

**ICANN Brussels Meeting
Commercial Stakeholder Group (CSG)
TRANSCRIPTION
1015 – 1230 local / Tuesday 22 June 2010**

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Man: If I could ask those people just coming in to take a seat please and we'll start this session.

((Crosstalk))

Marilyn Cade: Would you all come as forward down front as possible but leave the front row here vacant for the - for our guest speakers? But you may have difficulty hearing if you're in the back.

((Crosstalk))

Tony Holmes: Excellent room, thank you. So I'd like to welcome you to this CSG meeting. We've got quite a packed agenda. And to kick off we're going to have the Accountability and Transparency Review Team join in at 10:30. But prior to that I would like to - one of the traditional (unintelligible) we have and ask people to introduce themselves.

I'll start that running and work around the table and then we'll go along each row. My name is Tony Holmes and I'm currently Chair of the ISP constituency.

Marilyn Cade: Can I just do a time check with you Tony? We're going to do this and when the review team comes in shall we pause and...

Tony Holmes: Hopefully they will be here at 10:30...

Marilyn Cade: Okay. My name is Marilyn Cade, I'm the Chair of the business constituency and the alternate from the BC to the CSG.

Tony Holmes: Sarah?

Sarah Deutsche: Hi it's Sarah Deutsche. I'm the CSG rep and in the business constituency.

Steve Metalitz: Steve Metalitz, member of the CSG Executive Committee from the intellectual property constituency.

Martin Sutton: Martin Sutton from HSBC (unintelligible).

Ron Andruff: Ron Andruff, (unintelligible) partners BC.

Wolf Ulrich-Knoben: Wolf Ulrich-Knoben, ISPC.

(Nayasem Ayema): (Nayasem Ayema) ISPCP from Japan.

(Maria Samko): (Maria Samko) from (unintelligible) Sweden.

(Peter Rimfort): (Peter Rimfort), representing the (IPC).

(Lee Williams): (Lee Williams) from the financial services community, good morning.

(Aisha Hassan): (Aisha Hassan) International Chamber of Commerce, member of the business constituency.

Jaime Wagner: Jaime Wagner from the ISP constituency, also I'm with the Council.

(Terra Mustaran): (Terra Mustaran), (Nokia), in (NBC).

(Yar Kuruzka): (Yar Kuruzka), (Nokia), member of BC.

(Mattie Mansurkia): (Mattie Mansurkia) with Verizon and (ISPCP).

Tony Harris: Tony Harris from the Argentine Internet Association and a member of the (ISPCP).

(Jeff Bergerman): (Jeff Bergerman) with AT&T and the BC.

Chris Martin: Chris Martin with the US Council for International Business also on the non-com.

(Chris Hosek): (Chris Hosek) from Telefonica.

Mark Partridge: Mark Partridge, member of the IPC and nom-com.

(Sambukal Hassan): (Sambukal Hassan) ATRT, the review team. This would probably be a good moment to ask are we - am I in the right room?

Tony Holmes: Most definitely.

Erick Iriarte: Erick Iriarte (unintelligible) TLD and ATRT review team, too.

Claudio di Gangi: Claudio di Gangi, (IMTA).

Janet O'Callaghan: Janet O'Callaghan, News Corporation, member of the BC.

(Russ Pangorn): (Russ Pangorn), Microsoft.

Kristina Rosette: Kristina Rosette, Covington and (Burling) (IPC) Councilor.

Jonathan Cohen: Jonathan Cohen, IPC.

Liz Williams: Excuse me, Liz Williams from (unintelligible).

David Taylor: David Taylor, (Hogan Levels) and IPC Council.

Nick Wood: Nick Wood from the IPC representing (Marx).

Chris Chaplow: Chris Chaplow from (unintelligible) .com interim vice chair of the business constituency.

Steve Delbianco: Steve Delbianco of (NetChoice), vice chair for policy in the business constituency.

Mikey O'Connor: Mikey O'Connor, Mikey O'Connor - business constituency.

Man: (Unintelligible) (PCP).

(Constantine Calderas): (Constantine Calderas) (ETNOM), member of (ISPCP) and BC.

(Amy Dazio): (Amy Dazio), (Mad Inc), BC member.

(Phillip Shepherd): (Phillip Shepherd) with the BC.

James Baskin: Jim Baskin, Verizon, BC.

((Crosstalk))

J. Scott Evans: J. Scott Evans, Yahoo.

Fred Tillman: Fred Tillman Mark Monitor.

Bill Smith: Bill Smith, PayPal.

Doug Johnson: Doug Johnson, financial community.

John Berard: John Berard, business constituency.

(Rusch Reider): (Rusch Reider), Portugal Telecom.

Eric Burger: Eric Burger, I'm just a tourist.

((Crosstalk))

Tony Holmes: Yes.

((Crosstalk))

(Tracy Chang): (Tracy Chang) (regional).

Martin Schwimmer: Marty Schwimmer, Moses and Singer, IPC.

(Antush Kapesh): (Antush Kapesh) from Japanese (ISP) Association.

Berry Cobb: Berry Cobb, business constituency.

Scott McCormick: Scott McCormick, BC.

(Josie Calducci): (Josie Calducci), (unintelligible) BC.

(Lizka Vira): (Lizka Vira), Time Warner.

Mike Rodenbaugh: Mike Rodenbaugh, business constituency, GNSO Council.

(Mary Jo Kupelar): (Mary Jo Kupelar), (unintelligible) Administration BC.

(Tom Kovaleski): (Tom Kovaleski) Deutsche Telecom.

Tony Holmes: Okay I realize there are a few people still coming in, but I think we've been through most of the room now and thank you for your help with that (Ron), with the microphone.

We have quite a busy agenda for this meeting. To start with we have the Accountability and Transparency Review Team who are joining us. Then we're going to spend some time talking about the operating plan and budget.

Part of the time is allocated for the new gTLDs, the overarching issues that affect all of these constituencies. And then some discussion of the CSG position on the affirmation of commitments plus a discussion of the CSG charter.

And at some stage we need to factor in the issue that was raised during the earlier breakfast meeting as well about the future interaction we have with the board and how that relates to the future of the breakfast that we've just come from.

But to start with I'd like very much to welcome the Accountability and Transparency Review Team. I'm well aware that you're spread along the front row which isn't the best way to actually do this.

Woman: (Unintelligible).

((Crosstalk))

Tony Holmes: Okay so what is going to happen we are going to vacate our seats and give you very important people...

((Crosstalk))

Tony Holmes: I think it's helpful that the people see you as well from the front. So if I could ask you to come through here. And I'm going to hand over to the review team

themselves to take us through this. We have half an hour schedule for this on our agenda. Thank you.

Woman: (Unintelligible).

((Crosstalk))

Woman: Good morning everyone. It's a pleasure to be here with you today and to have an exchange with the business community as well. We've been doing those meetings and the very beginning (unintelligible) ICANN meeting here. And we had very good interactive discussions with the - almost the whole community.

I'll leave the team to introduce themselves and then we could get into substance. But we'll start from Cheryl.

Cheryl Langdon-Orr: Good morning everybody. Thank you so much for having us. My name is Cheryl Langdon-Orr and I'm the current Chair of the At Large Advisory Committee.

Man: Hello, my name is (unintelligible). I work for (unintelligible) and I am a member of the (ISPC) constituency.

Willie Currie: Willie Currie with the Association for Progressive Communications and part of the (NCGS).

Woman: My name is (unintelligible) representative and serving as the Vice-Chair of the group.

Woman: (Unintelligible) from (unintelligible) Hill and I'm a member of the (CPNSO) Council.

Man: (Unintelligible) until three months ago with the European Commission and now with the International (unintelligible) Communications.

Warren Adelman: Warren Adelman, President of godaddy.com.

Man: (Unintelligible).

Tony Holmes: Okay I think it would be helpful if you could give us just a very quick overview of where the process is and then we can open up the floor for questions.

(Becky): So as you all may know the group is mandated to look into the specific issues that were mentioned in the affirmation of commitment. We had one meeting - one face to face meeting in (unintelligible). Our second meeting is here in Brussels. And we have on our schedule to do more meetings, one going to be in Asia someplace not yet defined in Asia.

One in Africa in Egypt and the last one is going to be back to (unintelligible) ICANN meetings in Cartagena. We try to have this across the regions to be balanced. We're having conference call every other week.

Our meeting list and all the documents we had now is on the Website. We have (unintelligible) during this meeting to have our conference call open for public participation (unintelligible) listening, yeah, observers or business.

We try to put some guidelines to our discussions based on the mandate we have. We had some questions posted for public comment. And we prepared some questions also for the - our meeting with the GAC and with the joint GAC board work group and with the board.

I'm not sure if you have already been through the questions that were posted for public comment. But again those are put to guide our discussions and make people think about the things we are supposed to look into and brainstorm around those things.

So we shouldn't be really sticking to a certain (unintelligible) we'd like to hear from you whatever you would like to share with us and the more specific of course the more it's going to be helpful.

Tony Holmes: Okay.

(Becky): Thank you.

Tony Holmes: Thank you very much. I'm also aware that many people here were attending the session yesterday that went through in a little more detail so with that introduction I'd like to open the floor up for (unintelligible).

Steve Metalitz: Yes, thank you very much Tony. Steve Metalitz from the Intellectual Property Constituency. We just had a breakfast meeting with the board and senior staff. And one question that was raised there was what is the standard against which the review team will be evaluating the accountability and transparency record of ICANN? So I wonder if members of the team could answer that?

Have you established what the standard is? And if so what is it?

Cheryl Langdon-Orr: Thank you. I think you have hit on the hardest question and it is the hardest question that we face in ICANN. I think that, you know, the reviews that have been undertaken to date, you know, sometimes look at ICANN as a corporate nonprofit or sometimes an international organization.

And the answer is ICANN is a very complex beast and in the accountability and transparency context who you owe transparency to depends on what role and interaction you play with them.

So in fact I think one of the goals of our work will be to determine what the comparative is. (Olivier) and Willie have started work on a framework that is

going to look at the questions of, you know, what is ICANN and how should we be thinking about accountability with respect to the various groups.

So that is - so the answer is no we don't have one, that is probably from my perspective the most important deliverable.

Just to follow up on that, to what (Becky) said and I think you're going to get this from all the - something that is actually occupying probably the only space that isn't being occupied by meetings for the community is being occupied by things like that.

One of the opportunities we have here and something that another sub-team which (Brian) and I worked on is making sure that amongst our deliverables which will be looking at case studies and will be fact-based we want to get some actual (unintelligible) moments now in a very short (AAC) point in time.

We are going to look at history and we're happy to hear about history. But we also want to try and establish a temperature-taking exercise if nothing else metric of what community view is of accountability and transparency as it is now.

Because any recommendations we have need to be measured against where we are now. So we're in some ways creating a model which is going to be foundation to make the answering of this question a whole lot easier.

