

**ICANN Singapore Meeting
New gTLD Session
TRANSCRIPTION
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Coordinator: Thank you. This call is now being recorded. If anybody has any objections, you may disconnect at this time. Thank you. You may begin.

Stephan Van Gelder: Thank you very much. Welcome, everyone. Welcome to ICANN. So we're going to have our usual session on new gTLDs. We've had a couple of suggested topics for this session. Let me just read through them.

A discussion of changes in the guide book since the last time we all saw each other including details on the early warning system and the advice process for the GAC; the implementation of the clearing house; the continued operations instrument; and anything else that anyone wants to ask questions on.

So I'm just looking to Kurt and Karen. I suppose you guys had a presentation that...

Kurt Pritz: Yes.

Stephan Van Gelder: Okay.

Kurt Pritz: Wish him a happy Father's Day. Father's Day (unintelligible). Very well, thank everyone. So this discussion amongst us is usually fairly flexible and, you know, we prepared a set of slides but if the set of slides aren't kind of going where you want to go then we can stop for questions or we can stop at any time.

Like (Stephan) pointed out, there is three sections to the agenda. The longest one is what's changed in the guide book. So that's one section. The second is, as you know, there's been a lot of work done between the board and the GAC, very substantial and constructive and effective work that's occurred.

And so I'm not going to go through the history of all that but sort of take a snapshot as to where we are right now. So those first two items are sort of interchanged.

A lot of changes in the guidebook come from the interactions with the GAC and going forward there are still some areas of disagreement between the board and the GAC and also areas where there's not disagreement but the GAC said, you know, we'd like to see this work going forward. So we might not want to pause for questions between those two.

And then, you know, just a slide on some implementation issues going forward. Okay, so with that, we'll go on to guide book changes. And these aren't grouped -- we've done them in the past grouped by module but this time we've done them by category. So unless there's some procedural issues or points of order we'll just dive right in.

Mostly based on back -- GAC input, Government Advisory Committee input, we increased the items checked in background screening for possible disqualification of an applicant and also going back and forth on the publication of the names of the directors, officers and shareholders.

So where we settled is that the names the directors will be published but there will be no other identifying information such as, you know, home addresses or secret cell phone numbers.

And -- oops, let's go back. I'll talk some more. So also we've added to the malicious behavior that can be considered during the background checks are

history of cyber crime or history of fraudulent, deceptive commercial practices.

So if you'll note, there is a list of bad behaviors that are more or less disqualifiers and then there's another list of behaviors that -- where we've added these where there's more discretion provided. So in the areas where the offenses are civil more than criminal, there is discretion provided.

With regard to the application process, there's not really a lot of change there. We continue to work with others on, you know, trying to point up the scoring or make it clearer or be more helpful to applicants, you know, what's worth one point and what's worth two points. So we hope that's more clear.

There's -- as part of the operational readiness for establishing an applicant service center for applicants to go with questions and so there are a lot of details, obviously, to be worked out there, you know, the availability of translation services, how we make sure that questions that are answered are published so the information gets to all applicants and there's no sorts of private conversations to make sure there's a level playing field there.

So there's a description of the applicant service center there, which may lead to the last acronym, the ASC, that's invented in this process.

At behest of the GAC, we've added questions asking about the intent and purpose and intended benefits of the TLB, so we can have the post launch economic study that the GAC recommended.

I talked a little bit about reorganizing the -- oh -- the scoring already. The first time was really about more description on how comments will be used in the process. And then finally we revised specific questions on right to protection, abuse prevention and security to incentivize applicants to add protections in these areas in accordance with the GAC request.

In the objection process, there is a lot of discussion about the standard there and how detriment is established, so in response to comments from the IP constituents here, the GAC and others, that was revised.

We've broadened the discrimination clause somewhat following the recommendation of the Rec 6 working group. We've provided for assistance for ALAC to object, to lodge formal objections and also (that) governments -- you may have read that each government will -- ICANN will pay for on dispute resolution process for individual governments.

And then much more substantially, there is the inclusion of the GAC early warning and GAC advice processes that I'll talk about in a little bit more detail.

So what's the GAC early warning process? Well, it's meant to be early, so the GAC early warning would occur during the opening 60-day comment period for all applications and it's a notice. It's not a formal objection. It's just a notice that comes from a government through the GAC that the application is potentially sensitive or problematic.

So it's to put the applicant on notice that there might be an objection from that government or there might be GAC advice, which is a more serious form of GAC correspondence, as we will see.

And that will be provided in writing to the ICANN board from the GAC in some form. And like I said, the GAC early warning is just a notice, so the applicant can decide what to do, withdraw or continue or read the comment from the government and take steps to address the concern so that -- now you've broken my train of thought, Adrian.

So that, for example -- I was going to give an example -- so for example, if a government said, boy, we really want to approve, you know, give approval of this application before, then the applicant can work with the government, get

the government approval of that application and get that dealt with. So that's the GAC early warning.

I guess I'll -- is it all right if I take -- what should we do, Adrian?

Adrian Kinderis: Thanks, Kurt. I think you partly picked up on it with what you just said then, but my question is around the (my) work to address concerns. So can you elaborate on how you see that mechanism of working to address concern actually playing out?

Do you foresee that someone may be able to change their application based on GAC advice?

Kurt Pritz: Yes, so, generally -- I'm going to speak in generalities here. And I think this is in the guidebook or at least it's in all the public writings that have gone on between the board and the GAC that generally speaking the applicant can materially change their application. They can clarify but not change.

So there is a family of issues that the GAC may raise that can be addressed by the applicant such as, you know, we want you to have our approval or something else.

But there is another family of things where the applicant would, you know -- where the government might be pointing out, you know, this application is not adequate or doesn't meet the criteria. And then the applicant would continue to go, you know, could elect to go through the process and go through extended evaluation if we want.

So not all issues brought up by GAC early warning could necessarily be cured by the applicant.

Man: So I imagine that that would also be mirrored with respect to ICANN's -- should ICANN find a deficiency similar to the GAC advice. In fact, I shouldn't

say advice but GAC's response that someone could then work through and -- not change -- but modify their application based on ICANN's feedback as well, right?

Kurt Pritz: Sorry, I don't quite -- I can't give feedback.

Man: So, for example, within your point scoring, should an applicant -- should ICANN turn -- should ICANN, you know, make a designation about a particular point score or turn around and say, hey, applicant, you didn't -- you know, this criteria isn't done well enough, is there a mechanism there by which you can modify your response?

Kurt Pritz: To an extent. We've tried to -- well, the guidebook tries to make clear that opportunities for clarification, not really submitting a big change to the application.

Man: So, yes, so you would leave it more clarification rather than sweeping changes. Thank you.

Stephan Van Gelder: Do you want to take any further questions now or as we go or would you rather...

Kurt Pritz: It does not matter to me.

Stephan Van Gelder: Any further questions? Wendy?

Wendy Seltzer: Yes, the new item of -- the mission or purpose of the TLD I wonder is that something that the applicant will be held to later and is it an adequate description of the mission or purpose to say as a place for people to register domains generic?

Kurt Pritz: That's right. So it could work out that way, right. And what's written into the purpose is not written into the agreement. But what is in the agreement is that the applicant doesn't fib on the application, so there's a line there.

You know, there's an expectation that by and large applications from the top level domains have, you know, have a business model that, you know, they've worked on that they want to demonstrate and then they understand the purpose of this is to help measure the success of the program later on.

So while it's not a -- while those purposes aren't written into the agreement, we think there will be benefit obtained by asking the question and then looking at what happens after, later on.

I'm excited about (finish). So the GAC advice on TLD is a more serious form of GAC communication that, you know, essentially could be drawn to an objection. So it's advice given directly to the board. It's not an objection that goes through the dispute resolution process.

And the GAC -- so I'm going to -- a problem with bullets and a problem especially with my limited speaking ability is I'm going to paraphrase a lot of complex discussion. And so we'll do the best I can at getting it accurate.

But where there's GAC consensus, so the GAC is going to identify the process by which consensus is reached and if you read the materials, they've already identified parallel U.N. processes for reaching consensus among governments.

So the GAC, of course, can give advice to the board at any time. Where the GAC provides advice that TLD should not be delegated or an application should not be approved -- and the precise language around that is not settled -- so where the GAC provides that sort of advice and identifies it as GAC consensus and it's submitted by the close of the objection filing period, that

advice would raise a strong presumption for the board that the application should not be approved.

So the GAC can give other forms of advice at any time because that's what the GAC can do and then, you know, then the GAC -- then the board would listen to that advice. But we're working -- the board and the GAC are working together and the GAC is working to identify language that we could identify, a vernacular that would signal that there's consensus GAC opinion that an application should not be approved.

