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GNSO New gTLD Subsequent Procedures PDP WG Face-to-Face Meeting Part 2

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On page: https://gnso.icann.org/en/group-activities/calendar

Jeff Neuman: Okay, if everyone could take your seats and I'll look to the back to see if they're ready. All right, I've got the thumbs up.

Jeff Neuman: Okay, everyone, welcome back. Take your seats and we'll get this second part started.

If we can go to the next slides and start up with Work Track 3, although I'm looking - I see (Karen). I see Robin. Who's kicking us off? Robin, okay over to you.

Robin Gross   Thank you. Hello, my name is (Robin Gross) for the record.

In Work Track 3, we just wanted to focus on one issue today and really drill-down pretty deeply into one issue and that has to do with the community application process that we had in the last round.

So we had a lot of discussion in the sub-team. A couple of meetings where we focused on this and we've got an extremely broad range of opinions of what community applications should be. And we got a lot of community comment, feedback also.

And one thing that became clear was - or perhaps the only thing that the group seemed to be able to agree on is that we need a clear definition of community if we're going to continue with the concept of privileging community applications in the next round.

So what we wanted to focus on today is thinking maybe some high-level issues and principles and what are the underlying public interest objective that are in action by creating the concept of community applications. Should we privilege groups of groups for the sake of groups? Or is there something else we're trying to achieve here? What is it that we want to achieve with this concept of community applications?

And if we are to privilege communities versus other applications in the process in the next round, how do we define community to achieve these objectives? Or should we just forego the concept of community applications altogether given the dissatisfaction of the gTLD - the dissatisfaction in the gTLD rounds? Next slide.

So our working group came up with what's being called a straw bunny which is just sort of a - something to get some conversation going about trying to come up with a definition of community that might satisfy the community. Let me just read, very briefly, what this straw bunny definition of community is.

A community is a self-defined, long-standing and structured aggregation of people and/or organizations who share a number of cultural, geographical and/or social attributes that bind them together and define what the community is, its goals and its actions. A community applicant is one that is bound to the named community and whose application and eventual

management is directed by that community according to a published set of mechanisms which define its processes and its accountability to that community.

So let's think about this straw bunny proposal and ask a few questions. Does this straw bunny proposal definition of community, does it - do you like it? Does it get us anywhere or does it privilege old institutions and disadvantaged internet startup communities? Are groups of banks communities; a community of banks, should they be?

Should there be a requirement that community have a public interest or non-commercial goal in order to get the privileges of being labeled community in the new gTLD program? In other words, as a community of banks, should that be treated the same way as perhaps a community of indigenous individuals, because we really don't have a clear definition for what a community should be. And so that's what we want to talk about today.

So that's a - that's all the slides I have here because I really want to get some input back from you guys about what kind of definition you think. What do you think about the straw bunny proposal? What kinds of - what are we trying to achieve with this concept of community? So, oh boy, okay. Rubens Kuhl and then (Michael).

Rubens Kuhl: Rubens Kuhl here. On the groups of banks communities, I think that was a factor of how the program laws is structured in 2012. At application time, there was no such thing as a voluntary pick. So if they want to assure their stakeholders that they would act in a transparent manner and have restrictions and so forth, their only way was to apply as community. So they were obliged to do that - to perform that level of assurance.

Now that people could also have voluntary picks, some of those communities, they might not be communities because they could have voluntary picks to

offer those assurance to their stakeholders. So we might be looking to how things were in 2012 and how they could be structured in the next procedure.

Michael Flemming: I'm sorry, I guess I have more of a question than a comment that might lead into a comment per se. But with - I guess I'm confused as to how we defined a self-defined and long-standing. And at what point of level of, at least participants and within this community, can it be said that they are actually a representation of that community.

If it's within long-standing, then you can't have for example, a group of - a community develop all of a sudden as soon as a subsequent procedure is announced. Do we have criteria for that or has been - there have been further discussion in regards to that?

Robin Gross   No that's - this is really what today's discussion is about is trying to come up with some criteria and some bounding of this concept of community. And you raised points about sort of enforcement of, how do you really know there's representative? How do you really know it's a community? Of course this will create a lot of work for us to try to make sure that it fits within what we had originally planned.

So - but again, we didn't - this is really what today's discussion is supposed to be about. It's to get some feedback from you all about the concept of community and do we need a - what kind of definition do we need if we're going to continue with this concept in the next round.

Jim Prendergast: Sure, Jim Prendergast. Long-standing does present an issue and I'll just use one example and then stop talking. Stop blockchain. Nobody applied for it. It wasn't really on the radar. Somebody will certainly apply for it in the next round. Is that a long-standing community in the eyes of this definition? I don't know, thanks.