Can we grab a couple of big company models off the shelf? No. Do we maybe look at hybridization? We'll be discussing this with people who can hopefully guide us in the right pathway. But are we going to end up with measurable? Absolutely.

Tony Holmes: Okay.

Man: Your question clearly is proving different answer. Each one of us brings his own experience. In my view we will have to find a practical answer to that that we keep into - that we keep in mind a number of considerations.

ICANN is a corporation but at the same time many of the decisions of ICANN have a public policy dimension. So that means that for that part, the sort of standard that you should be taking, is that you would apply to a public - the public administration.

There again the standards are different. The standards of accountability/transparency that is usually required from a national government is not as high as that that is required from some international organization.

I know from the experience of European Commission that we are expected to provide a standard of accountability and transparency higher than national governments.

But I (unintelligible) so far from the experience that I've gathered from the discussion until now I suspect that the greatest problem that we have is not so much that of transparency in the sense of making documents available but the greatest problem is that of explaining in detail why decisions have been taken. And that's what I will personally be looking at.

(Becky): If I can just very quickly and there is nothing perfect and everything could be improved so our main goal is to make things better.

Tony Holmes: Okay thank you.

(Becky): And we're trying to look into cases where we can extract certain pattern that could identify where some weak points are.

Tony Holmes: We'd like to start with the tough ones so hopefully that'll get a little easier as we go on. Other input? Philip.

Philip Corwin: Many of us in this room have found ourselves sitting in different rooms along with the existing suppliers discussing the rules for new entrants to that marketplace.

Now in other areas of the world where the existing suppliers sit in rooms and discuss the rules for new entrants in marketplaces you're normally subject to raid by (unintelligible) colleagues, indeed your competition and others.

And one reason perhaps why we haven't been raided is because ICANN has attempted to be transparent in terms of those discussions and not only the incumbents being part of that.

So my question is does your term of reference also allow you to explore the reasons for transparency in ICANN and in particular this potential for avoiding raiding by (unintelligible) competition and other antitrust authorities?

Willie Currie: I think what would be interesting is to probe the balance between private and public interests within ICANN as a bottom up policymaking institution. And it would be very interesting to have input from the commercial stakeholder's group as to how you see this, what is it that you identify when you see what - in the external world would perhaps be prohibited as a problematic anti-competitive practice taking place and whether you think the rule that ICANN does have in place regarding transparency are adequate to this kind of a situation that you find yourselves in.

And as - is there any incident or set of incidents that could be seen as systemic regarding this kind of practice and how would you - if there's a problem how would you see it being remedied?

(Becky): Yes, we are really here to listen to specific cases or examples that you feel there was lack of transparency or lack of accountability in this specific case. So - and the more specific the more we - this would help us as I mentioned find a pattern and find where really the problem is.

Because we want our recommendations to be far from impression, far from personal opinions and it has to be fact-based.

Cheryl Langdon-Orr: (Unintelligible) if I may, that said this is a valid concern and it's a valid concern of part of the community that is ICANN articulated and it can come into our frame because it's the (unintelligible) of accountability and transparency has got this thing called building trust.

And if something is not building trust is also being done in the name of accountability and transparency it's a topic that that's not our group but the one that may follow could very well look at. But we can certainly get it on the agenda.

(Becky): Just very quickly we want most of the talking to be from your side not from mine.

Tony Holmes: Yes thank you. I think (unintelligible) I think part of the question may also be - and we'd certainly be happy to contribute input in due course. Is transparency anyway sufficient to allay these concerns in terms of antitrust?

And then part of it is a second question is what is the quality of transparency? So I think those two issues are separate but both interesting within the concept of transparency sometimes. The dialogue may continue, thank you.

(Aisha Hassan): (Aisha Hassan) from the International Chamber of Commerce. As many of you know the (ITC) membership really spans across all the commercial interests and some of the contracted parties constituencies within ICANN.

And one of the preoccupations for my members is ICANN's evolution in terms of transparency and accountability in the context of the landscape of Internet governance in the world.

And some of the other organizations involved - how does the world also perceive how ICANN is progressing on these issues? And as we took a look at the questions that you had put out there - we haven't finalized positions so I'm using this opportunity to, A, focus in on one question that in the meetings I've sat in on that you've had with various parts of the ICANN structure and with the community yesterday I haven't heard a lot coming out.

So I would like a little bit of teasing out of Question 4. This is about the general assessment of ICANN's commitment to the interests of global Internet users. And before I put the question to you I thought it might be helpful to bring out - as my membership has started to discuss this question some of the things that have come out is how do the evolution and the transparency and accountability aspects of ICANN also integrate the fact that the global Internet user audience is really global and diverse?

And how do you perhaps make recommendations that will address some of the sensitivities of a very diverse Internet user base? Some of the things that we've talked about, again, these are not positions, my members many of them are in the room and they, you know, we're just trying to throw some ideas out.

We've looked at the fact that there are regional offices and liaisons and some of the progress that's been made in bringing ideas from communities around the world into the ICANN thinking within the staff and the structures.

But looking at opportunities to build in that way because the accountability mechanisms and transparency discussions are often happening between a lot of people that are very deeply involved in ICANN. But one of the audiences that is important to remember is those who we're trying to get

involved. And so I guess my question to you is as we look at this question how are you beginning to think about integrating that kind of sensitivity?

Another thing that we were thinking about is how important it is for the broad range of business interests which also is another very diverse element in global Internet users. How do we keep working on these mechanisms so that they become more and more responsive to that diverse set of business interests from around the world.

We did talk about the fellows program, the fact that that's been a good initiative. How do you build on that kind of a program? Would there be room in that recommendations for further thought and resourcing to expand in that way?

Also would there be room in the thinking and discussions to think about the staff? There is a lot of sensitivity built up by having staff that is of different backgrounds and experiences. How does that help any organization but in this context ICANN, to become more sensitive to certain ways of thinking, certain ways of communicating and certain needs?

So I hope that you can address a couple of those issues. Thanks.

Cheryl Langdon-Orr: So those were all good and very hard questions. I think if it is clearly right and we've talked about this that the sort of diversity within the ICANN input machine basically is critical to transparency because you can't be transparent if the people can't read or understand what the documents say, for example.

I think that, you know, in the public interest one of the hard things that we are balancing is sort of what is the public interest? And clearly part of the public interest is having a stable environment for businesses globally.

You know, all of the elements of that are things that we are, you know, conscious of and taking on board. And I would think examples where staff or outreach could be more effective or more diverse would be within our remit.

I think there is - there are some questions that you asked that maybe outside of, I mean, we really are looking at accountability and transparency and I think of transparency as a tool for accountability as opposed to an independent tool.

In ICANN as - not limited to the specific words of the affirmation of commitments but we would like to have a sufficiently focused focus that we can actually get some real answers in the limited time that we have.

Woman: Do you have another...

Tony Holmes: No, did you want to?

((Crosstalk))

(Becky): Just very quickly it might be a bit early to give really complete answers to your question because we are still in the data gathering phase and trying to come up with the approach that we are going to build on the data we have gathered. But thank you.

Tony Holmes: Yeah, that must be one of the benefits from this exchange that some of the issues that (Aisha) pointed to. I'm sure you want to come back on.

Marilyn Cade: Tony, Tony, could I ask you to just ask people who want to speak to raise their hand and we'll build a queue for you because I've got one over here, I've got two over here and, okay, so there you go and then we can come over here.

Steve Delbianco: Yeah sure. Thank you, Steve Delbianco with NetChoice. And we debated this public interest topic extensively yesterday during our broader session and I appreciate your patience of going through it.

And I won't repeat all of that here except to say that when I read the 9.1 question it's pretty clear that public interest is distinct from the notions of accountability and transparency.

Because what it says is that the outcomes of the decisions will reflect the public interests, space, new word, and be accountable to all stakeholders. And that's an invitation to the team to take a look at what it means to say whether the decision is in the public interest.

And that's a separate question than whether you say were they transparent and accountable. You really have the charge of determining whether the decisions were in the public interest.

And just to summarize what I said yesterday in the public interest could mean anything or could nothing at all if we don't attempt to define it. And I was encouraging you to try to define it in terms of ICANN's mission. And the words security and stability are not quite getting there.

And I had invited you to consider that availability and integrity of the DNS was how I would recommend the definition of public interest. And when you analyze the decisions that we're taking and you say did they increase the availability of the Internet, 24/7/365 in every script, in every language, in every corner of the globe, registrations available to people who maybe didn't have the means, that's availability, it's always on and available to people.

And integrity, integrity would be of course when I resolve a domain name does it actually give me the right domain or is there a phishing attack? Integrity is the protection against all the other security concerns. So the more you can structure some definition for public interest the better we can

distinguish ICANN which is all about the DNS from the World Health Organization or from Save the World or Save the Children.

Those are all organizations that are working in the public interest but their notion of the public interest is very focused too. So let's let ours be focused. And please I invite you to think that accountability and transparency themselves should be individually measured.

You're not measuring those in order to see if it's the public interest. The public interest is a separate checkbox for you to look at.

Marilyn Cade: So we're going to go over to this side and I'm going to ask Tony if it's okay if I ask people to be real brief so we can get more questions in.

(Jeff Bergerman): Thank you. I have two questions, one is - oh I'm sorry, (Jeff Bergerman) with AT&T. In addition to identifying concerns and specific examples of issues that we may have with transparency and accountability would it be helpful for the comments to also identify suggested improvements?

And then a related question would be do you envision the work of the review team and the ultimate output of your recommendations including not only a standard and kind of analysis of how ICANN is doing compared to that standard but also suggested are you going to make specific recommendations to ICANN in the report for improvements?

Tony Holmes: Okay Cheryl (unintelligible) and ask the panel to respond to the issues...

((Crosstalk))

Cheryl Langdon-Orr: Yes, yes and yes.

Tony Holmes: Which is a pretty reassuring answer. There's another question from this side.

Bill Smith: Hi, Bill Smith with PayPal. I don't know if this is the appropriate forum to mention this but for me it is an issue of accountability and transparency. And it has to do with the analysis of our comments to the DNS and the security and stability strategic initiatives document.

When I read that - the introduction to the document and I started to read all of it I scanned down and found where the analysis of PayPal's comments were. And having authored that set of comments I was quite familiar with what we had said.

And it seemed to me, to my reading, that the - certainly the tone and tenor of our comments was not accurately reflected in the analysis. And then on going back I, you know, further believe that that is the case in reading both of them.

So the input to you is as someone who spent considerable amount of time preparing comments, submitting them as I'm sure everyone else did - and we did so in a - in a very collegial manner - it is - it's concerning, let's put it that way.

If I find my comments are that way does that mean that all of the others have been analyzed in the same way? And then what do I do, right, am I expected to go through and analyze all of the comments and see if the analysis of each set of comments in fact matches?

