

- Alan Greenberg: All right. We have a decision to make. We have seventy-five minutes before a hard stop because of a meeting with the GAC. We currently have scheduled a forty minute discussion on the RAA, a thirty minute discussion on VIA, and sixty minutes on new GTLDs, and I note Karen Lance is already in the room, at the moment, so we have 130 minutes which would probably expand past that, given our inclination to do things in depth, and we have less than 75 minutes to do it. How do you want to handle this? Adam, do you have a comment on that?
- Adam Peake: Yeah, I think given that we do have a meeting with the GAC that we haven't discussed in any way or form we should add ten minutes of discussion about what we want to talk to the GAC about, otherwise we'll be walking into an important meeting blind, again.
- Alan Greenberg: Then we have 65 minutes to talk about what was going to be done in exactly double, 130. How do you want to handle that? Do we want to defer one of the items altogether, or do we want to compress them? Sebastian?
- Sebastian Bachollet: I guess compress it, if it is possible, but if we can't talk about the new GTLDs, as it is a topic with the GAC, we can gain some minutes here.
- Alan Greenberg: I'm sorry. Say that slowly, or say that again so I can make sure I understood it.
- Sebastian Bachollet: What I say is that we compress if it's possible, but we are going to talk about new GTLDs and that is supposed to be the topic of something we might want to talk to the GAC about. I think it's going to come up. So-
- Alan Greenberg: So you're saying that we not try to compress the GTLD one?
- Sebastian Bachollet: No, we go into it, and expound on it, because out of that might come something that we have to go to the GAC.
- Alan Greenberg: The next session I am turning over to Sebastian. It was supposed to be a 40 minute session, I'll let him decide how much time to actually allow before we go on to the VI talk, at that point; but remember, try to make short comments and not speeches, everyone.
- Sebastian Bachollet: Sorry, Alan. It's RAA or VI now?

Alan Greenberg: RAA.

Sebastian Bachollet: RAA. Okay.

Alan Greenberg: Okay, I'm sorry. Was the intent that we talk about – that we defer RAA? Was that the intent of what you were saying?

Sebastian Bachollet: My question is – I don't care what I share and what is the topic, but I want to be sure we agree on which one we tackle first and which one after.

Alan Greenberg: Well, Karen is here, we can do the GTLD one now, and try to compress it.

Sebastian Bachollet: Let's do it. Let's do it, the better to use her presence here and not lose the time or people.

Alan Greenberg: With the target of 40 minutes, something like that? Then with no notice at all, I will turn it over to Karen as soon as she has her PC set up. So we want a presentation, or do we want to open for discussion?

Sebastian Bachollet: I guess all of us were yesterday at the meeting where she makes a very detailed presentation, and maybe we can go directly to some questions.

Alan Greenberg: I'm happy for that. I was listed as the moderator. Sebastian, can I ask you to take over for a bit, because I have to leave for a little bit.

Sebastian Bachollet: No problem. We had quite a detailed presentation yesterday by Karen, and other people about dag 4, and next – what were the big changes, a lot of us were in the room at that time, and I think it better to open for discussion on that subject. I want to remind you that we have a two topic with the GAC, one is the new GTLD in general, and more specifically the morality and public order that it's called now, because we need some acronyms, by some MOPO and for other MAPO, so MOPO/MAPO will be one of the subjects with the GAC and if somebody wants to tackle this it could be useful. Thank you. Who first? Evan.

Evan Leibovitch: Actually I just want to follow up on that point. Karen, regarding the issues about the morality and public order, this is something on which ALAC and GAC have tried to butt heads and try and come up with something, what is the position from staff on trying to do something on this? It was kind of eye-opening to find out that it seemed like the current process that

is in there, the objection based system, really had a lot of difficulty and – is there any kind of ideas or guidance that staff is suggesting as perhaps alternatives to this? One of the things we've been bouncing back and forth was the idea of a mechanism to come up with – shall we say, a morality based reserved words list – to make it something that was active in that way, as opposed to an objection based system. What kind of thought process is going on since the last day on this particular issue?

Karen Lance: So, Thank you for the question. The morality and public order implementation area has been around since the beginning that was one of the recommendations that we were given from the GNSO policy process, that new GTLDs should not violate the internationally accepted standards of morality and public order. There's some language that refers to standards of international (inaudible 0:06:43).

And so, you know, we've put it out there as an objection based process, there's been kind of iteration of, okay, how do we develop – you can make an objection based process, but you need to give some sort of standards by which those decisions will be made. And so we did a survey of various legal systems looking for commonalities and areas that were pretty much consistent through many different regions of the world, and those are what you see in the guidebook now. You know, all of those stages have been put out for public comment as well.