Anne Aikman-Scalese: Anne Aikman-Scalese. I think the straw bunny is an overly restrictive straw bunny. I know I've made a comment in Work Track 3 before that, I believe that community is also about freedom of association which is not to say that I think that necessarily, that banks are - groups of banks are communities.

But I think one of the examples that I gave was, you know, suppose all the kennel clubs from around the world decided that they wanted to apply as an association and some of their purposes as a community would be to, you know, stop puppy mills or something like that. And even if they're new, I think it just gets back to the principle of freedom of expression, freedom of association, that is not necessarily tied to an ultimate, you know, profit or non-profit goal.

I mean suppose that TLD, whatever it was, if it qualified for a community, wanted to, you know, raise money for that good purpose, I would see that as a community. And then you also have to look at the question of, if it's really about free speech and freedom of association, who really should be judging the purpose or not the purpose of a particular TLD. So I think the concept of community is much wider than the straw bunny.

Robin Gross   Thanks, and I should clarify that the straw bunny isn't really a proposal that we're putting forward as an - like, to endorse. It's just something to get us thinking about it and start, you know, thinking about the ideas and how to put together a proposal that does meet out criteria.

Anne Aikman-Scalese: Yes, so quick follow-up Robin is that when we use language like, eventual management is directed by that community, that's incredibly restrictive language because it's saying if you want to join in this application, this community application, you have to somehow to submit to being, you know, managed. And again, I think that's overly restrictive.

Robin Gross   So does anyone think that we should abandon the concept of communities altogether? Or is this something we should continue with but find a much better definition of?

Michael Flemming: Sorry, (Michael) for the - Michael Flemming for the record. So I think you need to take this definition in consideration with also the process that's been laid forward.

Correct me if I'm wrong, but I think the current process is, you can apply as a community TLD, then there's also community objection procedures, I believe. And then there's also the community standing panel, or sorry, evaluation panel that has to - that's for priority, I believe.

But at the same time, if there is dozens of communities around the world that have the same concept, just different regions, any of them could potentially apply as a community. But then if nobody says anything against it or doesn't oppose it, then it goes through. And if they pass the community standing panel, sorry the community evaluation panel, then it goes forward.

All in all, that's fair in the end, but the concept within community, it's - I mean it goes back to the idea of the public interest that we just talked about. I mean, it's in the - again, in the eyes of the beholder. But there's at least to some extent, a concept that we can agree upon. And this - while it's very broad, you're not going to get specific definitions. And I just think that at this point, you just have to let - accept this and let it go forward and with some regard, and allow other peoples to voice their opposition if they so view it.

Rubens Kuhl: Rubens Kuhl. I believe you have a chicken and the egg problem here is because, if this definition goes to what happened in 2012 where a community application would trump every other application and simply get rid of all the competition the contentions had, we have to manage it very carefully.

But if we change the rule for something like communities have some precedence like lower auctions, like they have a multiplying factor in the auctions, but not eliminate completely, the other members in the contention set, then it becomes not so critical how we define community.

So we might look into - can look into other factors of the community process. And then go back to see if our definition needs to be so carefully detailed or not because it depends on the consequences of its measurement.

Robin Gross   I'm sorry, I can't see you down at the end, but I hear there's somebody with a - yes please.

Vanda Scartezini: Vanda Scartezini. Well I do believe that this - try to define, you know, because it is - try to define the, correctly community will be almost impossible. And because of different cultural behaviors and the understands around the world. So I do believe that will depend on the process and we can just define that's - it's enough and then we go deeply.

If we decide as Robin says, to make in that sections for community. And then we can go deeply with different kinds of exceptions for this particular kind of community because generically speaking, it's good enough for the definition, for understanding around the world. But to go deeply, we're going to find a lot of different answer, interpretation and we'll never finish that.

Robin Gross   Alan Greenberg, please.

Alan Greenberg: Thank you. I don't think we're going to be able to keep the concept at all which I think is a valuable concept. I think it's one part - one of the parts of the new gTLD program where ICANN is attempting to honor the concept of public interest.

Even if we change the consequences, I mean, giving a multiplier on an auction when you know this is going to be a competitive TLD that other

people will apply for, that can have values in tens of millions, lord knows how much. I think that would make it even more interesting than the current one. So, you know, we'll have them with multiple communities fending off against each other.

