
HYDERABAD – Input to Competition, Consumer Choice, Consumer Trust Review Team
Friday, November 04, 2016 – 09:00 to 10:30 IST
ICANN57 | Hyderabad, India

JONATHAN ZUCK:

Members of the Review Team in the room. Each have different areas of expertise. If you have specific questions, we'll get answers from the front row here. Please feel free. In fact, could everyone who is on the Review Team in the audience right now just stand up and wave? If you have a question, please stop somebody in the hallway and ask the question as well. It feels like we always run out of time for questions, so please let's make sure we get all your questions answered.

We are the Affirmation of Commitments mandated review on the effects of the New gTLD Program on Competition, Consumer Trust, and Consumer Choice. We're also looking at the effectiveness of the application evaluation process and of the safeguards. What we're trying to do here in the near term in this meeting get your feedback on some of the findings, ideas for recommendations, etc. We want this to be as interactive as possible.

We've tried to make this a very evidence-driven project, so there are a number of studies that have been commissioned to inform

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our work. There's a Global Consumer Research project that happened in two waves: one survey of end users and one survey of registrants that took place a year ago and then complementary surveys of end users and registrants that were delivered recently.

There's also an economic and price analysis document, phase one of which was created a years ago and phase two was just recently delivered and is now currently open for public comment. So please take a look at that as well.

There's also a recently completed survey called New gTLDs and the Global South, which is an attempt to understand why there weren't more applications from the global south by asking some of the entities that might otherwise have applied for strings. We'll talk about more of that later. That document is available on our wiki as well.

Then in terms of additional research work that's in the pipeline, there is an Applicant Survey that we'll be talking about some preliminary results from, but there's more coding to be done and so that will be delivered to the public shortly. Then we expect in February to receive the results of a survey conducted by INTA of its members on the implications for trademark owners in the New gTLD Program. Then finally in March, we're looking at least the preliminary findings of a DNS Abuse Study.

So those are some of the studies that are going to help inform our research and, hopefully, yours into the future [of the DNS.] There's a session here on just those research efforts that on 5 November, which is Saturday. So please feel free to come to that session for a deep dive with Nielsen Group, Analysis Group, and AM Global.

Just some initial observations. It's very early, and so we talk about this as "early innings" because the full effect of the new gTLDs will take a while to be fully understood. The year that we've looking at is the year that all these things have been delegated. So a lot of what we've felt our job has been is trying to come up with a model with which we look at the DNS marketplace and how we should explore competition and define markets so that ongoing data collection and research and evaluation can happen into the future in an effective way.

One of the challenges we face is, despite having an unusual amount of data, we don't have enough. There are still a lot of challenges for getting sufficient data about pricing, both in the retail and wholesale markets, that would really help to inform the price impacts of the new gTLDs as well as information about DNS abuse and the actual costs to trademark owners. As you'll see, we made some analysis of the information we have. We're waiting on INTA to find out more.

A number of alternative market definitions were considered. There really wasn't enough information to come up with one unified market definition to use for our analysis, so instead we look at a number of different permutations and interpretations of the market and allow you to see what the data is when you include ccTLDs and when you don't, etc. So our analysis covers a number of different areas.

Without further ado, what I'd like to do is hand the clicker over here to Jordyn to begin to talk about the Competition and Consumer Choice portion of the study.

JORDYN BUCHANAN:

Alright. Thanks, everyone. I chair the sub-team of the CCT RT that focuses on Competition and Consumer Choice. To start off with, I think it's helpful to think a little bit about the structure of the domain name industry and how that supports the emerging gTLD businesses that we see coming about as a result of the New gTLD Program.

In particular, there are two existing parts of the industry: registrars who act as a distribution channel and backend service providers who provide technical capabilities to registry operators that make it quite a bit easier to launch and operate a gTLD registry than would be the case if the operator had to build out all of these capabilities itself.

The economic term for these things is inputs. The effect of this is that because these inputs already exist and don't need to be created by the registry operator, it's possible for a registry operator to operate at a much smaller minimum viable scale than if they had to build out this whole business where they would build their own distribution channel where they would have to set up their own data centers and technical operations themselves.

As a result of that, we see hundreds of registrars offering new gTLDs. Although there are only a handful of backend service providers, there are at least six of them today that provide services for at least a million second-level domains. So we see quite a robust level of competition at both of these scales in the industry.

The flipside of this is that, because there's a large number of new gTLDs, most of them are actually quite small at this point. Ninety percent of the new gTLDs have less than 10,000 registrations today. That's after taking out the .BRANDs who we would naturally expect to have small numbers of registrations since they're just supporting a single company.

Having said that, some of these gTLDs are quite new and have launched, and in some cases they haven't even launched yet. So we may expect these numbers to increase, but still on average

we're seeing compared to legacy gTLDs in particular these tend to be quite a bit smaller.

Having said that, only a single one of these new gTLDs has actually launched, become delegated in the root, and then unlaunched essentially or ceased operations. That was actually a .BRAND, so none of the gTLDs that have held themselves open to the public despite having these small numbers have failed at this point.

So one of the things that we're keeping an eye on is whether the fact that these inputs exist makes it possible for these numerous new gTLD operators to continue to survive despite the fact that they have small numbers of registrations.

One of the things that we were unable to get to in our data study so far was what the costs and revenue requirements would look like for minimum viable scale. So we think this is an important area to continue to study to see how robust these gTLD operators will be going forward.

The next big picture thing that we like to take a look at is taking a look at the overall shape of the gTLD market. Something really interesting has happened since the launch of new gTLDs actually being delegated at the end of 2013. That's about half of the total registrations in gTLDs overall, so between legacy and new gTLDs, half of the growth in registrations over the past three

years has been in the new gTLDs. That means about the same amount of growth has occurred in new gTLDs as in the legacy gTLDs that we're familiar with, including .COM, .NET, .ORG, .INFO, .BIZ, and others.

Similarly, if you take a further step back out and you look at domain name registrations worldwide, including ccTLDs, and look at growth over the past three years, each of those three buckets – ccTLDs, legacy gTLDs, and new gTLDs – have contributed roughly equal amounts of growth over the past three years. So it's about one-third/one-third/one-third. The net result of that is that new gTLDs represent today about 9% of the total registrations in the new gTLD marketplace.

That's actually in my opinion, and I think in the opinion of a variety of folks on the team, a significant finding in that in aggregate the new gTLDs have represented a significant amount of growth in the domain name registration marketplace, about equivalent to either the legacy gTLDs or ccTLDs.

In parallel to this, one thing we see is that the amount of concentration in the marketplace – and by “concentration” we mean how many companies control what fraction of the market. In the legacy gTLDs, there's quite a high degree of concentration. There's a small number of TLDs and TLD operators that represent a very large portion of the total market space. In the

new gTLDs, that's not the case. We see a much greater dispersion of registrations across a variety of gTLD registry operators.

As a result of the new gTLDs contributing a significant part of the amount of the overall growth, the concentration in the overall market has decreased as well. This effect so far has been modest because there was obviously a very large number of existing registrations in gTLDs and ccTLDs at the launch of the program. But the increment that we've seen so far has been positive. New gTLDs are having what most economists and antitrust regulators, for example, would consider to be a positive effect in the direction of this concentration.