What's new in this, in version 4, is what's called a kind of quick look test or process, because one of the concerns with the morality and public order subject has always been that the standing to make this objection is very broad. It's pretty much unlimited. Anybody could pay the fee and file a formal objection to an application, and of course there's concern that people would use the objection process to harass an applicant or deliberately slow down or make things difficult for an application, that they, for whatever reason, don't like or don't want to see succeed.

So what the quick look test does, is establish that as an early part of looking at the objection is whether it meets this very basic test of falling within one of the areas that's been identified as part of the international standards, or is – you know, there's some other indication that the objection is being brought to harass or basically abuse the process, and so that's where we are now. That's again, something that is open for comment.

Now, as far as the idea of setting up a list rather than the objection process, there – you know, that’s of course been considered before, it’s desirable in the sense that anybody that’s applying can look at the list and see ‘this is yes’, ‘this is no’, it’s another thing that would be difficult to implement in terms of actually creating the list, and that I think I’ve heard different suggestions on how that might happen, but in terms of what staff is thinking, but I haven’t seen any – I mean, we’re aware that there’s discussion going on about other approaches, I haven’t seen any that are really a specific proposal on how, this is an alternate approach of what we propose, and here’s why it would work.

Sebastian Bachollet: Thank you, Karen. Other follow-up on this part of the discussion, or do you want to move to another question? Evan, you wanted to have some follow-up?

Evan Leibovitch: Not a follow-up, but something different.

Sebastian Bachollet: That’s okay.

Evan Leibovitch: Also as you know, there’s a discussion tomorrow on trying to reduce costs on certain community based TLDs. This has been , of course, a big problem that we’ve had with the whole thing. And in fact, at various times it seems as if the \$185,000 is a moving target in terms of the rationale. On one hand there is the mandate for cost recovery, and every now and then it gets tossed out almost informally – well, if a registry doesn’t have \$185,000 then they’re not going to be able to have the money to sustain themselves long term anyway, so it’s a good litmus test.

And of course, this seems to be informal, but I hear to too much for it to be totally off the top. Out of the breakdown of the various components of the \$185,000, has staff identified any areas on which there is leeway that can be used by the group that is investigating ways to reduce costs for TLD applications that perhaps aren’t as contentious, or perhaps are in regions of the world where the costs to implement are going to be much less? What work has staff done into helping to accommodate this over and above the work being done by the community groups?

Karen Lance: So the group that Evan referred to is a joint group among the so’s and ac’s resulting from a Board resolution in Nairobi that there should be more work done in what types of support can be given to GTLD applicants, say from less developed economies, and I think it’s a really important piece of

work, and staff is certainly very supportive of it. In terms of the fee, so financial support is one type of support that could be given to applicants. In terms of the \$185,000 evaluation fee that's been in place for a while in the guidebook. You know, initially when we published that number, there was also a paper breaking down the cost of it, part of it was – there were three parts – part of it was termed development costs, or maybe historical was the word, but it had to do with recovering some of the cost that ICANN had already invested in terms of finalizing the policy process and doing all of the implementation work. So that was one portion of it.

Another portion was the actual processing costs, this is what it would cost to do the evaluation, at least what we estimate the cost would be, for each application that goes through the process, and then finally there was another component of it called risk, which was kind of a contingency or expectation that there may be cases where a lot more resources are required for it, or just some unforeseen circumstance, meaning that the costs are going to be higher than originally anticipated, and the objective is for the program to be self funding. So I think I saw the first report or update from the working group and I think one of their suggestions was that the development or historical portion of the cost shouldn't apply in certain cases.

I think it was also noted in the report that there are other types of financial – other types of financial support that could come into play, it could be later during the – once the registry is operational in terms of the ongoing fees to ICANN, or it could be in the form of grants or loans or other types of support. So in terms of anything else that staff has done on this, there was a – this was kind of a project in the GTLD implementation at one point, and I don't – I know there was a result of it that said here are some possible options, but I don't think it – I don't know that it was ever really completed. So, but from the staff side, we're certainly very supportive of the group and want to see a good result out of that.

Sebastian Bachollet: Okay, thank you Karen. Other questions, Adam?

Adam Peake: Two things, one is do you have any wild idea, guess, or knowledge of how many applicants there are going to be? We've spoken about that on and off, and the other is what would you like the ALAC to be providing you information about? We're supposed to be representing registrants, or at least attempting to represent the registrants, so is there something in particular we can be thinking about, we can be trying to help you with?

