ICANN
Transcription ICANN Copenhagen
GNSO Commercial Stakeholder Group (CSG) Meeting
Tuesday, 14 March 2017 at 9:00 CET
Note: Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record.

The recording and transcriptions of the calls are posted on the GNSO Master Calendar page:
http://gnso.icann.org/en/group-activities/calendar

Greg Shatan: Okay, the recording has begun and now the meeting will begin as well. Good morning, good afternoon and good evening. And welcome to the meeting of the Commercial Stakeholder Group at ICANN 58 in Copenhagen. I'm Greg Shatan. I'm the President of the Intellectual Property Constituency and it is our honor and duty to conduct the CSG logistics for this particular meeting. I'll allow those around the table to introduce themselves starting on my left.

Tony Holmes: Tony Holmes from the ISPCP.

Chris Wilson: Chris Wilson, Chair of the Business Constituency.

Vicky Scheckler: Vicky Scheckler, IPC.

Barbara Wanner: Barbara Wanner, BC.

Claudia Selli: Claudia Sell, BC.

Susan Kawaguchi: Susan Kawaguchi, BC.

Jimson Olufuye: Jimson Olufuye, BC.

Phil Marano: Phil Marano, Mayer Brown, IPC.

Andrew Harris: Andrew Harris, BC.

Griffin Barnett: Griffin Barnett, IPC.

John Berard: John Berard with the BC.

Jonathan Zuck: Jonathan Zuck with the IPC.

Steve DelBianco: Steve DelBianco, BC.

Alain Bidron: Alain Bidron, ISPCP.

Jen Taylor-Hodges: Jen Taylor-Hodges, ISPCP.

Heather Forrest: Heather Forrest, IPC and your fearless Vice Chair on the GNSO Council.

Susan Payne: Susan Payne, IPC.

Anne Aikman-Scalese: Anne Aikman-Scalese, IPC.

Ellen Shankman: Ellen Shankman, IPC.

Petter Rindforth: Petter Rindforth, IPC.

Wolf-Ulrich Knoben: Wolf-Ulrich Knoben, ISPCP and Council member.

Tony Harris: Tony Harris, ISPCP and Council member.

Greg Shatan: And now behind me I'll ask both CSG members and guests to introduce themselves using the magic roving microphone.

(Gonzalo Barajas):   (Gonzala Barajas), ISPCP.

Man: (Unintelligible), private sector.

(Nadia Gadano):   (Nadia Gadano), private sector.

Dana Brown Northcott: Dana Brown Northcott, IPC.

Olivier Muron: Olivier Muron, ISPCP.

Brian Huseman: Brian Huseman, BC.

(Phil King):   (Phil King), BC.

Julf Helsingius: Julf Helsingius, GNSO Council NomComm appointee, voting.

Lars Steffan: Lars Steffan, ISPCP.

(Marco Pisoli):   (Marco Pisoli), private sector.

Claudia Martina: Claudia Martina, BC.

Woman: (Unintelligible) IPC.

(Maria Caveli):   (Maria Caveli), IPC.

Marina Lewis: Marina Lewis, IPC, American Bar Association.

Allison Simpson: Allison Simpson, BC.

Steve Chan: Steve Chan, ICANN staff.

Benedetta Rossi: Benedetta Rossi, ICANN staff.

Man: (Unintelligible), BC.

Phil Corwin: And Phil Corwin, BC.

Greg Shatan: Thank you, all. In just a few minutes we'll be receiving a visitation from Göran Marby, so all of those questions that you've been waiting to ask Göran you may get a chance to meet – to ask some of them in just a moment. So well then, who's is that or do you want to move over? Göran has entered the room, a space is being cleared at the table for him. Chantelle is moving to the right. She's moving again to the right. Göran is moving toward the table. He's approaching the table and he's being seated.

((Crosstalk))

Göran Marby: Good morning.

Greg Shatan: Good morning, Göran, and welcome. Happy to have you here. Just take your jacket off and stay a while.

Göran Marby: No, I was feeling like among friends.

Greg Shatan: Yes, it's also the fact that the first day it was so cold they've decided to counterbalance that every day since then.

((Crosstalk))

Greg Shatan: Yes. You know what they say, if you can't take the heat, I will give you the microphone.

Göran Marby: Okay. Good morning.

Greg Shatan: Good morning.

Göran Marby: Happy? Energy? I feel a lot of energy in this room today. Yes, it makes me waking up. Last time I was here and met you, I gave some very small remarks and then you asked me a lot of pointed questions. And I'm just wondering, shall we spend more time on questions to me rather than I'm giving you a speech about something? Because most of the things I have in my speech you probably heard before anyway.

So is that a better way of doing it, because I want to use your time more effective than mine. I'm here for you. Is that a – should we do like that?

Greg Shatan: I think that's a good idea. And if we run out of questions then you can go back to your prepared remarks. See how likely that is.

Göran Marby: I'm very happy to be here and support you in that. So with that – are you going to be the moderator, so you can't ask me any questions?

Greg Shatan: I might ask you moderate questions.

Göran Marby: Yes. I'm going to wake up very soon and then I'm going to be back on track. So I give it over to you.

Greg Shatan: Rather than starting with my own question I'll see if there is a question from the floor or the chair or the table. There's a question from the table from Steve DelBianco.

Steve DelBianco: Steve DelBianco of the BC. Morning, Göran. You've been really consistent when you've done the calls with leaders of constituencies and you mentioned it yesterday in your opening remarks, about the long complex flow chart that describes the way GNSO – us, how we get a policy, move it through

development, all the way through implementation, and I had the opportunity to visit with you in your suite here and got a chance to see the chart.

And I'm interested to know what that revealed to you, number one, and then second, when you describe it in the terms that you do, the process, what is it that you think the rest of us think about the complex process that we've built for hatching policies?

Göran Marby: Thank you for starting off with such an easy question. Thank you, Steve, by the way, for taking the time to go up to my single, simple conference room, call it a suite seems to be. Go back, what is my intention with this, I mean, my intention is really – I mean, my intention from the beginning was to teach myself a lesson because I had, with limited brain capacity, the – had a problem understanding how the process was working.

And where – particularly where – when everybody throwed an acronym to it, where am I in that process, who is in charge and who is supposed to do something? And even more, what decision has already been made? Because if you want to advance a process, you have to, you know, we take one decision and we move on. You know, and again it was really for me.

And the intention I'm having is thinking that if I, who has been doing things like this for so many years, have a problem understanding it, maybe other people would have had the same problem. And therefore I think, you know, clarity and transparency is important. It's not transparency like I'm going to – often – ICANN has a very specific way of talking about transparency, which is often disclosure. You should disclose everything.

For me, transparency is also that people have the opportunity to understand that it's a narrative around it, that you're obliged, doing what I'm doing, to make sure that people understand what you say. That's communication.

So that part is I think is important because I don't want to be, when we go – have new people coming on board, which we hope – I think there's a lot of the questions during the last couple of days in how do we get more people into this or new people with other skills into it. How do we then explain to them how the multistakeholder model works in practice? Because the process is really the multistakeholder model roadmap.

So that is the intention, to clear things out. I sort of changed my – the way I describe it a little bit because, you know, I learn things all the time. And I think it's kind of interesting that it is a discovery process. And what surprises me, maybe not surprises me, of the length of the processes are built there for reasons. The community has done processes with checks and balances into it and a potential to do checks.

