that a PDP and I think there may be a rush to do a PDP because everybody thinks that's what you need to do. And I'm not so sure if it's not that or there just needs to be some house cleaning on ICANN making sure that it's ensuring that those parties that are involved in this are implementing it the way it's supposed to be implemented.

And I'm not sure that's a PDP. Staff said that. I think Margie said that on Saturday. There is - it should be looked at because it's been ten years but there is a difference between reviewing something and doing a policy development process, which is one type of review. But there are other types of reviews too. Anybody else have comment or concerns or - Jonathan.

Jonathan Cohen: Just a note of institutional history, just to get some of our David in particular and Kristina thinking about this, the reason that the UDRP originally was passed by the board at the time there was a tremendous debate about whether it was in the scope of ICANN to do such a thing.

I mean really and truly where do they get the authority when you look at what their mandate was, technical oversight of the Internet to start passing something like UDRP, which is almost a legal process. And the reason was very simple and what we argued at the time successfully was that - it's hard to remember but at the time the introduction of cyber squatting was actually felt to be a threat to the stability of the Internet.

And if possible the whole explosion of commercialism on the Internet might have been threatened by this unchallenged thing and it was costing a fortune. And at that time there was one registrar and one registrant and there was only a fraction of the number of domain names. So it seems to me that while there has been a lot of evaluation, obviously at ICANN and the GNSO is probably rightly risen to some degree to a place it has hoped it would be a long time ago.

I still think that this may be one of those subjects which may well still fall in that class of matters within the constitution if I can refer to the ICANN bylaws as such where it's so important that maybe the board needs to make a decision here and may properly do so under the bylaws.

J. Scott Evans: Okay. I just want to make an announcement. We have received word that the next session, which is the GAC board session, for everyone who wants to

know - what, what? It's everything but the issues that were in the letter they sent on the other day.

So it's all the other issues that the GAC and the board are dealing with has been delayed 30 minutes and will not be starting until 5:30. So we were asked to pass that along to everyone. So let's go ahead because there are some other motions and things that are before the council and the council meeting is tomorrow, correct? And what time is that? Tomorrow afternoon?

David Taylor: 2:00 or 2:30. That's the agenda up there on the screen now so you can see the first item apart from admin matters is the pending projects and the UDRP. And then the second one is actually what Kristina is going to talk about, the inter-registrar transfer policy.

Kristina Rosette: Yes. Can you pull the motion up?

David Taylor: Yes.

Kristina Rosette: I wanted to talk about this partly so that you all knew what was going to be voted on and partly because I would like to propose an amendment to it to the contracted party folks who put it in.

And obviously I want to make sure that you all are fine with what I want to do before I go ahead and do it. So while we're waiting for the motion to come up. Oh my gosh David. I have it. So in any event basically the inter-registrar transfer policy part B working group - I should back up and say that a policy development process was started on the whole inter-registrar transfer.

And there are a lot of issues and problems and difficulties and the like and in the course of the PDP they identified so many issues that they decided it made more sense to group them thematically. Part A has been done, they've issued their final report recommendations and that's been voted on by the council. So this is part B.

And basically just so you know what this PDP was talking about is it's listed out here whether there has to be a process for a return resolution of a domain name if it's hijacked, whether there need to be provisions for undoing false or inappropriate transfers, special provisions needed for change of registrant when it occurs near the time of change of registrar, which most often happens during the course of hijacking but also obviously happens after a successful UDRP.

Whether there should be additional requirements relating to the use of registrar lock and the like. So David, if you could just kind of scroll down and I should say that as with pretty much everything it does, the council has managed to make this fairly complicated. And there are different - okay. So there are - no, there are different just so you know, there are different voting thresholds for different parts of the motion because they implicate different provisions of the bylaws.

You know, most of this is not very controversial. There is basically a requirement that registrars have to provide a transfer emergency action contact. Keep scrolling. The next one is that just keep going down to the next voting item. Keep going. Okay. Stop. That there are measures that were set up by the SSACs registrants' guide to protecting domain name registration counts, which if you haven't read it I suggest you do.

It's actually quite useful. But that there should be promotion by ALAC and ICANN as to registrants really should adopt these measures. Result C and this is the one that I have a concern about and that is the GNSO council recommends that if a review of the UDRP is conducted in the near future the issue requiring the locking of a domain name subject to UDRP proceedings is taken into consideration.

There are a number of reasons basically what I want to do is tinker with this so that instead of calling for future action on a topic that really isn't that

related to this motion, which frankly I think is going to be confusing and no one is going to remember three years from now to go back to this, that basically what the language we do would have the GNSO council acknowledge receipt of the working group's recommendation on this point.