Woman: (Unintelligible) with a question. Is advice always consensus advice? I mean, is there a capital A advice and a little A advice? And is the GAC giving a definition of what they mean by consensus?

Kurt Pritz: So the GAC will identify the process by which they reach consensus and then signify that the GAC advice is consensus advice. So everything the GAC tells the board is advice and it's -- and what we don't have yet is agreement, meaning the GAC hasn't defined for us what that language is that indicates that this is -- there's a GAC consensus that the application should not be approved. So that language still has to be worked out.

Stephan Van Gelder: So I have (Bill), Tim, (unintelligible). Can I remind anyone in the room as well if you want to ask questions, please come up to the table and signal to me and don't forget to identify yourself when you speak? (Bill)?

(Bill): Kurt, as a person with limited English capability, can you perhaps help me deep read the term strong presumption, strong presumption on the part of whom carries precisely how much weight?

Kurt Pritz: So strong -- so I think what it means is this that GAC advice can trigger a duty in the board, right: either follow the GAC advice or if they disagree, you know, make a good faith attempt at reaching an agreement and in the case the board does not agree, describe their rationale and reasoning for disagreeing.

So that would -- that form of GAC consensus would trigger that board duty that if it disagrees with GAC it has to do those things that are in the bylaws.

(Bill): That sounds like a strong presumption that the board should respond to the GAC not a strong presumption that the application should not be approved.

Kurt Pritz: Well, I think -- you know, I think the -- I understand your point. I think the discussion over the past few months between the board and the GAC has created this environment that didn't exist before where the board is -- the GAC has developed a way to get very precise, not precise but very pointed advice to the board and the board takes the GAC -- the board has said that they take the advice of the GAC very seriously.

So we're trying to develop a mechanism where the GAC is specific in that there is consensus that this application should not be approved and that the board -- and, you know, the board has said that they take the advice of the GAC very seriously.

So it's not -- I think it's not a, you know, a 50, 50, you know, 50, 50 decision for the board to disagree with GAC advice but we start with the board wants to agree with the GAC and then would have to find reasons for not agreeing with the GAC.

Stephan Van Gelder: Okay, Tim next.

Tim Ruiz: Thanks, Kurt. So the very first bullet point up there, just a question on that. It's not just simply a statement that it violates national law or raises sensitivities but it would require -- well, there is some expectation that there would be detail as far as what national law is being -- might be violated and what those sensitivities are. Is that correct?

Kurt Pritz: So that's hoped for. Again, the GAC can do what they want. But if the board is going to disagree with the GAC or make a decision having the reasons for the GAC saying this TLD shouldn't be delegated are very helpful, all right. It's very hard for the board to state reasons why it's disagreeing with the GAC unless there's some reasons there.

Tim Ruiz: And I would presume -- and maybe I shouldn't -- but that the applicant might be able to provide some sort of clarification or detail if for some reason they believe, well, we consider this but it doesn't for reasons X, Y and Z or are they completely out of the picture on this decision?

Kurt Pritz: No, in the process that's been defined as an opportunity for the applicant to respond both to ICANN and the government.

Stephan Van Gelder: So I have Ching, (Liz) and Chuck.

Ching Chiang: Thank you, (Stephan) and thank you, Kurt. I would like to have a follow-up, actually a comment, not a question on the advice and the early warning is that I'm seeing from this group is that we are giving a lot of rooms for the GAC.

As we can see, there is not specific numbers or a threshold to be put on certain objection or certain recommendation from the GAC. I'm also seeing there is a double standard for -- I mean, I'd like to come back to sort of Edmon and myself, our favorite topic on the 60% requirement on the geographic -- actually, I mean the subcontinental names.

So there seems to be, I mean, I'm pretty sure others in this group will feel that there is sort of a double standards. There's a very specific requirement on 60% support from the government but there is not much we're seeing a sort of a not very clear, I mean, definition of what would be a strong presumption would be what would be a, you know, a consensus to be viewed.

So I'm confused but I would like to bring this up once again, but just for your reference.

Kurt Pritz: Okay, certainly and, you know, this discussion between the GAC and the board and the community is going on for a long time and the GAC has been trying to find its voice to describe with some specificity where they have problems with the process.

And at the end, again paraphrasing and I might be murdering this, but, you know, certainly the role of governments is to indicate where these sensitivities might exist and it's hard for us to reach any other conclusion that if ICANN's GAC gives public policy reasons for objecting to a string, the board should closely listen to that.

I understand your other point about the specificity around 60%.

Stephan Van Gelder: Thanks, (Liz).

(Liz Williams): Thanks, (Stephan). Kurt, just to have a look at point four there, the consensus advice from the GAC for a particular application should not proceed, just in a continuum in dealing with an application does this assume that the GAC is asked for advice about strings after the string has passed initial evaluation and they've passed the technical criteria and it's actually -- so when does this actually take place?

Kurt Pritz: This takes place during the objection filing process period. So that occurs in parallel with the initial evaluation and closes a couple weeks, I think -- a couple weeks or a month -- two weeks after the initial evaluation is done. So the objection filing period is all in parallel with the initial evaluation.

(Liz Williams): So in that case then, the GAC is actually assessing the impact of the string of a collection of letters, not that the application is otherwise perfectly passes

the objective criteria which has been set through policy and through dealing with the applicant guide book, yes?

Kurt Pritz: I think the GAC is reading the application. It's not just reading the three or six...

(Liz Williams): Okay, so then the next question is that means that the GAC becomes a proxy evaluator, yes, and then the GAC provides advice to the board, which then becomes an additional proxy evaluator, so the role of the independent evaluators for contested strings with respect to the GAC advice, is that the GAC and the board are essentially evaluating those applications, not the independent evaluators.

Kurt Pritz: Well, the evaluation of the independent evaluators is required. No application will be delegated without passing the technical and financial criteria, right.

(Liz Williams): But there's a presumption that ICANN would not approve that application, even if they were passed in the other independent objective criteria that the independent evaluators are responsible for.

Kurt Pritz: I think that's correct, just like if there's an objection based on community or some other grounds that that application can meet all the criteria and an objection can still be, you know, through the dispute resolution process be upheld, right. It's similar to that.

(Liz Williams): But there's -- and (Stephan), you do mind if I have just one more question. So that then presumes that the GAC has very clearly a series of defined windows that open and close that does not allow continual evaluation, continuing evaluation of an application as and when the GAC or the board might like to do that because that is, I think, unspeakably unfair to applicants that are continually responding to an application evaluation process that isn't clearly defined and clearly set out against specific measures because we

spend a lot of time trying to insert objective independent -- and I'm very concerned about language that says a strong presumption.

A strong presumption is a subjective term, which I have issue with. And I have serious issues with consented advice because the capability of the GAC to provide consented advice on a string that might have public policy implications that raise subjectively defined sensitivities takes us right back to where we don't want to be.

So I'm assuming that the GAC has sufficient resources to analyze these things within a timely way and then that opportunity is closed off because what happens is then we come in then with the GAC at the very end that says, oh, no, we still don't like what we've -- the board has gone against our advice and we go through this unholy mess of the GAC disagreeing with the board and the board disagreeing with the GAC and the poor applicant is left there saying, well, now what do I do for presumption of non approval.

I'm concerned about this loose language to protect applicants and they've got a pretty clear pathway to a process and also the job of the GAC is very clearly defined and the role of the board is very clearly defined. I'm still not satisfied that the GAC's role and the board's role is sufficiently clearly defined to give applicants sufficient comfort that they're not going down a rat hole.

Kurt Pritz: So in this discussion between the board and the GAC it's very important to recognize that the GAC has made significant concessions in where it started from. And, you know, 80 subissues, several I want to, you know, (wreak) advertisement.

The GAC has made significant concessions too. And one of those in that materials that you read is the GAC sort of, you know, introspectively thinking about the GAC early warning where it has to give a -- you know, it has to process something and deliver a paper within 60 days of the application being posted and for this more serious GAC advice that they have to react

within the objection period, which closes -- I forget; it's five or six months after the applications are filed.

So and the guidebook is very specific about the closing period for that GAC advice and then there is a board decision. So as soon as practical, the board takes it up and makes a decision on the GAC advice.

So I would invite you to read it carefully and see if you're satisfied that it seems close enough to you or it needs to be tightened up. But I will say that the GAC in its writings has said, you know, okay, we have to get ready because we have to do this in a certain period of time and they recognize that they have -- in their writings they recognize they have a duty to react in that timeframe.

Stephan Van Gelder: Thanks. Chuck?