What maybe surprises me, and as I often say, I don't judge from this, is that people sometimes disagree on where the decision points are or how to value that then. For instance, to value advice, and I'm not going to go into that discussion now to say that I have this whole – this way of looking at it or something else, I'm just – point out that different parts of the community, different sides actually have different opinions about it, which makes me say that okay, you agree and we write it down and we can move on.

Another thing with the process is that sometimes it looks like we can run in different parts of the community we can run different – we can run totally different processes according to the way things are set up. Everybody is doing exactly the right thing. And we end up with something we know are called an impasse where we actually don't know what to do next. And I think that some part of this discussions that frustrates people and make them angry, when you ask why have they done that, is because someone else has done it according to their own charter or process. And they never seem to – it's not easy to let them meet.

So I'm – we are still in discovery, which is sort of interesting because the differences and opinions is shared by everybody regardless if it's the community, where the community, the Board and also my own staff. So I think we need to clarify some of those things to go forward. I will not – I will not go into who takes decision and where.

So the plan right now is that we are – when we're having those there now, and I know – there's been a lot of people after my small and humble conference room, who's looked at that one. You know where it is so the room is used 60%, 70% of the time, but there are open spots where you can walk in and have a look. And people make comments. Trang is here to collect those comments. And we kind of continue to do that, and we try to make sure that there are different parts of the community.

And then in Johannesburg really to give this over to the community, we have presented, we haven't really figured out a form because we don't want to make it into formal, formal thing that we ask you for something formal. I think this is a discovery process. But in Johannesburg we're going to do – hopefully if the community who sets up the meeting strategy, agrees, we will do high level interest meeting about how far we then reached. But I really leave it up to you guys to handle it and point out things. I hope that was a good answer.

Greg Shatan: I think we've got a couple of questions. Vicky, is your question in any way resembling Steve Metalitz's question?

Vicky Scheckler: (Unintelligible) question.

Greg Shatan: Oh no, he didn't put one in the chat but I think the question we've been talking about is a good follow on from Steve's so if I could indulge Jonathan and Vicky, also a question about implementation but on the side where the community doesn't have as much work, which is – there have been concerns raised about the length of time it takes to implement certain policies even the

projected times, putting aside anything about not sticking to timeline but the timeline for instance for implementation of thick Whois, a modest and non-interesting policy, I think is projected out at three years so that a process that started in terms of policy recommendations to actual implementation takes over half a decade.

Wondering if you have any thoughts on how implementation can be any more efficient or – and less time consuming and if that is either anomalous or indication of decisions that were made before you were on the scene.

Göran Marby: One of the things we've done in the flow charts, and by the way, I'm not – I'm not allowed to say this but a project right now is hubba-bubba, yes. Big bubbles, no troubles. Sorry. It is true, we call it that.

But one of the things – there is a couple of things that – maybe as I'm learning and you know it and you can look at me say oh, taking so long time to figure it out. One of them is the importance of the policies itself. If the policy is written in such a way it's very hard to get it into a contract, the implementation time will – gets longer time, so it's very much, you know, higher quality – the easier it is to understand what it is.

When I learned – I think it was you, Steve, who said, well someone has said something about, you know, how do we actually check that the – you start out with a policy process and things happens during, you know, time and you can actually end up with a policy – how do you check that that policy actually from the beginning had a scope or is intended to do in the first place because people – because of the length of the process, the world goes on.

And that is – if we start off with a policy that, you know, would do X and then when it comes out on the other side is actually X+Y+2, and then it's going to take longer time to implement it because we also – we divide implementation process into two parts. One of them is analyzes and planning and where we, for instance, go back to parts of the community and talk, you know, is this – if

we proposed this – because sometimes when you want to put it into a legal contract, the policy is not written in a legal language and therefore you have to kind of squeeze it into a legal contract and then you have to do suggestions to go back and then maybe the community, that part, the community doesn't agree.

And I – one of the things I've been thinking of is how do we make that part of the process more transparent, which is not the easiest thing to do. So one of the things we came up with, and there are some people who are upset with this, what we now call an impasse. And I heard that there's been some discussion about that so I was trying to explain what to do.

So I give you an example, which is the Spec Level 3b, I know the acronym, I don't know very much more. But I have some very good written documents. It's about abuse, reporting of abuse, which seems to be something that we've been trying to do for the last three years. And there are different opinions about this and we haven't been able to figure out a way to make that – it's actually in the contracts. But for some reason we went out and asked for opinions about it. And it's – maybe we did something wrong three years ago, I don't know.

But we are in a level where it's very hard for us to actually enforce that part of the contracts because the definitions – seems to be (unintelligible). So my intention – so I talked to the Board in Santa Monica Board meeting, so we started to decide that if there are places where it's very hard for us to agree, because remember, when the Board instructed us to do something, our voluntarily status actually disappear. There is no facilitation after the Board had instructed me to go with the policy. Then I have to do something.

But if the policy or something is made not into 100% easy to put into the contract we end up making a – maybe a compromise that nobody likes but for different reasons. And I can understand that of course is concerned, so what we try to do is a process where we actually ship those back more formally to

the community because the formality which might seem bureaucratic, you increase transparency.

Because some discussions should be furthered on back to, for instance, the GNSO. The Board should not be involved in it. The ICANN Org or staff should involved in it, but we have to ship it back. So we actually, this week, reached out to GNSO and said, we have a potential what we call impasse. We don't know how to actually enforce those parts in the contracts because we have problems getting agreement.

What happened was that some people misunderstood that. What I wanted to do – I will never do anything like that if the community doesn't agree for that process. I will not take – I cannot – if the Board has instructed me and the community wants me to do something that is something I have to do. But if the parts of the contracted parties, for instance, doesn't agree about something, I have to reach out and ask, can I put it back to you?

And that, I think, is one of the places we can – by doing this more formal we'll increase transparency of what we do. We divide now to two parts of the implementation into first analysis and planning and then implementation. So the implementation is quite easy, that we can do easily. But the planning process, or the – that is the one I'm kind of focusing in how to increase transparency and how to make it more effective.

We probably have things that we have to address to make it faster. There's no doubt about it. There is no doubt that we have internal process we have to address. But also respectful of the fact that the better the policy is written, the better – the easier the outcome. That was a long answer, but I do spend some time thinking about this.

Greg Shatan: Thank you, Göran. I'll go to Jonathan Zuck and then Vicky.

Jonathan Zuck: Thanks, Greg. And thanks, Göran, for joining us. I actually want to go back to your answer to Steve's question because a couple of things jumped out of me in terms of your effort around understanding the GNSO process. And one was trying to get more people involved; and the other was making transparency about understanding and not disclosure, and those are both things that I agree with quite a bit.

My one hesitation is that I think that the pace at which we can grow the community as a whole is very slow. In other words, that six-meter diagram that you have up in your conference room, is more overwhelming than it is welcoming in a way. And I wonder if the next step of it might be to figure out what the points of entry are for sort of temporary participation, in other words, are there ways for people to make more targeted entry into the process at different points along the process where they can be effective, feel they're being heard and then sort of recede again as opposed to buying into making ICANN their life, which all of us have done.

And so it feels to me that a real value add from the standpoint of your office and the staff that are helping with this, is identifying what the points of entry into – are into that process and what we might do to facilitate making them effective points of entry. Is it about how, you know, public comments are handled, how things are described so the people that have a specific interest out there in the Internet community could actually absorb a small subset of the information and actually make their opinion known on that in an effective way? It's just a thought.