And agree to take action on it when it considers the issue report relating to the UDRP so that basically it would be taken out of here and put into consideration of it in that motion. For whatever reason Jeff Neuman is having fits about this potential amendment but I frankly think it's cleaner. It avoids some of the I think false implications that could be drawn from this language as it's written now.

And most importantly as it turns out, the working group put this language in in response to a letter that WIPO put into the public comments and as it turns out after talking with Brian that the working group frankly just didn't get what WIPO was talking about. So they didn't need to do any of this mess in the first place.

So that's kind of where we are. The other important point of this particular motion is David, if you could go ahead and scroll down a little bit to result F and this is that the GNSO council is requesting an issues report on the requirement of thick Whois for all incumbent gTLDs. This will pass. The reason for this is that having thick Whois makes transfers a lot easier and more streamlined.

VeriSign is the only registry operator that does not have thick Whois. They from what I understand were approached about voluntarily adopting it and refused. So I would think that actually this may not pass because the registrars are fussing because they don't want to have what they view as their customer information going to the registries.

So I think this is going to pass on the non-contracted party house. The contracted party house I think is up in the air but I wanted to make sure that



you all knew what was going on. Questions, comments? Two other things I want to talk about - go ahead Steve.

Steve Metalitz: I'll just make a comment on F. In the recent public comment period on renewal of the dot net agreement this constituency and the business constituency both recommended that the new agreement require thick Whois.

And the staff turned that down I believe on - I have to go back and look - on the basis that a PDP would be required or that that would be. I'm not sure that that's really true but it would be interesting to see if in fact the contracted parties block this because as you can see, they only need 25% from each house. So they'd have to be pretty much lined up against it in order to block it.

Kristina Rosette: Right. I mean it can also pass through a majority of our house and I'm in the process of getting confirmation from the non-contract, non-commercial stakeholders group as to whether they're likely to vote in support.

Steve Metalitz: Yes.

Kristina Rosette: I think it could be really close in terms of getting a majority on our side.

Steve Metalitz: Really. Okay. Anyway, that's just part of the context here and if it's blocked in this fashion and the staff says they can't do it without it then we're...

Kristina Rosette: can you send me whatever text or whatever statements the staff made in connection with the dot net contract?

Steve Metalitz: Yes.

((Crosstalk))

Kristina Rosette: Because then I can just make an observation on the record if it fails.

Steve Metalitz: Yes. Well let's look at it again and make sure it says what I said it says. But that's my recollection.

Kristina Rosette: The other council thing that I wanted to bring up is I don't know how many of you are following well, you are because it's so interesting. But there is one of the many working groups that has sprung up recently is the JAS working group, which is the joint applicant support working group, which is kind of a misnomer because it's really intended to deal with support from ICANN for applicants for new gTLDs from less developed economies.

This has nothing to do with what's on the screen. And what has happened here was that this was a joint working group between ALAC and the council. The working group sent a report to ALAC. They don't have the same procedures that the council does so they were able to act quickly on it and sent it to the board.

The council was unable to act on it until just recently because you have to have motions in eight days before a council meeting and then there is a practice that any stakeholder group or constituency can request that a motion be deferred for one meeting. So when you put the fact that they didn't get the report eight days ahead and then you had a deferral, we just acted on a recent motion.

What's going on also is the board is taking some heat from the GAC on this particular issue and the board is then pointing the finger at the council saying well, is the council delaying and the like? So in any event there is a statement that has been floating around the council list that I'm about to read that I want to see if anyone has any IPC members have any strong objection to.

Because is it something that we can support - I would suggest that we do. And that is the GNSO council unanimously believes that it is important for the new gTLD program to be globally inclusive and to have as part of

implementation plan meaningful and workable mechanisms, which will assist potential needy applicants (interalia) from developing regions of the world participate in the first round of the new gTLD program as quickly as possible.

We thank the members of the JAS working group for all of their hard work and for preparing the two milestone report and look forward to receiving its final report. I can put that to the council if that would be more helpful but I'm just wondering if anyone has any immediate questions, concerns, qualms.

Steve Metalitz: I think it's something that we would need to support. I mean I can't see why we wouldn't and especially given how important it is to both ALAC and to the GAC who have in instances been allies to us and it doesn't really harm us or our interests in any way. I can't see why we wouldn't want to support it. Does anybody disagree?

J. Scott Evans: Cool. Okay. What else?

Kristina Rosette: Okay. The last thing and this isn't really so much of a council thing but I believe tomorrow there is also a session on the implementation of the trademark clearinghouse.

And I would really encourage all of you to attend. This is going to be really important because the outcome of this session is going to help the staff as they draft the RFP. So think about it from a perspective of 18 months from now and all of these new gTLDs are about to start going live with their sunrise processes and you're having to interact with the clearinghouse.