Karen Lance: Well, on the number of possible applications, I don't really like to speculate there. There are sources out there that have sort of counted how many people have sort of publicly declared – it's really hard to tell. You know, we get a lot of phone calls that are acing about it, expressing interest in it, it's hard to tell from those how serious a lot of the people are, how much they really understand. So it's just really hard to say. We've kind of used 500 as a rough – in terms of building processes and you know setting up resources and that sort of thing.

You know, as a very rough estimate of what we might get. In terms of what the at large can do, and thank you, that's a great question – the first thing is the area that Evan brought up. I think that one of the areas that hasn't been emphasized a lot is how we can facilitate really global participation in this. A lot of it is communication, a lot of it is making it understandable and making it a program that is built on realistic foundation, in terms of being something that does really present an opportunity for all parts of the world, so I think that ALAC is globally distribute and being able to take advantage of that knowledge is really important.

Maybe another thing is looking at the user perspective in terms of the ongoing requirements for registries. A lot of the attention gets put on the evaluation process, and the objection process and the strings and things like that, but that process is going to begin and end, and then there will be hopefully a lot of new GTLDs out there operating, so the terms that – the things that registries are required to do, the things that we've asked of all new GTLDs is – for instance, DNS sack is something new that's going to be expected. Looking at kind of the long term perspective in terms of what would help users for registries to be involved in and required to do and committed to doing, I think would be good.

Alan Greenberg: This is a naive question, I think. One of the problems we had when the last new TLDs was introduced was simply name lengths. The software simply hadn't considered the fact that you might have more than three letters. Have you been talking to, I suppose, Internet Application Services about what the implications of 500 new names might be, and is there a discussion broadly about that? Or is that just going to be left up in the air?

Karen Lance: Yes and that actually came into my head in terms of answer to your first question. We are and we have been for a while doing what we can in terms

of outreach to the application development and browser communities. It just really seems to never be enough because it's just such a large diverse – you just can't find them all in one place, all the people that you need to talk to.

And there's a lot of education that goes into explaining the DNS and what's the problem and why do they need to fix it, why is it important that there be a single globally unique identifier for all of these things. It's especially becoming a topic of discussion now that we have IDNs and the roots, so it's going to continue to be something that we need to put a lot of effort into. And in terms of the position that some of you might be in when it comes to talking to business people, for instance, about why they need to make a particular technical adjustment, you know they often do see the real business case for it, so from the customer or user perspective, that's kind of key.

Sebastian Bachollet: Thank you. Other questions on that topic? Okay. Then we'll go to the next topic. I am sure you have a lot of things to say, but while you are quiet is the time for you to say something about the new GTLD program. If not, we have will have final dag in three months.

Karen Lance: Thank you.

Sebastian Bachollet: Once again, Christopher will – if we can give him the mic, or just take a seat at the table in front.

Christopher Wilkinson: I haven't been to a meeting since Mexico, so I may not be completely up to date. In Mexico, there was a discussion about differentiating the costs, in particular the upfront start up costs for new TLD applications, particularly those related to public service and geographicals. Where have we got to with that? Because what I heard from Kurt Prince yesterday was, in effect, that all those decisions would be deferred, and at present we are still working on the basis of one size fits all, but this book will refer only to the commercial new GTLDs, and all the geographical cities and other matters will be deferred to a second phase. Is that correct? And what is the feeling among the staff as to which direction this matter should go?

Karen Lance: Well, I don't – if I understand your question, I don't think it's correct that we're only looking for commercial type applicants in one round. It is still the case that there's only one fee attached to all applications regardless of

what type of application it might be. So the subject comes up a lot about what categories do we think that we'll see, and should we build special rules for this type of application or the other type of application and what type of changes should there be in the agreement, what changes should there be in the fee?

So I think it gets said a lot that we are trying to build a one size fits all process; it's not – I don't think we have an expectation that one size does fit all, I think we have an expectation that there will be many diverse types of applications and that's what we want to see happen. The difficulties that see in implementing something like this is trying to build categories in advance. I think, our expectation in the long run is that they'll kind of emerge, 'oh this is clearly a type a, this is clearly a type b' or at least there will be more guidance based on experience that we could have than we have available to us know.

I think if the policy direction had been that way, we could have built categories. We could still, if that was the direction that we were given, but it would, I think, be very time consuming and difficult and certainly very difficult to do well; so the position we still have in the guidebook is – I'd call it open. There are our criteria and a process that is attached to all applications, and they are built to be flexible and they are built with the idea that we might get an application of this variety or the other variety, and our process needs to be able to handle those.