So I don't think we're going to be able to get away with trying to refine what we mean by community and then making sure that we will have some level of consistency in making the decisions when panels or whatever it is, review them. And I think it's the inconsistency, the different way communities were recognized in the different applications that had to go through that process, that made the difference right now.

And so I think we can make it better without having - without simply eliminating it. I believe we have to be able to make it better. Thank you.

Robin Gross   Yes Jeff.

Jeff Neuman: Let me ask - sorry, this is Jeff Neuman. Let me ask the question I think Robin you asked but I'll ask it in a different way. Does, you know, in the first - or in the last round, 2012 round, we had a principle that said that community applications should be favored over regular applications. I'm using different terms but essentially, do we still feel that way?

Do we have a community - do we as the GNSO community, do we feel - do we still believe that communities should receive preference over any other type of application? Because that's the root of the question and that's existing policy says, yes they should. Does anyone have any thoughts on that? I know that there are thoughts in other groups. (Karen)?

(Karen):   Not to have a specific thought on that but to add on to that question that I was going to ask, it aligns with that. In Johannesburg, I believe it was, maybe it was Copenhagen, when we heard a report from the European Commission on Human Rights, that not only were they advocating for community priority,

they were advocating for a distinct and separate process for community applications almost a priority round as it were, separate and apart from generic TLDs.

So we'd be interested in knowing, does - as the GNSOs, do the people in this room beyond just priority, do you - how do you feel about that because we will be going tomorrow to talk to the GAC. And that's what that report I believe was commissioned from. And so I believe there's support there for that concept of a distinct round just for community applications. So input from this crowd on that aspect of even going beyond the priority we had in 2012 to make them separate. So thank you.

Robin Gross   Yes, (Michael), did you have a…

Michael Flemming: Michael Flemming for the record. I think it's a very interesting concept because I haven't seen a lot of -- sorry, searching for the word -- disagreement with that concept. But I also want to bring up the fact that when us members of, well dot-brands, brought up the concept of having a dot-brand subsequent procedure alone, the question - then the opposition came up and said, "Well you can't do that because then you rule out communities and they have to go - they all have to go through the same window. You can't give priority over to one specific category." I think it was said at one - that time.

But with the concept of community I haven't seen - I'd be interested to know if people feel the same way if we can't have - if we have one single community application window, then does - is that unfavorable or unfair to others?

Alan Greenberg: Two points. Number 1, there is a GAC paper being developed right now. Not the EU one but a GAC paper that is being developed on community applications. I presume you'll hear about it tomorrow if you haven't already.

And my other comment is, two people have now referred to the people in this room as the GNSO community, not all of you. There are a couple of us here who are not formally part of the GNSO community who are still active in this group.

Jeff Neuman: You're still part of the GNSO community. You may also be in another community but we're a very welcoming community.

Alan Greenberg: That means I can come to any of your lunches, right?

Jeff Neuman: I've seen you there.

Alan Greenberg: Not recently you haven't.

Jeff Neuman: Sorry.

Robin Gross   Yes please.

Man: Thank you Robin, (John). Now that - one point that we should look at is the name that's being applied for and the relationship to the community. And somehow - how do we factor that in? What's the direct relationship between the name and the community itself?

                 For example, you know, an application like, dot-apple. Could be a brand. Could be just a generic term. Or it could be a name that the US Apple Association might use. And so if the application is dot-US Apple, that's one thing. Or in the legal field, if the American Bar Association applied for dot-ABA, versus dot-law, that might be something else.

                 So the - one of the factors in looking at community objections that was kind of difficult for the panelists was, you know, the direct correlation between the name and the community itself. And we're going to have to tackle that at some point. Thanks.

Jim Prendergast: Jim Prendergast for the record. Yes (John), you're right. I think - and that gets to maybe some process improvements in the community application. You know, I don't think applicants for community strings anticipated that the artificial character limits that were placed on the questions that pertained to community was going to be end-all and say-alls, how they get to defend their application. But it turned out that was it. What you put in your application all those years ago, constrained to however many characters it was -- I forget how many it was but it wasn't a lot -- was all you had to go on on your application.

So when it came time for CPE, there was no exchange. There was no clarifying questions like the rest of applicants had. It was whatever was put in that document three years before you went in front of them, that's what you had to stand on. So there was no ability to clarify or engage or further explain something like (John) just talked about, as the nexus between the term and the community. Thanks.

Robin Gross   Thanks. I wanted to see if we could do a little straw poll in the Adobe Connect room for those who have signed in. And it goes back to what Jeff said a few moments ago, sort of the high-level idea of, do we still believe that communities should -- however we choose to define it -- do we still believe that communities should be given precedence over all other TLD applications?