What do you want to see in terms of documentation, in terms of requirements, in terms of validation? What do you not want to see? There was a group of registry/potential applicants that put in comments on the last DAG with a model for how the trademark clearinghouse should work with regards to the IT claim process.

And you can access that in the public comment forum. Some of it is rather technical but I would really, really strongly suggest that you read it in large part because one of its principal recommendations is that rather than having a centralized clearinghouse for purposes of implementation of the trademark claims process that the data that basically constitutes the clearinghouse would be replicated in its entirety and reside at the registry level.

So to the extent that you have concerns about the possibility that that turns into a foxes guarding the henhouse scenario, this is the time to really participate in the process and you know, we're going to need to work with this. So we need to make sure it works for us.

J. Scott Evans: Yes. There are some really mangly details here because before because the registry was running the sunrise or whatever and they were taking that information in themselves, it was sort of you know, there was a hard stop date on when this stuff would come through.

They're not real clear on like would there be a real hard stop date or would there be continually you're able to put it in and this stuff has to be kept valid by the trademark owner and how often is this going to be delivered? I mean little bitty tiny things that could greatly affect the efficacy that we have said this will have.

So I would say that those of you who have any sort of experience in dealing with these show up to this thing because we need your experience because staff is dealing in a vacuum and they're going to have a lot of people throwing at them technical red herrings that say it can't be done because there are certain advantages commercially one way or other to do it that way.

And that's not necessarily in the best interest of efficacy, which was the only reason we asked for this is because when we went to both rounds I had two paralegals pulling their hair out because they didn't know should it have

staples or not have staples, should it be a photocopy or not? And they had seven different ones they had to get in.

They sent them. The registrars mucked it all up because they weren't doing it correctly and so that's the whole point we were trying to get rid of. And so we need to make sure that the efficiencies we hope this will have aren't bled out by little details that we're not paying attention of. It really is the devil is in the details - really, really important.

Man: Mr. Chairman, I just want to point out that our guests have arrived to make the presentation so maybe we should break.

((Crosstalk))

J. Scott Evans: Let's go ahead and take a five minute break.

((Crosstalk))

J. Scott Evans: We can just take a break and we can start back at 4:30. Okay everybody, let's go ahead and shut the doors and let's get back started so we can get completed. If everyone will take their seats please.

((Crosstalk))

J. Scott Evans: Okay everyone. As I said earlier, we have here our contract compliance team. As usual they have been so gracious over the last I would say eight or nine meetings I think we've been doing this where they've come and they've sort of given us a status report on where they are and a view of where they hope to head in the time.

We are very fortunate to have Stacy with us, Burnette, who has been with ICANN now how long Stacy, about four years? But we also are very touched and pleased to have (Maggie Surratt) here who is the new compliance head

of compliance for ICANN. And so with that I'm going to turn it over to these two fine ladies so that they can - Jonathan, don't make me come over there.

I'm going to turn it over to these two ladies to give us a presentation. Ladies, take it away.

(Maggie Surratt): Hi. Good afternoon everyone. As J. Scott's mentioned my name is (Maggie Surratt) and I've been with ICANN now two months. With me in the room I have team members, Stacy Burnette who is going to co-present with me.

I have Pam Little, I have Carlos Alvares and Khalil Rasheed who is sitting at the other end. We have a few topics on the agenda and I think do we have 30 minutes? Okay. Thank you. Next slide please. So who am I? I'm not a lawyer. I'd like to level set that. I come more from a business background, specifically the automotive industry where I've spent many, many years in different capacities and roles.

And one of the main roles that I got certified while on the job was obtaining my master black belt in Six Sigma. And it came at a very good time. As you know, the auto industry experienced some really bad down turn and it helped us on the team who were certified to take on different strategic initiatives within the organization to be working on how can we operate better?

How can we still bring results efficiently but at the same time still address customer satisfaction? And through that experience I had the exposure of so many different areas within our industry. I am also fluent in English, French and Arabic. My style because some people had asked me that, I added this bullet in here is really my style and philosophy is very simple, very logical.

You can never communicate enough. I'd like to keep it simple, fact based decisions, accountability and managing results. And that's what you will see and hear from our team as we continue to move forward. What have I

brought to the team? I'm very blessed to have an amazing staff members who are lawyers so they can guide me from that aspect.

And I'm bringing the business perspective to it. Of course for the past two months as a new comer you have to continue supporting the staff and they run the business activities. But I have taken on the initiative to from the Six Sigma area to assess our current state. As the new lead for the team it's important for me to understand what is our organizational structure.

People, processes and tools - so looking at our organization, assessing what we have, what our skill sets, what is required for us to take on the new challenges but also existing challenges. So (unintelligible) - months. The most important short-term plan for myself was understanding the ICANN model and the interests of stakeholder groups.