Chuck Gomes: Thanks, (Stephan). Chuck Gomes from VeriSign speaking in my personal capacity as one who was involved in GNSO policy development process and the implementation process that's been going on since 2005.

First, a general comment, I appreciate the fact that an advisory body has made significant concessions. But I really want to come back to what some of what the previous three speakers said, in particular, Tim, because I think Tim raised something that's really important and I would hope that the GAC will honor one of the key recommendations of the GNSO with regard to this process.

And that is that it should be as objective and measurable as possible. And so when the GAC does give advice, I hope that they will keep that recommendation because it was a fundamental one of the total recommendations of the GNSO that the process be as objective and measurable as possible.

And so when they provide advice about a string, as Tim suggested, it's really important that they detail the rationale in terms of that and the more detail the more objective it will be and the more in sync with the GNSO recommendations it will be.

Man: I just thought that was a really good comment.

Kurt Pritz: And moving away from that, in the registry agreement there are certain changes -- there's been a lot of active community discussion about the registry agreement still and some good changes there.

What's been clarified is in language that we hope is clear to define the duty for the registries and make it straightforward to comply the obligation to investigate and respond to reports of illegal conduct for a law enforcement.

That language has been made clearer. There's an additional obligation to provide some data for follow-on economic studies. And registry fees, we moved that from a names, volume of names model to a transaction-based model.

When we tried to do the arithmetic and figure out, you know, when certain fees get kicked in, it became very complicated and the registrars had a transaction-based model, which is much clearer, so it's anticipated the fees are the same. It's just the method of calculating them is more black and white.

We allude to the process, the (dot) intellect process of release of country names at the second level and include a notice in the registry agreement that ICANN will respect court orders from other jurisdictions. That was a request by the GAC, so that's why that's in there.

So that's -- you want to keep going? In trademark protections, we've broadened the types of rights that can be included in the clearing house. We

haven't increased the names that are included in Sunrise or IP claims but rather that the clearing house anticipated it'll be used for other functions or especially for specialty TLDs.

We've broadened the types of rights that are admitted into the clearing house. We've clarified how the clearing house will be paid for, that trademark holders will pay a fee to get into the clearing house and registries will pay a fee to run the Sunrise and trademark services prior to launch.

We've streamlined and simplified the URS and selected ways suggested by the GAC. And -- well, let's stick a pin in that because I want to talk about URS in a second.

We've, you know, we've maintained the proof of use required for participation, so trademark usage evidence if you want to participate in Sunrise or URS or in the (PDRP) and how that can be done in a simplified way.

The URS now includes a limited loser (pace) provision. And I think I want to make a comment that -- an editorial comment about the URS. You know, we're entering into an RFP to secure or some form of agreement to secure providers of URS.

And one of our -- one of the big goals this community had with the URS is that it'd be cheap. So I think there's probably going to be some back and forth with the community as we find out, you know, how much these different services cost and some balancing that will take place with regard to, you know, what the final details of URS operation are and allow the community to help us make some choices in balancing there.

And then finally, the (PDDRP) that ICANN imposed remedies would be in line with the remedies recommended by the panel, which I don't think is a surprise, but we made that clear. So I think there's a couple questions.

Stephan Van Gelder: (Christina) has a question and Tim.

(Christina): Yes, Kurt, I don't know whether you've had a chance to see it yet but the National Arbitration Forum has put in some very detailed comments about some aspects and provisions of the URS that as it's written in the current guidebook are either unclear or don't make sense and the like.

I guess my question is is that once you all have had an opportunity to take a look at those, given that, you know, whether or not any (asset) company or URS provider they do this type of thing and have a very good sense as to what is working and what isn't and what needs to be clarified.

How do you anticipate addressing those issues that they've raised?

Kurt Pritz: When did they post those because I saw some comments a while ago?

(Christina): Within the last week.

Kurt Pritz: I haven't seen those. So I think that when we enter into whatever form of agreement there'll be with the URS provider -- and I don't know if it'll be an agreement like we have now with, well, a lack of agreement we have now with UDRP providers but we kind of designate the providers or they're in agreement that there will be some sort of negotiation.

The goal of the URS, right, is to keep fees really low. So I think those details will be ironed out in sort of a balancing that takes place to achieve best the goals we want to achieve in the URS that it's fast and cheap.

(Christina): So just to make sure that I am understanding correctly, that to the extent that once you all had a chance to review, you come to the conclusion that, yes, these particular points are valid, those will be addressed more through the implementation/RFP than through perhaps revisions or specifications to the kind of guiding text that's in the guidebook.

Kurt Pritz: Yes, so I think a parallel with that is the dispute resolution providers where at one point the guidebook had guiding text and then working with the ICC (shay), then we've written their rules, their specific rules for operation into it, so I see a parallel there.

Stephan Van Gelder: Okay, Tim was next and then Jeff.

Tim Ruiz: Kurt, in regards to the clearing house costs, it says the registries will pay for Sunrise or trademark services, which I assume will get passed on to consumers or applicants, whatever registrars. So is the -- and perhaps I should know this, but I haven't looked at the RFP, whatever, for the clearing house.

But is there -- will there be an attempt then to make the fees that are charged at cost basis or is, you know, I mean is there going to be some sort of control -- attempt to control what those costs are going to be since it's sort of a requirement?

Kurt Pritz: Yes, so that will be, you know, a competition, you know, on price as well as a quality of services and reliability. It's all wrapped up in value and so that would be the decision making process by who operates the clearing house, so cost is one aspect.

You know, fees are paid directly to the clearing house, right, not to ICANN. So how that clearinghouse decides to make its business proposition would - is one of the factors in who gets awarded the operation of the clearinghouse. So yes, it's going to be competitively bid and a decision based on value.

Man: Okay Jeff.

Jeff Neuman: Yes, thanks. Jeff Neuman. Just a couple (unintelligible) occurred about whether the URS providers will have a contract with ICANN. I believe -

someone can correct me if I'm wrong - but I think it was a consensus recommendation of the GNSO that there be a contract.

In fact, that was in the SGI so if there's not going to be a contract I think there needs to be - and following kind of through the process - there needs to be an explanation back as to why that wouldn't be the case.

Man: I remember that.

Jeff Neuman: Then there's some talk going around about a letter that was sent by ICANN back to the GAC on proof of use requirements. That's was June 9th. I've seen references to it but I haven't seen actual letters there. Any plans to make that letter public so that we could see it certainly before I guess tomorrow?

Man: I - yes, it's on the Web site. If you go to where the new guidebook is and look under explanatory memos.

Man: And I think that's a particularly important request because most of you have probably seen the latest GAC communication and the topic of trademark use is one of the ongoing GAC concerns.

Jeff Neuman: Okay, yes. Thanks for that and then I think - I have a number of questions around the clearinghouse implementation but I think that's a separate agenda item that we'll talk about so I'll save that for then.

Man: Any further questions on this one, on this item? Okay.

Kurt Pritz: So that's the close on the changes in the guidebook. I wanted to make some remarks on the GAC board cooperation that, you know, it's a very staid group but I think the work there is kind of remarkable. There's been significant gives on both sides.

And, you know, when a big agreement is reached nobody gives anybody a high five or even smiles. They just go on to the next thing. But we - for those of us who have observed, I think we should note that - well, to get into the discussion, we started with these 12 issue areas that - and under that the GAC identified 80 sub issues.

And so of those 80 sub issues, there's been substantial progress. There's been agreement on, you know, in all the issue areas and there're some remaining areas of difference. Some are still being talked about that aren't bullets here and I can talk a little bit to them too.

But it seems where there's very specific remaining areas of difference, are in the specific trademark protections so for those of you who read the - all the GAC scorecards and reports, you might remember the trademark protection area as being a list of about 30 specific requested trademark protection, so very specific implementation oriented comments.

Of those these are the ones that are left, that the guidebook still requires evidence of trademark use if you want to use the sunrise process or the URS process, the GAC recommends that the burden of proof to win in a URS or PDDRP proceeding be lowered so that instead - in a URS, for example, instead of the trademark holder being able to show clear and convincing evidence, they would only - the GAC suggests lowering that to a preponderance of evidence.

New in the guidebook is a loser (page) model for URS for claims of 26 names or more and 26 came from the IRT report. And the GAC recommends lowering that to 15.

And then finally the GAC recommends that the need to issue affirmative conduct in order to prevail on a PDDRP case against a registry, that the word affirmative be taken out. So lowering that standard.

So those are the differences remaining out of, you know, 30 line items although those are - some of those are repeated a couple times. I'm not saying the final score is 26 to 4.

But I think it is important to recognize that in 80 sub - specific sub issue areas, the final score, you know, would never be 80 to nothing, so that we're so close on this I think is something to be remarked on.