Sebastian Bachollet: Thank you. Alan?

Alan Greenberg: Just a couple of follow-ons. Regarding geographic names, what Kurt said yesterday and I believe what the applicant guidebook says is that we are – we will not accept applications this round from country names, and one's that are specifically referenced. Country names are forms thereof that are mentioned in the ISO standard. Other geographic one is open game. With regard to categories, there are a whole bunch of categories already mentioned. Geographic names, country names are one of them.

Cultural ones and ones that are representing groups are treated differently with a different process; the only catch is they all have the same price right now. But there are a whole bunch of categories that we've already got identified, we have a number of them, and in terms of pricing differential and other support, as Karen mentioned earlier, there is a GNSO/ALAC working group looking at how do we change the terms for this round, for



those who are disadvantaged? There's a session tomorrow at 2 o'clock, it is incorrectly named 'Reducing Barriers to new GTLDs creation in Developing Regions' because I do not believe it is restricted developing regions, it is specifically looking at disadvantaged applicants in various forms, which may be not for profit, they may be cultural, they could be linguistic – they could be profit ones, in places where the pricing or other terms are just unreasonable, so come to that session, it may be interesting.

Sebastian Bachollet: Thank you, Fawad?

Fawad Bajwa: Thank you, some guidance has already gone through Evan on this, some of the issue about categorization and where it starts from. Okay, we don't have that many industries when you divide the world vertically, you're left with a part of the world that is very heavily populated and constitutes more than half the global population; and in this part of the world, for us to actually get the GTLD process rolling is always going to remain the challenge, despite whatever ICANN claims they are going to be.

When we tend to touch this issue, even in regards to dag 4 now, I think the most painful need over here is still the pricing, even when I was voicing this in Nairobi, in the public forum, that is the concern that I was putting forward. You know, culturally one language crosses many regions, and when that happens it is bound to carry disputes. That's another issue. But pricing factor, again, if evaluations are not done, it is not a restriction to do the evaluation in the US. The prices can be reduced considerably.

For example, I was calculating this in Pakistan. One dollar is 85 Rupees – and \$185,000 would actually be the revenue of some small/medium size companies in five or six years. So for them to actually step into this would be a grave barrier. ICANN is going to further increase the barrier in which they are attempting to join the internet, the global economy or whatever we can term it, because that is somehow ICANN is also contributing to the digital divide, extensively.

Within the dag 4, once again, we don't find a bridge. Even the categorization issue is divided culturally and geographically and so forth, but we'll start with the pricing. I don't know how we are going to resolve this, because there's going to be, again; even with dag 4 there'll be a strong distance again. This is going to get the process much more delayed, right? There's a possibility of that. I think, yes, tomorrow's session

addresses that, but generally pricing would be from as APRALO, I think we need to have a larger discussion on this issue of pricing.

Alan Greenberg: If I may interrupt, this is an opportunity to get answers to Karen. If we want to make statements on what we believe should be done, the public comment period either individually or through At-Large is the way to do it. It's not Karen's fault that people haven't listened to us in the past. Let's try to keep the questions where we can use the time productively. We have about 40 minutes left to do something in the order of 2 hours work. So I'll turn it back to Sebastian.

Sebastian Bachollet: Thank you Alan. Yes, in the – I guess we will have to wrap up quickly, but about the question – it was asked yesterday and I'm not sure that the answer was really convenient, understandable for me. We talk about categorization but Bertrand asked the question – what will happen when you will have 500 or 800 applications, how you will batch them? And this categorization isn't a good way to batch then, compared to other techniques of batching. Thank you.

Karen Lance: Are you asking that question, to me?

Sebastian Bachollet: It was a request of Alan that we ask questions to you , so yes –

Karen Lance: Okay.

Sebastian Bachollet: But Karen, I know it is also sometimes difficult to be the single person in a room with - suppose that you know everything and you have the answer of everything. I will accept you say I don't know. You don't need to have an answer to it, to everything. Please. I prefer to have I don't know than blah, blah, blah. Sorry.

Karen Lance: I'm happy to hear that, because I don't know everything. In terms of the batching question, there is language in version 4 that talks about – well, we give timeframes for the evaluation process and how long we think certain stages will take, and that's based on, again, the roughly 500 number – so that section says that if that number is much larger than that, the timeframe is also going to have to be extended.

The question that came up about batching is if you have such a greater number, then you have to figure out how to do a certain number at a time, batches at a time, and how would we do that. The answer is I don't think

we know yet. I think that it's a little complex in that you have some applications that would make sense to go together.