And I say it with a very low, slow voice. It's overwhelming. It's interesting, it's diverse. The complexity in it is really awesome. Again, from a private sector contractual compliance we had multiple contracts but it was a contract between two parties. Here we have two contracts really, I mean more but with (registry) but it's amazing all the stakeholders and the community that is involved in it.

And so this whole model is still intriguing but working towards understanding it and the way I'm doing that is really simple, through forums of this nature, by attending Munich with the registrar, registry, trying to reach out to the community and counterparts to help me learn more about it. Major initiatives to date, we try to report at the ICANN meetings.

This is my first one, it's really amazing. The major initiative update here is everybody is very, very interested in our staffing model. I'd like to tell you guys that since my hiring finally the contractual compliance team is up to the headcount that they had a year ago. So we are now back to the base model. So we have eight full time employees.

Carlos joined the company one month prior to my arrival. Since I joined I hired on a contractor who is working in full capacity with us for about a year or so. So now we are a total of eight. We have three additional headcounts approved. We're finalizing on the job description and it's really important because again, we're doing assessing current state.

We had to revisit what is it we need and we really need to look at a staffing model that has a lot more diversity and regional presence but also in some other areas. So we are working on that and hope to be hiring in the near future. Operational effectiveness - again it goes back to the background and some of the material I wanted to share with you.

People, processes and tools - we have moving on to the bullet on Whois compliance, it's a very important area of compliance but also for the ICANN community. So I'm proud to let you guys know that we have recently promoted Khalil Rasheed. He has been with ICANN for a couple of years but we promoted him to a senior manager role with a very focus and accountable role for Whois.

In the past Whois was shared responsibility based on what's going on in audits or monitoring and all that. But we are really honing in - again this is part of reviewing our operational effectiveness and there is a need to have a really good focus in that area. Khalil is going to be working and leading that effort and help put forth some of the future steps and initiatives.

In addition to Khalil's appointment to this role in the Whois area we also have tools that support the Whois. We've got the Whois Port 43 monitoring of access. You know that is an ongoing thing that happens but what we have done, we used to have it where it still does look at it from an ICANN IP address.



What we have done now is we have implemented an IP address that is not ICANN so we also have a view from the real world, not just an ICANN view. So we're looking at ways, how can we monitor or audit or see it differently. On the WDPRS system I'm proudly using my acronyms now without flipping those letters around.

The Whois data problem reporting system, it's our core tool for managing the Whois information, the compliance, the reporting and audits and everything. That system has been in existence for a while. It's good, it works but again, it's part of assessing where we are today. We need to automate further, the demands are a little different.

But also we're looking at is this the right tool to take us into the future. So we have a lot of work internally. We're working on that. Enhancing communication - it's really important how we communicate and reach out. You know, with constrained resources usually the first thing that goes is communication.

You've got to keep the lights on so we understand that maybe we have kind of like pulled back in that area and communication is not just a newsletter or reporting. It's also some of the face to face visits and working groups or initiatives or you know, working with the community. So we're hoping to start building that up once I add on the additional staff.

And that is going to lead to the improvement and enhancement of our collaboration with the different community members. On the new gTLD readiness, regardless of the new gTLD we really need to assess what we're doing and how we're doing it and who is doing it. So what the efforts we have been working towards over the past two months are going to reinforce our readiness for new gTLD.

I know once you look at the statistics how many do we support, how many registrars and registries we have today and how many contractual

compliance members we have, if you want to do the math and you want to say okay, now if we're going to go to that number of new gTLDs do we need to really triple and quadruple?

You can never throw enough people and resources but we really need to think a little bit out of the box. More automation, more responsibilities and proactiveness. So we're hoping to be able to do that and if that model needs additional resources I want to assure everyone I do have the support of my management and our leadership team to evaluate and continually improve on the model if one of that needs the resources.

With that I'd like to turn it to Stacy to review a little more updates about additional initiatives.

Stacy Burnette: Good afternoon. We have three additional initiatives that we're working on, the registrar self assessment tool, a registry data escrow audit and a law enforcement initiative.

And in the following slides I'm going to give more detail about these initiatives but I did want to share with you these are all under development and so as we develop them further we intend to come back to this stakeholder group as well as some other interested stakeholder groups to get comments in terms of how we can improve the proposed processes we are planning to implement in the coming months.

So I'll give you more details about these three initiatives. We'll start with the registrar self assessment tool. As you know, we have over 900 ICANN accredited registrars and attempting to assess compliance with all of the requirements of the RAA for 900 parties is challenging and trying to conduct audits for every provision is not practical.

And so what we have decided is we need to come up with a more efficient process for assessing registrar compliance and in consultation with some

registrar representatives we have come up with a plan to implement a registrar self assessment tool that will be an online tool and it will be a series of questions concerning different RAA provisions.