And that's a concern because I expect that the analysis is going to be accurate. And if it isn't they aren't being transparent.

Tony Holmes: Just before you answer that I think there's another comment on the same topic here.

Ron Andruff: Exactly, Ron Andruff. Just a follow-on on that. On the weekend Kurt Pritz gave a briefing to the GNSO about various elements of the DAG 4. And the

discussion was about the point system for the comparative evaluation that it's now at 14 points out of 16.

And when asked the question, how did you get there? Kurt Pritz said well we took into account the comments that were made and as we looked at those comments there was really as we saw it about equal amount of comments on either side of that.

Some wanted to keep it at 14, some wanted it to go to 13. And if I'm not mistaken Steve Metalitz went forward, he'd researched it and went back and said I want to just clarify the record and that is that there were only - one comment against, a second comment that was unequivocal and all the rest were for 13 of the 14 points. Kurt Pritz said well sometimes we make decisions based on one comment.

Marilyn Cade: Tony, can I - because I'm hearing a conversation over here that's a bit similar - can I ask just for a show of hands - because otherwise we might get a long list of people with similar examples - could I ask for a show of hands of those of you who have submitted comments and then looked at the summary of your comments and feel that they were not accurately represented?

((Crosstalk))

Marilyn Cade: Secondly I will tell you real quickly that in the earlier days in one particular set of comments the summary was sent back to the writer and the writer was allowed to fix the discrepancies. There was a very strict - I participated in this - there was a very strict limit but in fact even though there wasn't as much openness as I thought there should have been to accepting my interpretation of what I said there was some openness.

So we could ask people to - if that's helpful. And we have another comment on this side.

Tony Holmes: Okay.

((Crosstalk))

(Becky): Can I just, yeah, just point quickly to the questions here. So the gTLDs was something that's been brought to our attention in every meeting we've been doing. So just rest assured that there's one - that this is one of the cases that is being studied right now. But of course any specific examples that you may provide us with would be very useful.

Also one thing that's been brought to our attention in all the rest of the meetings also was the too much (unintelligible) and too many PDPs that are running at the same time which might be one of the reasons why things are not done accurately.

So again any specific information that we could get would definitely help this process.

Tony Holmes: Okay...

((Crosstalk))

Cheryl Langdon-Orr: Can I just say we do want the statistics that came out of here so if, Marilyn, you can actually accumulate those stats it's the evidence base we're after and we will be looking at things like DNS (unintelligible).

Tony Holmes: That's excellent and I think you're going to have a heavy mailbox. So...

Woman: (Unintelligible) we have - go back to you (unintelligible).

Tony Holmes: Okay go ahead. I think you have the mic anyway (Liz)...

Chris Martin: Right here.

Tony Holmes: Oh okay. Chris.

Chris Martin: Just a comment and a question. The comment building on my colleague (Aisha)'s discussion of the global audience just to underscore how important we think the building up of accountability for this organization is especially in terms of the other intergovernmental organizations that are looking and deciding on how good ICANN is at what it does.

And this is something that we've constantly said that we need to improve and that goes into my question that is there's a question of the actual implementation of recommendations that have been put forward around transparency and accountability.

And there's, I think, it's unclear to many of our members where some of those implementation aspects stand. They've done a comment period in November on a couple different ideas that had come out of the President's Strategy Committee and institutional confidence building process.

And how does the ATRT see itself in a parallel process to these actual implementations? You guys are doing a review but at the same time is ICANN moving forward with any of the actual implementation or consideration of the ideas that have been put forward so far? Thanks.

Tony Holmes: Okay we have another question...

Chris Chaplow: Hello, yes, the name's Chris Chaplow. I actually see - sorry? Should I carry on? Sorry. Yes, very often the community complaining about staff decisions and accountability - let me use an extreme example.

The community weren't involved as far as I know in the decision on the stationery supplier in Marina del Ray. But that's an extreme example. And I

often hear of something called the wicket fence or picket fence and I know that has to do with consensus policy and (unintelligible) policy.

But I do wonder that perhaps we should have a barbed wire fence for certain areas that really are the responsibility of the staff and CEO and not the responsibility of the community.

And I don't think that's defined, I've never seen that defined. And I think there are areas where one side model in the business of the other side perhaps. And I think if we could have that it would give clarity and it would probably save a lot of wasted discussion time and barstool time. Thank you.

(Becky): And we have just - we respond quickly?

Tony Holmes: Yes...

((Crosstalk))

Man: I think it would be useful if you could give us input on how you understand the staff's role in ICANN. Is it clear to the commercial stakeholder's group what the staff functions are? Are they clearly defined? Is there a staff (unintelligible)?

Are any of the, you know, is the staff there in a kind of secretariat function to support bottom-up policymaking? What are the boundaries between policymaking and policy implementation? Is there - what you're talking about fences between what are probably ordinary operational activities?

What is the sense of this stakeholder group about how the staff operates and the work within the ICANN ecosystem? Any concrete sense of that would be very useful.

Tony Holmes: I think part of the answer from this community is that there isn't clear understanding of that and that's part of the real issue that we face. Liz.

Liz Williams: Yes, good morning. Liz Williams. I can share some experience from being inside and outside. I was the lead (unintelligible) on the GNSO PDP for gTLDs. And as everyone knows we had a million public comments.

The challenge of synthesizing those and reflecting people's work and honoring the contribution that people make to really - and I really am pleased to hear the person from PayPal speaking about the time and effort that it took.

It is an obligation on the staff to accurately and precisely reflect the intention and the content and the impact of public comments that come in on a vast range of issues.

It would be helpful in your accountability and transparency group's work output to provide some instructions about the expectations that one has of the style and quality and type of work product that you want from the staff.

It is not sufficient to say my view wasn't represented properly and I didn't think it was right and you got it all wrong. In fairness it is an enormous volume of material and there's no guidelines about how one ought to produce the documentation.

So there is definitely a case for being precise about the number and types, the kinds, location, the statistics that need to go around it because it really does help decisions to be made correctly.

The other element that hasn't really been spoken about here is the actual - and kind of back to Chris's point about where are public comments appropriate? Now my view - position is that public comments are appropriate at all times.

But sometimes it gets to a point where public comment periods need to end. And I'm particularly concerned about the role of public comments in the analysis of new top level domain applications.

And if you go through the draft applicant guidebook, the wonderful thing that it is, the import - the importance of public comments with respect to an evaluation of an application for new TLD is really, really critical.

And who is going to evaluate the public comments and give them - there's a staff person and it's an evaluator that has a judgment made about those public comments. And it's given to an evaluator. So I understand the sequencing of the public comment process within the evaluation period.

Very, very clear lines of responsibility and expertise and rulemaking need to be established around the use of public comments when it's appropriate and how they should be represented.

One particularly good example of an analysis of public comments is the work that (Karen McCarthy) did on analyzing the public comments for the .xxx public comment period which closed recently.

Very factual, very straightforward and there was no - what's the word - again, and again to present the story other than to accurately reflect what people had said.

So it's quite a lot of stuff, I'm happy to submit all that in writing for you but it's a very, very important job of work to - the most important piece is to establish the rulemaking for the way in which the staff reflect public comment periods. So it's consistent and it's full of integrity.

Tony Holmes: In the interest of time what we'll do - you asked for input and we'll try and give you as much input as we can. So unless you specifically want to respond

back we'll keep the flow going with questions and issues from the floor.
(Constantine).

Marilyn Cade: Tony, can I just do a time check because we have to start our next...

((Crosstalk))

Marilyn Cade: So we have one, two three...

Tony Holmes: Four.

Marilyn Cade: ...four, okay.

(Constantine Calderas): (Constantine Calderas) from (unintelligible). I don't have a contribution or a comment at this stage but I do have a practical question. And that is besides the questionnaire that you have out what other tools do you plan to use in your methodology?

And I'm asking that because there's supposed to be - in the original proposal that result for contributions and consultation there was a chapter about indicators. And also if you will ask the community for support in the near future besides the questionnaire. Thank you.

Philip Corwin: Philip Corwin representing the Internet Commerce Association. I wanted to raise a slightly different concern about staff practices which is not so much misrepresenting comments but having a process where comments seem irrelevant and where staff endorses the self serving statements of a party in the ICANN process.

The specific example late last year the Czech Arbitration Court proposed to implement a fast track form of UDRP through supplemental rules. We submitted comments saying that this was an abuse of the supplemental rules

process which was only meant for very minor clerical differences between UDRP providers.

All of the comments filed on that proposal were opposed to it saying it was abuse of the supplemental rules. The Czech Arbitration Court - and I might say I found it most useful (unintelligible) I found in my practice in Washington is the old maxim watch what we do not what we say.

The CAC then said well we're withdrawing the proposal but we're implementing the core of it. So say - which was basically saying we're not - we're saying we're not doing it but we're actually going ahead and doing it.

And when I raised a question about this during the open board session remotely in Nairobi staff just said we'll it's not an issue anymore because they've withdrawn the proposal. Well in fact they're implementing the proposal.

And it makes one wonder and this may not - examples may exist in other comment processes. Why did we bother commenting and when there's unanimous opposition and the staff endorses the self serving statements of the party that's proposing it it really detracts from the credibility of the entire process.

Tony Holmes: Steve.

Steve Delbianco: Thanks. Steve Delbianco, NetChoice. And my members are reviewing a draft of it now but it will be coming to you in writing shortly. Just to give you a heads up we think that we'll feature in our description of the lack of accountability what happened in - about two years when it was the midterm review of the joint project agreement, you know, the transition to full independence.

And at the point of that midterm ICANN's board in its own capacity determined that it has - it was meeting the 10 item checklist that they had let out for themselves. And just to quote one line from the board's letter they said that the board considers that the responsibilities are being addressed.

There's plenty of capacity, organizational capacity to improve so there's no need for continuation of the operational oversight that the JPA symbolized. Well I'm glad to say the JPA is over and it's replaced with a far better document.

So I don't want to go back to the JPA. But if you're looking for specific examples of where the board self-declared that it was checking all 10 boxes; it gave itself straight As. And I only ask that the process of doing that is one we can avoid in the future.

Tony Holmes: Okay, Kristina.

Kristina Rosette: Sure. I'm not going to repeat the more general statements I made in our meeting on Sunday morning between yourselves and the Council. I do want to just - and I do think that in my view the public comment process what is done with it, what the expectations are both reasonable and unreasonable and what they should be is incredibly important.

I would just note two instances, one from a few months ago and one from about an hour ago. And that is I think the EOI process in particular is really a true example of a blatant disregard of the public comment process.

I don't know, for those of you who may recall this, but the board in fact took action on the proposal and instructed staff to fully flesh out a proposal while there were still 16 days left in the initial public comment period as to whether or not they should even have a proposal.