Göran Marby: This is one of the reasons I actually enjoy going and having those conversations that we have. I think there are so many conclusions you can draw on the work we're doing. I think that's a very interesting point of view. But right now we're only in discovery phase. We don't draw any conclusions, we don't think about it. I actually like that a lot.

It's – this is, for me and for my people, started a lot of thought process. You know, how do we share information about the decision points? How do we make sure that people understand where you are in the process, but you kind of passed – you've done now 80% of the work, this is where you are now. There are decisions that is made before it.

And one of the things that comes out goes back to maybe, I don't know if you're interested like open data. That, you know, you're interested aren't you? We are not a government. But the way we – my organization is sort of constructed, we should think more about as we are a government when it comes to information sharing. So we're running an internal project right now which is called the Open Transparency Data Initiative, is that the last one? Yes, something, which is really about thinking about it from my dream would be, this is my dream, this on record now – you can put my dream on record?

Greg Shatan: Absolutely.

Göran Marby: Is that you go into a Board resolution and you click on that Board resolution, and you will have all the documents attached to that so you can just drill down all the way to the beginning of the process where you actually read the actual policy first – so you can go into the conference call and you do that under one file, so you can actually be able to track those things down so you know when you go into a conference call about something what happened before.

I know it's a – to be able to do that there is some small things like – we have to do like building a data management system, store data. And we also need to engage with you how to actually – when you have calls within the GNSO how you label things and how you do things. But that would be – that will fit perfectly to what you're talking about to know where you are in the process, how to interact with the process.

And more importantly, you know what is done before. So you don't have to restart the process all the time when you – far down the road. Have you seen the chart, by the way?

Jonathan Zuck: Have I seen what?

Göran Marby: Charts in my room.

Jonathan Zuck: Yes, yes.

Göran Marby: Yes, what did you think?

Jonathan Zuck: What did I think about it? Again, it seemed accurate.

Göran Marby: Of course it's accurate. It's – sorry.

Jonathan Zuck: I think that – as I said just now, I feel that if the objective is to enlighten people that don't already know the information contained in it, it's intimidating, as you suggested, and so that's why I think that creating vectors or windows into it is – will be the most effective way in the long term to get much greater participation in the ICANN process along the way because the number of people willing to commit to that whole process is always going to be very, very small and I think that – and I applaud the work that you're doing on document management. I want to stress that open data would be more like not just putting things on the Website but making data files available in XML so that people can do their own research and things like that with data that ICANN consumes as well.

So, I mean, I'm – I know that's part of what you're doing as well, but I'm very interested in open data from ICANN as well.

Göran Marby: Could I – on your first comment, I'm looking forward how you in the GNSO is going to handle that particular idea you had because that really belongs to

you rather than me. But I will of course facilitate and support how you come up with better interactions with your community, how to work with the processes. I really loved saying that actually.

Greg Shatan: Thank you, Göran. I'll turn to Vicky Scheckler.

Vicky Scheckler: Thank you. I was interested in some of the things you were saying about decision points and documenting the decision points while at the same time we seem to re-litigate, reconsider issues over and over again. Excuse me. So I was wondering what your thoughts are in terms of perhaps better documenting or creating greater awareness of decisions that have been made and to see if we can push those decisions forward without going back to them.

And then also, your thoughts on how to better utilize the comment period, because I know that there are several people that feel like they've put in comments and they don't get heard, which goes to Jonathan's point of how can you weigh in on the policy matters that matter to you without getting overwhelmed here. Thank you.

Göran Marby: If you – one of the personal note on something, since I had the enormous pleasure, I actually think it's enormous pleasure to be honored to have this job a year ago. It is a year ago. I aged five years, but it's only been a year.

One of the – I'm trying to do things. I'm trying to – I'm not a person who tried to do big steps because I don't think that I can do big steps. I have to do – because I try to be transparent, I try to be accountable. I have to take one step at a time. And I have to be – so you can challenge me on every step rather than on something big.

And one of the things that I know is that I will also be judged by history before me. And I'm doing a lot of small (unintelligible) steps right now when I try to improve one at a time. The best way I can do this is that you help me to

understand the underlying problem. And I think that structurally we have – we have structural things to do. We have structural things that has to do with the multistakeholder model.

A lot of the things we see above that are results of something else. Transparency, accountability, that goes back to me (unintelligible) and a frustration that sometimes exist is because we actually set up – and Steve said this very well, Steve has a – Steve helps me to understand some things I haven't done. I'm not putting any blame on you, if I misunderstood it, but we are talking about one of the processes here, we're talking about the GNSO.

If you walk up to my room, you will see that we have several parallel processes going on. And now we also have the cross community working groups, we have the reviews. And next year we're going to do 11 reviews. They're divided into two parts, some of them are organizational reviews and some, you know, half of them are something else. There is a lot of work that we've been doing, and I – and often the same people is doing them.

When we talk about how much time and money we spend on those things, and money is not as important as time in this one – I think that we – we – and I say we because I include everybody, maybe should have a thought about all of those things. And then there's a lot of mechanics around it that we have to address when we address the structure. It is about the mechanics of the multistakeholder model to – I don't have a simple answer to your questions about for instance comment periods because if the comment periods happens at the same time that we have 11 other reviews running, and there's many times the same people is doing that, it's going to be problems anyway.

And I'm actually quite concerned personally, and this is a personal note, if I can speak in a personal capacity, that what happens for the next 18 months is going to be very hard for everybody, staff, Board and the organization when it comes to the amount of work that we are set up to do, together with things like Whois discussions, cyber security discussions.

To be even more – you know, one of the things, we released a comment period for the budget now. And one of the things we set up in the budget is a – because we do it – and I don't have the answer to this one, but we – you are – especially with the new bylaws – you have powers over the budget. That means that we now are actually talking about things that are going to happen 1.5 years from now. And we've put budget lines into them and say that we have projects where we have to do things and we now commit for things for 1.5 years down the road.

And that's important but I'm also thinking what happens if you come up with a grand idea or something happens in eight months. How do we build that flexibility for you? If a review, for instance, you want to have a review, you want to continue and review, to do more effects, how do we handle that mechanism because we have this amount of money in the budget, we don't have more. How do we find a mechanism to change so you can reprioritize things that we're supposed to do? That's another structural thing.

I think that we just need – I want to – I'm not saying that anything is wrong, I'm not saying that anything is – because this actually works, which kind of amazes me sometimes, but it actually works. But how can we fine tune the model in a transparent way that we don't become too bureaucratic in how we do things?

Because Steve said something yesterday in his opening speech that I, you know, he said it to me before, and I haven't really thought about it, but he said something that is fairly beautiful: "We are not the government." So we could probably find ways to be accountable, transparency but slightly more flexible so we don't end up missing important things to do because we have a structure that right now prohibits. You're really asking me questions that goes kind of close to what I'm thinking. I don't have the answer actually.

Greg Shatan: I have Denise, Paul and then Tony and four minutes. Sorry. Denise, please
                 go ahead.

Denise Michel: Thanks. Denise Michel. So it might be useful to brings this process issue to a
                 specific item. So the Business Constituency, Intellectual Property
                 Constituency, At Large, several other entities provided very substantive
                 detailed comments on proposed changes to the new gTLD base Registry
                 Agreement that was posted for public comment last year.