In other industries when we see concentration decrease, we often also see positive effects for consumers like decreases in prices. I will note we haven't yet seen that in the gTLD marketplace. We think that there are a variety of reasons for that. Number one is that price is one of the areas where we're actually struggling to get the most robust data, so in some ways we can't measure this.

Also, another problem is that the legacy gTLD operators largely operate under price caps, which means the price that they might want to charge might be higher than the price that they're allowed to charge by the price caps. So it's possible that the

price they want to charge has decreased over time, but because the price cap is still lower than the price they want to charge, they're only allowed to charge the price cap, so we haven't been able to see the full effects of competition as a result.

So this is another area where we think on an ongoing basis it would be good for ICANN to gather some more information relating to price so we can track whether these positive effects that we see in terms of decreasing concentration result in consumer benefits, such as decreased price over time.

One of the interesting conversations that we've had within the Review Team is to note that many of the domains that have been registered are not used for standalone content or new content and instead many of them are either parked or unused. By that we mean either you try to go to the domain name and you just get an error because it hasn't been set up yet, or you get some sort of parking page – either one that displays ads or may say that the domain is for sale. It may just be a blank template, etc.

We actually see there's one provider of information called nTLStats that we look at, and it shows that 65% of all the new gTLD registrations are currently parked or unused. That's a very significant number, obviously, almost two-thirds. We see quite a variety amongst the individual new gTLDs, ranging from a high

of about 95% down to a low of about 23% among the top 100. But still, that average is very high.

We also know that parking is really common in legacy gTLDs as well, but what we don't have is direct data to be able to compare what the prevalence of parking is like in the legacy gTLDs to compare to this 65% number.

We're trying to dig into that right now. Depending on what the results are, it's possible that this will sway our thinking some about how we view the competitive landscape because if it's the case that parking is much more prevalent in the new gTLDs than the legacy gTLDs, it may be the case that that has some implications for the long-term viability and growth of the new gTLDs. But we're continuing to look into getting additional data on this before we draw strong conclusions here.

We also took a look at what the effects of the New gTLD Program have been among competition between registrars. The short answer is not much has changed. That's not necessarily a bad thing because there was already a robust level of competition amongst registrars. Those same registrars are providing registration services, as I indicated earlier, for the new gTLDs and it hasn't really had a positive or a negative effect on competition among registrars.

Occasionally, we see individual TLDs where there are higher levels of concentration where just a small number or maybe one registrar has most of the registrations for that particular gTLD. But even in those gTLDs, we still see large numbers of registrars carrying the TLDs, so it's still quite a robust level of competition.

The one strange thing that we've noticed is that despite the fact that there's very robust competition among registrars, the pricing between registrars is extremely variable and the economists on our team find this surprising. When you get the exact same service offered by different competitors, you expect to see very similar pricing in a very competitive market. For some reason, we don't observe that among registrars in the gTLD space. That's just a somewhat surprising result to the economists. We don't particularly take an opinion onto whether it's a good thing or a bad thing but just note that it's an interesting result that may deserve some further study in the future.

When we talk about the pros and cons of the program, we're balancing the benefits relating to competition and consumer choice with potential costs to the community and others. One of the area of potential costs is to trademark holders who might have to, for example, register defensively or incur other costs.

As with previous expansions of the gTLD space, we see that some trademark holders are registering defensively in the new gTLDs. Analysis Group recently did a study of the TMCH and saw that 54% of trademarks that were registered in the legacy gTLDs, including .COM, were registered in at least one of the new gTLDs. On average, these trademark holders are registering in a small number of new gTLDs. The median there is 3; the mean is about 8.

The typical trademarks are not registered in a particularly large number of the new gTLDs, but about 4% of the trademark holders have registered in at least 100 new gTLDs, and there's one trademark that was registered in 406 of the new gTLDs. So those trademark holders are bearing significantly higher costs than typical.

Right now we see a somewhat bimodal distribution where most trademark holders, at least in this defensive registration and direct costs around defensive registration, are seeing relatively small individual costs per trademark. But there's a small number of trademarks that are bearing potentially significant costs around defensive registration. We continue to look for other areas of costs that trademark holders may be bearing around, for example, blocking or increased costs around litigation and other reactive mechanisms. That will show up further in our final report.

Jumping back to benefits for just a moment, we took a look at what the consumer choice opportunities were as well as a result of the program, and we see that consumers are choosing to register in the new gTLDs even when they potentially could have registered in the legacy gTLDs.

A good example of this, in a small number of cases, about 18%, the exact SLD that was registered in a new gTLD could have been registered in .COM, for example. So if I was to register JORDYN.NINJA, it is possible that maybe JORDYN.COM was available instead. About 18% of the time, we see that registrants could have registered that exact string in .COM and instead are getting it in new gTLDs.

If we take it even a further step out and we use an example of it, our esteemed chair registered, which is BIGSHOTS.PHOTOGRAPHY. He registered BIGSHOTS.PHOTOGRAPHY despite the fact that BIGSHOTSPHOTOGRAPHY.COM was available. So the concatenated second-level domain and top-level domain was available in .COM. Almost all the time, 92% of the case registrants could have registered the .COM that represents the concatenated second-level domain and top-level domain.

So we see that even though in many cases the new gTLDs are charging higher prices, registrants in new gTLDs are preferring

them presumably because they're more attractive for some reason. What we see from the Nielsen survey to registrants is that registrants are attracted to these new gTLDs because they perceive them as modern, flexible, facilitating communication, and in some cases because they're priced well.

I'm going to just race through these last couple of slides because these are very preliminary results. For example on pricing, you'll see in our initial report roughly that we don't have anything particularly interesting to say about pricing, largely because of the limitations on data that I mentioned earlier. So we haven't been able to draw strong conclusions on that topic yet.

Finally, we've taken a look at the different types of policies that registry operators offer just to see whether registry operators are competing on this notion of having different types of policies. We actually see some variance.

For example, very few of the TLDs have limitations on who can register in them. Of the top 30 TLDs, .NYC was the only one that has a limitation on who's allowed to register. You have to be a resident of New York City in order to register in .NYC.

Having said that, none of the highly regulated TLDs that have more restrictive requirements in this area are represented in that top 30.

Then you see here some of the other findings that we found regarding policies.

I think we've got a few minutes now for Q&A if people have questions regarding the topics of competition and consumer choice. Steve?

STEVE DELBIANCO:

Thank you, Jordyn. Steve DelBianco with NetChoice. I was part of the team that helped to try to figure out what the Affirmation of Commitments was asking for when it said competition and consumer choice. Those were not thrown together as similar terms. They're distinct, and I appreciate the way you've approached it, that the consumer choice angle is strictly from the viewpoint of somebody deciding the three Rs: whether to register, whether to resolve or redirect, and then finally whether to start spending money on referring your users to that new URL.

If I were you, I would not be troubled by a slow uptake in fully resolving new names. A redirect or a park is entirely understandable because they haven't yet made the decision to spend the significant money that it takes to change the signs on your trucks and your shirts and your business card. That expenditure dwarfs any expenditure of picking up the name.