And registrars will check whether they are in compliance with these different provisions and we are thinking this would be done on an annual basis and an officer in the company would have to attest that all of the answers provided are true and correct. We believe that after these parties provide this information it'll be necessary to verify some of this information.

We might ask for additional documentation. We might actually conduct an audit in particular areas. But we believe this is far more efficient than trying to conduct audits concerning every provision of the RAA. So again we're at the initial phase of developing this registrar self assessment tool and we have been in communication with the registrar constituency.

I think it's registrar stakeholder group. And we have gotten some initial feedback concerning some things that they think are important and we are at the stage now where we are going to try to develop a questionnaire and we will before we actually send the questionnaire out we are going to beta test, actually have some registrars come back and tell us how long it took them to answer the questions, what kind of resources were needed within their company to gather all their information that was requested by the questionnaire.

And we suspect that we will actually implement this plan some time in 2012. Again, we would seek comments from different interested groups concerning our questionnaire because maybe there are things we didn't think of that are important and we realize that we can't think of everything. So that's the initial plan.

Again, it's under development and we welcome comments from this community as we proceed with this process. What I didn't mention, I'm sorry,

is after we receive their responses I think I did mention we might do audits or request additional information. But one thing that I didn't say earlier is we are planning to publish data concerning our findings.

And by using an online tool to capture this information we are hopeful that we'll be able to easily capture relevant statistics about perhaps Section 3.3.7 appears problematic for 34% of all registrars and this is what we're doing to address that issue. We'll be able to share relevant information about compliance with different provisions based on questionnaire responses and our follow up work.

And I think that would be useful to this community. We are also developing a registry data escrow audit and as you know with the launch of new gTLDs registry failure is an issue. You have a number of new parties who may not know much about the registry space or maybe for whatever reason they weren't sufficiently funded.

All kinds of things can happen to a registry although we have able registry partners to date. That could change with hundreds of new partners. And so it's important that we have a way of assessing whether the data escrow that registries are required to deposit is complete. We need to assess whether it meets all of the requirements in the registry agreement concerning formatting and content.

And we plan to do this in a phased approach with the 18 registry partners that we have now so we are going to start with some of the plan to start with some of the medium sized registries and smaller registries, conduct the audit, look at the results and then move on to the larger registries. And so we have discussed this with the registry constituency.

And we are going to have a meeting I think some time in July to go into greater detail about our plan and get some comments from them because again, we may not be aware of some of the challenges that they believe are

important in conducting an audit of this type and we are going to take into consideration the confidentiality and security issues that are important to registries for an audit of this type.

So that is underway. Carlos is heading that project. Carlos has been with us how many months now, two? And so he is working closely with the registries to get this plan moving and so we're really excited about this and we think this is necessary in light of the fact that we're going to have a number of registries operating in the very near future.

So we are also working on a law enforcement initiative and the purpose of our law enforcement initiative is to formalize a process for referring matters to law enforcement entities and actually receiving information from law enforcement entities concerning either RAA violations or registry agreement violations.

And we all know that everyone who is in business running a registrar or using the Internet doesn't have good intentions. And so it would not be responsible for ICANN to ignore the fact that we have to have these relationships with security entities as well as law enforcement entities so that we can appropriately refer matters when they concern things that are outside of our control.

We don't have law enforcement expertise and so we need to have a formal process in place to ensure that appropriate matters are referred in a consistent way and we consider a certain set of criteria when we're trying to make these referrals. And so this is under development. We're still in discussions with law enforcement entities.

And we intend to be very transparent about whatever process we come up with and seek comments from the community about our process because registrars and registries are very interested in how we go about developing

this process because it concerns them. So we think this is a needed initiative and we're excited about moving forward with it.

So now we are going to go over some of our compliance activities for the last six months. In any discussion about compliance activities should begin with a discussion about our consumer complaints and that's because that's usually where our compliance activities stem from - some person or entity files a complaint with ICANN.

And from this pie chart you can see that the large majority of complaints that come to ICANN concern transfer problems. And so as a result of knowing this information we have conducted an inter-registrar transfer policy audit to try to bring registrars into compliance who may not have been following our policy.

And what we found through that audit was that there were registrars that didn't understand their obligations. And so we thought the audit was very useful but we still have to do more because transfer problems are a huge complaint in the community. So the previous slide explains the next slide because we receive so many transfer complaints.

We send out a number of transfer compliance notices to registrars and then the other sections represent other notices that we send concerning other complaints or maybe the result of audit findings or sometimes a registrar fails to pay fees. We have to send compliance notices. But the beauty of sharing this information and we haven't always been able to share this information with you is in almost 90% of the cases where we send one or two compliance notices, registrars correct the noncompliance.