                 Unfortunately, neither staff nor Registries fully addressed those comments
                 nor discussed them with at least our constituencies. And instead, sent the
                 package to the Registries for a vote. And then apparently it's going to the
                 Board after that. This seems to run counter to your insistence that staff will be
                 transparent, accountable. Staff won't move things forward if there's serious
                 disagreements in the community.

                 So I think it would be – I'd be interested in your applying your thoughts about
                 process and staff's role to this item in particular. I think what I would be
                 looking for is a commitment that we have a chance to address this with the
                 Registries and the staff before the Board considers it.

                 And then more broadly, I think it would be useful to get your attention and
                 thoughts about what exactly staff's role is in negotiations on base agreements
                 and other agreements and whether it would be possible for them to actually
                 consult with the community before they go into these negotiations and that
                 we could get clarity on who they're negotiating for and who they're
                 representing. So there's a lot of questions wrapped up in there, but I'd
                 appreciate hearing your ideas on whether we can still have some discussions
                 about the base Registry Agreement. Thanks.

Göran Marby: I'm going to ask Akram to help me. But as a general note, I think you agree
                 with me, the better consensus in the community before we get it, the better it
                 is. So what you're actually facing us with is that – is that some of those

discussions should have been happening before it was handed over in the first place. I think you agree with me on that. And that is one of the things I'm trying to point out is that that the more difficult it is for us to implement it, the harder it – we cannot solve issues that has not been solved in the community before it's handed off to us.

And that is another structural thing that kind of is so important for me that the policy work is made in the GNSO, and how do we make sure that the things that comes over to us is agreed upon? So we don't end up being, you know, caught between two parties that has not agreed in the first place. I don't know the mechanics on how to do that; I don't know how to deal with it. I think it's a joint problem.

On the specific one, I have to ask my Akram, because I don't know that enough.

Akram Atallah: Hi, good morning, everyone. Thank you for the question. The new gTLD agreement have a clause in it where we either staff or the contracted parties, can initiate a negotiation on the agreement once a year, I think if I'm not mistaken. We started this negotiation about three years ago and we're still negotiating on this. But the way the negotiation started was at the beginning of the new gTLD program, before many of the top level domains were actually delegated, and the purpose of the negotiation was to clean up some issues in the contract so it was more of a negotiation on clean-up.

And it took that long to get that done, so our enthusiasm that we can negotiate something with a year and close it is probably misplaced. But we will take into consideration all the substantive comments that came into the – through the public comment period and we will be looking at them on how to actually integrate them into our discussions the next time we have an opportunity to do that.

I always think that it should be – we should put the process where we can hear the community before we get into negotiations so that we can see what are the requirements that the community would like to see us look into in a negotiation. We need to put that process together and if the community agrees on a way to do that, we'd be more than happy to actually support it. So I think we're thinking alike, it's just we need to have a mechanism that everybody agrees on and then we can make – put it in place.

Denise Michel: Right, so I was thinking that you could send the base agreement back to let us discuss it with the Registries and with the staff. Is that feasible?

Akram Atallah: The base agreement?

Denise Michel: The new gTLD Registry base agreement. The proposed changes to the new gTLD Registry base agreement that was posted for public comment that the community commented on and then was not really changed but sent to the Registries for a vote.

Akram Atallah: Yes, I think that contractually I think we should just close this negotiation round and then if there is enough demand from the community to open another one we can open another one shortly after we close this one. But we wanted to actually get these clean up issues done and after three years I think, you know, it will be a major delay to get something that was supposed to be easy and simple done.

So I suggest we close this round of negotiations and then we can open up another round where we can have maybe a different process to go – going forward.

Greg Shatan: Thank you, Göran and Akram. I note by our schedule that we're out of time, but I don't know how we are on your schedule.

Göran Marby: I'm out of time, unfortunately. I'm actually running between constituency days right now. How many of you, you know, we'd like to answer another question, there is a – one, the Board has asked us to do something. They order me. I don't have a volunteer in that. With that said, there's a practicalities, a lot of things, I mean, because of – or I sometimes call the institutional amnesia, we're expert at not recording anything and there's a lot of discussions going on. And there are some – that is how we grow up. And we have to fix those underlying problems.

And the community, as you know, the whole point with the multistakeholder model without going into any power bases anywhere is that there are different opinions about how to do things. There are different opinions what is the problem and how to solve it. That is one of the beauties with the system. And we always use the word "as the community thinks." Often, we end up in a situation where the community thinks two separate things.

And whatever we choose we're going to disappoint both of them because they don't get what they want or they got too much. And that is one of these – I think there's a better understanding of that with everybody that in a world – this is a consensus driven as well. And by trying to point out where the decisions are made and what the discussions are made, maybe we can make that clearer for everybody.

I'm not trying to move any decision points everywhere, I'm just trying to move it a little bit clearer so don't people think it's a dark-alley discussion. Not everybody in this model is going to get what they want. There is often no golden point where, you know, you can point out now everybody can be happy.

I'm not going to compare that, because that's going to (unintelligible) but I used to be a regulator, and the regulator has a law behind it, or actually writes the law. But the interesting thing is that I always define my job as to make – my job was to make sure that everybody got equally unhappy

because – we'd actually calculate it equal unhappiness because if someone gets too unhappy they will probably not invest, for instance. Where if someone was too happy, they stopped investing as well because they have a monopoly.

So my job then was to kind of make sure there's inequality or I make everybody miserable. I did that for eight years. I want to find out a way that we can describe things to a mutual understanding that this is a sort of – it's a metric thing, if you give something to someone, someone else takes.

And another thing that is is that contracts, there's legal contracts between us and the contracted parties, and to some extent we are not regulators, as you know, there is a legal contract that has to be changed according to something. I'd really like to figure out a way where we can be more transparent and do more effective work. And we are, as you know, working very hard to make sure that it's a facilitated discussion so we can be better when it reached the Board. So it's a bit easier for us, more clear, but we sometimes implement things.

You asked me what I try to do and what we've not done before. Thank you very much for giving the opportunity to come here. And if you have time, now you have a couple of people who have seen them, and my room is open, my small room, not the suite, go up and look at the – what we've done so far. And please, if we have done anything wrong or misunderstood something, please let us know because we are in discovery. Thank you. Have a fun day.

Greg Shatan: Thank you, Göran. And I hope that those people who were in the queue, if we could…

Göran Marby: Send me an email and I will answer it that way. Is that okay?

Greg Shatan: That's exactly what I was going to say. You're very prescient.

Göran Marby: No, you're very smart. You had the same…

((Crosstalk))

Greg Shatan: Well, let's hope that that continues to be the case on all things.

Göran Marby: Oh I love to see what you're going to do.

Greg Shatan: That's also fun. So thank you, Göran, thank you all for the excellent
                 questions. And I look forward to seeing the answers to the questions we
                 didn't get to hear as well as the questions we didn't get to hear. At 10:00 am,
                 which is now 12 minutes from now, we will be visited by ICANN Finance,
                 which will tell us things about finance. But until then we have a slot for policy
                 discussion. And any particular burning policy issues that have come up
                 during this meeting or do we expect to come up that we can cover here?

                 One that was mentioned to me, in which I agree would be helpful to know
                 more about is the current state of the IGO INGO facilitated discussions. I
                 know that Heather and Paul, among others I think, have been in those rooms.
                 And it would be helpful to know kind of, not to recap everything that
                 happened but more to give a sense of where we are and where we might go
                 next just briefly because I'm sure this won't be the last point.