Then when it comes to pricing, you're really right to look at the pricing as a cost-driven side as opposed to trying to attract registrants from the standpoint of "we're doing it for a dollar less" because the cost of that registration is so insignificant compared to the three Rs that it's unlikely that that will make much of a difference.

But when it comes to cost-driven pricing, I have to believe that concentration – the term you talked so much about – concentration is what will drive down the portion of fixed costs that factor into a business model. Because variable costs you can't do much with, but the scale that's achieved through concentration allows that expenditure to come down.

I'd be interested if you look at concentration two ways. There's internal concentration in a company like Google running multiple TLDs on the same servers. That's a level of concentration Donuts and Google have. But there's other concentration, and a standalone TLD operator in a new TLD might use a backend provider that themselves is running a lot of scale. Either way, the scale benefits, the concentration benefits me in having lower fixed costs.

Then finally, I agree with you that 9% is a huge achievement in just a couple of years. That 9% of the registrations are done there, that is very significant. It may not feel significant to an

economist who is maybe used to looking at bigger numbers when something dramatic changes in an industry. But I'd be interested to know if that number – that's a global number, right? Have you looked at it in a country or a region to understand whether that number is really different in certain regions where the ccTLD is already a very prominent choice for consumers?

JORDYN BUCHANAN:

Thanks, Steve. That's really helpful feedback. I think to some extent it mirrors some discussion that we've had within the Review Team. But it does help give us some better confidence that we're thinking about this in ways that experts such as yourself and the community that have been looking at this for a long time have had the opportunity to reflect on as well.

To answer your question about looking at country-specific, this is an area where we're a little disappointed that we've done less work than we had hoped to. But we note that there's just recently a study on these topics in the Latin American region in particular where they've done quite a bit of breakout by country.

We're going to look to that as a first step to inform country-based or more specific market-based, and we expect to incorporate some of those findings at least into the final report and hopefully into the preliminary report that we put out by the

end of the year. I don't have anything to report yet, but you should expect to see more soon.

STEVE DELBIANCO: When you do look at that, I would advise keeping the three Rs in mind. The first choice I make under consumer choice is to register. Later, I make a choice to resolve or redirect, and then way down the road I may make a choice to refer people to it.

JORDYN BUCHANAN: Thanks. I think that's a really helpful perspective that we haven't yet incorporated into our discussion, but I'll make sure that we do going forward. Thanks. Jim?

JIM PRENDERGAST: Sure. Good morning. I'm a little confused, and maybe you can set it straight. When you talk about the market and what we're looking at, does the market include ccTLDs or not? Because I heard during parts of your presentation it did and then I wasn't sure if it was all the way through or not.

JORDYN BUCHANAN: Jonathan hinted at this, I think, in the overarching introductory points, which is we don't really know what the market is. So the approach we've decided to take is to look at some of these

competition issues with different definitions of the market and say, “For this given definition of the market, here are the results that we see.”

In some cases, we do take a look and say maybe the market is just gTLDs. Really, a registrant might just consider their options among the gTLDs. It’s possible in certain countries, for example, that is really how people look at it because we see very low uptake of the ccTLDs in some of those countries. In other countries, we see very robust ccTLD registrations. For those registrants, it might be the case that they also consider ccTLDs as a viable option, and so we also take a look and see at a market definition that includes ccTLDs as well.

So you’ll see in the report that often we’ll calculate some of these concentration numbers or market share numbers with various different definitions of the market to help a reader understand, depending on your viewpoint, these are different ways that you might look at it.

I think overall, the results in really fundamental ways, like the general trends that we see regarding, for example, concentration generally decreasing over time and, for example, saying that the share of registrations and growth that new gTLDs are providing are significant don’t really change, but the exact numbers obviously do depending on the market definition.

JONATHAN ZUCK: I guess I'll just add, Jim, thanks for the question. You'll also see in our final report – it's always difficult to figure out what to try to cram into PowerPoint bullets – but that we look at different types of ccTLDs as well. We talk about restrictive ones that you have to be in the country in order to use that have more regional relevance, and then what we're calling open ccTLDs that are in many respects behaving like gTLDs. We've tried to make both of those part of our analysis.

JIM PRENDERGAST: I would say the trend, actually, is not necessarily that they're behaving like gTLDs, but they're being pushed and marketed as gTLDs with .CO, .WS, etc. Then, Jordyn, just back to your point where you'll jump back and forth between defining the market in different ways, I think it would be helpful – we all know in the antitrust game that how you define the market is how you ultimately define how that's going to turn out. So I think you need to be extremely clear to the readers of the report when the market definitions are changing and what it includes and what it doesn't include because I think that could make the results look different as opposed to a much broader market.

JORDYN BUCHANAN: Yes, that’s right, Jim. We’ll attempt to be as clear as possible [on that].

JIM PRENDERGAST: Different color fonts or something.

JORDYN BUCHANAN: Yes, exactly.

JIM PRENDERGAST: Alright, thanks.

DENISE MICHEL: Hi. Denise Michel with Facebook. I noted your, it sounds like, frustration in your inability to get transactional data from registrars and registries and pricing data, which seems quite key to your report and pretty fundamental information that ICANN should have, collect, and provide, especially for these purposes. Could you speak more about why you didn’t get that data and whether you will be including some basic recommendations and requests to the community and ICANN so we can have access to that data and the next CCT review has access to that data?

And then I apologize for missing the beginning. I have a sort of sub-question here. I wasn’t clear on what the timing was for your report, but I note that the proposed changes to the new gTLD

base agreement would eliminate the relatively little pricing data that ICANN collects. Is this something that the CCT review plans on specifically commenting on? Thank you.

JORDYN BUCHANAN:

Thanks, Denise. With regards to timing, I'm going to keep you in suspense and Jonathan is going to address that a little bit later in the discussion today.

With regards to pricing data, there are two areas of data that would have been helpful to the review. The first is data from registrars. Registrars are not obliged under their agreement with ICANN to provide any pricing related information. It was requested on a voluntary basis, and very few registrars volunteered to provide that data.

I think in general, the participants in the industry view the pricing data as sensitive and confidential. There was some perception that providing this information would put their business models at some risk by providing this sensitive information.

I think one of the things that we discussed with the board yesterday is that, in fact, the CCT Review Team itself and ICANN staff never got to look at individualized data. Analysis Group was the recipient of all the data. They did the analysis and then

provided us with aggregated data. So some of the sensitivity is probably not correctly placed, although we understand why the contracted party would have concerns about providing this data.

For example, I work for a company that has both a registry operator and a registrar, so it would probably be inappropriate for me to have direct access to any of that data. I did not, but it may not have been sufficiently clear to the registries and registrars that that was the case.

The transactional data I don't think was requested of registries, and that might be something that we could ask for in the future. I think one of the things that we would need to figure out is how to provide that in a way that was wieldy. Because, obviously, we're talking about instead of getting one price or a small number of prices per TLD, suddenly we're talking about potentially millions of transactions.

“How would we transport that data around, how would Analysis Group consume it, and how would we make it useful?” I think are all questions that we would have to invest considerable thought into before we tried to take an attempt at that. It is something that came up as a point that would have been helpful, so I think it's something we would want to revisit in the future.