And so we spend a significant amount of time and energy resolving issues informally and we think it's important that you have an understanding of where a lot of our energy is spent, which is trying to bring registrars into compliance this informal way. And of course there will be registrars that even

after we attempt to contact them via email, via telephone, via facsimile, via postal mail, they don't respond to us.

We have to take escalated compliance action. Then there are also registrars that we are able to reach but they decide they don't want to comply and in those cases we have to take escalated compliance action. And so the next slide explains those cases where we had to take escalated compliance action because for whatever reason the registrar didn't come into compliance after we attempted to resolve the matter informally.

And this is a summary of our non-renewals and terminations since 2003. And so when I first looked at this chart I was trying to figure out what accounts for some of the 20 notices in 2009, 13-4. And so of course we can't say with any degree of certainty how you know, one year results in 20 non-renewals or terminations and in another year four to date.

But my estimation and again, it's my estimation is I think past escalated compliance action by ICANN has served as a deterrent in the community with registrars. In addition, you saw our pie chart where we showed you how many compliance notices are sent out. And I think that that work in trying to resolve matters informally has been effective in having matters not have to (go to) the escalated stage.

So just some thoughts - and we're still in 2011 so that number will probably go up. So everyone is concerned about Whois. And we are too. And I think (Maggie) mentioned that we - did you mention the Port 43 tool? Well, in order for people to even see the Whois data they have to be able to access it. And we receive complaints all the time that someone can't access Whois information.

And so we developed this Port 43 Whois monitoring tool to monitor all of the registrars' Port 43 services. And we're glad to say that compliance has gone up and what we have done recently was to develop an IP address that was

outside of ICANN because we felt like there are probably some registrars that might be white listing our IP address and we're not really getting a sense of whether they are making Whois services available to the general public.

So we developed this other IP address that no one can tell has anything to do with ICANN and we're using that to monitor compliance as well. And our findings are still very positive to date. Khalil, do you want to comment on that? He's been monitoring this.

Khalil Rasheed: Right. Now we set this up just recently about two weeks ago. We did initially notice a slight difference but we accounted it to registrar "families" using shared list servers. And it was very limited actually.

J. Scott Evans: Out of the 970 accredited registrars do you know how many are either owned by the same entities or related to each other or do you not have information on that?

Stacy Burnette: I don't have that information with me. We do have some analysis regarding the registrar families. Perhaps we could share what we know after the meeting via email. I could provide it to J. Scott. So maybe Khalil, could you write that down? I'm going to move on. Are there any other questions?

Kristina Rosette: Actually I do. When you all are checking the Port 43 access are you making multiple queries from the same registrar? And let me ask you why I'm asking.

I have in my personal experience have found that I'm most likely to run into a problem with access when in connection with a cyber squatting investigation I am trying to pull Whois details from multiple domain names registered with the same registrar. And that very quickly - most cases end at the first one or two but once I start to get above five is when I see the problem.

So I'm just wondering whether if your monitoring is replicating those frankly real life conditions and if so if the numbers are changing at all.



Khalil Rasheed: To answer the question, yes we do. We conduct multiple queries daily from each of our Whois monitoring tool in-house and also with the new proxy tool set up. So I think what you're running into is actually the rate limiting practices of certain registrars.

And one of the things that we have struggled with is the challenge of there being no actual service level agreements behind rate limiting or Whois Port 43 access. So to answer the question, yes we do. But we have noticed when we do significant or when people do significant queries, they do encounter rate limiting.

Kristina Rosette: So just to follow up, to remedy that deficiency is that something that subject of course to consultation with general counsel, etcetera, is that something that would be the subject of an RAA amendment? Or would that be something that would be done through for example some kind of Whois PP type activity?

Khalil Rasheed: I think my colleagues in the GNSO support would be able to better respond. But with ICANN being the multi-dynamic stakeholder model, I don't think it it's something that would be in the purview strictly of compliance.

Steve Metalitz: So when you say on the second bullet three registrars temporarily blocked ICANN's actions, is that the rate limiting scenario that you're talking about? Or is the rate limiting scenario in addition to that?

Okay. So when you're making multiple requests you're getting through except in these very isolated cases that seem to involve rate limiting? Thank you.

Man: (Unintelligible)

Stacy Burnette: Right. So first of all let me share this with you. As (Maggie) said, we're doing a review of our tools that are available for tracking and all of the tracking we

do that reflects how many compliance notices are sent out - all of that is manual.

And so we're trying to enhance our tools so that we can type in a couple of clicks on a computer and then we can see trends. Personally and I'm sure everyone on the compliance staff can tell you there are certain registrars that we are aware of because we see their names come up over and over in different areas.