And then in sort of a new area, in post delegation disputes where ICANN has come - this is where our government might, you know, remove approval of a TLD or have a dispute with a TLD later on. ICANN wrote very specific advise, very specific - made a very specific commitment in the guidebook that ICANN would follow the rulings of courts in competent jurisdictions and the GAC would like to see that ICANN honor the effective administrative decisions too.

And if you read all the material, you can read why we - you know, ICANN thinks - the ICANN board thinks that's somewhat problematic. So that's where the differences are. There are potential other differences, you know, for example, in applicant support, the GAC is recommending a very specific fee reduction of 76% and orders discussing, you know, different models for helping applicants, you know, also wa- you know, are very interested in the GNSO discussion on this area as we talked about yesterday in working with joint working groups and how that whole thing works.

So there's a couple other areas that haven't shaken out yet but I didn't want to put them on the slide because I don't know that they're areas of difference or not.

Stephan Van Gelder: Hang on. Before we move on, (Shot) had a question on the previous slide that...

(Shot): Thanks (Stephan). Kurt, with regard to your last sub rules under trademark protections up there that need to show affirmative conduct in the PDRP, and

I'm now speaking on behalf of the gTLD registry stakeholder group, that unanimously opposes any changes to what's in the guidebook right now in that regard.

It revolves around the issue of willful blindness and we're fully aware that WIPO has been logging hard for six months or more to allow that kind of broad standard of willful blindness.

And so I want to make it clear that we're very, very strongly opposed to the removal of the word affirmative that's in the guidebook right now with regard to registry conduct in the PDRP.

I hope that's been put to bed already although - and I was happy to see in the latest GAC communication that's been distributed around today, they don't mentioned that but they do make reference to their pre- all of their previous communications so I guess the issue may still be open. Thank you.

Man: Yes, and certainly the registry position and the - some more positions of others have been noted in those arguments.

Stephan Van Gelder: (Jonathan) was next.

(Jonathan): Thanks (Stephan). Thanks Kurt. Kurt, I want to talk to - a little bit about this requirements for evidence of trademark use. So I assume that in the guidebook at this stage in the latest variant of the guidebook, requirement for use, and the GAC is opposed to that requirement.

Man: That's correct.

(Jonathan): And if it remains, have you - and the GAC isn't successful about lowering that, have you envision - or do you envision now that test might be applied, the implementation of that? How far have you gotten on that?

Kurt Pritz: Oh, pretty darn far. That - what the guidebook says is that there has to be a declaration on the part of the trademark holder, that's it's in fact use and present one piece of evidence, like a screenshot or a product or something like that. So the combination of those two things would satisfy the requirement.

Stephan Van Gelder: (Unintelligible). Jeff was next.

Jeff Neuman: Yes, I just wanted to kind of echo what Chuck had said about the registry position but I want to actually - it's not just the registry position. And I written - I may have written some comments about this back in 2009 and 2010.

There were some legal cases in the United States - (Panovision) versus (Alarm), Network Solutions. I'm sorry, Lockheed Martin versus Network Solutions, the (Panavision) case earlier then that and (Tiffany) versus eBay in 2010, that all held from a legal standpoint in the United States that registries cannot be held liable for things like local blindness or even actual knowledge in cases where they actually knew about infringement going on.

So I know, (Mike), you said that WIPOs is lobbying very heavily for it. But I would encourage if they lobby any heavier to ask for legal justification for that.

Woman: Can I just note for the record that that's not actually the holding of the (Tiffany) versus eBay case and it's probably best that we not go down that road.

Jeff Neuman: No, you can, because it's actually reaffirmed but we can have that argument separately.

Stephan Van Gelder: Finished with the legal argument? Can we go to Mary?

Mary Wong: Thanks (Stephan). So I have a comment and a question. And the comment is on behalf of my stakeholder - or of NCUC, the non-commercial user's

constituency. And it's no surprise to anybody in the room that we are very strongly opposed to lowering the burden of proof for the URS.

We believe that that would completely undermine the purpose of the URS and would also have some impact on the UDRP that we don't need to go into here but I wanted to make that comment for the record.

Secondly this is a question. Is there any information you can provide on the - for other (unintelligible) constituting intellectual property that could go in the clearinghouse?

Man: Sorry. Yes, I think there - it's written into the guidebook but I don't remember what it is and so if it's all right with you, I'll take your question offline. I know they - the GAC, for example, suggested perhaps geographic indicators like champagne could be included in the clearinghouse.

And I think names could be included in the clearinghouse. So there's - as you know, the clearinghouse is database, right. So there's a standard for getting into the clearinghouse and then what remains unchanged is the standard for what names the registries have to honor in URS and IP claims.

Mary Wong: Yes, I appreciate that and we can certainly talk about it afterwards and I realize that this has been a very busy period for people. But it obviously is an area of concern because the wording in the guidebook right now is potentially very, very broad.

So our concern here is that it not be left as an implementation detail because the scope of what goes in has legal implications as well.

Man: So what would you like to see? Okay.

Stephan Van Gelder: Okay, thanks. Zahid.

Zahid Jamil: Kurt, hi. Just wondering if - there were mentioned in previous iterations of that which talked about 26 June 2008 as the cutoff point - 26th of June, that was the last (iterated mark), you know, if you were to register in the trademark clearinghouse, you should have a trademark which predates 26 June 2008.

What I wanted to ask was whether those references have all been taken out. Is that my - is my understanding correct? And then maybe a follow up after that. Has all - have all those references been taken out?

Kurt Pritz: That's what I think, yes.

Zahid Jamil: There's one still - I think, sorry, it might be editorial - 7.2. It's still there. It - I noticed it was taken out from everywhere else. For some reason it's still in 7.2. Just wanted to point that out. Thanks.

Kurt Pritz: Seven point two of the clearinghouse procedure?

Woman: It's in the provision that relates to the grounds on which a sunrise eligibility just can be (brought). And I think it was just a hold on.

Kurt Pritz: Sorry. What (Dan) was talking about. Yes, I'm not going to tell you. No, so we have the - no, we have these meetings...

Man: Maybe never again.

Kurt Pritz: We have these meetings every ICANN meeting and it's really important to note that we listen to the comments here and they're recorded but, you know, to the extent that either constituency groups can put comments on the record or the GNSO as a whole puts a comment on the record, I think is very effective too.

So, you know, their affected transfer of datas and from council members to us here, it's really creating the written record and especially, you know, in the

context of a discussion between the GAC and the board, you know, comments from constituency groups are very helpful even if they're reiterations I think.

Man:

So in the GAC board interaction, another snapshot is that the GAC's especially has made concessions but said instead of changing the guidebook now let's either do further studies or ensure that some of the commitments the board has undertaken are followed.

So there's work left to do either after the approval of the guidebook or after the launch of the process or even after, you know, the first TLDs are delegated and we see how we're doing.

And some of that work is between the board and the GAC and some of that work is, you know, for ICANN board and staff and community. It depends on the situation.

So, for example, with the - regard to GAC advise, we had a discussion in here 20 minutes ago about what language the GAC might use to convey that. The GAC had a consensus that a certain TLD application should not be approved, so while it's the province of the GAC, they want to work with the board to ensure that communication is clear.

In lieu of ICANN providing free objections, you know, in lieu of ICANN pro-paying for - (gezundheit) - the few resolutions processes for all government objections, ICANN offered to pay for one per government and the GAC doesn't know if it was satisfied about that but ask that ICANN in its communication specifically communicate to governments so they were really clear on what their opportunities were with regard to the objection process.

With root zone scaling, while it's recognized that risk has been addressed, there is documentation about monitoring that is left to be done. (Operator), the GAC recently wrote that it recognized that the GNSO and others are

considering community TLDs and how they might change their registration restrictions by what set of circumstances and the GAC wanted to be able to opine on that to the board, so put a place marker there.

With regard to trademark protections, where the GAC made some concessions in that area, it asked that ICANN conduct post-launch studies to measure the effectiveness of trademark protections and to see if some additional ones can be added later on.

And specifically when doing the RFP for the trademark clearinghouse, ask them to make accommodations for or at least address what steps would have to be made if IP claims or sunrise included exact match plus a key term, how that would be accommodated in a clearinghouse to understand how that would work operationally.

As everybody knows, there're letters from certain GAC members about registry/registrar separation that have to be addressed going forward. And I don't know how much I'm going to be able to say about that right now if there're questions.

And, you know, we - we're all working towards applicant support and a methodology where, you know, some financial funding can be funded and then allocated in an equitable manner.

So those are the lists of things we're - the GAC has left for work to be done even after approval of the guidebook.