As to your final question about the changes to the registry contract, it's not something we've discussed internally but I will say that the pricing data in the contract that's provided by the registries to ICANN and the contract that's subject to change is not the pricing data that was used by Analysis Group. There's a separate contractual requirement to provide cooperation with economic studies. That provision of the contract is what was used by staff and Analysis Group to obtain the pricing data from registries. As I understand things, that is not subject to change in the new base registry agreement.

[JONATHAN ZUCK]:

But again just to add, Denise, I think that a key part of our recommendations to the Board with respect to this review is far greater data collection on the part of the organization. What form that takes, whether it's recording it itself or getting it via contract via contracted parties, I guess we don't know the answer to that. But the idea that ICANN needs to be a repository for this data figures very prevalently into the recommendations we will be making, for sure.

BRENDA BREWER:

Asking a remote participant question on behalf of Elain Pruis of Donuts: "What sort of difficulty in getting prices for legacy TLDs have you had? Please explain."

JORDYN BUCHANAN:

As with the registrars, the legacy gTLD operators do not have a contractual obligation to provide price data to ICANN, or to Analysis Group in this case, as part of the economic study. So once again, that would have been on a voluntary basis, and many of the legacy gTLDs did not volunteer that data. I do note some of the new gTLDs have started to move on to the new registry form agreement that does include this requirement, and so that may be helpful in the future.

Additionally, I think as I mentioned earlier, this may be an area where we do need to do a better job of helping both registries and registrars understand how the data is being used and the fact that it is compartmentalized and wouldn't be reviewed by either ICANN staff or the CCT RT team members directly. In fact, I'm hoping that we can help convince the industry that it would be very helpful to have this data more available to better understand the economic foundations of the industry.

We don't see a lot of, for example, analyst coverage. We don't see a lot of academic coverage of the competitive dynamics in the industry, and part of that is just there's not good data to take a look at. I think if some of this was more available, we might see a much better understanding of the opportunities in the industry

and that might help both raise awareness and raise opportunities going forward.

We'll look to work on a communications plan as well as, as Jonathan said, encourage ICANN to look for ways to better collect data in the future.

BRENDA BREWER:

We have a second question from Elain Pruis of Donuts: “Considering the range across new TLDs and parking percentages, for example, how is the group considering or determining when to combine new TLDs in reporting statistics versus when to break them apart?”

JONATHAN ZUCK:

I guess, combine them with what? You mean fragment the new gTLDs themselves into different segments? I guess I don't understand the question.

JORDYN BUCHANAN:

Like Jonathan, I'm struggling to understand the question. I will say Analysis Group did make some effort in their report, which we have not currently mirrored in any of our reporting, to create market segments based on, for example, category where they looked at – I'm just making something up – here are martial arts

related TLDs that would include, I don't know, .NINJA and .KARATE and so on and say this represents a market segment. We want to look at the behavior among those gTLDs in particular.

Like I said, Analysis Group made some attempt to do that, and they're having a research session later today where you could probably talk to them about how they approached that.

Currently, we're not attempting to do that sort of segmentation within our own analysis. We're generally looking at new gTLDs as a whole, legacy gTLDs as another bucket, and ccTLDs as a third bucket, sometimes as Jonathan mentioned segmenting ccTLDs into ones that market themselves more like gTLDs versus ones that have more regional affiliation.

JONATHAN ZUCK:

Alright, thanks. We're going to move on to the discussion. If there are other questions, please feel free to reach out to us after the session as well. We're going to move on to Lauren Kapin from the FTC to talk about Consumer Trust and Safeguards.

LAUREEN KAPIN:

Good morning. Thanks, everyone, for joining us. I'm also joined here by my colleagues on the sub-team, Drew Bagley and Dave

Taylor, who will be handling some of the issues to discuss this morning.

We are focused on the Safeguards and Trust issues. This really flows directly from the Affirmation of Commitments, which defined our mandate, which talked about consumer trust and effectiveness of the safeguards put in place to mitigate issues involved in the introduction or expansion of the gTLD program.

That mandate really defined the high-level questions that we're tackling on this sub-team. Has the New gTLD Program put sufficient mechanisms in place to improve trustworthiness and mitigate risks to the DNS? Those questions we really tried to focus objectively on what has been put in place to improve trustworthiness and mitigate risks. In many cases, those are really opposite sides of the same coin. To the extent there are certain safeguards that are aiming at preventing DNS abuse, that's necessarily going to improve trustworthiness. So these are really related issues.

But then we also have another question that takes a more subjective perspective and is informed by information that Nielsen has gathered in 2015 and 2016. That is asking consumers and registrants – and we define consumers to include both categories – asking, “Have these efforts had an impact on public perception of the DNS?”

So subjectively, we have asked the public, “Do you trust the new gTLDs? Do you trust them as much as legacy gTLDs? Since the new gTLDs have been introduced, do you trust the DNS? Has overall trust of the DNS changed since the introduction of the new gTLD program?” So there is this subjective and objective component to the information that we’re gathering.

Again, a theme you’ll hear repeated is that this is early on in the game. We have this snapshot early on in the process of what’s happening, but it shouldn’t be confused for a statement about this is how it always will be. We have data that we’re gathering now to tell us what’s going on.

That has led to different sub-questions that we’re tackling. In terms of the safeguards, we’re thinking about, “Have they been implemented in a manner that promotes effective enforcement?” We’re thinking about what the impact of the new safeguards was on DNS abuse. In that regard in particular, we don’t have data now, but we’re hoping to have data in the coming months that at least compare the levels of abuse that were going on prior to the expansion of the New gTLD Program and the levels of abuse that were going on since the introduction of the new gTLDs.

That will at least allow us to gain information on a correlation. We won’t necessarily be able to say there’s more abuse now, so

it must be the new gTLDs that caused that. We're not going to be able to say that. But we are going to be able to have information on is a correlation, and that might inform future sub-team efforts. And then finally, "Did the rights protection mechanisms mitigate certain risks involved with the New gTLD Program?"

One of the things that we've been focusing on in particular are the various mechanisms that were put in place to mitigate the risks that were involved in the expansion. These are the safeguards primarily as well as some subcomponents of that: technical safeguards; safeguards applicable to all new generic top-level domains.

And then safeguards that were applicable to certain domains that are in more sensitive areas, that raise consumer protection concerns, that are domains in either regulated industries or highly-regulated industries, our most sensitive area.

And then there were also a set of voluntary commitments that certain registries chose to include in their agreements and, finally, rights protection mechanisms.

In terms of the technical safeguards, there were actually quite a variety of technical safeguards that were implemented as part of the New gTLDs Program. I'm not going to go into every single one, but our report will provide more details. Basically, these were really aimed at screening out bad actors, at ensuring the

integrity and utility of registry information, and promoting more focused efforts to combat abuse. In general, these were implemented either via the application process itself or contract provisions in the standard registry and registrar agreements.

Then there are also a whole set of safeguards that really emanated through the governmental advisory committee's advice in the Beijing Communique that really focused on attempting to mitigate very specific risks. These were divided into, I'll say colloquially, three different buckets: certain safeguards applicable to all new gTLDs, safeguards applicable to certain gTLDs that were in more sensitive categories like regulated markets or raised consumer protection concerns, and then finally the most sensitive area of the domains associated with highly regulated markets.