For example, if there are three or more applications that are all for the same string, they are all in one contention set, and then there are considerations of fairness and who goes first; certainly there could be a method by which certain requirements would be in place for how we would construct the batches. I think for transparency, we would need to establish those in advance, not after we already had applications; but the answer is I don't think we know yet how we would do the batching scenario. There are several ways that it could be accomplished.

Sebastian Bachollet: Thank you, and [Marisa]. Then really we will wrap up this part of the session. Thank you.

[Marisa]: Hello, Karen. My question is about the part of the dag that talks about background checks on the applicants and it mentions that owners and officers and even Board of Directors would be checked; and my question is how deep does that go in terms of ownership of the entity that's applying? Sometimes one company can own another company that owns another company and so forth, and so how deep is that check going to go? And I guess, kind of how is ICANN going to do that?

Karen Lance: Thank you for the question. The information that we have in terms of checking individuals who are named in the application, so the president or maybe the directors; it goes down to 15% or more shareholders, and it's also asked in the – let me answer the first part first. So that set of individuals is based on what we do now for registrars.

When we get registrar applications we ask them to name all of those individuals. The background checks that we have envisioned for GTLD applicants are enhance from what is done now with registrars. In terms of other partnerships, if a company is owned by another company, that's something that's asked for in the application, any types of affiliate or partnerships, are disclosed in the application.

I don't believe it asks for all of – if I have a partnership with another company, I don't believe it asks for all of that other company individuals as well, but certainly the individuals who are named as having some controlling or responsible role in the applying entity will be subject to that

background check. Now, in terms of how we would do it, we have kind of looked into – it would be a third party would conduct it, most likely.

We've looked into companies that can do these types of checks around the world. It has to be somebody who can do it in any region we might get an application from, and most of what we've looked at is reviewing publically available sources of information, so if a company was fined by a government or there was a lawsuit, that is something – if somebody was convicted of a crime, that's something that would all be publically available, it's just a matter of having the resources to go and comb through and find that information, quickly. ICANN would have a hard time doing that, so that's kind of how we expect it to happen at this stage.

Sebastian Bachollet: Quickly, [Marisa]. Please.

[Marisa]: So the third party, do you see them as being able to do the public data checks?

Karen Lance: The third party that we would hire, you mean?

[Marisa]: Yeah.

Karen Lance: Yeah. We have sort of requirements in mind before we would hire somebody. There would need to be capacity to handle a certain volume at a price that is reasonable to us, and have the qualifications to do, be able to provide results to us from anywhere in the world that we would ask for.

[Marisa]: Okay, and my last little point of clarification. So you do check the second company deep? The company who owns the company who is applying? But if there were individuals who had done harm on the public, previously – say financially or in business or something and they were just in the company that was owning the applicant company, they actually wouldn't be checked. Is that correct?

Karen Lance: I'm not sure it's that – I'm not sure we have it that clearly spelled out. I would have to look. But certainly the applying entity is checked, the individuals there are checked, and whatever entity has come up with the business relationship that they disclose or that they don't disclose and we find, are looked at as well. So I would actually have to go back and look what we would do in the kind of indirect relationships and those individuals, but I don't think it's clearly laid out right now.

Sebastian Bachollet: Thank you, Karen. I would like to wrap up this part of the meeting, and thank you again for your contributions. We have two topics we are supposed to discuss in half an hour, it's RAA, and that's because we have to be at 11 o'clock up there, the RAA and the vertical integration. One suggestion is we don't discuss the RAA now. We – it's a suggestion of our chair to ask working group cross regional plus ALAC members (inaudible 0:42:29) to discuss the comment already existing on that subject. Then I would like you to think about that and we will come back at the end of the discussion on Vertical Integration to the question of this cross-regional sub group. If you agree on that, I will give the chair to Alan for the vertical Integration part of the meeting.

Alan Greenberg: Adam also suggested that we spend a few minutes; he said ten, I'll say five; on what are we going to be talking about in the GAC session. At this point, however, I would like to, at least for a few minutes go back to vertical integration. I have no illusions that we are going to come out of this meeting with an ALAC – a unified ALAC position on this; but it would be interesting to have the people on the group to at least have heard some of the other opinions.

I'll tell you what the established opinions are right now, of those who have spoken up on the VI group from within At-Large. I, Cheryl, and Sebastian have been pretty strong on taking a position on do as little possible, given that we don't have a lot of time to refine the details for the first round, without opening up things in ways that cannot be closed, if we find there are harms in the longer term.