One month it might be financial, another month it might be Whois, another month it might be something else. So yes, we do see that sometimes and we attempt to have conversations with these parties. But sometimes it'll be four or five months before we see them come back in another area. So yes, we have seen what you see.

Again, we do try to work things out informally but we have lists where we're considering escalating matters based on the fact that we are aware of non-compliance repeatedly in different areas.

Carlos Alvares: If I could actually add on to that, with respect to Whois monitoring when we last met with you guys in San Francisco and I talked about three compliance actions and one of those was a breach notice and that was a notice of breach as a result of what I would call engagement shift with Port 43 access.

So when we have seen it on certain occasions particularly here, we were able to say hey, this is engagement shift and actually take enforcement action as a result. And I anticipate a lot more of that in the future.

Stacy Burnette: We have done that with renewals as well. A registrar has kind of played games throughout the year and then near the point of renewal we have had to make some assessments.

Maybe we don't want to renew with this particular partner based on their past consistent non-compliance in various areas.

Man: (Unintelligible)

Stacy Burnette: So that means something like an Excel spreadsheet. What we have set up is an email account where we send all of - we copy all of our compliance notices and then we have someone on our staff who has to count all of the compliance notices in the different categories that were sent to that email address.

So we're literally counting one, two, three, how many came in concerning Whois violations, how many were sent to this email account concerning data escrow. So that's what I mean by manual. It's not like a computer tallies something up in two seconds. But we believe because we...

Man: (Unintelligible)

Stacy Burnette: We believe it's worth the effort even though we don't have a great tool right now. It's worth the effort to share with you where a lot of our time is spent because I think the community in the past just saw terminations, non-renewals and breaches and they thought that's all we were doing.

No. Most matters are resolved informally and we think that's a good thing because when you escalate a matter it involves so many staff members. We have to come together and we have to analyze okay, so what steps should we take, when should we send this out? It's an exhaustive process, it's expensive and so it's better for the registrar and ICANN if we can resolve it quickly without having to escalate.

But there are times when you can't resolve it quickly. You have bad actors and you have to escalate. But there are also instances where registrars are completely unaware they are out of compliance. There are language barriers.

Some registrars don't understand their obligations and so to just move forward with a breach notice or termination when a registrar didn't even know what was going on, I think that would be unfair.

So you have to look at the situation and make some determinations as to what your appropriate next step should be.

Steve Metalitz: I actually had a question about something earlier in your presentation but I don't know if you wanted to go through it.

Stacy Burnette: Okay. Can we finish?

Steve Metalitz: Yes. That would be fine.

Stacy Burnette: So one example - I think I was sharing with you most matters are resolved informally. We analyze how many of our data escrow compliance notices resulted in compliance after we sent one or two inquiries telling them you need to correct this matter by a certain date.

And what we found is just over 90% cured the noted breach after they received either one or two notices. So our compliance notices are effective. It's not as if all registrars completely ignore them. No, they take them seriously. But then there are always a few that don't. And we have to do something else with them, which is usually the escalated compliance action.

So that concludes our presentation. We are open to questions now.

J. Scott Evans: Mr. Metalitz.

Steve Metalitz: Stacy, I was interested in the registrar self assessment tool, which I think certainly has a lot of possibilities for making your work more efficient and more effective.

You mentioned that the idea is that it would be mandatory for the registrars to respond to this and also that you would be verifying some of their responses. My limited experience in dealing with registrars on contractual issues is that many of them will not do anything that requires them to go one micron beyond what they think is the minimum required under the contract.

And I'm not critical of that. That may be in some cases a reasonable legal strategy for them. But I'm wondering are you getting any push back from registrars to the idea that they would be required to do on an annual basis, fill out this questionnaire, respond to the questionnaire and then respond to follow up?

Or are you basically getting a sense from them that they are not going to challenge this as outside the scope of their contractual obligations?

Stacy Burnette: So today when we met with the registrar stakeholder group they sought clarification. Is this an audit, an agreement? What are you doing? And so we made it very clear under our 2009 RAA this would be an audit and you would be required to respond.

And so they didn't seem to object after that. So we don't know how it will play out until we actually implement this but if they fail to respond then we will have to take swift action because we are trying to assess their compliance with the entire agreement. This is not something to play with. And if - we'll just handle it as it comes but we made it clear today and they didn't seem to object.

Steve Metalitz: That's certainly encouraging. And I just which just too and maybe you've probably thought of this but you mentioned that registrars don't understand what their obligations are.

I wonder if something like that could be used at the outset if you have a registrar newly coming into the system, at the outset they would have to

complete this or very early on in the process and they're kind of educated about what some of their obligations are by the questions that you ask and the answers that they have to give.

It's an idea that there might be kind of an educational tool, let's put it that way, and not just a self assessment.