Heather Forrest: Okay thanks, Phil. Heather Forrest. We'll rock, paper, scissors, Phil, to see
                 who says. Look, important to note that we bifurcated these discussions. We
                 had the discussion on the Red Cross first, had that first thing first, Saturday
                 morning, before the jetlag affected. And then had the IGO discussion on
                 Sunday evening, a marathon session that went until 9:00 pm.

                 I say that to start out with, the bifurcation, because I think it's important. We
                 have separated these two ideas conceptually in fact the basis - the
                 arguments are different and the basis for the arguments are different. So the

Red Cross, I think is largely seen as the easier situation from a substantive point of view or from a legal basis point of view.

We have the Geneva Convention, I think we don't necessarily all agree that the Geneva Convention says exactly what the Red Cross says it does in relation to the protection of identifiers, and I include Bruce in that assessment, although I certainly don't speak for him.

And that offers them some support in terms of names at the top level, whereas that's not really the case, we are really looking at national law to the best of our ability and we talk about - when they talk about IGOs. What I will say is this, we all went into this from a GNSO perspective. I will speak for all of us, and Phil, make choking noises if I get it wrong.

We went into this with a certain degree of apprehension. The assumption seems to be from the very beginning that this was an opportunity to call the GNSO on the mat and tell us that we'd done wrong, and publicly shame us and make us feel bad. And I think the fear was that the assumption was we would walk away with the instruction, let's say, that we were the ones that had to go back and do it properly.

It certainly hasn't - that attitude hasn't come out in the way that I guess we all feared. I think Bruce Tonkin has been an excellent facilitator, so much for retirement. And he managed to elicit a key point in relation to the Red Cross, which is that it seems that there is a list of 190 discrete national Society names. And in fact that list, it was acknowledged, needs to be cleaned up because it doesn't have, let's say, or it has entries on it that probably shouldn't be there.

That list of 190, that finite discrete list of 190, didn't exist really when the PDP was on foot, which was some time ago. And so the PDP turned away from reservation as a concept because it said, we are not reserving everything under the sun, we just can't do it. And if you want to go down that path we

need to work on a concrete basis and not just everything and anything, we will tell you when.

And of course we have our concrete list now, and it would be refined a bit further. And I think that puts us in a more comfortable position with the Red Cross. We haven't really seen what has changed with the IGOs. I think there's a fair bit more disagreement in terms of where the IGOs are in a sense of we are not really sure that much has changed since the PDP, other than the development of a small group proposal, which was at the Board's instigation with the GAC working closely with a few representatives of IGOs.

So hence I started off by bifurcating the two. I think it's an important thing to do. What the Council is very likely to be asked to do by the Board is look at a discrete question in relation to the IGOs, which is go back and consider the concept of - or go back and consider our recommendations from the PDP in light of this new list of 190 or whatever it turns out to be. We are not at the point of really having a clear path in relation to the IGOs.

But it is certainly the case that it's widely acknowledged that we have that PDP chaired by Phil and Petter on foot right now, and there are certain degrees of overlap in a sense of the old PDP with the preventative PDP and the subsequent PDP is the curative PDP, and those two are interrelated. So with that, it's a good time to turn it over to Phil. Thanks, Greg.

Phil Corwin: Thank you, Heather. And I didn't choke once so quite good. Let me add a few things. Yes, we were apprehensive. I think overall it was a useful process to have the facilitated dialogue. We are walking a fine line here, I think in some ways it's good when there's an issue that the GAC cares about where there is an ongoing process like there is for the PDP to have a dialogue, not to negotiate but to exchange views and relevant facts and inform each other, that can be helpful to process.

On the other hand, when we need to resolve the Red Cross and the unresolved issues on permanent protections for IGOs, we don't want to set a pattern and set a precedent where when there is GNSO recommendations and contrary GAC advice where the Board doesn't make a decision, and basically says well, GNSO and GAC, you go in a room and negotiate it and come back to us because that's the way for the Board to avoid their responsibilities.

I think as a practical matter, there are some low hanging fruit which can defuse the Red Cross issue to a large extent and make the whole situation, the atmosphere much better. We talked Sunday night about ICANN possibly providing IGOs with notice when their names were acronyms are registered, setting up and noticed system, which also would be helpful to them.

On the CRP issue, I think the discussion illustrated to people the very murky nature of the legal issues involved with the immunity question for IGOs which I have characterized as a maze inside of a hall of mirrors. What's that? And standing, yes, I was going to get to that.

We have gotten quite a lot of pushback with a lot of fact-based documentation that we may have - that this basing standing to file a UDRP or URS on notification to assert Article 6ter of the Paris Convention rights may be a problem, that we are going to take those comments very seriously. That's not just a GAC position, if the US government position and they gave us a five-page memo, and we are very much looking forward to the input of the IPC, waiting for the IPC comment.

Petter and I have already talked and we may reconvene the working group even a few days before the comment period ends to start reviewing the comments in detail because we've already gotten so many and we want to get back to work on the working group as the comment period closes.

The one thing we've been quite -- well two things have been quite clear with the GAC and IGOs is that one of the discussions we had were simply exchanges of views and not negotiations that the way to impact our process to comment, and the GAC has in fact just filed a comment, which I am told by one party may be unprecedented for them to file a comment to a PDP working group. And that's good; we been trying to get the GAC were involved in the process.

I did make clear that I know are working group and the working group is never going to recommend that registrants not have a right to appeal to a court of mutual jurisdiction for two reasons. One, we have a 25 page legal opinion from the expert we retained to give us expert opinion on that question, and there's simply no strong legal basis for doing that. If otherwise I would be open to it but it simply not the case.

In two, it would set a very dangerous precedent for ICANN to start saying for this purpose without purpose any party loses access to courts that they would otherwise have. So I will stop there. I don't know if Petter has anything to add to that. But overall I think it was a useful process but there's still a great deal to resolve.

Petter Rindforth: Hi, Petter here. First I have to say that I'm a little bit more positive from the outcome of the meeting. It may be that it was going - it ended more likely than (unintelligible) than it was actually programmed for. We're sitting there at least 30 minutes more than it was scheduled for.

And I would say that yes, of course, as usual, we got our points and kicks but it was also clear communication through GAC that they should communicate better and work better together with us on these topics. And when it comes to Article 6ter, one thing I found very interesting there is that we discussed Article 6ter and if it could be used or not. But as you know, also there is another list of identifying IGOs that is used for the Trademark Clearinghouse, etcetera. And that is the list that GAC is provided and holding.

And nobody that complained about the Article 6ter referred to that list as a better version. So I think we in the working group can make some initial conclusion that it's not that list that is the alternative, it's maybe that we better have to clarify why Article 6ter is still the – not the best but the less difficult system to use because I can't frankly see any other list or identification. And there was nothing in the discussion that proposed so. Thanks.

Greg Shatan: Thank you, Petter, Phil and Heather for bringing us up to speed on this rapidly-developing topic. Anne.

Anne Aikman-Scalese: In answer to your question, no, it's not an old hand, it's a new hand. With respect to Sunday night's meeting facilitated meeting with Bruce Tonkin, I also thought it was a really positive meeting. I did think that there was a bit of a process question in relation to the proposed solution of having ICANN institute a watch service for IGOs, and it does seem like a great solution.