So, in other words, be conservative, take the position that what is working right now with the existing ones does work, and does not seem to have created undue harm, and let us take a conservative approach. Siva put a position in which started out as what he called open trade – free trade – and essentially no restrictions whatsoever. In the ensuing discussion, it became obvious that there would have to be some discussions on what the harms were and how to prevent them, and what the penalties would be, which would have to be done prior to actually writing the contracts, and to me personally, it's not clear how one could do that before August, given that the parties don't even exist to negotiate.

But I'll let Carlton very briefly speak to that because he strongly supported Siva's position. From my perspective, there are plenty of people arguing

on behalf of business and that isn't our primary role, but I'll let Carlton, again very quickly, and then open it up to other questions or comments.

Carlton Samuels: I'm not – this is correction – I am not speaking on behalf of business or supporting business, I'm supporting a principle position. Here's the principle. I do not believe that it is the business of ICANN to determine what business model is used to work with it. That's principle, that's a bedrock principle. And therefore, to me, if you predetermine what business model can do business with you, then by that very fact you are acting to restrain the trade of the business. Even if you say that it is intended to deflect harm, when you cannot tell me what harm there is, to me you are using (inaudible 0:46:38) position of what harm is to say to someone, you cannot have this business operated in this way. I think that is wrong in principle.

Secondly, with regard to everything else that they are talking about, if you look at all of the variations that people are coming up with about ownership and this position and that position they are so complex that ICANN does not have the wherewithal; it will not have the wherewithal to police them. So if they take that on, it is with deliberate and prior knowledge that they do not have an infrastructure to even see to compliance. I think it's a wink, wink and a nudge, nudge, on principle.

The third thing that I disagree with on principle: if you go down the path of saying you're going to proscribe certain associations, business associations, and then the basis on which they are proscribed must be known upfront. That is the business of harms. Tell me what harm this particular association, business construct has done and will do. The point is, if you look at what they're saying, they're saying certain associations, certain ways of organizing yourself a business is inherently harmful to the consumer, and I don't think that case is made, so on those principles I do not agree with any restrictions on ownership.

Alan Greenberg: A couple of quick points; I will point out that ICANN was created with this specific mandate of changing the business model of registry/registrar – so we do have some historic precedent that that is our business. In terms of compliance, I'm not sure I like the concept of saying if we open things up completely it's so complex that compliance couldn't do anything, so let's just ignore it. I think we need to put rules in place that compliance can do something about.

Carlton Samuels: For rules. And I said the rules are strictly – it's as simple as this. Here are some harms that we know of. First of all the rule is – this is a principle. Do no harm. First do no harm. Here are some harms that we know. There is one we do not know. If these harms happen, we will act; and here are the ways that we will act. To me, that is something that is workable, that is something that we can see. Part of the problem is that there is this thing that is a conservation that because somebody said it however many years before, it's sacrosanct. It's like it's an oracle, and therefore the oracle has spoken and therefore there can be no other thinking that is different from it.

At the bottom line of it, it is my discomfort with this idea. Because it's gone on before, we should go to it, because that's what it is. No, I don't agree with that at all. I think people can be wrong headed. Boards make mistakes; they've been known to do that. I've sat on Boards and we've done stupid things, and you have the right to correct yourself, and I think in this case there is too much – it's almost like I say – because the Board was thinking a certain way some time ago, the Board thinking is forever correct. That's the bottom line. That's the heart of this thinking, and I don't agree with that at all. I think they can be wrong headed –

Alan Greenberg: Can I ask you to be brief?

Carlton Samuels: Boards can be wrong headed and as far as I can see, since you give me no reason to see why you would disallow vertical integration, and since you cannot point to any harms that is specific to that kind of business organization, then I cannot see the value in disallowing them.

Alan Greenberg: Okay, I ask when people are talking that they be brief, and number two we give whoever is talking the opportunity to finish their sentences – as I was trying to say, there is a history – it is interesting who, in At-Large – how do I put this politely? Spent a large part of their energies hitting on registrars because of the business practices that we have found offensive – that we are questioning whether these same and similar parties will – how they will act in a completely unregulated, integrated world. So we can talk about specific harms, but I think there is plenty of precedent that, in the absence of rules from ICANN, people do take interesting opportunities. Evan is next.

Evan Leibovitch: I want to expand on what Carlton was saying, and I'll keep it brief and to the point, except to say that simply because ICANN has engaged in

feature creep in the past does not obligate us to continue down that path. And if getting the right thing done means taking a step backwards and having ICANN, for instance, concentrate its compliance efforts on things like, on the kinds of things that Garth was talking about with the RAA, rather than regulating business models, this ends up being a very specific priority on our issues.