And to me the - frankly the arrogance was really just dumbfounding. And I guess going along with that a little further, getting more into expectations is during the commercial stakeholder group breakfast we just had both the chair of the board and another member of the board tell us the board has made the decision that they will no longer read communications sent to them about topics that are the subject of public comment while that public comment period is ongoing.

They don't want them. And they will return them. That to me in my individual view is extraordinarily arrogant. I may be alone. It may be that in the structure of ICANN that may be appropriate, I don't know.

But I think there needs to be a very clear definition as to what is the expectation about the role of public comment. If you comment what can you reasonably expect to happen to that comment? And what is the reasonable expectation of the community for the board's interaction with that comment?

Do they read them? I mean, I'm planning to ask during the public forum. I think the answer is going to be no. But no one really knows. And I think we all need some very clear definition, precision and direction as to how those matters should be handled.

Marilyn Cade: Do we have one more and that's it?

Tony Holmes: Yes, Cheryl.

Cheryl Langdon-Orr: While I'm walking down here there's a sheet of paper circulating asking you if you submitted public comments, found them accurate or inaccurate and how many times that happened and we'll collect that information and then gather you all in a pool.

(Zahid): Thank you. (Zahid), I'm a BC Councilor. Oops, sorry, (unintelligible). I wanted to mention something and then support what Kristina said about the board.

There was a statement this morning at breakfast with the (TSG) that the chair of the board made clear and some other board members also mentioned and chimed in saying that, look we're the board. We just get - we basically process what we get from the Council - from the GNSO for instance.

And we don't want to see these letters coming to us directly. They should go to where they need to go to. I find that fairly disconcerting because the other board - and I understand how corporations work, I also understand also the GNSO structure. But they have a fiduciary duty.

They also have a fiduciary under the (AOC). Forget about the bylaws etcetera, there's an (AOC) that they've recently been signed. So to say look we're just not going to look at this stuff seems a bit odd.

The second thing we heard this morning was on workload. One of the points made by the chair to the board was well the workload is not created by the board it's created by the Council and that the Council basically and you should go and talk to them why they're doing so much work. And that's where you need to address this issue.

Well I have heard that apparently - and I'm a Councilor - that 9 out of the 20 different working groups - or PDPs they were working on - in the Council were actually assessed by the board. We're working on what the board says that we as a Council should do.

So one of the things - and I posted this to the Council list is next time when we get a deadline the Council should then decide whether it wants to set the deadline or then have that deadline be used as leverage so that certain interests can push things through. So that's - I think that speaks to transparency and accountability.

The last point, you were looking for examples. I know that in Nairobi the (unintelligible) summary of analysis with regard to the (SDR) report, there are certain - sorry, losing (unintelligible).

There are certain aspects especially on Page 16 and 15, if you look at Page 16 and 15, you'll find there are public comments, which has in summary been reproduced, and there are several of them, which require (mandatory) post-launch TM claim services.

However, the analysis, the way it's been structured and what the outcome was in the staff proposal is completely different. And there's several comments made by several people on that point.

There's another aspect to that. When it says (mandatory) post-launch use of the trademark clearinghouse, some of the comments, which should have been under that heading, were moved to the heading below that, just sort of limiting it to TM claim service.

It gives you an idea of how public analysis can lead to certain results, which then can be justified by saying we looked at public comments (analysis) and that's it.

Thank you.

Man: Okay, thank you.

You asked for concrete examples and I think we have been able to give you some.

We do have to change over very shortly and this is coming to an end and we recognize you have a very tough job and it's uncharted territory certainly. But I think I could invite you to say a few words before we close this part of the meeting.

Woman: Okay. We thank you all for your time and for the useful contributions in this meeting and looking forward to receive more in writing and it's more of an ongoing process, so please don't let the deadline keep you from (attending), but, of course, the earlier the better and the more useful (to us).

Thank you.

Man: And thank you for joining us. It's been very helpful for us as well.

Man: Thank you.

((Crosstalk))

Man: Okay, might be - it might be worthwhile because it's helpful with the mics to do that.

Man: (Unintelligible).

Man: Okay.

Man: There's three people (unintelligible) in this room as well...

((Crosstalk))

Man: If anybody asks a question, I will raise my hand (unintelligible).

Man: Okay. Steve, as (unintelligible).

((Crosstalk))

Man: (Unintelligible) outside.

Man: It's (freezing).

Woman: I know.

((Crosstalk))

Man: So we're going to change topic now and the next part of this session is to focus on the budget and operating plan. And I'm pleased to say that Kevin Wilson has come and joined us for this session.

Did you want to present something, Kevin, or how did you want to...

Kevin Wilson: Yeah, I did.

Man: Okay.

Kevin Wilson: (Unintelligible).

Man: Right.

Kevin Wilson: Can you hear me?

Man: Do you need the...

Kevin Wilson: Yeah, do you - (Rob) said it was posted on the - are you on the Adobe? Do you have a remote participation?

Woman: (Unintelligible).

((Crosstalk))

Woman: ...sorry, can we...

((Crosstalk))

Woman: You're in the Adobe room and we're not in it from up here and Kevin's presentation is in the Adobe, is on - is posted in the Adobe room, Kevin?

Kevin Wilson: So that's my understanding. If you want me to, I can email this to...

Man: I can - let me just give you the lead.

Kevin Wilson: Or you can give me the (lead), all right...

((Crosstalk))

Kevin Wilson: ...Steve, if you have that?

((Crosstalk))

Woman: ...we'll just do this manually, but if you would look, that would be great.

((Crosstalk))

Kevin Wilson: So just to confirm, are there remote participants?

Woman: No.

Man: No (unintelligible).

Kevin Wilson: Okay. Other than you, Steve, right?

((Crosstalk))

Man: ...(unintelligible).

Woman: And they're (unintelligible).

Kevin Wilson: All right.

Hello. I think it's still morning here. I can say that if there's not remote. My name is Kevin Wilson, the Chief Financial Officer for ICANN. And I'm excited to present - maybe excited is not the right word. I'm looking forward to present the operating plan and budget for fiscal year '11. Many of you have read it and I - many of you asked as many questions as this document is, so I'm looking forward to presenting it.

Let me see if I can figure out the technical thing here. Can you see it?

Man: Yeah.

Kevin Wilson: So a loud applause for that. It's great. Good. We've made progress. Good, thank you.

So - and then how do I...

Man: (Unintelligible).

Kevin Wilson: ...I just (did the answer) here, right? It's not a remote. Okay, good.

So the purpose for this meeting is to primarily encourage community feedback. And as we met in Nairobi, I know that that's a real hallmark for this budget.

Unlike any other organization I've been involved with, the - it's really an our/we community budget. There's been extensive community feedback. And we want to continue to encourage that, build it into our DNA.

And we'll be - we'll consider ourselves successful in our budget when this budget is really a - and the operating plan is an our community budget, not a staff budget, not a board budget, but a robust community budget.

So I will highlight the FY '11 operating plan. That's the main point, especially for those who might - maybe not have digested all 84 pages of the document. And then for those who might be interested on the changes that we've made from - over the development process primarily based upon feedback that we received from the community as well, and then just to highlight that this is going to be submitted - the final budget would be submitted to the board on Friday for their adoption and then that's the next step.

So it wouldn't be an ICANN meeting if I didn't start out with a process slide on how the operating plan or budget is developed. So just to be clear, the current process is the strategic plan is updated - the three-year strategic plan is updated each year and the first six months of the year, so from now until December the strategic plan is updated. And that was posted in February of this year.

Many of you know the strategic plan changed significantly in terms of format, so there's now the four focus areas of the strategic plan and much simplified I call it, the one-pager.

So we've tried to follow the operating plan and budget along those lines as well to reflect and make sure that we're applying the resources and identifying the activities to do that as well.

Man: (Unintelligible).

Kevin Wilson: Sure. Thank you. Let me do that. How is that? Better? Okay, good. Thank you.

Then (unintelligible) community calls, community feedback, all - that's in - that is in the process, both before Nairobi, during the Nairobi meeting, and then after Nairobi we had calls.

And then we post per the bylaws a draft of the budget. And that's what I have up here. For those who haven't read it online, you're - you know, happy to loan you my hardcopy up here if you like, although I've marked it up from questions I've received.

So that gets posted on May 17 per our ICANN's bylaws for more community calls, the meetings that we have today and tomorrow, a couple over the weekend, and then as mentioned that allows us to submit the final budget to the board on Friday for hopeful adoption.

The next slide just highlights the community feedback we've received. We had over 20 meetings and conferences, conference calls. There were about 70 pages of online comments made.

And just as a little editorial note, the quality and the - this is my third year. The quality and the comments and the analysis and the requests was very, very good.

So although we pat ourselves on the back for getting this far with the budget, I really want to pat the community and you should pat yourselves on - as well for the quality and analysis that really helps (to simplifies) it and figure out ways to analyze that.

We also provided a - two briefings for the board and I know there was a - this year for the first time since I've been here anyway there was actually a GNSO resolution calling for \$400,000 of WHOIS (unintelligible) studies to help the policy development process, so we incorporated that.

There is a 19-page analysis of comments and include this just briefly, there's a request for more detailed information, surprise, surprise, the need for more resources, identify (contractual) compliance.

I know that was brought up in Nairobi, as well as other resources for policy development support. There was also several comments on revenue management, on are we estimating our revenues appropriately, are we asking the right questions, are there other groups that need to be resourced, so we've addressed those.

There's obviously operations suggestions that came through and we provide those to the operation heads that need those. And then there's always the cost-reduction suggestions, whether it's eliminate travel or eliminate ICANN meetings or all kinds of suggestions along those lines.

So we really took an effort and the finance committee really directed and provided oversight on this, so we not only read the comments, which we've always done, and synthesized that (unintelligible) we've actually formalized that process more than ever before. And we've provided in Appendix C of the document a pretty detailed list of well, here's the comment, who it came from, and how - what our response - whether we said yes, we've increased our budget for that amount, no, we've decided after our synthesis process to not increase it or change our activity, or some kind of maybe question like it will be further considered or it was already included.

So more specifically, there was a - as I mentioned a request for more fact-based studies. That was done. There's more requests for policy development support. And that was done. And there was also a request for more contractual compliance. So in addition to filling an open position, there is more incremental staffing for the contractual compliance.

There was also a request for fee cost adjustments, both up and down, in various areas. And I think the budget as per the framework generally follows

that model, so we haven't had any changes, although there's been lots of discussion about adjusting the model.

And then we (unintelligible) all of the revenue sources, so we've asked all of the registries, all of the registrars, all of the (CT)s, all of the (RAR)s who would've been the sponsorships.

We (asked) the meetings team to do sponsorship and even the investment income, so we've asked them, it's not just a staff decision. We've asked them for validation on those.

So real briefly on the budget background, most of you know that ICANN's revenue stream has increased pretty substantially over the last four years, like 45% in the last four years.