There again, we had a variety of safeguards: WHOIS verification documentation and checks, provisions that prohibit name holders from engaging in abusive activities, obligations for registries to engage in security checks, and complaints procedures. There what we've seen is that these were improvements to the existing system.

For example, again I'm not going to have time to go through these all in detail, but by way of illustration, there are very extensive WHOIS obligations, very clear specifications and

obligations for registrars both in terms of clarity of what's supposed to be done and when it's supposed to be done. We see that has been an area where there is lots of activity in ICANN Compliance. Indeed, WHOIS complaints are the largest category of complaints that ICANN Compliance sees.

One of the things our Review Team is seeing is that accuracy is still an issue. In that regard, ICANN itself has engaged in an accuracy reporting system project to measure the accuracy of WHOIS information both in terms of syntax and operability. There hasn't been a commitment thus far to engage in the third phase of that project, which would look at the identity accuracy, i.e., is the person who is identified in the WHOIS information, is that the person or entity who is actually responsible for that domain?

These are some of the issues we're looking at, and one of our recommendations may really involve trying to delve into data about whether accuracy regarding identity is an issue that is being complained about specifically, and that might inform a recommendation for the ICANN accuracy reporting system to commit to that phase of its project to look at identity as well as syntax and operability. That's by way of example.

Then our next bucket of safeguards focuses on more sensitive domains, domains that are in regulated industries. There we see

both an obligation to comply with applicable laws and to implement specific security measures for the collection of sensitive health and financial information. Have they been implemented in a manner that promotes effective enforcement?

That's a case where we really would like some more information. When we look at the public-facing ICANN Compliance data, it's difficult to tell whether the complaints that fall into the general abuse category specifically involve violations of this safeguard. So one of our recommendations will likely be to provide more transparency for the complaint information in order to assess what safeguards actually are the subject of complaints as opposed to a more general abuse category.

Finally, the most sensitive area for the safeguards, these are domains in highly regulated industries. These are the domains by their very name that may communicate to the public that they are a trusted entity. For example, a member of the public might see a .BANK or a .PHARMACY and a .CHARITY and believe that means it actually is a bank or a pharmacy or a charity.

That issue really led to a lot of back and forth between the GAC and ICANN regarding how that advice regarding this category of domains should be implemented. The issue here is verification and validation of credentials. How do you make sure that the

people who have the credentials are the people who are actually able to do business in these domains?

The current implementation of the safeguard asks for a representation that the registrant possesses the necessary authorities, and then there are other actions that may flow from that if there are complaints. That is a little different than the advised approach, which really wanted a proactive screening before an entity could do business, i.e., make sure the entity has the credentials before they are allowed to operate that domain.

So we see a very different approach between the advice that was given and the actual implementation. Our recommendation here may involve really trying figure out if this is an issue that is the subject of complaints and perhaps engaging in some checks to see how this system is working, i.e., are people who lack the proper credentials able to buy domains in these highly regulated industries?

Then we have safeguards that are actually safeguards that go above and beyond what is required contractually, and these are the voluntary public interest commitments. Here I'm going to turn it over to my colleague Drew to talk about.

DREW BAGLEY:

Good morning. I'm Drew Bagley with CrowdStrike and the Secure Domain Foundation. Looking at public interest commitments, there are two types. There are mandatory public interest commitments that new gTLDs were required to follow, depending on which category they fell into as far as being regulated or highly regulated new gTLDs. Then there were a series of voluntary public interest commitments that new gTLD operators could voluntary make, and did in many instances, whether or not they were regulated or highly regulated or did not fall into either of those categories.

We're still analyzing a lot of data with the public interest commitments because there are many registry agreements that incorporate these to look at, so we have not completed that yet. But I would like to share some highlights so far.

Thus far, we've seen that 71 out of the 116 of the regulated new gTLDs and 17 out of the 29 highly regulated gTLDs adopted public interest commitments in some form. What that means is the these public interest commitments that they adopted could have been very extensive new commitments to incorporate some sort of rights protection mechanism that did not previously exist, or it could have been something stated as a public interest commitment that perhaps falls into a category that is preexisting, such as abuse mitigation and whatnot.

Then 9 out of 29 highly regulated new gTLD registries include a form of public interest commitments that focused specifically on anti-abuse measures. For these, some of them were mere reiterations, from what we're seeing in our preliminary analysis, of anti-abuse requirements that perhaps are already required by the registry agreement itself. Whereas, others appear to go a step further in creating some sort of new anti-abuse mechanism.

For the top 30 largest new gTLDs by size, there were 6 operators that ran the top 30 ones that actually incorporated voluntary public interest commitments. With that, you see a lot of commonality between the public interest commitments and these top 30 new gTLDs because a registry operator oftentimes if they were running, for example, 10 new gTLDs registries, they would incorporate the same voluntary public interest commitments into all of those agreements.

Something distinct of note is that we saw that one of the operators that ran 6 of the top 30 new gTLDs that incorporated public interest commitments actually reserved a right to unilaterally discontinue any of its voluntary public interest commitments "in the case of a substantial and compelling business need."

We found this to be rather interesting because, on the one hand, these types of commitments are in fact voluntary but they are

supposed to be commitments that are being built into the registry. So then this ability to unilaterally do away with the commitment at any time draws into question how much of a commitment it really is. This is something we would like to explore further and see if this is something where we might develop a recommendation out of that.

This is the data thus far. From what we're seeing, like I said, the range is from brand new actual commitments of something new that we're not seeing a requirement for elsewhere to perhaps a reiteration of items that were already required by the new gTLD registry operators.

Going forward, what we're going to be able to do after analyzing this further is match the correlations between registry operators that did commit to various voluntary public interest commitments with levels of abuse that we learn from our DNS abuse study, for which we'll get the data several months from now and Jonathan will going over that timeline a bit more later in our presentation.

LAUREEN KAPIN:

Thank you, Drew. We're rapidly running out of time, but I do want to also ask my colleague Dave Taylor to briefly talk about the rights protection mechanisms.

DAVID TAYLOR:

Thanks, Lauren. So on the RPMs, there were a number of new RPMs specifically designed and proposed by the IRT (the Implementation Recommendation Team) back in 2009 which was seeking then to mitigate the risk to trademark owners associated with this expansion of the gTLDs. We on the CCT RT are trying to get the database answer to whether the RPMs have actually helped mitigate and also what the cost has been to trademark owners.

As you can imagine, getting the cost incurred by brand owners is quite a hard thing to obtain, so we're looking at various available data sources and to the number of cases decided both using the UDRP (Uniform Domain Name Dispute Resolution Policy) and the URS (Uniform Rapid Suspension system).

There on the side, if we take 2012 as a baseline, interestingly, we've actually found a drop in UDRP complaints. Perhaps less interestingly, there has been a rise in URS, which is quite normal. It didn't exist in 2012, so it's hard to go the other way. I think really by RPM use may be down year-on-year compared to 2012, which was a high year by the way, this only part of the overall picture and the number of UDRPs and URSs may be the tip of the iceberg. If you'll flip to the next slide.