Anyway, for those that are listening, the – it's just, Alan, what you were saying before – just because some harms have been said that a certain – that registrars unregulated have done bad things, you haven't made the case that there would be more harm done if there was total integration. That making ownership go from 15% to 25 or to 57 or whatever, is going to make a significant difference in the level of harm which you just described.

This is an instance in which we're talking different kinds of harm. if there's a harm that's done by the activity of a registrar, then who it's owned by isn't necessarily going to make that harm more or less, and I would concur with Carlton in saying, you know, show the harm that is being created specifically by the issues to do with integration.

Alan Greenberg: I will give a very brief one, and then I'll go to Sebastian and Christopher. One of the examples has been a harm that is exacerbated by shared ownership, is the concept of front running, which network solutions started a while ago, which is if you do a query on a domain, they registered it preemptively and therefore were the only source for that.

A registrar that has access to every query that is done by any registrar, because they are also the registry, has the ability of doing front running on much larger scale. Whoever runs the DNS for a registry sees every query that is coming in from around the world, and that is very valuable information, and that's the kind of things people are talking about; some of which can be controlled with contracts if you know who all the people are who you need to control. Sebastian?

Sebastian Bachollet: I wanted really to ask and request to the members around this table to speak on this subject and not to leave the one who already wanted to go into big detail on this subject. Please take the floor now, we need your inputs. We know what we discuss here at this time – we need your inputs now. Thank you. Christopher.



Christopher Wilkinson: Well, if we're going to go to the GAC in fifteen minutes time, we don't have time to exhaust this vast subject this morning. Carlton has made some interesting arguments, some of which are quite new, and certainly need to be considered. There are some boundary conditions however; one is that there's another forum called the – I understand, I haven't been to it – called the vertical integration working group. And I wonder which of our members are participating in that forum.

The second point is that civil society apart, this particular issue has been right to the top, albeit ten years ago, but right to the top of the competition authorities in the United States and the European Union. And at least ten years ago, there was definitely a feeling in the competition authorities in Europe that the principle of registry/registrar separation was part of the pre-conditions on setting up ICANN in its present basis in the first place.

Now, my personal opinion is that there have been sufficient changes that some aspects of this should be reconsidered in relation to, particularly to small and specialized registries, but not necessarily to start ups, or registries who plan to become very large. The – you certainly don't want to get into a situation where, for the sake of example, VeriSign can start buying its registrars, and rebuilding the monopoly that Network Solutions had under the United States Science and Technology budget, in what, in internet terms is, the distant past.

But I do accept that the steps and policies that were introduced to be sure that Network Solutions ceased to exercise such a monopoly because they were the sole registry and the sole registrar for .net and .org., they – the policies that were introduced to terminate that monopoly are not necessarily the same policies that you need across the board in the present situation. But you must not introduce principles which would validate an attempt by the existing large registries to buy the existing, in some cases, very large registrars and recreate monopolies in the GTLDs.

Alan Greenberg: Thank you. We have ten minutes before we have to leave the room to try to find the fourth floor, which is not all that easy. The point is we still need a few minutes to get there, we have ten minutes left. Adam.

Adam Peake: What Christopher said, I think we have a history of competition law that suggests that monopolies are a risky bad thing, that we know that a registry is by its very nature a monopoly and we do also have market power dominance in what you can see .com is it obviously has an element

of market power. You can look at the registrar market and see that GoDaddy and its user facing registrants is probably market power, so we've got to consider that level.

I would like At-Large to focus on the other part that Christopher mentioned, which is where we might want to allow integration, which is at the community level. Where specialist registries and registrars, they don't want to have to be forced to use the current models because it wouldn't serve their purposes for various reasons, and I think us focusing on those types of things would be more important.

Alan Greenberg: As Mike mentioned, some of the proposals do allow extensive exemptions for single registry TLDs and community small TLDs; some do not.

Adam Peake: And there's various ways you can do all kinds of things about if you hit threshold in revenue then you may have to open up. If you hit a threshold in number of registrars then you open up. These are things that come from different markets that one can look at, but I think there's where –

Alan Greenberg: Do we continue this discussion or go on to the GAC for a few minutes? [Analyse]?

[Analyse]: I just want to say one thing, sort of on a practical note. I'm looking at that chart that's in our little fun drive, and it shows how complex this vertical integration issue is, because there's so many aspects to the vertical integration, it's not should we do it or should we not do it; there's all these different aspects, then if you look at the chart, there's all these entities with different opinions and they feel differently.