Primarily this has been from the contract, the dot-com contract, which had a stepped-up feature in it that's a (unintelligible) the contract. That - this year that won't be the case. It will stay flat at \$18 million. And the - so therefore the FY '11 revenue growth is just really a small increase in transaction volume equating to about a 3% growth.

The - on the expense side over the recent years, the operating expenses, those are the activities of ICANN have increased in the scope, so we've grown a lot to do that.

And I - operating expenses in FY '10 as many of you know were actually - were successful at reaching our expenses up to our revenue. In the past, we'd sort of overstated - or under-predicted our revenue and exceeded it and then we'd also asked for a budget and we - just didn't have the engine in place to spend that money.

The good news - and it's tough for a CFO to say that, but the good news is we're now able to spend the money that we have in the operating plan and budget. We have the processes in place.

So in that environment, we are also able to contribute to the reserve fund, so we - ICANN has a healthy reserve fund. And we've contributed \$44 million with investment gains even with the turbulence of the financial markets.

We still are net positive. I think it's about \$45-1/2 million when I left Los Angeles, the last time I checked. And we've also been able to reduce the registrar transaction fee from 25 cents down over that time period to the current 18 cents for those who sign the new RAA.

So the challenge, the real key point here, is -- and this is where it really helps to get the community feedback -- is how are we prioritizing? So, you know, there are many, many good ideas, but we have to be able - every time a good idea comes forth, we always ask the question well, what would you take out when you do that?

You can't - it's a zero sum game. And that's the environment, as many of you and other organizations are familiar with that. So that discipline is being in place now.

This is real briefly, I don't know if you can see this. Can you read this okay? Okay, good. So it's a little larger for some reason in this room and the other rooms had more difficulty reading this.

But this is just a snapshot of the overall budget. I'm just going to focus on a couple of numbers. You can see there's \$65 million in revenue and a \$60.8 million in operating expense section.

And that includes a \$1.5 million contingency. And that drives down to \$2.1 million contribution to reserve. The finance committee oversight made it very

clear that we really want to show a positive contribution to the reserve. It would be really easy to - if we took - said yes to everything to dip into the reserves and spend that.

So we made a real fiscal responsible intention to not do that. So all of the additional items that get added to the budget, at the same time we don't have that, so that - the - and happy to answer questions on the historical or the forecast for FY '10 if you'd like.

The FY - just a couple more slides. The FY '11 operating expenses kept to \$59 million, as I mentioned. This is a functional view of ICANN's budget. One of the big questions and comments over the last couple of years is let's show the budget and the way we think as opposed to the way accountants can deliver.

So we've changed our processes and now this is actually part of the budget, as well as posted on the Web site, on the dashboard every month so you can see the functional reporting, which has each of the 15 organizational activities, including new gTLDs, security, stability, and resiliency, contractual compliance, community travel support, and on down the line, so each of those items.

But the major areas of growth are the internal SSR that we felt that that was still a high priority item to continue building that and also policy development support.

The - I mentioned about the GNSO request for WHOIS studies. There was also some (DNS deck) scaling studies and some staffing as well to round out the policy development support activities. (DNS deck) going without saying, that was a high priority. It was also the - a growth area in that.

So where did we trade off? There was a trade-off throughout in terms of really tightening our belt and scrubbing all of the numbers throughout all of the departments.

We had many executive sessions on where we're going to identify that. We obviously tried to pick the low-hanging fruit and identify - as many of you do in your organizations, identify ways and I think we've done a pretty good job of eliminating anything that might be considered waste.

And so we've - did identify reductions in new gTLD. And I want to make this as clear -- this question came up earlier -- that the intention is not to cut spending to cause challenges in the implementation of the new gTLD program. That's not the case at all.

So this budget is believed to be robust enough to support all of the policy implementation efforts and the organizational readiness. There is an intention to have a separate new gTLD budget as we get closer and are ready to go live. And I'll talk about that in just a second.

Man: (Unintelligible).

Kevin Wilson: Go back, (yes), sure.

Man: Yeah, but I'd rather leave questions to the end and let Kevin get through if we can.

Kevin Wilson: Okay.

Man: (Unintelligible).

Kevin Wilson: Okay. Maybe we can go back to that slide, too.

So just to make sure I cover what I want to cover, the most important points, there is a - the current process, as you know, it's six months, six months, (strat) plan developed, updated, and then the operating plan developed.

There is an alternative process that's being discussed and fine-tuned and, you know, there'll be a paper on that in which we would shorten the process of the strategic plan. The strategic plan is believed to be pretty much there. It needs to just be tweaked.

You wouldn't need the full six months, so we could shorten that period of time. And that would allow the community and the (SO)s and (RCU)s and the board and staff to use the big (dials) and allow time to allocate resources.

It's one thing to say I want to have all of these listed activities and it's easy to say yes, yes, yes, yes, yes. It's another thing to actually put dollars associated with them or euro or whatever currency it is and then put the priorities and have the discussion with the community, not the staff synthesizing it, but have the community decide are we aligning our priorities correctly? And that often happens in the budget.

The other thing that's come out through the feedback loop is that there hasn't been enough (SO) and (AC) involvement, so the intention is at least for this next fiscal year in addition to reviewing the whole process this fiscal year, we would formally reach out to the (SO) and (AC) chairs and request their input, plan a pre - before it gets to this stage and they're able to just do an online forum, actually be more involved in that process. So that's our intention.

The final budget, I mean, the final slide I wanted to present is just that there's a new gTLD separate budget that's actually posted online. There's a - Chapter 7 of this document describes it briefly, but there's actually a budget that's described in that paper.

And those of you, it's an important budget document. Obviously it'll change the face of ICANN, significant revenues and how we would spend the money. And in short -- you can read the slide, but in short, the idea is that there would be some funds that are already (spent to) the new gTLD and - in the annual budget.

That's - in this year, for example, it's \$8 million to continue the process of development. And then at some point, some time before at a - when certain milestones are done, because there's some activities that just have a long lead time -- real estate, software development, some staffing.

So we would go back to the community and say okay, I think we're going to get close. The applicant guidebook isn't signed up yet, but we're getting close, so we (unintelligible) we're going to ask for estimated of \$2.6 million. We'll ask for an additional \$2.6 million.

And that will prevent an operational delay. We don't want to - the intention is to not cause an operational delay to the community at the launch, so we would still be ready.

And then (still it)'s been discussed in the past that the change, that still was discussed in the past for those of you who read it, last year (it was like) 90 days before the actual launch of the gTLD, we've come forth with a budget that would have the large revenue number for \$185,000 times the number of applications, and a panel cost of very, you know, the cost for actually processing the applications and then - and to maintain that revenue cost neutrality or the cost recovery aspect that's a hallmark of the GNSO resolution.

So with that (unintelligible)...

Man: Okay, thank you very much, Kevin. We've only got about ten minutes for questions for Kevin, so we'll ask that you keep it very brief. There should be a mic (unintelligible).

Steve, do you want to go?

Man: (Unintelligible).

Man: Yeah, you'll hand it over to Jaime.

Okay. Did you want to go back to that previous slide, Jaime?

Jaime Wagner: Yeah.

Man: Okay (unintelligible) down this side, please.

((Crosstalk))

Man: (Unintelligible).

Man: Yes.

Man: This one?

Man: Yeah.

So I - concern and I think it's not mine only, but I think (unintelligible) today morning is the support (unintelligible) to the contractual compliance. It's one of the lowest items in the budget. And I think it is one of the highest concerns of the effectiveness of our work here.

((Crosstalk))

Ron Andruff: ...perhaps I can - my question is exactly the same, but a little more pointed if I might. Ron Andruff.

Basically you said it's a zero sum game, so new expenses replace something else. So my question was to say, Kevin, where do we get the money for compliance? Because as we understand it, compliance's budget has been cut and we're about to launch a new TLD program.

Kevin Wilson: Yeah, so let me make it really clear. The contractual compliance department and the other efforts for contractual compliance are not cut from year over year. There is an increase. There's extra staffing that was identified in addition to filling open positions, so that I think if that was communicated as a reduction, that's not the case.

I think part of the effort and the questions that have come in have the - that might allay some concern is there's been a lot of studies this year that have been spent and I think the idea is that we would be able to reallocate those resources to closer to what you're referring to on the contractual compliance efforts.

Man: Steve, is that still an issue you have?

Steve Metalitz: Yeah, if I could follow up on that, yes, I understand that the contract compliance budget has not been cut, but on Page 19, you're indicating that we will spend and we are budgeted to spend in FY '11 less than we spent in FY '10 on contract compliance.

And furthermore, the increase that's in there now of 7.7%, as you can see on this slide, is lagging the overall growth in the budget. So that sends the message that contract compliance is of middling significance to this organization.

We think it should be of very high significance to this organization. There's probably - there may not be anything else on this list that's more important to whether ICANN will be a success in our view.

((Crosstalk))

Steve Metalitz: ...live up to the contracts. So I just want to - just - yes, I agree that you added a little bit more back in after the comments on the framework, but it's still being cut and we're still quite unhappy about that.

I guess my question is I see that and I see, for example, on the point of constituency support, which we feel has been mislabeled because all of that support is going to the contracted parties stakeholder groups. None of it is allocated according to your narrative to the - anything in this stakeholder group.

And then when - your - our comment on that was noted. It said noted and passed on the executive team. So I don't - I really don't want to shoot the messenger here, Kevin, but I just want to say what's - who should we be talking to about the issue of whether ICANN resources are going to go into strengthening and growing these constituencies so that we can do our part in helping ICANN to manage these resources.

Man: The - before you answer that (unintelligible) the same point, Marilyn.

Marilyn Cade: I do, Kevin. And I would just say I want to be clear that when we say contract, we also mean enforcement. And the recently-announced - the recently-released study yesterday about significant problems in relation to undiscovered but very notable problems within WHOIS just points to the fact that there's huge pending risks for ICANN in terms of really knowing what's going on and being able to enforce, et cetera.

Now we're very sympathetic to the challenges, but we also are in the line of fire. It is the employees and the executives of these companies, whether - which - whichever constituency they're in, that bear huge costs themselves whenever there are problems with inferior or illegal performance on the part of contracted parties.

And while we're willing to be part of the solution, we've got to have staff that are trained. And I will just say that given what is going on that a lag, you know, you're given a little bit more money.

The problems are big enough that you can't keep up with the demand if you don't have enough staff early enough that are trained, which means that you've got to beef up on the early side. And there's no indication in the narrative that that's understood.

But, again, we don't want to kill the messenger. We love the messenger.

Kevin Wilson: Yes, so those are - it sounds like those are good things to dive into in more than a two-minute conversation here. We really did take your comments in earnest, all of them, on that.

And we've put in Appendix C and the finance committee, you know, multiple reviews and making sure that we indicated where we did respond to that. And I hear your point that we do - that we should maybe do more.