Those who want to take the straw poll in the Adobe Connect room, why don't you do a green mark, a green check if you agree with the way - or with continuing with communities having a precedence in - or do a red check if - or red mark, if you think it shouldn't have priority or precedence over all the other TLD applications. Let's just - and then maybe we can get some discussion on that point.

Man: Regardless how you define it?

Robin Gross Well, no not - that's depending - you know, if we - assuming we can come to a definition, do we still want the communities to have -- however we choose to define it -- precedence and priority over all the other TLD applications?

I'm just going to go peek here. See what folks can show us. One, two, three, okay.

Well I see six green marks and one red mark, unless I've miscounted. Let me look at this again. So it looks like folks are pretty much in the same - having the same view that they want communities, provided we can come up with a definition that satisfies, to have precedence in the prior rounds.

Okay, I see Jeff and then - I thought I saw a hand in there. Okay, go ahead Jeff.

Jeff Neuman: Actually, that's what I was going to point to is (Paul McGrady) has his hand raised. (Paul), if you are dialed-in, I think we can hear you. Are you dialed-in to the bridge?

Oh, he also says his hand is down. Okay, never mind. Back to you.

Robin Gross Okay, thanks. Anybody want to give us some thoughts on community definitions and how we should handle that? Should it be something that's only for a non-commercial communities or commercial communities? What do folks think about that? Do we want to create some bounds in that? Please (Jim).

Jim Prendergast: Yes, it's Jim Prendergast. I would caution against artificially constricting commercial communities because they exist and, you know, they should be recognized as well.

Man: Thank you Robin. I gave you a green check but on the basis of the ASCII
                sphere. I still think that - there is those stiff - we need to give higher priority
                overall to IDN applications and IDN characters and other IDN scripts. But that
                doesn't really detract from what you're saying.

                I also think it's important that they should be non-commercial and preferably
                non-profits of community. TLDs, I think if you make them - if you admitted
                commercial, well first of all they've absolutely no difficulty in applying for in
                the main GTL stream if that materializes and then in parallel. And the scope
                for gaining in that area which I think we could do without.

Robin Gross   Okay I see in the Adobe Connect, we have (Chris) with his hand up. Please.
                You have the floor (Chris). Well we can't hear you (Chris), if you're speaking.
                Okay, it looks like the hand is now down. Okay. Yes, Alan Greenberg.

Alan Greenberg: Just a quick comment on (Christopher)'s comment. When you start talking
                about associations, very often you have a non-profit association of for-profit
                companies. So we got to be really specific if we're going to forbid one and not
                the other. It gets real messy.

Robin Gross   Okay, well we've got about two minutes left on this topic. So does anybody
                else want to weigh-in on the concept of community and how we can better
                define that for the next round?

                Crickets, okay. Okay, well then I guess we can leave it there and move on to
                the next Work Track. Jeff?

Jeff Neuman: Yes, so I think we're going to Work Track 4. I'm looking at Rubens Kuhl or
                (Cheryl). (Cheryl)'s pointing to Rubens Kuhl. Or (Steve).

Man: Thanks, this is (Steve Chancenstoff). I think Rubens Kuhl enlisted me. We're
                going to do a tag-team approach on these set of slides, so I'll take the first
                part. We're going to be talking about financial evaluation primarily. And so the

part I'm presenting is really mostly what was - how it was handled in the 2012 round.

So the basis for the financial evaluation stems from Recommendation 8 which is simply that applicants must be able to demonstrate their financial and organizational operational capability.

So the implementation in the 2012 round was based on a question/response format. There's 40 - or refer to Questions 45 through 50. So Question 45 asks for financial statements. 46 through 49 were about projections template funding and cost contingency planning. And then Q50 was about the continuing operations instrument. To pass that aspect of the evaluation, 8 out of 11 points were needed and no zeros were allowed on any of those questions.

So some of the challenges identified with that approach, or I guess the implementation is, you know, there are a number of supplemental notes that were provided before and during the application submission period. And then when the evaluations were conducted, 90% of the applications received CQs with especially high numbers associated with the questions related to cost, funding revenue and especially with the COI, which I think we'll see something like 82% - or 82% of the applications received CIOs.

And I don't know if I can see a smile from, let's say (Christine), to see if that number's right, but, I don't know, it's close.

The other - one of the other challenge was the difficulty in assessing the financial capability over all the applications submitted. The evaluations were primarily done individually. So trying to look at the applications submitted holistically and the financial capability of the applicant over many applications was not necessarily easy to do.