Stephan Van Gelder: Kurt, can I put myself in the queue and just ask if we can get your feeling on what the possible impact or effects of the letter that was sent just prior to this meeting on VI and the decision that was taken there.

Kurt Pritz: So personally when I read the very original GAC advise about vertical integration and then wan- you know, wanting to encourage innovation and

choice and competition, but avoiding abusive market power, I felt we were in agreement.

And so I think the pl- as far as the goals are concerned, I think we're still in agreement. I think there's disagreement that I don't understand about how to get there, whether that's done, that avoidance of market power abuse (occurs a priority) or after the fact and how that's implemented.

And so I think that the letters were - or the differences within the GAC were about that. They're also about how to implement vertical integration and existing registries and there seems to be a lot of discussion about that.

So that's my understanding of it. The - you know, our attorneys have read (this off). And there's all going to be a board discussion on it and then a board GAC discussion on it.

Stephan Van Gelder: Tim.

Tim Ruiz: Yes, you know, I don't want to pretend to know, you know, what, you know, ICANN's going to need to respond to and what they don't in regards to all these use - letters and concerns and things that get raised just prior to whenever the board is expected to have a vote.

But I do know that no matter when that happens there're going to be those letters and those objections. You know, we're never going to get to a point where there aren't any. So at some point, you know, the board needs to make a decision in my opinion even in the face of existing objections and concerns.

And I still maintain that, you know, I think really what we need to be concerned about, we don't know what that is. I think we're going to find out what that is once this program actually gets launched.

And so my feeling is, you know, that 80% today is better than 100% tomorrow. And I think we'll find out what the real problems are once the program gets launched.

Stephan Van Gelder: So I have Chuck and Marilyn.

Chuck Gomes: I get to go ahead of Marilyn. I'm happy.

Stephan Van Gelder: Well, you don't have to Chuck, if that frightens you.

Chuck Gomes: Should I defer? Well first of all, let me make a general comment and then I have some questions on the guidebook with regard to the registry agreement. But I want to express a special thanks to Kurt and Karen and all of the new gTLD team because they've been working hard on this for years and, Kurt, one quick question. Do you know how many of these kinds of sessions we've had? Did you count them? This may be the last as you kind of hinted a little bit ago. But thanks. Thanks for everything.

Next, and now I'm speaking on behalf of a majority position of the registry stakeholder group. I have five questions with regard to Section 210 of the proposed base registry agreement. That's the section that says - has to do with pricing.

And just to alleviate everybody's fears in terms of competition, well, we're actually not going to talk about pricing. So that's just the title of the section. And Kurt, I don't know that you can necessarily respond to these. These are broad questions and I will tell you right up front as you may already be aware, I submitted these on behalf of the registries I think on Wednesday of this past week so you have them - should have them in writing already as well as more information than I'll even be able to share here.

The first question is the latest version currently restricts marketing programs to less than 180 days. Given that one of the goals of the new gTLD program

is to encourage innovation, is it ICANN's intention to limit the ability of a registry to offer innovative bundles of services on an ongoing basis?

Kurt Pritz: Yes.

Chuck Gomes: So right now in the guidebook, marketing programs are restricted to less than 180 days. What happens if a registry would like to have an ongoing program of incentives? Why would that be limited? I don't understand.

Kurt Pritz: (Unintelligible). Well, Chuck, yes, so certainly generally you know that ICANN's goal in this is to help registries build their businesses through marketing programs and I have been working with a registry constituency and others in open meetings to try to derive language and a set of rules that, you know, provides the protection for the registrants that we desire but also provide the freedom for the registries to operate.

And writing that set of rules because we - this is - probably the third iteration and my - that are - that have been very difficult. So I don't think that there's - I don't think there's any difference in the spirit of what we're trying to do.

And so we're trying to con- do this complicated thing that right a set - (righteous) set of rules that does both things. So I - Dan, did you want to same something in addition to that?

Dan Halloran: Thanks. This is Dan Halloran from ICANN staff. So I'd agree with what Kurt said and I think, you know, on that first question, of course not. You know, we want - ICANN wants marketing programs, wants discounts, wants the lowest prices available.

The tricky part about this particular section we're on is, it's trying to create sort of an exception to the general rule we put out which was trying to set this sort of uniform renewal price so that registries have an accept - they're - and there's a provision for, you know, premium names but the general idea is

most the main renewals will be the same price and registries can't kind of pick and choose and charge certain registrations higher prices.

And when you have a general rule like that, that there's - should be a uniform renewal price, then you have this question about what if there're discounts or renewal incentive programs? So we worked it - I mean, as Kurt said, and we worked with people on the registry constituency on through several drafts trying to get the wording just right so we do have, you know, room to have marketing programs, room to offer discounts.

But that they aren't just - that that doesn't become a backdoor way to set up different classes of registrations or to cherry pick so you have, you know, all these registrations are at this low price but these ten that don't happen to be subject to the discount, they have this higher price.

So it was - I think like Kurt said, we're with you 100% on the spirit. It's just the tricky wording of trying to have a general rule of a uniform renewal price and still offer discounts which, by their definition, is - I mean, there's - if you have some guy have a discount, some guys have a higher price.

So you say are we against discounts? We say no but we might be against higher prices for some classes of registrants. That's the hard part.

Chuck Gomes: And my question here was more is there a problem with an ongoing program not restricted to 180 days? But I agree with both of you that we wa- there's been very good constructive work on this and I think we really do want the same thing.

And so in the spirit of that, we have suggested some things in follow up to our questions that were submitted. So let me go to the second question. And all - again, all of these relate to Section 210 of the base agreement.

Is it ICANN's intention that the 180 day limit also apply to marketing programs that are based on a registrar achieving certain performance levels such as the number of renewals or renewer renewal rate? And again, I recognize these are high level questions that you may not be able to respond to now but I did want to get them on the record.

Kurt Pritz: Chuck, yes, so thanks. I think this one is - this is one of the trickier paragraphs in the whole contract and it takes sometimes, you know, 30 minutes of staring at a whiteboard and talking it over with people to even remember what it is we're talking about and how the wording works.

So I think it's definitely safest to take these on notice. We did get the questions. You can go on with the questions but we got them and we'll look at it carefully and continue working with the registries and others who are interested in this.

Chuck Gomes: And I'm perfectly fine with that because I recognize the complexity here. The third question is can ICANN provide guidance on what types of marketing programs it would deem not to - constitute discriminatory or abusive renewal pricing? Again, I don't want an answer right now but I do want to get these on the record.

Number four, is ICANN willing to add safe harbor language for those programs and practices it considers not to be abusive or discriminatory? Again, I'll take that - that can be handled offline.

And then the last one, and this is similar, along the same theme. Regarding a requirement to offer a uniform price would appear to prevent a geographic TLD from offering a discount to one, residents of the applicable geography, two, low income residents or three, new business that invest in the geography. Is it ICANN's intention to prohibit such practices even though such practices would be beneficial in bringing Internet services to the poor and underserved?

Again, offline's fine. We did provide some suggested ways of accomplishing what we think are our mutual goals to make this as best as possible for the user community.

Stephan Van Gelder: Thanks Chuck for keeping this offline in the interest of time. I'm sure you'll get your answers. Marilyn.

Marilyn Cade: Thank you. Kurt, I want to join with others for thanking you and Karen and (Dan) and all the rest of the staff for all of the work you've done on this. But I'm going to turn our attention to I think so far what I've heard are questions that have a supplier focus.

And that's I think appropriate to part of our discussion but perhaps not quite enough for, and so I'd like to turn the conversation to thinking about the - how communication plan is going to address the needs of users, that is, the two billion today, registrants and the next billion registrants on the Internet.

I also just want to make a point of clarification that actually as far as I know, DNS providers offer DNS services but Internet service providers offer Internet services. And so the interface with the consumers are users.

The cha- the kind of change that is going to happen in the face of the Internet from their perspective, is quite profound. And a communication plan - and I'm speaking as someone from the business user constituency. I happen to chair that constituency but I'm speaking as an individual from that constituency.

The implications of a communication plan that are only about recruiting more registry applicants and does not actually design and understand how to communicate with registrants about the change, that is users, about the change, not to recruit them to register but to inform them to be an informed user will create a huge potential challenge.

I think there's an indirect challenge for the new registry providers in that they too will suffer from uniformed user's questions. So if we could focus a little bit on how the communications plan will not be a marketing plan for recruitment of new registries but will be about communication with the vast public of users. Can we do that?