I think probably the constituency support (write-up) is - could improve on that, so I think it's probably not a substance issue on the surface. I think it's more of a, you know, how are we describing it.

But to your point, Marilyn, about the, you know, whether the support that you're getting is adequate or had training or we have the right toolkits, that needs to be addressed.

And I think that that's the point I was trying to make is that those that do provide the constituency support, whether it's a registry or the business constituency or a noncommercial, in my mind, those are not heavily distinguished.

Marilyn Cade: Okay, I just have a quick follow-up. I can not find the level of detail I need to help you know whether or not you're meeting my expectations (unintelligible).

Kevin Wilson: Okay.

Marilyn Cade: And, you know, we saw - we see over and over and over in more detail, but I think, you know, we need more detail. And if that means we need to get a small group together and go through this with you, I'm sure these constituencies would dedicate that time.

Kevin Wilson: Great. Thank you.

Mikey O'Connor: I'm Mikey O'Connor. I'm not managing the queue. I'm just next to the queue. I don't know who's going to manage the queue.

I'm the - among other things the junior co-chair of the vertical Integration Working Group, a topic near and dear to many. And I'm going to stay on the contractual compliance line item, but I'm going to come at it in a different way.

Two points to make -- one, my co-chair, my senior co-chair, Roberto Gaetano, made the observation earlier this week that it came out of a discussion in the working group and he said, you know, where he works in the atomic energy commission here in Europe, there are 20 lawyers that make policy and there are 200 compliance officers.

So the ratio is quite substantially biased towards compliance. And he then went on to observe that here in ICANN, the ratio is just about exactly the opposite.

And the second point is that the Vertical Integration Group is doing great I'm happy to report. But we're getting stuck on something. And that is that part of the group believes that a solution could be arrived at that involved a pretty substantial compliance operation in order to deliver the solution.

And the other half of the group, (Staria) and (Steven), doesn't support those proposals because they do not believe that ICANN is capable of delivering a compliance operation.

Now as the junior co-chair of that working group, I can tell you that that particular issue is above my pay grade. You know, we're working on vertical integration issues. We're certainly not working on the mission of ICANN.

But this issue of compliance is very close to the mission of ICANN. and until we get it resolved, working groups like VI are going to get stuck the same way that we're stuck right now.

Man: Okay.

((Crosstalk))

Man: I think that's a (unintelligible) if you hand the mike over, Mikey.

Sarah Deutsche: Yeah, Just wanted to say that I think that that report that came out from (Newjohn) yesterday was really a wake-up call I hope for ICANN. It confirmed what a lot of here in the room already know about the level of enforcement problems, not just on WHOIS, but criminal issues as well.

And today a lot of these costs have actually been shifted and absorbed by the private sector, then our role to bring lawsuits or law enforcement's role. So personally I think it's a critical issue and I'm really hoping, you know, there

was an idea forming, a compliance council, which was excellent, and I - I'm hoping there'll be more resources (and not) less committed to this issue.

Man: (Unintelligible).

Kevin Wilson: Thank you.

Man: Okay, I know there - there's a few hands up, but please keep your comments brief because we're very tight on time with - for this.

((Crosstalk))

Jaime Wagner: I would like to come back to this issue. And I think it's not just a budget issue. I was told in the council meeting with the board that this is not an issue anymore. It was about the vertical integration. And this concern with compliance, it was not an issue.

And I understand - and I replied that this was a promise and not a fact because now - right now we see very low levels of compliance from some registrars and even evildoers as registrars.

So what (unintelligible) is the - that from the board there was a message that well, we are not policemen. We are not law enforcement agency. We have no police power.

But on the other side, the way we chose to - it's a contractual way, so the mean - it's not only that we are - we give a weapon, like a manufacturer of a revolver.

It's that we - the meaning - we do - we give to the evildoers are contractual - are signed contracts. And the - that we can remove this (means). So we are not only manufacturers of weapons that, well, could do like (unintelligible), you know, we reinforce and we maintain year by year...

Man: I'm going to have to time you out, Jaime.

Jaime Wagner: Yeah, okay.

Man: (Unintelligible).

Jaime Wagner: But I think...

Man: ...so what I'd like is we'll take another three or four comments, but please, no more than a couple of minutes at the very, very most. We - we're running tight.

Man: Sorry.

Philip Corwin: Yes, Phil Corwin.

In regard to the separate budget for the new gTLDs, I know the \$185,000 figure has been stated as saying it's to some extent defray the costs already spent in developing the program.

And yet they've been spent in prior years and each year has had a surplus, so there's good reason to think that say if we have 250 applicants, that would be a cash flow of about \$46 million in application fees. There's good reason to think that that will produce a substantial surplus over and above the cost of processing those applications.

So my question is when will the new gTLD budget be reintegrated with the overall budget? And can you give this group any assurance that the first use of any surplus funds generated from that process will be toward contract compliance and enforcement vis-à-vis the new registrars?

Kevin Wilson: Yeah, I - let me just answer quickly. I know that we're running out of time. So the - there is an intention to have the - of the - if you use the \$185,000, I think it's \$25,000 or \$26,000 of each application be used to replenish the reserve fund.

So although you said surplus, this is below our strategic plan. You understand that, right, that the plan is to have more of that contribution to the ICANN's reserve fund than what we're currently showing to build up the reserve fund - so the idea being that to the excess funds that have been spent, resources that have been spent to develop the new gTLD program, that would come into the reserve fund. That's a partial answer to your question.

Philip Corwin: Well, for a quick follow-up, my concern is that any surplus generated would be (absorbed) and diverted towards the other ICANN functions...

Kevin Wilson: Yeah.

Philip Corwin: ...and not towards compliance (unintelligible).

Kevin Wilson: Yeah. So I think it's really clear that the - that we shouldn't be compliant with compliance. Sorry to be cute on that. But that the - that this message of how - where on the priority scale and this ties into this issue with let's make sure the community's involved in prioritization of these resources that we do that.

Man: Okay, going to make this the final...

((Crosstalk))

John Berard: John Berard. I have a - an accounting question, not a political question.

Kevin Wilson: Okay.

John Berard: I think it's prudent for nonprofits to look to have a year's worth of operating money in the bank. But as you noted, ICANN is in a unique position because of the registry agreements it has with the (escalation).

So the question is could some of the \$44 million that you anticipate being in the reserve be reallocated in the short term to cover increased compliance? I mean, you could double compliance and only reduce the reserve to \$40 million.

Kevin Wilson: Yeah, I think the answer is I guess there could be if it's considered an emergency requirement. The reserve fund has, you know, a rainy day fund aspect to it.

I would think that it would not be prudent to just take the reserve fund and use it for normal contractual compliance.

John Berard: No, I'm not suggesting that.

Kevin Wilson: Yeah.

John Berard: But what I am suggesting in the short term, what you've got, you're projecting \$44 million. You've got less than \$4 million in compliance. You could nearly double it and not really do damage...

Kevin Wilson: Right.

John Berard: ...because of the recurring revenue that you - or you know you'll get.

Man: Okay, I'm sorry to cut this discussion off, but I think you heard, we've timed out. The alarm went to tell us...

((Crosstalk))

Kevin Wilson: ...did you do that? That's the hook.

Man: Thank you very much.

Kevin Wilson: Thank you very much.

((Crosstalk))

Kevin Wilson: Just to close, on Thursday, I'll be presenting this to the overall community in a public forum. (Unintelligible) I encourage you to be there. The questions coming from the different groups is very helpful (unintelligible) interaction.

Man: (Unintelligible).

Woman: (Unintelligible).

((Crosstalk))

Man: We've definitely timed out now. So, Doug, could you come and join us, Doug, for the next session.

Thank you, again, Kevin.

Kevin Wilson: Thank you.

Man: And those who didn't get to ask your question, you will have another opportunity as Kevin mentioned.

((Crosstalk))

Man: So the next part of this meeting is a really easy issue to go through. I'm sure it won't take more than a few minutes because of all of the hard work that's gone in beforehand. It's new gTLDs, overarching issues, an update.

So Doug.

Doug Johnson: Tony, would you entertain to let me make a couple of comments on the previous conversation, especially...

((Crosstalk))

Man: ...very important.

Doug Johnson: No one can ask me any questions and this way I can, you know, get in exactly my points.

But just quickly, to Phil's comment, one of the aspects of this new gTLD management of that budget is specifically so the funds can not be absorbed into ICANN's general fund. That can only happen after a period of time with consideration by the community of any possible surplus.

So there's a very strict intent that that money not be absorbed into ICANN's general fund. And if it is that there be a specific consideration of where that money is going to go.

Also I wanted to say to Sarah that I just saw that (Newjohn) report the other day and I personally in the past many times reached out to (Garth) and we've had conversations.

I have some questions about that, you know, some of the data in that report, but then we're certainly going to take it seriously, process it through, and have a view on either that those all are real problems and we need to go attack all of them or some of them are real that we need to go attack some of them.

The last thing I could say is more than money, and I don't - I was sitting in the back and this is my last comment on this topic for now. I was sitting in the back, so I don't know who made the comment about this being more than budget. It's also rules.

That in my mind is exactly right. As the guy, you know, with management responsibility, it is incredibly frustrating to be spending money on the WHOIS compliance process that we have.

It is inefficient and difficult and frankly no amount of money poured down that pipe is going to get the level of compliance that ultimately this group wants because the level of compliance called for the contract is to make - that registrars must respond to claims of inaccuracy.

So just - I think everyone knows that, but just to make sure everyone knows that, ICANN's compliance capability with respect to WHOIS is that if we get a complaint of we see - if we observe WHOIS data inaccuracy, we can make that complaint to the registrar and the registrar must respond.

That's it. It is not a WHOIS accuracy requirement. You could say that's crazy. That is the reality of today. So when we start talking about compliance, I think it - really it does begin with policy and not budget.

We could much more effectively spend the money we have today with the right policy enforcement. So sorry, but I just wanted to get those (unintelligible).

Man: Good message, thanks.

Doug Johnson: Okay.

Man: So, yes, if - now we can turn over to the overarching issues on the new gTLDs.

Doug Johnson: Sure.

Well, you know, to a certain extent I think people here know where - we're not - are we being scribed? But I want to make sure I'm not talking too fast, which is a...

Man: I don't think we are, no.

Doug Johnson: Okay, so I'll continue my fast-paced English talking till someone slows me down.

I think everyone has followed this economic study that just got published, I think particularly this group, but others were, you know, quite unhappy or did - not fully satisfied with the previous economic work that had been done.

I think in my future life, I'm going to go get a PhD and be an economist because then you get to do things on your own time scale and charge a lot of money. It makes - the lawyers feel sad when they see what these economists make.

And the time scale of getting this done, we wanted to get that paper done in plenty of time to have the community consider that at the meeting here. That didn't happen.