On the wider picture, the cost to trademark owners is certainly continuing and the total cost rising, but this cost is really being dissipated across various aspects: monitoring, cease and desist letters, litigation, the Clearinghouse, sunrises, premium pricing, defensive registrations as Jordyn has mentioned, and also blocking registrations. Obviously, we do want to try and identify good and bad behavior by registries which may cause trust or mistrust.

It's difficult to quantify the various costs here which we're seeing because, again, they're not available. We are getting some data, some pointing to some of it here. If we're looking as we have before, of all the gTLD registrations, we're currently looking at approximately 9% being new gTLDs. If we look to UDRP cases to compare this, and specifically WIPO cases is where this data is from, we're looking at new gTLDs actually counting for 15% of their caseload. That can point to there being potentially more infringement proportionally in new gTLDs than in legacy TLDs, but obviously it's early days in looking at this.

I think really at the present time, current data whether RPMs have appreciably done more or less, we don't know. We're still looking at it. The upcoming point there is we're looking at further data from WIPO and Forum as dispute resolution providers plus, as Jonathan mentioned, the INTA Impact Study which is due February 2017. I'll hand it back.

LAUREEN KAPIN:

Thank you, David. Very briefly, I just wanted to summarize some of the data that we have received on the issue of how people perceive the new gTLDs, particularly compared to legacy gTLDs. The primary source of this information are the Nielsen studies.

When we talk about the public perception here in terms of the level of trust and awareness of new gTLDs in terms of trust, yes, consumers do trust the new gTLDs but the trust right now is only about half as much as the levels we see for legacy gTLDs. For legacy gTLDs, consumers and registrants had put legacy gTLDs in the 90% category. New gTLDs are only approaching 50%.

In terms of a big picture issue, what's the level of trust to the DNS since the introduction of new gTLDs, what we see is trust hasn't decreased. So there hasn't been a negative impact that we see thus far as a result of trustworthiness to the DNS overall since the introduction of new gTLDs.

A couple of interesting issues that were identified as a result of the Nielsen study is that reputation and familiarity really feed into trustworthiness. Over time as consumers become more aware of new gTLDs and perhaps visit those gTLDs more often, we may see improvements to the level of trust.

We also see a perception that consumers and registrants perceive that restrictions on who can purchase domains contributes to trust.

Finally, when we shift from not having the public identify how they feel about new gTLDs (do they trust it) but when we shift to behavior (what would they in fact do, how would they behave) we find that the public's comfort levels about providing sensitive information, personally identifiable information like financial information or sensitive health information, that there is a difference between the level of trust that the public feels toward new gTLDs versus legacy gTLDs. Again, about half the comfort level for providing sensitive information to new gTLDs as compared to legacy gTLDs.

Overall, we see that there are many different safeguards in place to attempt to tackle the risks associated with the expansion of new gTLDs. When we have the DNS abuse data, we'll be able to draw some correlations and see how those safeguards may be working in terms of mitigating DNS abuse. We see that there's still a ways to go in terms of the trust levels between new gTLDs catching up to legacy gTLDs. But when we look at the big picture, we do not see that there has been an erosion of trust to the DNS overall.

With that, I'll open the floor up for questions.

UNIDENTIFIED MALE: Amazon and Facebook in the house.

KRISTINA ROSETTE: Kristina Rosette, Amazon registry. I was just curious on the consumer trust issue. Have you all thought about or taken a look at the extent to which some of the universal acceptance issues may be adversely impacting consumer trust? Just to pick up an example that you referenced yesterday, Jonathan, if your wife can't purchase an airline ticket using her .GALLERY e-mail address, I would have to think that when the happens, consumers start to question, "How reliable is this domain name or this e-mail address that I have?"

LAUREEN KAPIN: That is not something we have data on specifically. I think generally speaking, we may be able to draw some information from our DNS abuse study. But what you're talking about is something very, very specific, and it isn't something we have information on. But certainly, the issue that you raise is an important one, but we just simply don't have data on that right now. So it may be something that might be worth of a recommendation to collect more information on to see whether this is an issue that warrants more focused safeguards.

KRISTINA ROSETTE: Alright, thanks.

JORDYN BUCHANAN: Kristina, I was just going to add that I think if you look at the data, the overwhelming correlation you see with what makes consumers trust the gTLDs is how familiar they are with gTLDs. There may be a little bit of a nexus whether they work or not, but it's really have they heard of them before. If so, they're a lot more likely to trust them than if they haven't.

KRISTINA ROSETTE: Got it. Thanks.

DENISE MICHEL: We've seen quite high levels of malicious abuse in some new gTLDs, so we're really looking forward to the studies that you're doing. On UDRPs, David, just a quick question. Facebook at times has filed UDRPs relating to a whole group of new gTLDs. Are you counting not only number of UDRP cases but number of domains involved?

DAVID TAYLOR: Thanks, Denise. These statistics are just on number of cases rather than number of domains. We do have the data on number

of domains, but obviously it can get skewed. There are some cases with hundreds of domain names in it, but it's still one case against one bad guy. So again, you can look at the data and you can get various things. We can show what we want in many ways. But this is trying to look at it as objectively as possible. But those sort of things are what we're looking at as well.

DENISE MICHEL: Okay, thank you.

ANDREW MACK: Andrew Mack, AM Global. Building off of the last two comments, I'm curious. We were looking at this a little bit as if the world were one market, and in fact the world is a series of different markets. I'm wondering as you're looking to gather the data, the inputs, whether it might be helpful and whether there is a plan to try to look at this in segments. For example, a global south market that might have less familiarity to be looked at in a little bit more detail as a separate cutout. Just a suggestion because we're not all starting at the same place in terms of our familiarity, and thus the questions around comfort and confidence are [portrayed] differently. Thanks.

LAUREEN KAPIN: Thank you. In fact, the Nielsen studies do have segmented information based on regions of the world. For purposes of time, I didn't delve into those slices more specifically. However, that information is certainly in the Nielsen data and is something that we'll be reporting on.

JONATHAN ZUCK: Thanks for your question, Andrew. I think one of the things that's problematic about doing an evaluation of trust is that it's a very difficult thing to measure as well. Part of what Laureen's team has done is try to come up with some proxies for trust in the form of trustworthiness. In other words, are there objective measures for whether or not we've made the DNS more trustworthy? That has a more universal aspect to it. Beyond that, to actually measure trust, we need to start looking at end user behavior.

What the Nielsen survey attempts to do is understand preferences and associations with trust. But when you ask people, "Do you trust something?" it's difficult to interpret those results even though we do have regional answers. So looking at people's behavior is going to end up being the most effective thing. It's like when we ask anybody now, "Is privacy important to you?" they all say yes. But then you look at their behavior, and they all give it up very easily, right? So I think trust is going to be

one of those things that ongoing is going to be a complex thing for us to evaluate.

Any other questions? Okay. That's a good segue into the next section of the report that's related to application and evaluation. One of the things we were tasked with in our mandate is to look at the effectiveness of the application and evaluation process. There is in parallel a PDP effort on subsequent procedures that is ongoing, has 150 members, and is looking very much at generally how that process might be made more effective, more predictable, etc., and looking at it in kind of a general way.