Kurt Pritz: No, I think that's right. The benefits of the new gTLD program for the outside were not meant to visit the benefits on those that are new gTLD operators. They're meant to, though the, you know, invention of new services or innovation or lower costs or competition, they're meant to visit benefits on all the users of the Internet, not to benefit the 500 new or so - new TLD operators but all those users of them and that's where the benefit is from.

And certainly the discussion - so I - you know, I don't want to be, you know, I don't want to seem to just be saying yes, but certainly our staff discussions have been about identifying, you know, opportunities and risks for those who are not applying for a TLD as well as...

Marilyn Cade: Sorry, right. But my question is specifically about the nature of the communications plan and if it will, because what's been provided so far, I can't actually determine that it's suited to educate users about the change. It may be but there's not enough detail there. So that was what I wanted to focus on.

Stephan Van Gelder: Okay thanks. Jeff and then Elliot.

Jeff Neuman: Yes, actually on that point - I know Marilyn, you started - this is Jeff Neuman, sorry - I know you started your point about not focusing on the users and I think we spent a lot of time focusing on the users with the governments and trademarks.

I think we've done a good job. This debate hasn't really focused all on suppliers, but actually I think on that last point, on the communication plan, I think it - I don't know if you've read the RFP for the communication provider.

But I thought they actually did a pretty good job at detailing that it wasn't just for marketing new gTLDs. I think it was more an education campaign for users so I actually think that was a good job in that RFP.

Now I don't know who responded or if you've selected one yet but actually I wanted to turn to a different area which is on the continued operations instrument. And I don't know if you have separate slides on that or, you know, we can just get to it now or...

Man: (So I want) to close off on this (fork left) to do with the GAC and thing this is the only slide on this.

((Crosstalk))

Stephan Van Gelder: Hang on. Hang on because Elliot had a question so Jeff if you can - yes, can you wait and then - so Elliot.

Elliot Noss: I actually wanted to comment on Marilyn's question and perhaps give her some comfort. You know, I know that speaking for myself and Tim and a number of other large registrars and certainly through, you know, our tens of thousands of hosting companies around the world, you know, we think that the burden will be on us to educate and help consumers, businesses and users understand the value and importance of new TLDs.

And, you know, that's true - that's historically been true when it comes to, you know, using the names that we have today and I - you know, I think when you were saying two billion, you were meaning two billion Internet users not two billion registrants because if there're two billion registrants, Tim and I are looking for the missing, you know, factor of ten.

But the - you know, we're all thinking deeply about exactly this problem right now and I would also suggest, and I do want you to take comfort in this, that with all respect to the communication service provider and to Kurt and to ICANN, we're going to do a way better job of helping communicate these benefits to users then, you know, kind of a (Quango) or, you know, a public private institution will.

And if you have any specific suggestions or input that you want to provide as to how you think that might be done better, you know, I'm all ears and would love to hear it. Thanks.

Man: (Unintelligible).

Stephan Van Gelder: Steve, you had a question.

Steven Metalitz: Yes, thank you. Steven Metalitz from the Coalition for Online Accountability. I have two questions. I actually had two questions. One has to do with the code of conduct or the registry/registrar separation issue. We're pleased to see that - or I was pleased to see that there is a provision made for an exemption from that in the case of - I'm paraphrasing this - registries that control all the registrations such as the (dot brand) situation.

But it wasn't clear to me when that exemption or waiver would be granted. It sounded as though you had to actually be in operation and show that you were in control of all the registrations before you got the exemption that would allow you to engage in discrimination between registrars so that you could, you know, have all these registrations through one registrar, for example.

Was that intent? Or was there - was the intent that - and I think that makes it kind of difficult for an applicant who wants to use that model to be confident that it will be able to channel all of its registrations through one registrar if it chooses to do so. Was that intent? Or was - is there an ability to get that

waiver sort of in advance? That was my first question. My second is on a different topic, so...

Dan Halloran: Thanks (Steve). This is Dan Halloran. I think it's a very good question, and I don't know that we focused on it a lot. I don't that we'd envision sort of giving out exemption certificates to registries if they need, like, an application for an exemption but more that it would just be, you know, if ICANN came knocking and said, "Hey where's your report," they could say, "Well we're exempt. We only have registrations that we control. Here's the proof of that, and we could (look in that)."

But it's definitely - I think - I take it as more of a compliance issue, and we have to figure out how to operationally do that. Because I'd mentioned registries (and one - some kind of) uncertainty about whether they're in or out so we could look into that.

Steven Metalitz: That's right. And I appreciate that. It is - it just seemed to be phrased in terms of a waiver, so maybe that needs to be looked at. My other question had to do with economic studies. I noticed in the budget and operating plan there's a reference to economic studies regarding new GTLDs being carried out during the coming fiscal year.

My understanding was that the Board's position was that they had done enough economic studies in order to launch and that any future economic studies would be kind of retrospective, evaluating how the program had gone. And of course, again and according to the budget, there is virtual - and if you just look at the calendar, there's virtually no chance that any new gTLD registries would be operational during the coming fiscal year. So there really wouldn't be anything to evaluate.

So I wondered if someone could tell me what types of economic studies the ICANN plans to carry out regarding the new gTLD program in the coming year - in the coming fiscal year?

Avri Doria: I can - so no. I can tell you that we intend to carry out economic studies, you know, after new gTLDs are launched, which will be after the fiscal year. I remember something about some sort of economic analysis that we still need to undertake, but I don't, you know, I can't spin that up. So I'll take the question offline and look at it.

Well, going to the topics that Jeff started to bring up - and there's just a few things here. There's other implementation topics of course. You know, the guide book identifies the possibility for future change. You know, we don't see big change, but we see somebody like Zahid pointing out a, you know, a possible repeat of something like that or a clarification that could make things more clear or a correction.

So we see changes to the guide book going forward and continued improvements, where, you know, we see - working with the community on the implementation of various aspects of the guide books. So the work, for example, that the registry constituency just recently undertook about implementation as a clearinghouse and the follow-on work that's going to be a workshop here, how that's implemented as well as we'll continue to provide - we're going to provide information on the emergency back end service provider to inform applications with regard to the continuing operations instrument. And there's other things.

And I'll say that - what's going on this week? Well if the Board does consider the guide book for approval on Monday, it'll - it's not just the guide book. It's the new gTLD program. So that will - that would include, you know, rationale for decisions associated with a guide book, a timeline going forward, specifically where the Board in GAC might still disagree, if they do at the end of the day, and the reasons for that.

So the Board is considering those sorts of things as it goes into the meeting on Monday. But that's sort of just an (omnibus) sort of slide, but I know Jeff has some specific issues.

Jeff Neuman: Yes on the clearinghouse, just to just clarify something I think you said, you said the registry constituency's working on it. It's actually just a couple registries (unintelligible) registrars that got together just to submit an implementation plan. So I know I'll hear about it later.

On the continued operations instrument, I think in going out and actually talking to applicants, that's probably the number one issue that they're - they have at this point because of the uncertainty of how much that continued operations instrument has to be. A number of them are looking for investments in funding and they're talking to investors. And they can't clarify how much that's going to be.

All this is money that's put aside, right, that can never be touched for five years, so it's money that can't go to help the stability of their own registry or used for marketing or other purposes. They don't know whether it's going to be \$5000 year, \$20,000 a year, \$1 million a year, for that matter, and there's been no real guidance out of ICANN for - it's just the beginning on, "How much us this going to be?"

And really, just in the current financial environment for most entities, while it may not be difficult for a public company to get a letter of credit, for most companies now to get a letter of credit, you - it's the same thing as putting all the money aside in a cash escrow. And so if that's a substantial fund, they need to know about that right away.

The registries had submitted a alternate proposal to create a fund for emergency back end providers, which was to basically put together an additional couple thousand dollars a year to the registry fees. Put that in a common fund. And then like an insurance fund, essentially make an

assumption that maybe a couple fail per year. You won't have any failures in the first year because no one's really launched. And if there was, there's no real damage. So you build up a fund that you can use for emergency back end providers, and that would cover it.

So instead of everyone having to put away \$1 million dollars for a couple years of operations, now you're only creating together a couple thousand a year, which seems like much better per applicant.

And I do note that in the analysis of the comments it just has a one-sentence basically saying that the ICANN staff considered it, it's not feasible and that it's not feasible essentially because if every registry failed at the same time it wouldn't be enough money.

I think that's kind of a flawed rationale, right? If every insurance company thought that way, you'd never have insurance companies. You always assume maybe a small percentage of fails, but you never assume that every one will fail and what happens because then you don't have a business model.

So I think that topic requires some discussion. Again, it's probably the number one concern that I've seen from applicants in this whole entire thing. So I think after the guide book is approved tomorrow, it's something we need to work towards implementation.