So I guess the very general question then is, can financial capabilities be assessed and determined to be capable in a better way than question-and-answer method, as it was done in 2012? Thanks.

Rubens Kuhl: (Unintelligible) next line, please. So trying to answer that question -- if he can do better -- we looked into financial evaluation and during CC2 comments we looked at some comments that suggested to - not to do any business model evaluation. It was the questions 46, 47, 48, and 49. And some comments suggesting to remove the financial statement requested, which was one of the questions that made more applicants fail initial evaluation. All of them ended up passing extended evaluation, but some failed exactly that question, probably due to unwillingness to provide financial statements. I don't want to give them to you so you failed.

So the - adding all those comments, we came to a strong mashing, which is a Zen expression for almost nothing. So the (unintelligible) view of adding all of those comments would be not requiring anything. So actually wouldn't have any kind of financial evaluation at all. But that doesn't mean that ICANN wouldn't require financial statements or any other documents that they see as a requirement for contracting. That just would move out of the application process. That would be part of the contracting process. So this can move to the next slide.

So that strong mashing - that language would look like this. Applicant will certify that funding for at least a critical (unintelligible) resurfaces would be available, even worst case scenarios. ICANN would still provide in the applicant guidebook sample spreadsheets of common business models so people could do their own math and see if they were able to live to that commitment. And ICANN would provide in least of financial documentation that would be required at - for contracting. So that's the plain idea of this strong mashing. This was presented during one of our work track calls, so if you can go to the next slide.

And some people reacted a lot to this proposal and say, "That is too (unintelligible) there for me." So some people suggested that we shouldn't at least ask for financial statements or financial documentation during evaluation. So our next model is one that doesn't ask for a business model but would ask for financial documents. So if you can go to the next slide.

So that language is very similar to the other one, but - so that applicant will certify that funding for at least the critical (unintelligible) resurfaces will be available. So that's about the same. That's the same business model language of our strong mashing. But you see in the first paragraph that financial documentation would still be required as part of the application process. So would still be evaluated by the application window. And then it could lead to failure and - or not prevailing in a contention set or not getting (unintelligible) looking at that sooner.

So we have here a grade of proposals that - we have ones that start at most empty is the strong mashing. (Unintelligible) have the straw big that's not as empty as that. We have the current policy implementation. But there were those who suggested different to us. And then we can see that in the next slide.

So out of beings of straw -- this one is the straw cookie monster -- would be something that has a business model evaluation that - even more strict than the one in the 2012 round. But even though some people suggested that to us, they haven't sent us a more detailed description of how it would like. So now we take a stop and say does anyone want to advocate for that idea and give us more detail of how it would work? Vanda Scartezini, please.

Vanda Scartezini: Yes, well I'm against this keeping business evaluate - model evaluation because it goes a little against the innovation. Because any panel that will define or evaluate any business model will be in some way focused on conventional issues and may be analyzed with some prejudice for the innovation idea - innovated ideas. So I believe that is not the business. The

business model and how they are applying their money is for the business to decide. It is my opinion. Anyway, information - financial information in another - other side is quite important to not have too much, you know, people that will try and maybe you stay not longer in the business. So have some kind of formal evaluation on the applicant. I do believe that is a good idea. But model, I'm against. Thank you.

Rubens Kuhl: Thanks, Vanda Scartezini. (Trang), please.

Trang Nguyen: Thanks Rubens Kuhl. Trang Nguyen for the record. Could you clarify what is meant by business model here? As is explained on past calls, ICANN did not evaluate business models from the 2012 round. We evaluated whether or not the applicant had the financial wherewithal to run the registry in accordance to its projections that are provided, but we didn't necessarily assess whether or not the business model would be a viable one, etcetera. Thanks.

Rubens Kuhl: That would be questions 46 to 49. So whatever you call them, questions 46 to 49. Jeff, please.

Jeff Neuman: Yes, can you - this is Jeff Neuman. Can you go back to the straw B, I think it was? A lot of straws. So I think of the different proposals -- again, from a personal standpoint -- this one seems to make the most sense, but I might add something like an auditor's certification or something where it's not ICANN that's evaluating the financial statements or the financial documentation, but some - you know, basically - and it's done in a lot of different businesses when you apply -- say, fill out an RFP -- there's an independent party that certifies your financial capability to perform the tasks.

And there are a lot of accounting firms and others that will provide businesses, organizations with -- for profit, not for profit, whatever -- with a certification of - basically it's - your certifying your financial stability. That's not looking at profit, it's not looking at that. It's just looking at your capability

to perform the functions. So I think a straw B with that -- again, not an evaluation by ICANN but some sort of third party certification -- I think would be kind of in between the models.