What we as a Review Team did to try and narrow the scope of what we were trying to look at was look at ways in which it disproportionately affected different audiences, for example, or disaffected particular audiences, people that weren't ICANN insiders, people from the global south, etc., people of different income, different types of economies, etc., to try and figure out if there were some ways in which the application and evaluation process was specifically bad for particular audiences.

That's the slice of this or the vector on this that we decided to look at. Consequently, we looked at two different studies that are both relatively new that I spoke of at the beginning. One is the study conducted by AM Global that was an attempt to

identify cohorts in the global south to the types of entities that applied for strings in the global north.

It was an attempt to ask everybody who didn't apply for a new string why they didn't apply. That's an interesting exercise. But if you look for what types of entities in the global north applied and try to find similar entities in the global south and then ask that question directly, you get some interesting feedback.

Then in addition, we did a survey through Nielsen that actually asked all the applicants what their experience was like. From that, we're trying to percolate out what the issues were associated with the application process and how that process might have been discriminatory against outsiders, etc.

I was going to just share some of the preliminary results of both of those. That slide is out of order from my recollection, so I'm going to jump ahead here.

Here's a little bit of a survey of the gist of the results from the AM Global survey of what I sometimes call "appli-can'ts," the people that didn't apply, because there were very few application in the global south. I recommend everybody go out and read this report that's now available on the wiki. But in summary, there were a number of different buckets of feedback from this community.

One had to do with awareness and the fact that very few people in the global south were aware of the New gTLD Program, and those that were, were very ill-informed about the details of the program: either confused about what the price might be, confused by the complexity of the application process, not clear on what resources were available to them to avail themselves of the process. So it certainly points to the notion of trying to improve outreach in the global south and better communicate and probably have an ongoing process for communication.

The second had to do with business model. It wasn't immediate apparent to a number of people that AM Global staff interviewed what the business model was to them. Now many might argue that it wasn't clear to people in the global north what the business model was going to be either. But in a case where that amount of money, if we say it's \$250,000 all-in to actually get a string, is a more significant decision to make, then the bar for how well I understand my potential business model and whether or not I can make this money back is a little higher. So that acted as a barrier to entry for folks in the global south.

One of the recommendations that came out of that study is that we might want to present case studies or business case templates, etc., that we may be in a better position to do now than we were at the launch of the New gTLD Program so that people can better understand, "Oh, this is why a brand TLD

might be interesting for my company, or this is why a generic string might be interesting for my professional association” or something like that. Giving people an understanding of what that business model might be is very important as well.

As I mentioned, another bucket is cost and complexity. It was viewed as a very high-cost thing to accomplish, and there was very little understanding of the availability of the applicant support. Even beyond that, there was wide variance in people’s understanding about what the actual costs of getting a new string were and in many instances the belief was that it was much higher than it even really was.

In some senses, it was still about information and more access to information more so even than it was about the cost itself. The extent to which the applicant support program could be helpful, we need to evangelize that better and make it more obvious to the people for whom it was developed. Again, a long-term consistent program of outreach was the recommendation there.

I think finally there was a lack of urgency. “Why is this important for me to do now?” It’s tough when we’re in our bubble of the ICANN meetings where we had a lot of sense of urgency at public forums about launching the New gTLD Program. I’m not sure

that urgency communicated out to the outside world in terms of why I need to do this now.

Again, I think we need to try to find ways to help folks understand where these things are in context, what strings are being taken up by the global north that entities in the global south might have wanted to take, and to bring them into this education process.

One of the questions we have to ask ourselves is whether or not it is our objective to get more participation from the global south. If in fact there isn't a relevant business model, does it need to be our objective to try and promote more applications from the global south? I think that's going to be a question for the community. But we're looking at how we might make the process less discriminatory, make it more available to folks in the global south, and then we need to ask the community as a whole whether we want to make it an objective to get more participation beyond making the process as frictionless as possible.

Then if you look at the applicant survey, this is still ongoing and not entirely coded. But this looked at folks who applied for strings. Of the 1,900 applications, that boiled down to about 512 actual applicants, some 45 of which have actually replied to this survey request. If you are an applicant or play poker with one,

please encourage them to look for this in their e-mail and try to fill out this survey.

Because in many respects on some of these larger numbers about satisfaction and things like that, 45 might be sufficiently statistically significant, but as soon as we do things like Andrew requested like break this down by region we don't have enough data for any of the particular regions. The only respondents from the global south, for example, were from Brazil. So we need to get at more of the folks that applied so that we can understand what the process was like for them; if they withdrew, why they withdrew; what the contention process was like; etc.

But we do have some preliminary data, as I said. Only 49% said they received sufficient guidance from ICANN, which again is sort of reflective of what came up in the other survey; 64% said that they would apply again under the same process. The majority of them, some 54% I think, said that they thought rounds was a perfectly fine way of going forward, and that's a very controversial and well-discussed topic both within our group and in PDP on subsequent procedures.

On the whole, there was this kind of weak majority feeling of satisfaction with the program but still sort of an overwhelming sense that it was not an entirely satisfactory experience. Now of course, the ICANN community is known for its dissatisfaction [at

large], but I think that there was also a correlation between satisfaction and whether or not people had a successful journey through the process as well. So there's some information to be gleaned there.

One of the questions that Nielsen asked the applicants is whether or not they would be willing to engage in a more in-depth conversation, and so far nine of those conversations have taken place. There are some insights that have come from those conversations. There were concerns over the technical problems, the outages, the digital archery, etc., that didn't make ICANN look good.

Changing processes and timelines, etc., were frustrating for those who attempted to play by the rules. If I get my stuff done on time, that should be to my advantage, not to the advantage of the laggards.

There was a perception that ICANN didn't understand that there was money at stake for these applicants and that all these delays were actually costing them money.

There were also some issues – and this really again relates back to the global south – of things like letters of credit and bank transfers, etc., were not universally available around the world. In some instances, I think somebody had to fax a copy of the constitution that prohibited adhering with the application

requirement. So there's some work to be done, as Andrew mentioned in his last comment about how we might need to tailor the program to different regions of the world.

Some of the communications, there was a sense that ICANN favored its insiders I think from some of the applicants. That's something that concerns our Review Team as well is making sure that this application process is equitable.

Jeff Neuman just entered the room here. His PDP folks are focused on improving the process overall, and I think we are focused on trying to figure out how to eliminate the discriminatory aspects or the biased aspects of the program.

We also looked at some issue related to string contentions and string confusion, etc. We've done some research into this. There were 230 exact-match contention sets, most of which have now been resolved. The outcome of the objections to plural versus singular string contentions was not particularly consistent. As we look at those results, there wasn't a consistent outcome. That has led to some of the frustration in the community.

The International Chamber of Commerce dispute resolution center addressed applications for 62 gTLDs. They found in favor of the community in 12 gTLDs, the objectors failed for 31 gTLDs, and objections were dropped for [29] gTLDs. The number of the

total cases is greater because single gTLDs sometimes had multiple cases raised.