Avri Doria: So thanks for that last comment. I - but I want to state that, you know, the continuing operations instrument was sort of a feature of the new gTLD program.

When we were deciding early on how we could protect registrants, that in fact -- and this is how we were talking about creating a policy recommendations; it was even before implementation started -- but that, you know, an application

for a new gTLD is essentially a set of promises. And so, you know, and a new gTLD application can be approved on those promises.

So what are some concrete ways that we could really protect registrants going into this? And the, you know, there - one was pre-delegation testing and the other was this continuing operations instrument where we were saying to registrants, you know, "We'll promise you either a transfer, a soft landing" or something like this, so I think it's really the concrete methodology for protecting registrants.

And as originally, for me anyway in trying to figure out how much it should be, you know, I think the experts in that are going to be the applicants because the applicants are either going to be, you know, entities with registry operations experience or entities that hired, you know, other entities with registry experience.

And more than anyone, you know, to take the - is it still five critical functions of a registry and how much that costs to operate, I think the, you know, the experts are really going to be the applicants.

You know, the application criteria are not intended to be a bar to getting a TLD. They're intended to be a roadmap. So, you know, there's - I don't see a bright line of COI funding that includes or disqualifies applicants but rather it's a - it's supposed to be a reasoned explanation of, "Here's my projected registry operation and here's how much the five functions cost to fund."

So - but we - (I can't listen to the community) and are going through, you know, some (unintelligible) or requests for information so that we can inform applicants about what, you know, others think that would be bidding on these services, what they think that would cost to inform those decisions. But I always thought, you know, the experts were really going to be the applicants, and they were going to teach the world about what a COI is.

And then I understand the - I understand your very reasoned argument about creating a pool, and I know that when the COI was first created years ago -- that's how long we've been at this -- we brought insurance experts into the room, bankers into the room, had long discussions with them, discussed that very model.

And so at the end recently we had kind of a terse response probably that said, you know, "We considered that. And so what we do have to take - I agree with you, we do have to take time after this and go back and go through that process where we looked at, you know, six different models or so. That was one of them.

There are several different models, you know, having contracts with banks and service providers. (Now) each one eventually got labeled as, you know, not as protective as registrants as we wanted to be, but, you know, after the guide book -- (Moe) whatever you said -- you know, will resurrect that discussion.

Stephan Van Gelder: Thanks Avri.

Woman: Thank you Avri Doria. I wanted to ask a question on one of the remaining GAC issues in one of the latest latter that came out. And previously there was discussion of making some additions to the reserve name list.

And albeit most of the things we talk about are arguably implementation issues, the content of the reserve name list is generally something that is a GNSO policy issue. And so I'm wondering, in how that will be dealt with, is there a recognition that would go back saying, "Listen, use your capability to request a PDP on reserve names," or some such thing in terms of resolving that, as opposed to having that be something that's simply resolved by the Board on that, since it isn't purely an implementation issue? Thanks.

Avri Doria: The Board had questions to be answered with regard to the potential reservations. And one of them was how the names get on the reserve names list. You know, some - and the answer is a mixed bag of things, right? Some are IANA or BNS structured kind of names. Some are reserve name working group kind of names, some are, you know, geographical names that have always been there.

So the - I know the Board thinks about that the same way you are in considering it.

Man: Thanks. Jeff?

Jeff Neuman: Yes just the timeline issues, so it says that the Board's still considering. I'm assuming if you have an idea of that, in your personal capacity if - when it gets approved tomorrow and there's a four-month communication period, what do you see as a timeline for accepting applications?

Avri Doria: Isn't that like 24 hours from now? It'll be - well yes. So the, you know, the Board certainly, you know, intends to follow the policy recommendation that there be at least a four-month communication plan. I mean that's - it's never deviated from that.

Jeff Neuman: So you just said something interesting. I think people need to hear you set at least a four-month period. So one of the concerns that we have is yes it gets approved tomorrow, which is great, but that shouldn't mean that there should be opportunity for delay and additional, you know, I mean, that should really set the tone that we're starting the process in four months from now with our intent to go forward. But I've heard some discussions otherwise.

Stephan Van Gelder: Just to make it clear for people listening in that your - Kurt is shaking his head yes.

Avri Doria: You nod your head yes, and you shake your head...

Stephan Van Gelder: Yes. Except if you're in India.

Avri Doria: Or maybe France. So the, you know, I - my personal feeling - my personal thought is that the Board is going to want to publish very specific timeline tomorrow or whenever it approves the new gTLD process.

Stephan Van Gelder: (Jonathan)?

(Jonathan): Yes I put a question that I think in some ways follows on - from much earlier what (unintelligible) (Liz Williams) raised and so on, but this - the - it's all very well at a timeline for communications and application, but then once it goes into the processing and there's these opportunities for objection and so on, what do you see coming out of the whole application processing round?

Do you envisage that there will be 100 or 500 gTLDs that all go to market at the same time? Or do you think there could be significant differences between when, you know, gTLD 1 comes out and gTLD 500 comes out? What - how do you envisage that and sort of back end of all this going into the root and actually going live?

Avri Doria: All the initial evaluation results will be announced at the same time. So if there are X hundred applications, then, you know, I, you know, we - in scenarios we put together, we would say over half of those would pass the initial evaluation and not be subject to objection or some form of further scrutiny.

So then at a time certain there'll be a fairly odd number of TLDs that will say, "Initial evaluation has been passed, there's no objections, you can go on to contract negotiation and pre-delegation testing and then IANA delegation."

And so that - those applications would more or less proceed together. There'd be some natural spreading in how people conduct negotiations or

sign an agreement and then complete their evaluation testing and then apply for an IANA delegation, so there'll be some spreading of that.

And then the rest of the applications will complete either extended evaluation or go through the objection process or go through contention resolution. Yes - well and be slightly more spread out than that. So kind of a function up and then a slope downward.

(Jonathan): (Unintelligible). That does answer it (unintelligible). It's a good sort of sketch of how you envisage working. So that's helpful.

I guess the natural follow-on is then what is the organization doing about capacity planning to deal with that? Because think about for example 250 simultaneous - in the scenario you described, you know, say 500 to 600, half of them are through and are into contractual negotiations. How will the organization for example deal with 250 simultaneous contracted negotiations?

Avri Doria: Certainly encourage new registries to sign the base agreement where little or no actual negotiation is required. And then the more deviation from the base agreement, the longer that negotiation will occur and higher level of attorney that will be required and that you'll be in queue for for that.

So the - anyway that's one thing but certainly the other steps of, you know, IANA delegation - that loading is being taken into account and, you know, discussions will occur with the entities with whom ICANN works to delegate to ensure there's adequate bandwidth for that.

(Jonathan): That's very interesting because in a sense that highlights a very clear incentive to sign the base registry agreement if you've got a go-to-market objective. It's - yes thanks very much.

Stephan Van Gelder: (Unintelligible).

Man: Thanks very much, Stephan. Kurt, just following off of what (Jonathan) said, in light of the GAC having suggested that after 75 TLDs, there should be some break to do a review. How does that kind of factor in? Because there is some question right now about what happens at - if you're number 76, the GAC says, "Now we have to do a review." What does that review look like? And how does that affect the process for number 76 and onward?

Kurt Pritz: Well I just saw that as the trigger point for when an - a study starts to take place. I didn't see it as an inflection point of where things stop, either in delegation or operation. I thought (unintelligible) after 75 (it had) been in operation for some time. For a year yes.

Man: Okay so that's an operational issue. It has nothing to do with the initial reviews. Thank you.

Man: Thanks. Jeff next, then Ching then Tim.

Jeff Neuman: Okay I - this is on another - this is a very practical question and maybe because I'm confused. And that's easily done.

On the registry fees I thought I understood what it was, but then I saw an explanation. So it says that for - if you have a - if you have up to \$50,000 names, it's going to be a flat minimum, right, of \$25,000 per year. Help me understand. The time you register the \$50,000 (at) first name. Is it just 25 cents above the \$25,000? Or is it 25 cents for every name, meaning that instead of \$25,000 and 25 cents you would actually owe \$27,500.25 for the one extra name is - is \$12,500 bucks? Help me understand that.

Avri Doria: All right so that's why we went - first that's why we went to a transaction-based model because you can go back and forth across the 50,000 name barrier, and it's just a nightmare with regard to calculating fees.

So instead of that, we invented this seemingly complex but actually more straightforward, you know, "How many transactions have you had over the past year? If you've had," you know, "if you have had 50,000 then you're in the higher fee." But then you would pay a step function more so you would pay the quarter on all the names - on all the registrations not just on the 50,000 to end first.

Jeff Neuman: Okay so that would be - it'd be \$37,525...