But on the other hand, there will be, you know, some financial impact, very minor, from doing so and what I wonder is whether – as a matter of setting the correct precedent, if the Board proposes to institute a watch service and incur the expense of a watch service for the IGOs, shouldn't they actually, in light of the PDP that GNSO has been working on, at least send a letter back to the GNSO out of respect for that process and say here's our proposed resolution, what's your input?

Phil Corwin: I think that's a good point, Anne. And something we might want to bring up when we meet with the Board later this morning. And there's a related issue, one of the asks from the IGOs was to create a no or very low cost way for them to file a curative rights action.

And on that – one of the recommendations of our working group is that we have no authority in our working group to authorize any subsidy by ICANN

because the providers are going to charge their fee whatever it is, that's an issue for the IGOs and GAC to discuss with ICANN. And it would have some budgetary impact as well so there are two – really two budget-related questions that arise from this topic.

Anne Aikman-Scalese: Thanks. And then I know we're short on time but I do want to alert on a different topic with respect to the human rights policymaking that's coming down the pike, you know, Greg and I both work on the – and Paul as well – on the Work Stream 2 Human Rights Sub Group, and in yesterday's Data Protection meeting with the GAC, when the Council of Europe was explaining data protection law that's coming and various principles associated with that, I noted that the GAC representative from the Netherlands asked the Council of Europe to lean on ICANN to suspend the provision in Registry Agreements that requires registries to keep accurate information regarding registrants.

And said that because of the EU law that registries should not be keeping information on registrants and asked the Council of Europe to lean on ICANN to suspend that provision of the Registry Agreement.

Greg Shatan: Thanks, Anne. I'm sure that's not the last we'll hear about that by a long shot. Probably more like the first. And as it is now 10:03 we can now welcome ICANN Finance to us and you may note, this is not Xavier Calvez, but I will nonetheless turn the microphone over and look forward to the presentation from Finance.

Taryn Presley: Hello. Thank you. My name is Taryn Presley. I'm the Senior Manager of Financial Planning and Analysis for ICANN. And Xavier and Becky are running late from another meeting so I'll be starting the presentation off in their place.

Okay if we can go to the next slide please. Next slide please. So this is our planning team that works on the operating plan and budget. We have four

members that are here at ICANN 58, Xavier, Becky, me – Taryn, and Jessica. Next slide please.

So today we'll go over a brief introduction, we'll talk about the planning process that we went through for FY '18 and the current status of it, we will go into details about the five-year operating plan update as well as the FY '18 draft operating plan and budget that was published for public comment on March 8. Then we'll talk about next steps in the process and we'll talk about how we can get more involvement from your group in the operating plan and budget process. Then we'll have a brief Q&A.

Next slide please. Next slide please. So this is an overview of our planning process for FY '18 and a timeline for it. We started back in September of 2016 where we planned out the process and came up with a timeline. We took that to the community, we got consensus that yes, this is a good timeline and a good process and let's go ahead with it.

Then we moved into ICANN 57 where we had more engagement with the community, the SOs and ACs, where we had visits with different organizations just like we're doing today as well as a budge working group where we talked about the funding and expense assumptions that would be going into the operating plan and budget for the year.

Then over the next months we actually started developing the operating plan and budget based on feedback from the community and that resulted in the draft documents that we published on March 8 that is open for public comment right now.

The public comment period is going through April 28 and that's a 52-day process, and we wanted to give the community a little bit more time to review the documents. They are lengthy and have a lot of information in them so we wanted to give you just a little bit more time to review those especially with ICANN 58.

So the next steps would be that – like I said, the public comment period is going to close on April 28. And the staff will be publishing the report of public comments on May 25. After that, we will be going for Board approval in June and we hope to have the adoption in – at ICANN 59.

Do you want to take over or shall I keep going? (Unintelligible).

((Crosstalk))

Becky Nash: Hello, everyone. This is Becky Nash from ICANN Finance. Sorry for running a little bit late over to your room, but I'm going to take over from Taryn at this point. This next slide we'd like to give you an update on the current status.

So as we indicated on the timeline, on the slide prior, we have a 52-day public comment period that is scheduled to end then on the 28th of April. We are asking for clarifying questions as needed by the 19th of March. So should there be any bits of information that are needed to better understand the document, we are just asking that you send us an email by the 19th of March with that question. And our intent then would be to republish to the public forum all of the responses related to questions that have been received.

In addition, we are seeking to have meetings set up by the 31st of March, which will be held in May after the closure of the public comment. And that's where should ICANN Finance or ICANN need more information to better respond to a public comment, we would have that ability to have calls tentatively set up already for those interactions.

The next section here is just an update on the process for the SO and AC additional budget requests. They are currently under review. We received about 60 requests from six different SOs and ACs. The next step will be to provide recommendation to the Board for approval and that approval would take place in early May.

Next slide please. This next section is just an overview then of the FY '18 operating plan and budget and the five-year operating plan update as it relates to the document that's already published. This one? No.

((Crosstalk))

Becky Nash: Having a little technical difficulties with the controller. Okay, so this slide just gives all of the overview of the type of changes that you will see in the five-yea operating plan primarily it's any changes that we incorporated from the FY '17 activities that then have implications on the '18 activities.

The types of things would be related to the strategic plan. For instance, the objectives and goals are defined in the strategic plan and remain unchanged for FY '18. The portfolios are updated to reflect work that is to be completed by the end of FY '17 and work then to be started in the FY '18. And there would be some refinements to the portfolios as well that you may notice in the operating plan.

The current year operating plan update includes KPIs that have been updated to reflect refinements and to measure the current process. We've identified dependencies, they've been updated to reflect completed work and events that have happened and to incorporate new events to be scheduled for FY '18.

And the final item here is the phasing so that throughout the five-year operating plan, depending on when the work is completed, we would rephase that strategic – the work related to a strategic objective.

At the bottom right hand of the slide here I'd just like to highlight three profile updates that we have incorporated. The first one is that the FY '18 operating plan and budget does include the IANA budget, which incorporates the PTI

operations and the ICANN operations as it relates to IANA called the IANA Budget.

This FY '18 budget does not include any expenses as it relates to the IANA stewardship transition, so there are no FY '18 expenses projected in the FY '18 operating plan and budget. And the final profile update for this year is that reviews have been incorporated into the plan as they are defined by the bylaws and they're now called specific reviews.

This next slide gives an overview of the highlights of the operating plan and budget in the published document. The five-year operating plan update, this is the second year of Year 3 of the five-year plan that's being updated. We've like to highlight that there are no major changes to our baseline operations. That means that there are no new large strategic initiatives and no major changes to baseline operations. The final update is that the IANA functions are segregated or provided as a segment called IANA Budget and relate to PTI.

The FY '18 budget is balanced. As we have indicated here, we have funding or revenue of $142.8 million, and we have baseline expenses for ICANN operations also of $142.8 million, resulting in a balanced budget. A key item to note is that there are no initiatives funded from the reserve fund that are being projected in the FY '18 budget.

Funding or revenue, we'd like to provide an update that funding is increasing but at a slower rate of growth than what we've seen in the past. So the funding forecast for FY '18 of $142.8 million is 5% above the FY '17 forecast of $135.9 million. However, we are seeing a slowdown in the growth rate over our previous fiscal years, and this is consistent with the new number of TLDs in operations reaching its peak.

The final point on this slide is that the ICANN baseline operations are increasing about 5% over the FY '17 forecast and this is mainly driven by personnel expenses.