Rubens Kuhl: Thanks, Jeff. (Christopher), please.

(Christopher):   Thank you. Geez, having spent part of my ill-gotten career doing financial analysis of investment proposals, I'm definitely somewhere between the B and the cookie of the - this is the classic method of - and the other proposals leave far too much scope for over-optimistic and unverifiable assertions which ICANN and the economy in general should not be prepared to support. I think the starting point should be a much more thorough evaluation by accountants of why so many of the new GTLDs have in practice not come up to expectations on -- I assume, though I haven't seen those documents -- the expectations that were announced that gave rise to their approval.

And particularly in the B and in the cookie you should add stress tests. Explicit stress tests as to what expectations of different levels of registrations and usage would give rise to financial viability.

Rubens Kuhl: Thanks (Christopher). So are we - (unintelligible) you to the supporters of the straw cookie. (Maxim), please.

Maxim Alzoba: Maxim Alzoba for the record. Actually, it's a simple equation. How many current TLDs fully follow their application models? I'm not sure if any. The reason is there were so many changes in economy state, in process -- like for example nobody was able to predict fees for TMCH, yes -- and - or claims, fees. And they're in the model. And actually, it's exercise in if you're able to create some kind of more or less realistic model or if you're able to hire people who can do it for you. Because it's not possible to make it binding, because we cannot predict future. And our real business models will evolve, because if you stuck to something old, most probably you are going to be out of business because you have to evolve with the situation.

Yes, so I think from one side, it's useful to at least understand the ideas of the market to at least understand the - what you have to do to stay in the business and to understand your - if you're capable actually, internally, of delivering the service. And if you follow the process, most probably you will understand by the end of creation of more or less stable mathematical model. But on the other hand, we - I don't think it's wise to make those application time models binding. Because it will actually kill all the time those who follow it. Thanks.

Rubens Kuhl: Thanks (Maxim). We have a queue growing, so I release in the queue Donna and (Jim) and Jeff. And then - don't know, but (Anne) is listed. And then close the queue. So we now go to Donna.

Donna Austin: Thanks Rubens Kuhl, it's Donna Austin from New Stat. I - this is a question. These models seem to preclude the idea that new business is setting up to sell domain names, and that was the intent. And therefore the financial modeling that they did based on, you know, number of domains per year or whatever they were going to sell, that was part of the explanation with the application. So they may not have necessarily had the financial support behind them to last for however long it took, but the expectation was that this was a business that was setting up and now we're going to make money out of it. Is that off the table with this? I'm just not clear with…?

Rubens Kuhl: Not at all. Let's move on to our queue. (Anne), please.

Anne Aikman-Scalese: Thank you, Rubens Kuhl. It's Anne Aikman-Scalese. I really have to echo what was said earlier that ICANN is not in the process of evaluating business models. That's banks, the people who issue letters of credit, the people who do the jobs that (Christopher) mentioned he used to do are in that business. And I think the questions are directed not at what is your business model and will it or will it not be successful, but can you operate the registry for the term of the contract and what - you know, who's backing you

financially? We're not evaluating your business model. You are. Your lenders are, the people who sign on as partners are. And it's a misnomer to call it a business model.

And then the other thing that I wanted to say - and, you know, you shouldn't be in the business of ICANN evaluating the business model. It's none of their business. But the other thing was in relation to applicant support. This is another question that needs evaluation from the standpoint of applicant support and where we can go with applicant support, because without, you know, an ability to help applicants who need support develop letters of credit and other third party evidence of, you know, financial confidence, applicant support will go nowhere. Thank you.

Rubens Kuhl: Thanks. And before we go to (Jim), (Paul McGradey) asked the question in the chat where is any registries have not fulfilled their payment duties and I answered to him that so far we haven't seen any breaches notices published for non-payment. So that's public information we have so far. (Jim) please?

Man: Thanks. (Jim Printer). There actually is a brand that has received a breach notice for failure to pay registry fees. So it's in there. But survivability I think is an important issue and an important aspect to think about. And, you know, you said it's none of ICANN's business. I think it actually is because when registries start to fail -- and all of them that are existing today won't last forever -- there's two routes. There's secondary market where somebody else buys them and starts operating them, or they go to EBRO, which is a time limit on how much money ICANN has to spend to keep that TLD operating. After that EBRO period expires and the money runs out in that COI or whatever, then it's up to ICANN to run it. They don't get the $25,000 a year from the registries and they have fixed costs associated with it. So I do think survivability is a key aspect to the evaluation.