Avri Doria: Right.

Jeff Neuman: ...so one extra - okay.

Man: Then it should go back down next year.

Man: Yes. So...

Stephan Van Gelder: Ching.

Ching Chiang: Thank you Stephan. My question is about the batch in - actually the random processing. Kurt, could you shake - shed some light about how random would be - I mean would it be a more organized random process of selecting the application in - to be reviewed? Would it be a - I mean what's the random will be like? Is it random like a geographic basis or like standard open - I mean standard community standard brand? What are the mechanism that you're actually envision?

Kurt Pritz: Well so I can provide some detail, and that is that the batches would be grouped to ensure that some application in the first batch wouldn't be held up for an application in the second batch, such as case where there's (string) contention or some other coupling of that. So there'll be some intelligence to that.

I'll tell you that there's some legal issues associated with how to make those selections and whether they can be purely random or not. So, you know, there's be a preference for that but there might have to be some selection methodology...

Ching Chiang: Okay. So I mean this - I'm glad that you point - I mean the legal part out because at the end of the day, people might see for example if that - I mean at the end the first batch being published all brands or all communities of people might argue about. Thank you.

Man: Tim was next.

Tim Ruiz: You know, this is in regards to the potential that some contracts will be negotiated. If that is the case, and it likely will be in some instances, there's still an intention that those would be posted for public comment as part of the process, as it has been in the past, correct?

Avri Doria: Yes. So I don't want to say - answer this definitively but my impression would be that that's where there's Board approval because it's a different sort of agreement and a Board approval is contingent on, you know, them listening to the public comment about it. Similarly - similar to how contract changes are made today.

Stephan Van Gelder: Okay. There are no more questions on this, we'll now move to talk about IDM various. Dennis Jennings is here to talk to us about the...

Avri Doria: Hey I have another slide.

Stephan Van Gelder: Oh okay. Well there you go.

Avri Doria: Thanks everybody. Anyway we're working on a timeline for this, but if you think about all the groups that participated in this - when we talk about this process taking an awfully long time, and it has, each one of those groups was

formed and did a remarkable amount of work in a stunningly short period of time and drove to consensus on really difficult issues.

And if you think about - maybe I'll say this tomorrow, but if you think about the space program having all these unintended benefits of lightweight stuff and computers, you know, I think that the new gTLD process has a lot of unintended benefits too. And that's the way we've all learned to work together and form these groups to solve very difficult problems using the best aspects there - the best experts there are in this area.

So this is a thank you regardless of what happens from staff to everybody in this room and listening.

Stephan Van Gelder: Yes I think we can all echo the thanks to all the working groups. Thanks very much. Dennis, the floor is yours.

Dennis Jennings: Good afternoon. Thank you for inviting me to give this presentation. My name is Dennis Jennings. I'm a consultant to ICANN, and it's the hat I'm wearing at the moment, as some of you may remember me in other roles.

I'm going to be talking about the IDN Variance Issues Projects, known colloquially as the VIP, which I rather fancy. The Variance Issues Project. This was set up by the Board to address the fact that we don't know how to delegate variant - IDN Variant TLDs, and there's a specific prescription against delegating IDN Variant TLDs at this time in the guide book.

So the scope of work is to - is that we have for this particular project is to create -- and this is an initial project -- is to create a glossary of terms vested with the technical and linguistic communities. The first thing that we discovered in looking at this is that no one agrees on what a variant is. Everybody thinks they know what a variant is, but there's a wide disagreement.

So the first task is create a glossary of terms - a definitions that will actually work - or a set of definitions if there's not one set of definitions that works for everybody. And then to identify the issues and challenges of requirements of IDN-Variant TLDs based on the list of issues or categories that you see there. So that's what we're trying to do in this first part of this project.

The final proposal was published and received public comment. On the basis of that - of those public comments, we added a Greek case study to the five that were originally proposed, and we refined the (indicates) to become the (devnagotti) the case study. Yes because that was the feedback from the comments that we received. So the case studies are Arabic, Cyrillic, Chinese, Greek (devnagotti) and Latin.

We published then a (call) for volunteers for the six case study teams. We received over 70 applications across those teams. We completed the selection process and we have published the selection of the team members and we've selected the case coordinators with the key individuals who will the drive cases. And the list of cases and the case study coordinators are on the screen there. I don't need to go through them for you.

We also, in our call for volunteers, suggested that local host organizations may be interested in providing various levels of hosting facilities, and we have selected - we had a number of proposals in each case. We've selected the local host organizations as listed up there. ICTQatar for the Arabic case study; CDNC, the Chinese Domain Name Consortium for the Chinese case study; UNESCO in Paris for the Cyrillic case study; the DIT, the Department of Information Technology, the center for - CDAC, so it's called in India, it's a government center in India (devnagotti) case study; fourth, ICS in Crete, the Institute for Compute Science in - for the Greek case study, and .SE - the registry operator .SE, also called the Internet Infrastructure Foundation for the Latin case study.

The teams of various experts in registry/registrars operations, linguistics, security, policy, IDNA, DNS and so on are led by a case study team coordinator. They would have regular meetings and face to face meetings . The - each case study team is planning that, and we provide support for the case study teams, particularly a liaison person from the project team who liaises with the case study coordinator and various other support, including some travel (naming lists), wikis and so on.

To keep up with this, there is a general mailing list, thevip@ICANN.org for anybody who wishes to participate. And you can subscribe, as listed up there. So if you want to keep in touch with what's going on and ask questions, that's the mailing list for that. And the work has started. Yesterday we had a full day working sessions with the six case studies team, couple of plenary sessions, works session.

I'm happy to report that a lot of work was done - a lot of work was started, and a lot of work was identified that needs to be done. And tomorrow at one o'clock in the (Raffles) ball room, the project team and the case study coordinators will present a summary of the work from these sessions. So if you want more detail on what's actually going on and what the issues are, the session at 1:30 tomorrow is - I have one o'clock in my diary, but I see it's 1:30 tomorrow in the (Raffles) ball room for those who are interested.

So the work has started. There will be periodic telephone conferences with the case studies. There'll be some meetings locally. That really has to be worked out. We have set a deadline up of September 30, which is pretty aggressive, given that it's summer in the Northern Hemisphere and in particular Ramadan is in August this year, which adds to the complexities.

We're trying to hold to that date and we see whether that's practical when we have done a more detailed project plan. And we're holding to the date for a final issues report for September 15.

So we give each case study team a report at the end of September, and probably in Senegal we kick off with the case study coordinators and activity to produce a final report which hopefully summarizes, if it can be summarized, into a single report or maybe a set of reports and some common issues.

That's a very quick (cantor to) who we are and what we're doing and where - and what we've got to. I'll take questions. Thank you very much.

Stephan Van Gelder: Thanks a lot Dennis. Any questions? Sorry. (Wolf)?

(Wolf): Thanks Dan for the publication. Just a formal question. When I look to the - that schedule of ICANN where I saw yesterday these schedule and all these meetings were are closed. I did not understand why.

Dennis Jennings: Yes the case study team meetings were closed. The working meetings of the working groups - they were closed. The - and the case study lists for the ongoing work are closed. But the work will be published. It's just like any working group. Need to have an environment together, and so we have closed meetings and we have a closed working - mailing list for those working groups.

So I don't - yes Kurt reminds me. There's an open session tomorrow to discuss this. I mean all the outputs will be published. Anybody who wants information can get it through the - by inquiring in the general list. It's just that a normal working group with closed working (unintelligible).

Stephan Van Gelder: Thank you. Any further questions I suppose on this or any of the gTLD stuff? Michele?

Michele Neylon: Thanks Stephan. Dennis just what - is there anything specific that you need in terms of input from registrars or is it just a kind of a general - you've already got the kind of people you need to help you with this?

Dennis Jennings: Michele I think we have but I should've mentioned that we've invited the JIG, the group to have observe and observer on each of the case study teams. And the JIG is a joint between the GNSO and the ccNSO and they will be tracking and providing any input from their work. And we thought that was sufficient to channel information. If it's not we need to know.

Stephan Van Gelder: Thanks. Any further questions? In that case, I'm going to thank you all for your presentations and we will now break for a working lunch. All the council members as usual - I'm sure you don't need to - me to explain it to you again, especially as I did such a good job of explaining it yesterday, but let's just - Jeff...

((Crosstalk))

Stephan Van Gelder: ...(pipe down). The - so the lunch is in that room over there, and we can try and come back. We have more time so we can try and come back in 20 minutes. I will give that to you in just a second. We're preparing our meetings with the ccNSO. Okay?

Man: (Unintelligible).

Stephan Van Gelder: Thanks for...

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