This next slide gives an overview of the new gTLD program, a view of the multiyear forecast. So again, this is the full year program based on the application fees collected of $362 million. On the left hand side you can see the implications of the total refunds of $53 million, the costs of $214 million, and to the right is the phasing of the program by year. And we've highlighted in the red outlined box are the assumptions that are included into the total ICANN budget for FY '18.

I'd like to highlight several items that are new to the planning process for this year, that you will see in the published documentation. The first is the caretaker budget. With the community power to reject the strategic and operating plans and budgets, we've included a section outlining our caretaker budget assumptions.

So if the Board-approved the operating plan and budget is vetoed, the caretaker budget replaces the operating plan and budget during the veto resolution period. We've included a section outlining the assumptions of what we – how we have calculated the proposed caretaker budget.

Another new item to the planning process for this year is the unfunded potential FY '18 activities. This relates to activities and expenses that were considered during the budget development process but that were not included in the draft FY '18 operating plan and budget. These are activities that would be considered during the FY '18 – during FY '18 based on priority and only based on the availability of funding.

And what that means is that should there be any additional funding or revenue as it relates to the budget, these projects could be considered based

on their priority or if there was any funding available from lower expenses than budgeted.

Greg Shatan: Becky, there's a queue forming, would you like to wait until the end of your presentation or take them as they come?

Becky Nash: I'm fine taking them as they come.

Greg Shatan: Why don't we do that, Paul McGrady, you're first followed by Lori Schulman.

Paul McGrady: Thank you. Paul McGrady for the record. So that National Council of Nonprofits have a really fun website and they suggest developing a policy to determine how much cash on hand you should have. Have ICANN developed a policy to determine specifically how much cash on hand we should have benchmarking against other organizations? And do we have that much cash on hand? Thanks.

Becky Nash: Thank you for your question. This is Becky. Yes, ICANN has a policy related to the funding of the – both the operating reserve and the reserve fund. For the operating reserve, we do have a benchmark for how much to have on hand and that is actually one of the major KPIs that we have on our organizational dashboard. So we are tracking that and monitoring as we compare to the benchmark.

We are meeting the operating plan benchmark as reported on our KPIs. And then as you know, there is an ongoing working group as it relates to reserve fund and a policy related to the reserve fund. Is your question more about the actual operating fund?

Paul McGrady: Well so I guess I'm trying to get through all the accounting stuff, because I'm not an accountant so please forgive me. I guess I'm just trying to drill down and say good that we have a policy because I think that makes some measure of sense, but if I were a bank and if it were a covenant, you know, in

financing are we making that, you know, are we making that fictional covenant? I know we don't have any financing but if we were, I mean, are we there or do we have room - do we have ground to make up?

Because if we are awash in cash, terrific, let's spend it. But if we are not where we need to be based upon our policy, based on industry standards, then we need to know that because then we need to be Grinchier and what we ask for. Thanks.

Becky Nash: Thank you for your question. Again, as we indicated, we do have a policy for the operating fund. And of course as you indicated, we are not - we are a nonprofit so we also do not have any financing so there are no debt covenants related to ICANN. But the policy that we have is to have three months of operating expenses on hand in the operating fund.

That is a KPI that we are meeting. And again, that is for -- in order to accomplish our mission for, you know, having safety and security of the Internet and making sure that we have our funds, with enough funds on hand for the organization.

But as I highlighted, that is not the case for the reserve fund. And one of the documents or schedules that we do have in the published operating plan and budget, and also attached as an appendix here, is a cash flow by fund so that you can see for the projection of FY '18 how much cash is to be contributed to the operating fund.

Greg Shatan: Thank you, Becky. Next in the queue where the question from Lori Schulman, which she has typed in. "Please ask how the differential between the 5% projected growth and actual growth will be accounted for. What is the actual projected growth? I applaud ICANN for not planning to plan funding projects that rely on reserves, but I do see a red flag here. What is the actual growth expected given acknowledged declining revenues? Three months of operating money sounds low to me."

Xavier Calvez: I'm not sure I have understood correctly Lori's question. How we are planning for 5% growth, what it will actually be we will see in a year and a half from now. So the actual projected growth is 5%, we don't know better for now. We are planning for 5% in the budget, that's the current plan.

We will revise as we go through time over the next months and quarters we will revise our expectations as we have more information to do so. But right now that's the current projection. Three months of operating expenses is what, just so that everyone is clear, is as per the investment policy of ICANN. ICANN is to maintain an operating fund which, in simple terms is cash in the bank of three months of operating expenses. Three months of operating expenses currently on the basis of the FY '17 budget of $132 million is approximately $33 million, $34 million.

And we are bit above that now. And we are projecting in FY '18 that we will continue to be a bit above that. So there is a natural path in front of us of considering to take the excess over the three-month and put it into the reserve fund or design its use one way or the other, and that's what the Board will be looking at, so of course considering the depletion of the reserve fund, this is a natural candidate for allocating that operating fund too.

Greg Shatan: Thank you, Xavier. I think just to follow up for a moment, I think what Lori was asking about was before you got here we were told that there was a noted declining trend in revenues, and that there may be a tension between that and the operating growth projection.

Xavier Calvez: So thank you. And thank you for that precision. There is not a declining revenue. It grows slower, subtle difference may be that it's not declining, it's growing but slower than it has in the past. And this is completely logical; we did expect that. A significant part of our funding, and I will take a very simple example, is the fixed fees do we collect from registries, the $25,000, which is a fixed fee, annually that we collect from our registries.

We've gone from 18 registries to 1200 so of course our funding has grown as every new registry was being put into operation, then that $25,000 per registry was coming in. So we are now at the 1200, we are. In the next few weeks we will be capping at about 1200 registries into the root, which is nearly the full extent of the qualifying applicants to the new gTLD program who will have become registry operators.

So we've gone from zero dollars for that fixed fee of $25K, three and a half years ago, to the $30 million that 1200 registries times $25,000 per year is $30 million. So we are at that $30 million, it's not going to grow. It's capped because simply we have 1200 registries, we're not going to have more at least in the next few years until there would be another round of new gTLDs.

So that's a fraction of our revenue that we know is not going to grow. And the other fraction of our revenue is registration driven, so how much the legacy TLDs will grow, how much the new gTLDs will grow will be what drives part of ICANN funding that comes from that, and that the 25 cents, that we collect from a registry.

So we knew absolutely of course the funding of ICANN would grow significantly through the registries being put into the root. And as we would arrive at this cap of 1200, which is the number of registries that could be put into the root, then our revenue would grow slower. That's exactly what happens now. Not at all unanticipated.

So you can see that FY '18 is for the first year, the year during which we are arriving at that inflationary type of growth, both from a funding standpoint and from an expenses standpoint. And as you have seen from Becky, we are again, planning a balanced budget within which there is $1 million of contingency, which means unallocated expenses that are included in the budget to allow for flexibility, but that is not spent would be there as an excess as well.

Greg Shatan: Thank you, Xavier. I have Jonathan Zuck followed by Jimson Olufuye and Phil Corwin.

Jonathan Zuck: Thanks, Xavier, thanks for coming to our meeting. And this may be a question that drills in too deep it is better for the three-hour meeting that you've scheduled in the middle of all the social activities at ICANN…

((Crosstalk))

Jonathan Zuck: …really die-hard participants to come to that meeting but I may be one of them. There was a slide a little bit earlier about high profile changes to the budget that didn't mention changes related to the new - the staff allocated to the new gTLD program, and that that may be under the portfolio changes section of the budget.