Stacy Burnette: So I'm not sure if you're aware of this, I don't know if the registrar liaisons ever come and talk to this group but they have recently developed a registrar electronic training tool and all new registrars will be required to take this training tool.

And it's very comprehensive and so that would address those training issues that you're talking about and someone within every registrar organization has to be certified and take this training tool. So we believe through that training tool, which has an RAA section about various provisions they need to be aware of and what it would take to be compliant, that training tool, which we have all taken.

It's a great tool I think would help in the training aspect. In addition, we're considering doing some road shows in different countries to help registrars in regions where we have heard complaints in the past that they don't really understand their obligations.

J. Scott Evans: Okay. We're taking two more questions one, I think (unintelligible).

Kristina Rosette: Okay. Thanks very much as always for coming in with these updates. They are very helpful. Two questions - the first relating to Whois data problem reporting.

I seem to recall at one of our past meetings we talked about the fact that there is a tool being developed or perhaps has been developed that would allow for multiple submissions at once. And the only thing that's available now

on Internet is the single submission request. And I was just wondering if we could get an update as to the roll out of the multiple submission request.

The other thing has to do with the registry escrow audit. And maybe I'm misunderstanding but I guess one question I would have is that part of what we're all told about the new gTLD introduction is that you will have all kinds of new registry models and all kinds of different entities that may not currently participate in the ICANN community being registry applicants.

And I guess my question is that as you're developing that audit process and consulting with the registries about are we thinking about this wrong, is there a particular category of information that we're asking for that might be incorrect or unduly burdensome? To what extent are you building in the possibility that the questions and the process built for these existing registry operators may not necessarily for example or may raise some other issues with regard to for example community TLC or operating a single registrant, single user TLD?

Stacy Burnette: Okay. In terms of the first question I think (Maggie) mentioned that we're trying to make some determinations about the WDPRS system and we continue to try to enhance the system that was first introduced in 2002.

And you can imagine in terms of an electronic tool, something that was first introduced in 2002 is probably ancient at this point. And so we're trying to decide do we continue to try to enhance this old tool or do we just get a whole new system? And so in direct response to your question about the bulk submissions, we had one particular community member who we allowed to test our system.

And there were some problems with the testing that we are trying to correct quickly. And we have a document that we want anyone who is going to try to use the bulk submission process to sign so that they act in conformance with

a certain way or else their privileges will be suspended. And so all of that is being considered with this whole redesign.

And so I wish I could tell you we're going to deliver something to you fast but we're really trying to study hard what we can do to deliver a tool that works once and for all because we're tired of coming to you with excuses about the WDPRS. This is not fun. So that's the answer for now. It's still not available. We have a dedicated staff person who is probably tired of hearing that today who is going to be dealing with Whois data problem report system.

But we feel confident in his abilities to make some good decisions that will respect the interests of the community who uses the WDPRS system. So that answers that one. In terms of the registry audits that we're developing now and will they be useful for these other entities that haven't even come into existence.

So what we're planning to do after we finish the registry data escrow audit is to make some assessments based on what we learned from that. And then we'll look at where we are at the time because if we have some new business partners on board then we will have to determine okay, so how can we use this audit for this type of new registry? Will it work?

So yes, we'll be reassessing continually to address the needs that we have to ensure that these new registry partners are compliant with their agreements.

J. Scott Evans: (Unintelligible)

David Taylor: Thanks very much for those very useful numbers and the information that you've shared, which is very helpful I find. I just have one quick question pertaining to one of the pieces of statistical data that you popped up earlier in the show where you flagged I think about 2400 transfer related issues that had come up.



And I'm presuming there that they probably are transfer issues outside of the bounds of for example the UDRP for instance.

And that of the 80 odd issues that were reported under the UDRP what proportion of those have you found that you can say that would relate to understanding difficulties for example that registrars had, may have had, with respect to the provisions under paragraph 8A in terms of preventing the registrant from transferring the domain during a pending UDRP dispute?

And of those approximately what proportion do you think have been able to be resolved by the registrar for example using the tools provided under paragraph 3 to remedy transfers that have been made in breach of paragraph 8A?

Stacy Burnette: Okay. So that's a detailed question and we probably need to do some follow up to respond. But I am going to share with ask Khalil because he manages our UDRP matters. And if you have a UDRP issue he is the guy to go to. So can you answer that Khalil or do we need to provide some follow up information? Okay.

Khalil Rasheed: (Unintelligible) -

David Taylor: Very few. Okay . That's very useful information. Thank you.

J. Scott Evans: All right. With that, I'm going to turn those of you who are wanting more abuse to go to the GAC session. And those of you who want to go to the bar, go to the bar. So have a great day and thank you all for attending very much.

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