But one of the things I think we all ran into in the last round was questions 45 through 50 ask for X or Y. And if you could give them Z and demonstrate the

need for X and Y, that didn't work. I had several clients that are famous brands around the world that are privately held entities that have never released any of the financial documents that ICANN was asking for outside of their company. Now, Jeff, I think what you talked about could you get some other certification, yes I think we need that flexibility. But that wasn't there in the previous round and I think something like that certainly does need to be built into it going forward. Thanks.

Anne Aikman-Scalese: Yes, I'll have to correct that, (Jim). I didn't say that the financial survivability was not ICANN's business, I said that your business model is not ICANN's business, just to be very clear. And this is (Anne), for the record.

Rubens Kuhl: Jeff, please.

Jeff Neuman: Yes, thanks, this is Jeff Neuman. I want to agree with those last couple statements in that I think brands are a definitely unique case where the modeling just doesn't make any sense because you're not selling third party registrations. You're just absorbing it as a cost. And if there's a third party that could certify that obviously you have the capability to withstand those costs, then that's all you need. The whole business of modeling it, I mean, at the end of the day everyone just did a fixed - you know, if you had so and so as your back end provider or if you - you know, it was pretty much the same model for everyone that used that back end provider, it really was not specialized or tailored to an individual applicant. If you were to go back and look at all those. So I just don't see a need to ask business model questions. I think if we can ensure financial stability and survivability, I think that's the extent of the financial evaluation.

Rubens Kuhl: Thanks (unintelligible) have closed the queue for this line, we cannot reopen it for this slide down the road. So if you can move to the question slide, please, which I believe it's two after this. Yes. So our discussion questions comparing all these models end up answering two fundamental questions. So the one is should financial evaluation look into financial model? Note,

that's not looking at business model. This is financial model. Is this a brand that is paying for it? It doesn't generate revenues or is it some kind of open TLD or not? So while we go for the queue, I want you to think on this question and either go to a green mark at (unintelligible) and we can then move on with our queue. Christa Taylor, please.

Christa Taylor: Thanks. One of the -- Christa Taylor, for the record, sorry -- going back to the first round and comparing it to where we are, we did a bunch of financial models and they weren't always, say, reflective of everything. And going forward, they should be more - I guess the word is flexible. So we allow for the unique - the unique business models to promote innovation. On the flip side, we also need to have a certain amount of risk tolerance in the models. And we now have the data from the 2012 round. We can see where people - what their expectations were and we can kind of compare it to where they are today. And they're going to be very different, I'm sure, from what their expectations were.

To ignore that data going forward, I don't think is - makes any sense whatsoever, especially that we do have it. They are going to fail eventually and we're going to be sitting here -- as (Jim) said -- and having to pay for the - pay the piper to cover those TLDs. So not to do any kind of financial evaluation I think would be a poor decision making on our part. And if nothing else, we could certainly provide feedback to the applicants on their financial model and how they could improve it or go forward or what kind of costs others might have projected and where they are today.

And then finally I think there was a comment on audited financial statements. And the audited financial statements - every auditor will provide an opinion on the business going forward. So whether or not it's actual or not, they're going to take a stand back and they're going to look at the financials of that company and make an opinion on it. And to ignore that opinion isn't going to serve anyone's best interest. Thank you.

Rubens Kuhl: Thanks Christa Taylor, (unintelligible).

Man: Yes, just a few final comments on what has just been said. The lady opposite -- I confess I've not met you yet -- has made some very sensible comments and I support them. I would only add that certainly for a startup the distinction between the financial model and the business model is not quite clear cut. There are fixed costs, there are ways of financing it and depending on how you financed it, your medium term viability is influenced.

But without going into more detail, I would just add that ICANN and this community has certain responsibilities in this respect. We do know more or less now how the aggregate market for domain names is evolving. And although some of the innovations in new GTLDs may buck the trend, in the aggregate I would still expect the market to evolve in a reasonably predictable way. Whatever that turns out to be, it makes an enormous difference to newcomers if ICANN is going to delegate 50 new GTLDs or 500 new GTLDs. And if you would allow me a personal comment on the last round, the idea of opening the last round in the middle of a business recession was not exactly the most advisable course of action.

Rubens Kuhl: Thanks all. Now can go to a show of hands. So let's first look at - to the yes question. So please raise your hand if you think that yes, it should be a financial evaluation - financial model evaluation. Raise hands here.

(Irwin):   A financial evaluation?

Rubens Kuhl: Yes, that - a financial model evaluation - financial model should be evaluated.

(Irwin):   Models.