So it's this huge multiplication table and I think because – I just get nervous about the timeline – whether it's five minutes to the GAC or the timeline Mikey was discussing, by August, you know – and I feel like ALAC is still talking about should we or should we not, when really it's going to be a compromise, and I think we need to look at all this intricacy and start to discuss compromises. Not yes or no, but what's actually on this chart. So that was my point.

Alan Greenberg: The few of us who believe in that could only endorse what you just said. Christopher did ask who is involved. The people who have been actively involved, which is not only listening but also saying something in At-Large, is me, Cheryl, Sebastian, Carlton, and Siva. I believe Dave is also

on the list, but I do not believe that you have been very vocal on it, and I'm not sure who else.

Alan Greenberg: The two items on the list with the GAC are – what is the new acronym that's being used? MOPO, morality and public order, and new GTLDs. Would anyone like to say anything, very quickly, about that before we leave for the GAC room? Adam?

Adam Peake: I haven't any other business to relate to that. It's related to new GTLDs. yesterday you may have heard Bertrand de la Chappelle suggest that at some point we're going to have to move from a dag into something that is implementable, something that can be taken from this enormous, complex document into something that the Board can vote on.

And one of the things that has come out of that is there may be a suggestion that rather than having the Board vote on something that the staff purely creates, then perhaps there should be a meeting, perhaps there should be a meeting at some time, maybe October, where about a hundred people get together for three or four days and try to draft a document that the Board can use to actually implement the introduction of new GTLDs.

Bertrand may mention this idea during the GAC meeting, are we interested in it? Would it be the sort of thing that if the ALAC had concerns about funding and representation met, would we be interested in participating, and I'll immediately say that I'm busy and wouldn't want to attend myself?

So, I'm not looking for a free ticket somewhere, but this is a concept. Would we want some way of trying to bring together the community to actually bring together an implementable program that the Board would then vote on rather than having it in a more top down method, and that's just something to consider? Bertrand may mention it during the GAC meeting.

Alan Greenberg: Okay. One just point of order, that one of the items on our agenda was the RAA 3.7.7.3 item, Bo has volunteered to draft something and bring it back to the wrap up meeting, it's just expected to be a sentence or two, so thank you Bo. We have Even and Hong.

Evan Leibovitch: I'll definitely have something to say during the GAC meetings, so I'll leave that for then rather than now. Under the new business because there

is a little bit of a timing issue, I would ask each of you to check on an email that I sent to the ALAC mailing list yesterday about an outreach proposal to have an At-Large presence at three global IT events around the world. We don't have enough time to actually engage in a debate on this, but please, if you've got some ideas or objections, please let me know. I've been asked to actually get back to Rod and Barbara this week, so I'd like to get some kind of idea if there is any real objection to this, please talk to me either in person, or – Sebastian – you have something to say on this?

Sebastian Bachollet: I am sorry because a lot of your colleagues and my colleagues get a good proposal. I would like to say two things. The first is on the process, I would have been very happy to have this discussion among us before to go to Rod, and the second point is that I think it's couldn't be an At-Large activity because you have a lot of business people and if it's done somewhere where it must be done in conjunction at least with the business constituency and my point is I'm not sure that's the best place to go for users organization like we need to have in At-Large. But nevertheless it seems that a lot of people agree with that.

I would like to discuss that in depth before we go outside to say that it's a good or bad idea. I am sorry to say that now, but it's a hypothesis this kind of show that maybe makes people from the business side and if we want to succeed in our outreach it must be done collectively within ICANN and not just At-Large. Thank you.

Alan Greenberg: Hong wanted a quick comment.

Hong Xue: I want to talk about another issue, and not on this.

Alan Greenberg: Is this related to GAC or something else.

Hong Xue: Yes.

Alan Greenberg: Very quickly. We need to leave in a minute and people are trying to get into this room. Go ahead please.

Hong Xue: Of course. I want to talk about the trademark issues. I wonder whether you talk about that issue already. That is in dag version 4. There are some changes but I'm not going to the substance of the changes, and I see a problem in the procedural, they summarize those comments posted in the

websites, but they didn't take into account all the comments. Only selected ones, so I thought why some comments were included in this dag and the others were not, and why some commentators are listed as the comments and some others were not. So there's a procedural issue here.

Alan Greenberg: I'm not sure that's a GAC issue, but it's certainly a relevant issue. I'm told we're on our way whether we want to be or not.

Heidi Ulrich: Just a housekeeping issue. If you could take your tent cards with you, we will be in this room again at 4:30 and (inaudible) will be directing you upstairs. We're just one level up, one level up, room 400.

--End of recorded material--