With a lot of pushing and prodding on ICANN's part, we made the decision that it still made sense to at least post that, not for discussion this time, but to at least make it available so people could see that tangible progress had been made on this economic study.

And so we won't - you know, I'd be happy to try to respond to questions here. My expectation on the timing associated with that economic study is it'll go through a full public comment process.

After that public comment process, I think it's extremely likely that there will be follow-on work. The current staff view is that there should be follow-on work based on that economic study.

But we'll, you know, we're looking forward to community comment. And likely - my expectation, which, again, we've got to wait till we get the comment, but my expectation is that there will be further study based on that report.

And so maybe the thing to do would be to take these one by one.

Man: Yeah, let's pause there and take questions on that part of the overarching issues. So any comments from the floor? If not, we'll move on.

((Crosstalk))

(Jeff): ...question is there any effort do you think in the next phase of this study to do more (unintelligible) talk about anecdotal or (unintelligible) what about (unintelligible).

Doug Johnson: So in case people didn't hear (Jeff)'s question, it was is it just going to be anecdotal or is it going to be a database study? And, you know, of course, I would like to say it's going to be highly analytical and, you know, we'll have the regression equations that prove right where the cost/benefit point crosses over.

I think the - if you look, and I'll tell you, I have read the economists' report in detail, but it's been about four weeks ago now. I read a - an earlier draft that they had provided.

And I can't remember exactly what it says in the recommendations, but I think my recollection is they noted that it was going to obtain some of the data that they're looking at.

So I think it would be particularly helpful -- and I know AT&T has looked at this previously -- if you have comments about where you think data sources could be, that would be I think helpful.

Because it - I know as we've talked to them, they struggle with how you're going to - some of the cost side I think can be well developed, so particularly the cost - intellectual property protection costs, I think those are probably estimable.

The benefit side I think is a lot harder to estimate just because, you know, in general that's the way life is. But I think comment to that effect would be helpful.

Man: Okay, no other comments, we'll move on.

Doug Johnson: I think, you know, the hard one in this room to talk about may be intellectual property protections. When is there enough? So I don't know how to answer that question.

I will say that certainly in terms of intellectual property protection tools developed, you know, I think from an GNSO recommendation point of view, early IRT recommendation point of view, people pretty much know where those recommendations are.

I think the big outstanding item, there is this post-dispute resolution process. I don't consider that done. I don't think it's done in this, you know, in this version. I'm sure there will be more discussion and consideration of that.

I think the general view at this point, if you can sort of stick a thermometer in and try to measure the, you know, the average temperature of all of the comment would be that with a post-dispute resolution process that the set of intellectual property protections for new gTLDs would be done.

So I just thought I'd say that in a very...

Man: (Yeah).

Doug Johnson: ...definitive way to generate the comment.

Man: Yeah, you're pitching at the right audience for that question.

Doug Johnson: Indeed.

Man: For sure. (Let's hit it).

Woman: (Unintelligible).

Man: (Unintelligible).

Philip Corwin: Thank you very much.

I just wanted to raise a point I raised to Kurt in the session yesterday. The - specifically it has to do with the clearinghouse and to uses of that, the option of either (sunrise) or the claims and notification system, and the subtlety in terms of the nature of the trademark registration to qualify for one or the other. And what has been introduced in this latest version is as (Comaset) described as those trademarks that have substantive review.

Two comments on that, one the phrase substantive review is probably not the best phrase. It needs to be clearer in the trademark world terms. I thought it was a US terminology. I've spoken to my US IP colleagues and they're just as confused, so we need to do better on that.

But the main point is that anyway, we didn't have the discussion because what you've done in that distinction is introduce some complexity, which is unnecessary for us and for you.

But worse, you've introduced the concept of discrimination that is arbitrary. And as you know, arbitrary discrimination can lead to litigation and that's not a good thing either.

And the nature of that arbitrariness is that you're making a value judgment about the nature of the trademark that might qualify for one system or the other, which is not based on any facts.

The typical reason for the difference, you know, in the in the concept, which I think you're driving at there, is nothing to do with the ultimate quality of the trademark in terms of its use and robustness, but simply to do with the policy of innovation support that trademark offices give to different countries or do on a regional basis.

So that rationale needs to be (nimble judged). And I'm very happy to have a more detailed, more technical conversation with you if you don't fully understand the point I'm driving at. But it's an important issue. But essentially it's one that gets (unintelligible) very easily with the addition of about four words.

And to give us all the comfort of simplicity to say that, you know, look, you know, if you've got a trademark that qualifies for one or the other or if you pay and you go into the clearinghouse, then you're going to get the same sort of, you know, a set of options.

Doug Johnson: So all I can do, Phil, is just accept the comment. I'm - as you know, I'm not an expert in these areas. And - but I've noted it down. And if you talked to Kurt, I'm sure that'll help as well. But I - I'll take that comment back.

Thank you.

Philip Corwin: Thank you.

J. Scott Evans: I would say I find it troubling that we would be told that we think that the intellectual property protections are complete when the Uniform Rapid Suspension System is no longer rapid.

And it's my understanding also from talking to several providers there's no way it will be less expensive than an UDRP based on the formalities that have been built into it yet.

So given those two huge obstacles, I think maybe the concept may be in place that we would have some form of that, but the reality is catching up quickly with us.

And also I heard that there - in the ether there is talk about opening up the UDRP to a review based on the right - the registration of the use practices working group.

And I would say that given that that was taken as a baseline fundamental with new gTLDs that this community's response to that would be there can be no new gTLDs if you're going to open up a UDRP.

Doug Johnson: Yeah, so let me respond to the first one, J. Scott. And actually the way you said it is the way I intended it. I don't think that every detail is right on all of these. And I've heard particularly at this meeting -- and maybe I just haven't had my ears open and the drum beat is going on, but I heard particularly the concern about URS and that the intention, the original IRT intention behind the URS is it would be rapid and reasonably low cost.

And until we achieve that, it's not done. So I agree with that and I think that - not that you're seeking my agreement. I think that we recognize that. Staff

recognizes that. So I just meant in terms of the breadth of protections that they're done, that some of them are pretty close, some still have a little bit of work today.

Man: Doug, so I'm not going to go into the details of, you know, some of the people have gone into about trademark clearinghouse, URS, et cetera. But I hear your questions of how much is enough. I think we're all asking the question based on what we're hearing from you, you know, are we done, are we not done.

I guess mine's more of a practical question, which is who is going to actually decide if we're done or how much is enough? And how are we going to get there?

Because the way we started this process if you recall is we, ICANN, the community, identified an issue. And then we put together a group of experts. And you can argue back and forth as to what the expertise was or what not, but that was - that's what - what it was.

And then we've gotten community input. And then we come to these meetings as a member of the IRT. I - everyone asks well, what do we do about trademarks? And I hear Kurt say well, we have the IRT. I cringe because what we have today isn't what the IRT put forth.

But I - my - I guess my basic question is is there - is ICANN going to put together a qualified team to actually ask and answer the questions is what's out there solving what we said is a problem?

Because otherwise it's just a bunch of people commenting on things. And, you know, you - you'd hate for me to come in and comment on something say on a technical scriptwriting process because...

Doug Johnson: Right.

Man: ...I'm an IP attorney. So I think ultimately you need the right people to answer the question. And I ask you, I mean, is there a process for that? Or is there another group that's going to be convened or reconvened or something?

Doug Johnson: Yeah, I think that's a really good question. And I think it's - you could actually look at these, all four of these overarching issue, and say can they be closed by public comment?

I mean, I think typically the process at ICANN would be that ultimately the board is the judge of have the, you know, have the public comments been balanced to the extent that, you know, that the issue can be closed and resolved by the board.

You know, I think it's something that, again, this group could comment that there needs to be some supra expert review of that. I think the typical process would be the board would resolve.

Tony Holmes: That almost takes us back to where we started this meeting, of course. Okay.

Doug Johnson: I guess I wasn't there for that.

Tony Holmes: No. Let's move on.

Doug Johnson: So, next we could talk about root scaling. I think that - oh, I'm sorry. Were there more - do we want to comment more on intellectual property?

Tony Holmes: I couldn't see any more hands. No, we should move on.

Doug Johnson: Okay. Root scaling study, I think that that has taken dramatically longer than anyone ever anticipated. And I got to tell you, there's some frustration, you know, even beyond the community that has interest just in how long this process has taken to resolve.

I will say that I think two dynamics have changed in this root scaling discussion that may in the end make it easier - I'm now offering my personal opinion that may make it easier to reach closure.

One of which is that it turned out there was just a huge disconnect between the technical community looking at this and what their expectations were in terms of approaching this root scaling study.

So they literally had the idea when they initially started work on this, and this could be completely a communication problem from ICANN staff or ICANN Advisory Committees, like SSAC and RSSAC.

But that, you know, the notion that there could be 5,000 or 10,000 or perhaps an infinite number at the limit of new gTLDs put in the root zone in a year. One of the things ICANN staff did is publish a paper.

I don't know how widely it was distributed, but they just looked at the strict logistics challenges, you know, even assuming sort of an infinite number of applications. How many of these could enter the root zone in any time period is quite capacity constrained over the next several years.

So it certainly will be bigger numbers than, you know, some people in this room feel comfortable with. But we're not talking about thousands, it's just it's sort of physically impossible given the process we've defined.

So I think that's one thing that they sort of said, "Oh, you mean you're not talking about a hundred thousand in the root zone next year?" No, that's just not possible. So I think that's changed the dynamic.

Second concern of this technical community was implementing DNSSEC and new gTLDs at the same time. For people who haven't been following that

particular scorecard, you know, the DNSSEC work is now advanced far along and will be turned on in the middle of July.

So my expectation, I'm offering my personal opinion not an ICANN staff viewpoint, is that I think two of the key concerns of that group have been addressed just through communication and then timing.

And that my expectation is ultimately they'll come back and they'll say, well, in the scale of thousands that this is not - I know that doesn't make people love new gTLDs more, I'm just saying that from a strict technical point of view there's likely not to be a limitation.

And what they'll come back and say is we need monitoring, we need scaling such that as this thing grows that we can scale our infrastructure to address it. So that's my personal expectation.

Marilyn Cade: Thanks, Doug. Marilyn Cade. I want to make a comment on that because I actually was very involved in the initial report from the technical community and I met extensively with them, brought other people to meet with them. I think - I just want to offer a comment on, yes, I agree that there was some miscommunication.

But I think there's also been a misunderstanding on the understanding of ICANN staff in this area about the, I don't want to call it the trickle down effect, but the implications of these, let's say, very aggressive schedules on the infrastructure providers and the people who run the Internet, not just DNS and the root server operators.

So one other comment that was made by very highly qualified technical people, even when they understood it wasn't going to be 5,000 or 6,000, was that we need to do introductions of larger number than we've done to date.