Then the dispute resolution center addressed objections against applicants for 10 gTLDs on limited public interest grounds. The ICC found in favor of the object in only 1 gTLD, the objectors failed for 5 gTLDs, and the objections were dropped for 4 gTLDs. Again the number totals are higher because sometimes there's more than one issue raised.

Many strings had objections for more than one issue. For example, the community plus limited public interest or confusability plus community, etc.

Now most of the stuff has been resolved, so it feels like less of an urgent issue than it did at the time it was initially being discussed. But it's certainly clear that the results and these decisions were inconsistent, and we need to find ways to bring about greater consistency in the results of some of this arbitration as we move forward into future procedures, application windows as Mr. Neuman likes to call them.

Those were some of the issues, I think all I had to talk about. I'm happy to answer questions about that but also just to open it back up for questions generally about the review that you have. Let's take the last ten minutes here to discuss this and provide

feedback of things you think we should be looking at or recommendations we might want to be making.

Oh, sorry. Jordyn reminded that...

JORDYN BUCHANAN: We don't want to keep Denise in suspense.

JONATHAN ZUCK: We don't want to keep Denise in suspense for too much longer. Here is our current work plan. We're looking for community input here in Hyderabad to the extent possible, and we're producing a draft interim report for public comment by the end of the year. So you should have something under your tree, depending on what holiday you celebrate, to read on your vacation and to comment on during the month of January.

We expect to see, as David mentioned, the INTA impact study in February. We expect to see preliminary findings from the DNS abuse study in March and probably a final DNS abuse study in June. So we're probably looking at delivering an actual final report in a July timeframe.

As Denise has mentioned, if there are things that we need to focus on before that, such as the base agreement or something like that, we may need to find a way to communicate some of

those recommendations sooner than our final report. So let's keep those conversations ongoing. But that's our workplan as it currently stands. Thanks, Jordyn.

Questions, comments, discussions?

UNIDENTIFIED MALE: Very quiet.

JONATHAN ZUCK: Oh, here's a brave soul. I told Lauren to be more gentle with the interventions, but...

KATHY KLEIMAN: I'm sorry to have missed most of the presentation. I was presenting in the Council. I have a question about what's within the scope of what you're doing. The slide that you just showed talked about some of the responses from the arbitration where questions were sent out to third parties. And this is really a question of is this within scope; and then the secondary question is have you heard about it; and the third question is if you haven't, would you like to.

The Applicant Guidebook did not create any appeals when something went to the International Chamber of Commerce or to any of the other arbitrations for string contention for

community objections, etc., and yet appeals were created. The decisions were taken to the Ombudsman. The decisions were also taken to the IRPs. That meant that the winning party was actually excluded from the appeals because the Ombudsman is a secret process and the IRP is an individual process against ICANN.

This totally undermined community trust. Communities that won objections then found that the applicant had not withdrawn as the rules said but had gone into these secret proceedings and appeals and suddenly things were behind closed doors even though they were the winner of the underlying objection.

So I was wondering, again, is this something you've heard about? Is this something you'd like to hear about? It undermined a lot of community trust.

JONATHAN ZUCK:

Thanks, Kathy. I think it's something that we've heard something about, but we'd probably be interested in hearing more. Jeff is behind you and wants to speak to that as well, but certainly we'd be happy to hear more about that as a Review Team. So let's find an opportunity or a conduit for you to communicate some of that.

KATHY KLEIMAN: The follow-up question would be what format would be appropriate for providing input, and then I'll let Jeff talk.

JONATHAN ZUCK: There's an input to CCT review e-mail address, but feel free to also just see me after the session and we'll discuss the best way to provide that input.

KATHY KLEIMAN: Thank you.

JONATHAN ZUCK: Thanks, Kathy. Jeff, go ahead.

JEFF NEUMAN: Yes, just on that, that is an issue the that subsequent procedures working group, it's in our Track 3. So rather than – I mean, your plate is full and if you wanted additional topics, I'd love for you to tackle the vertical integration issue, which is a competition issue and nobody is tackling that.

So I would just say, Kathy, just participate in Work Track 3, and that's one of this issue is the appeals mechanisms: whether to have them, how to have them, how to make it more fair,

including accountability measures. So I would just recommend that rather than having the CCT RT spend time, because they've put aside a lot of issues already, that that does fit in with our scope. So we would love you to participate on that.

KATHY KLEIMAN:

But you're about looking at the future. We're about looking at a massive landmine in consumer trust and in community trust that has already occurred, so maybe both places. I can't tell you how much this really undermined community trust.

JONATHAN ZUCK:

[inaudible] or Jeff and we'll decide later how to divvy up the work, but more information is better. So, Kathy, please do participate in the PDP, but get us the information you have as well.

JEFF NEUMAN:

Sorry, there was one more. One thing I would like, what we're trying to do now that we understand that you're not tackling the vertical integration issue, since you do have economists on your panel and ones that do have expertise is maybe some recommendations of what we can do to tackle that issue rather than start it from scratch.

I know that in fact some of the people on your CCT Review Team may have actually their companies participated in that initial review for vertical integration. I think CRA was one of the groups. So I would love some feedback from them on steps that we can take, including whether to commission an independent review as well. That would be great. Thanks.

[JORDYN BUCHANAN]:

Hey, Jeff. After our discussion earlier in the week, I think we're going to try to take a look to see to what extent we can address the vertical integration topic based on your request. So wait to hear back from us soon before I think jumping too far ahead into whether you guys need to delve too deeply into the topic because we at least have some data that may be informative and we'll see if we can turn that into some sort of useful study and recommendation regarding vertical integration.

JEFF NEUMAN:

Okay, that's great. I think one of the areas that I know we want to look at is, although the policy was opened up to allow integration, there were a number of rules that were put into place by ICANN that didn't allow the integrated entities to achieve the efficiencies that ultimately should be achieved by integrated entities. I don't know if that's in your element, but that's one area that we were [thinking on].

[JORDYN BUCHANAN]: That particular question may be something that we don't have data on. For example, that would have been great to include in the applicant survey if we were going to get feedback on that, and the applicant survey is already in the field so it may be too late. But there are other areas, as I mentioned the other day, where for example the some of the concentration data we're seeing doesn't seem to indicate that having a dominant registrar, even a vertically integrated registrar, necessarily has negative adverse effects for consumers. So that may advocate in favor of more vertically integrated models. But we'll take a look and see if we have data at this point that can be useful or if there's something we can get in time for the report. We'll try to provide you guys with some interim feedback about what we think our capabilities are over the next few weeks.

JEFF NEUMAN: Yes, great. The sooner the better, otherwise we'll look at other options get ICANN hopefully to commission studies. Thanks.

JONATHAN ZUCK: Any other questions? We have a session at 1:30 this afternoon, is that right? The research?

UNIDENTIFIED FEMALE: The session on CCT research results is at 3:15 p.m. tomorrow in Hall 2.

JONATHAN ZUCK: 3:15 tomorrow in Hall 2 for a deep dive into the Nielsen, Analysis Group, and AM Global research efforts. Okay. Well, thank you very much for coming, and please don't let this be the end of your input. We welcome it at any point. Thank you very much.

[END OF TRANSCRIPTION]