Anne Aikman-Scalese: I think you're confusing financial models with -- and (Irwin's) a little bit confused -- versus business…

Rubens Kuhl: Not business models, financial models.

Anne Aikman-Scalese: Okay, you might want to differentiate the two so everyone's quite clear on what they're voting. Thank you.

Rubens Kuhl: Questions 46 to 49. Cut and clear.

Anne Aikman-Scalese: I think the issue is, is people are a little bit confused on a financial model versus a business model. And it kind of - and those questions kind of go over both of those. So you might want to include maybe both of them -- just as a suggestion -- or need clarity for everyone to vote. Thank you.

Rubens Kuhl: It seemed that nobody wants to look into business models at all. So doesn't mean we have to vote on that. Because no one has said we're looking into business models. But some people said that we should look into financial viability, financial survivability, and some said don't. So that's why we need - we are voting on evaluating the financial model.

Anne Aikman-Scalese: Sorry. Then we might want to clarify saying that we won't look at the business model, but the business model will impact the financial model, but therefore we're only going to look at the financial model and not say - or not create an opinion on the business model.

Rubens Kuhl: Yes, which is exactly what the 2012 round - so it's our default anyway. So who is in favor of keeping that financial model evaluation in the process.

Man: I think some of us - the reason why I'm having a tough time responding to this is because I'm kind of in the middle that I don't think the financial model necessarily needs to be evaluated but the statements and the…

Rubens Kuhl: Statements are the next question.

Man: But it doesn't say whether that should be evaluated. It just said did they ask
                for statements.

Rubens Kuhl: Okay. We can change that for - the statements are evaluated.

Man: Okay, then…

Rubens Kuhl: Can we get a show of hands - thing who are opposed to any drill down into
                financial evaluation model, which is kind of what we got from the CC2
                comments.

Woman: I believe the question - who brings the question for me is not exactly that.
                Because if you refer to those questions in the 2012. It's confusing the way
                that we are discussing here. So I do believe that this just have some
                statement on finance or not. Or if you ask for evaluation, it means that they
                will go digging into the business model, too, to get the financial information
                correctly. So it's - for me it's difficult to vote.

Rubens Kuhl: So if you can't agree on the question, then sure we can't agree on the answer
                to the question. So let's try a different one, then. How many believe that a
                financial evaluation should evaluate a statement - financial statement of the
                company, either an existing company or a company that's being set up for
                application purposes. It was something that was foreseen the 2012 round,
                that a new company would be set up for becoming a registry. So let us get a
                show of hands on who believes that we should evaluate statements from the
                company. Well, so we go again to the same state of people can't agree on
                the question. So if people can agree on the question, then we can agree on
                the answers.

Jeff Neuman: I think on that -- again -- the personal view that I expressed was that you
                should submit financial statements along with a third party certification. So
                it's really the third party -- the accounting firm or whoever -- that's evaluating
                but not ICANN that's doing the evaluation. That's the little wrinkle that I'm

thinking of instead. But others have other wrinkles, so that's why it's hard to answer.

((Crosstalk))

Rubens Kuhl: (Unintelligible), please go ahead.

Man: Yes, (Jim Printer) again. I think - (Trang), I think you used the phrase financial wherewithal, which is a nice sort of catch-all for a lot of things that we're trying - I think you're trying to get to with this question. I don't think anybody disagrees that you should have to prove your financial wherewithal. But how you prove it I think is the question that we're all struggling with, as evidenced by you can only submit one type of financial statement when there are others that you could do to answer question 45.

Rubens Kuhl: Since we can't agree on the questions here, let's move on with our session. So if we can go back to our formal slides.

Man: Sorry, I misunderstood that. Actually, yes, we're getting up to time anyway, so we're not going to do the overall issues. But I just want to say here is that on Thursday we're going to -- or sorry, Wednesday -- we're going to have our second session, which is exclusively on work track five. Just to give a quick update that we now have the co-leads from the ALAC, CCNSO, GAC, and GNSO. We have an open call for volunteers for work track five. It's through - you can volunteer through November 20th. We're going to - and beyond, obviously. It's - we never really close it, but we'd like everyone who has an interest to submit by then.

                We're working on developing a terms of reference and that'll be a topic of discussion for work track five on Wednesday, along with kind of a little exercise we're going to do brainstorming on different issues that are involved with geographic names at the top level. So that session is - I know its early morning. I don't think breakfast is provided, unless (Steve) can magically

make that appear. But 8:30 to 12 on Wednesday, we'd love for you to participate. And with that said, I will close this meeting. Thank you everyone.

END