                 I just raised it to say that there's some rumblings yesterday about trying to keep some of the new gTLD program staff engaged so that things that are noncontroversial, you know, coming out of the Subsequent Procedures Working Group or the reviews, etcetera, that they could be continuing to work so that the implementation phase of any future subsequent rounds is not completely serial with all the work that's going on, that some of it could be parallel.

                 And so I didn't know the degree to which you'd completely drained, and it's probably wrong to say "you" but, I mean, that staff have drained the new gTLD program entirely of its staff or if there are still some that could be working on the noncontroversial parts of the new Applicant Guidebook things like that.

Xavier Calvez: Thank you. So from a planning and structure standpoint, there is a team that's been – the team that over the past four years has supported the program. And as you know, that team has expended a lot mainly with temp

resources when there was high volume of work through processing 1200 or 1500 applicants. And that group is – has been scaled down of course. And you should blame us if we wouldn't have done it – has been scaled down to just itself to the number of applications that are now being dealt with because we're left with about, 40, 50 applications still in the pipeline of application processing.

So that group has been scaled down. Having said that, throughout the past five years, since the beginning of the program, not only that dedicated group but also many resources across ICANN, not dedicated to supporting the program, have contributed to helping the program and its consequences from the policy development standpoint to be happening.

So I will stop here but I think I would like to probably come back to maybe Christine Willett to make sure that your point and concern about adequate support of parallel processes either directly driven by the program or as a ripple effect driven by the program, are adequately staffed. I would want, if you're okay with that, that I follow up with Christine and ask her to get in touch with you so that that point is more clear and more specific to what her team supports. Thank you.

Greg Shatan: Thank you, Xavier. Jimson.

Jimson Olufuye: Yes, this is Jimson Olufuye. First I would like to commend Xavier and the team for driving the balanced budget. Also got feedback that we now have a reserve policy because we discussed it at the last meeting. So I would like to see that. And I don't know, maybe until I see that, but I have this assumption that the reserve should be about, you know, it should be about the operating budget for the year or so, but currently is less than 50%. But I've not seen the policy so maybe it's changed.

Xavier Calvez: No, so you're right. The – and it's not a new one, the investment policy of ICANN, which you can find on the Website, states that ICANN's reserve fund

should be ideally of a target of 12 months of operating expenses, 12 months of operating expenses using the FY '17 budget is $132 million. Jimson is pointing out to the fact that since it's currently at $62 million and to be potentially depleted further to pay for the IANA stewardship transition expenses, that's still are carrying, is at less than 50%, about 42%, 43% of its target, which is a concern. It's a big concern.

The reserve fund is – it's fundamental rationale is to allow the organization to face unexpected expenses so that it can sustain events that would occur. Lori and I and I know others in this group are very adamant to make sure that ICANN maintains those reserves because this is about the continuity of ICANN, it's about the sustainability of the mission of ICANN and the reserve fund is one significant element that contributes to that sustainability.

So replenishing the reserve fund is a very important topic. I don't know if some of you were in the GNSO interaction with the Board yesterday but I am hoping that you've heard Cherine Chalaby, Vice Chair of the Board, mentioning that the Board's – one of the Board's priorities currently in the near future is the financial accountability of ICANN. And I'm very happy that the Board can put efforts and focus on that because the replenishment of the reserve fund is one of the most important element of that. Thank you.

Greg Shatan: Thank you, Xavier. Phil Corwin.

Phil Corwin: Yes, thank you. Phil Corwin for the record. Xavier, when we speak to the Board in a little bit one of the topics we're going to be bringing up is the proposed new base TLD Registry contract. I'm not going to ask you about the specifics of that, but this is related to it. One item of concern for the CSG is the provision on there which permits ICANN to partially or completely waive the fee paid by a registry to ICANN based on its financial condition, one presumes.

And from dialogue with the Registry Stakeholder Group the other day with the CSG, I came to understand that the waiver would not apply to the 25 cent per domain fee, but to the $25,000 per year fee that each registry is supposed to pay ICANN. So my question is, do you have any estimate of the – I know it's going to vary by registry, but the basic cost per registry that it costs ICANN to have relationship with the registry. There's some oversight compliance costs, I mean, staff time and resources are dedicated to that, and in fact a financially troubled registry would demand more time from ICANN and if nothing else to negotiate the waiver.

So at what point would a registry not be covering ICANN's own cost of dealing with the registry when you allocate the time of staff to deal with the registry and what you're paying the staff for that relationship? Thank you.

Xavier Calvez: Thank you, Phil. I'll be short because I understand we're over time already. We don't currently try to calculate a cost of interacting with registries on the basis of the resources that contribute to that interaction. And if – it would be I think a very challenging exercise, but also because the various groups that contribute to that interaction don't actually only contribute to supporting the registries. So if you think about the Registry Stakeholder Group within ICANN, which is led by Krista Papac for at least another few weeks, that group supports the registries but also interacts with other groups and with other functions at ICANN.

The Compliance team definitely also interacting with the registries, but and the registrars of course. So it would be a challenging exercise. Bottom line, we don't have a specific number per registry that corresponds to the cost per registry of interacting with them. It's a – it would be a very difficult exercise to try to quantify that because there is not a lot of direct cost and there's a lot of indirect costs.

Phil Corwin: Very quick follow. Thank you for that, I just want to point out if we're talking about a very small and therefore financially troubled registry, let's say a

registry with 2000 domains registered, the 25 cent fee would only produce $500 a year at ICANN, so I think certainly if the entire other fee is waived, they wouldn't be supporting ICANN's cost of dealing with the registry at that very low level of financial contribution.

Xavier Calvez: And what you're pointing out is exactly the reason why the fee structure in the RA for the new gTLDs was structured with a minimum fee fixed of $25K and then a variable one above 50,000 cumulative transactions, as you may remember, of the 25 cents so that there's both the component so variable large contribution for the large registries and fixed for – as a minimum for the smaller registries. And your point is, should the $25,000 be at a lower amount that would be the actual cost of the registry – the individual registry for ICANN.

And my point is that it's very difficult to determine what is that minimum cost, which to your point depends on the amount of interaction that we have with a smaller registry. And if I push your point further, to your point, some of the registries with which we – on which we spend the most time, may be small. Should we then charge more to a registry with which we spend more time?

And that's, you know, that would be a commercial approach to charging the fees. And that's not what we're supposed to do, which is why there is a bit a sense of it's an equal treatment for everyone on that fixed fee. And then the variable fee is the one by which large registry will contribute more to ICANN.

It's an imperfect balance, but there was a sense of fairness trying to be included in that fee structure when it was created. And I know it was created through the GNSO PDP process on the Applicant Guidebook so I know it's – I know it's been though through well and you may have contributed to that at the time.

So I think that that consideration will certainly be looked at as part of the comment that you made on what's been looked at the Registry Agreement.

But we don't have a detailed calculation of what is the cost of a registry and it's a very difficult concept to establishes I think. Thank you.

Greg Shatan: Thank you, Xavier, Becky, Taryn, for joining us here and answering the questions and allowing us to highjack the last few slides. But that of course in, a sense, the interaction is more important, the slides will live on. So we are now, as noted, it's 10:39, this meeting ended nine minutes ago. In 21 minutes we will be in Hall A1 where we will be joining the ICANN Board for our roundtable discussion with members of the Board. So there is a coffee break going on outside right now and I will look forward to seeing you all in A1. Thank you. This meeting is adjourned.

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