And see how things go before we start going very aggressively for simultaneous introduction, particularly we're simultaneously introducing IDNs, ITD6, and DNSSEC. And even though we're signing the roots, there's a lot more to implementing DNSSEC than just signing the roots.

So I guess my question would be I got what you said but I am interested in what the feedback from this technical community is about whether they're still more comfortable with staging the introduction and seeing how things are going. And seeing what the implications are for the downstream implications on the rest of the infrastructure.

Doug Johnson: I mean, I think those are all good comments, Marilyn, and, you know, what we have yet to get a response - we have yet to get any kind of a formal response from the technical community and I think that's because there still is some divergence.

One of the other very positive results, I think, of this initial rescaling work was the notion that there should be active monitoring of the DNS system. And, you know, for people who happen to be in the - you know, my brief comments in the opening ceremony on Monday, I think an important notion to get out of this is what does DNS health look like.

And that sounds like it should be easy. Right now you could take any of these root servers and yank the power cord out of that root server and the Internet would continue to work just fine.

So as we think about it, I think having that notion of what health is so that then you could ask the questions about load on root servers and, so I think that that, you know, in my mind that would be a real positive to come out of this.

So that then as TLDs are added we know for a fact IDN TLDs are being added right now that the whole system could be monitored for any potential ill

effects. And if you saw some ill effects, you'd put the brake on. So, you know that work has yet to be done and I just was offering some personal comments on key aspects of it.

Tony Holmes: Jaime?

Jaime Wagner: When we have that in Nairobi I think presentation by the technical people that were building the model.

Doug Johnson: Yes.

Jaime Wagner: The model is already finished.

Doug Johnson: So one of the problems, one of the reasons why there's been a sort of stalemate among the technical community, there's a lot of debate about the quality of the model.

Jaime Wagner: Okay. But then I made the remark because I am from a technical background but I already (dispatched) I'm not anymore, and I'm not a lawyer also. Thank God. But I made the remark that I thought that the - not the infrastructure limitations but the staff limitations would be the main obstacle and would give the pace of introduction of new gTLDs. And is there - am I right or not?

Doug Johnson: Well, so I think you're asking a different question than root scaling. So let's put - if we could, say, put root scaling on the side for a second and then you say what would limit the number of TLDs that could introduce, if it's not a technical limitation and I'm just - we're having a hypothetical discussion.

So if it's not a technical limitation, then I would say it's the process. We've defined a fairly complex process. And executing that process, whether it be by staff or by outside consultants, and certainly the idea of this \$185,000 fee is it's going to fund a lot of outside work by outside consultants.

It's not going to be done by staff, it's going to be done over the world by people who are executing on this process that the - and I think the process itself, it's not simple.

And so that process dictates many months, if you look now we've published, I think it was some time ago, you know the expected amount of processing time for a, you know, straightforward application, for an application that gets disputed and it's, you know, long numbers of months.

And I think that has to do with the process that's been defined. Then you say is the process appropriate. Well, we say we want to appropriate intellectual property protections and all these other things and, you know, that takes time to process.

Jaime Wagner: Then the management in this structure, ICANN structure management is not only staff it's all the stakeholders.

Doug Johnson: Right.

Jaime Wagner: So am I right that root scaling is an overarching issue and the overarching issue is the process itself?

Doug Johnson: Yes. I mean, I guess what I would say is in terms of the way the comments were raised from the community, I guess clearly there was concern about technical issues and I think that that concern still has to be addressed in a technical way.

My personal opinion is it's not going to turn out to be a major obstacle, but that's a technical question. This other process question that strikes me that really what you're raising is can ICANN - let's assume this all goes forward.

Can ICANN achieve the time scales that they've said - that we've said to process applications in the amount of time. And I think that has yet to be proven.

But I will say when (Phil) -- I think he's gone now -- was talking about surplus from the \$185,000 processing fee, I'm not as optimistic as he is that there will be a surplus.

Tony Holmes: Okay. Thanks, Doug. I'm going to move to the fourth issue, which is malicious conduct. And what I will do is to get this rolling straightaway, Steve you can make your points.

Steve Metalitz: I'm eager to get Doug's view on where that stands. I had raised a point about it in the open session, but why don't you tell me where you think we stand on resolving the overarching issue of preventing malicious behavior in the (field).

Doug Johnson: Right. And, Steve, I had to leave at 9:30 this morning so I may not have heard your comment, I apologize for that. And I have six minutes right now so I'll go quick so you can get your comment in.

You know, I think we're well aware of what's been done down that path. You know, to a certain extent I think the trademark protections put in that have been discussed.

And maybe not totally final, but you know that range of intellectual property protections in part address malicious conduct. There's this high security TLD concept that I think has made a lot of progress. And, you know, the Zone File Access works.

So right now I think the view is that the union of those various mitigations provide - it certainly doesn't mean there will be no malicious conduct in new gTLDs. There will be malicious conduct in new gTLDs. But that sort of proportionately that there wouldn't be incremental malicious conduct.

And certainly the hope is by providing these protections and that by changing the dynamic of dot com always being a default for at least part of the world, that you can make some of these malicious activities less financially attractive and then by rule and by enforcement, you know, less real in that (impact).

Steve Metalitz: Well, if I could just comment on that. I think there clearly has been progress on this, but here's the point I was making in the public forum. One piece that's missing here is I think we all recognize there are some new TLDs for which the baseline requirements, which had been upgraded.

The baseline requirements for security for preventing malicious conduct had been upgraded and I think that's a positive. For example, the background checks and so forth. But there are going to be some for which more is going to be needed.

Now we have proposed - and I'll just give an example of dot kids. A lot of people are going to think, maybe not everybody, that, you know, if you're going to run a dot kids TLD, you better know who you're registrants are.

You better vet them and more so than is the case under the baseline requirements. This is where it gets to rules, you know, rather than enforcement.

So if that's the case, we've tried several ways of proposing how to do that. One was to say let's identify certain types of TLDs for which more is going to be needed. That was rejected because we don't like to do categorization.

Then we said don't make the HSTLD thing totally voluntary. Use to give people some incentive to give them an extra point or two points or whatever in the evaluation process so that people would be encouraged to do it right now.

Someone could propose dot kids get a perfect score on the evaluation and do nothing more to vet registrants than dot com does today. That's how it's set up. And that was rejected.

So then the last thing that we proposed, you know, as we, you know, come down to the end of the process is, is there some way to have the independent objector or somebody else empowered to raise this concern that when somebody comes forward with a dot kids and doesn't want to verify who his registrants are they could say, "Wait a minute. That doesn't really serve the public interest. That's not going to be conducive to security and stability."

And the answer in the (KPMG) right now is no. There is no way to do that, as far as I know. Unless you can say that you have standing to speak for the worldwide community of dot kids or something like that. And I just - that's a totally - to me, it's an irrelevant criteria.

So do you - that's one area where I really don't think this is dot and I just wondered what your comments or reaction to that would be.

Tony Holmes: Before you answer that one, Doug, I saw Mikey had the mike and I think it's going to be a similar sort of comment.

Mikey O'Connor: It's going to be related. This is Mikey again. I was on the - I am on the HSTLD Advisory Group. We're down to like three people per call and I'm happy to report that I'm one of those three, (dangnabit).

I'm going to - I don't know what the chain of command has been telling you about the status of that particular document, but it's not done. The consultant was a hammer looking for a nail. He's a KPMG guy that does checklists and gosh all fish hooks we've got a checklist.

But we don't have anywhere near close to consensus. And in fact, I finally did manage to get on every page of the document something to that effect that says how we haven't tested this for consensus, we're not even close.

But, you know, I buttonholed with (Diffie) yesterday and said, you know, even if we got the consensus, A, I don't think we're solving the right problem. B, I don't think it's going to work.

C, I think what's going to happen is it's going to create an expensive ghost town. D, it is not mandatory for sure. E, it's not in the points because one of the things we said in the advisory group was this should not be considered part of the new gTLD program.

And, you know, the thing that surprised me in Nairobi, I was in the Reston pajama party subset there so I didn't get all the nuance. But (Rod Trey) got up and says HSTLD is like the best thing since sliced bread. And I was going, what bread. It's not even on the same planet. It's not even close.

So be careful when you say we've got malicious conduct nailed and putting HSTLD in the same list because it's like different planets.

Doug Johnson: Well, that's certainly discouraging to hear. And, you know, I think that it's great to hear it straight from you, Mikey, I appreciate that. And, you know, it sounds like that we have work to do.

You know, abstracting for a second about what Steve was saying how that - what the implementation of that looks like. You know, to hear it from the working group chair that...

Mikey O'Connor: I wasn't the chair, I was a...

Doug Johnson: Okay, sorry. But that, you know, certainly is discouraging. I think I got to follow up on that and see if I can figure out what's going on.

Man: But I would just say, those are two separate...

Steve Metalitz: (Unintelligible) issue. And the other one is regardless of what, you know, what's in that HSTLD, how is this going to be part of the process for people to say you need more.

Doug Johnson: And, Steve, I just I'll tell you I wrote it down. I don't know when you talk about could it be a basis for a community, you now, an independent objector kind of objection.

You know, at various points in time I've been close enough to all the stuff that I could, you know, authoritatively answer that question, I don't feel like I can. So I'll just take that one back and note that it's a big issue. I'm sort of out of time.

Tony Holmes: Yes, and we thank you once again, Doug. It's always good to have your input here and just endorse what was said at the breakfast. Thank you very much.

Doug Johnson: Well, thank you. And I was going to take big credit - you know, I feel badly because I was going to take big credit for those who are in Nairobi - I understand it was a select few of us.

But for those of us who were in Nairobi, you know, Marilyn and the whole group put up with some pretty lousy quarters. And I was going to take credit for this great room and then the alarm went off twice in the 35 minutes I was here. So thank you all very much.

Tony Holmes: Thank you very much. Okay. We're going to change the order slightly because what I want to do now is to step through the discussions on the CSG Charter because that's going to be work in progress.

But we need to step through some of the issues here. And then hopefully we'll have some time left out of that to come back to the future on the affirmation of commitments. So, Sarah, straight over to you.

Sarah Deutsche: Okay, thank you. So, as you may know, we're working on this exercise to create a permanent CSG Charter. We're going to be kind of like the founding fathers and founding mothers of the CSG. Right now we're operating under an interim charter.

So just to give you some background, all of this came out of the GNSO structural improvements. Basically this was foisted on us as something we need to do. The Generic Names Supporting Organization was restructured into four stakeholders groups.

There is the CSG, the Registry SG, the Registrars SG and Non-Commercial SG. And we have two houses, the Contracted Parties House and the Non-Contracted Parties House.

And on top of that, there has been a GNSO Operating Steering Committee working team and they are putting comments in on constituencies, how they should participate, the rules under which they should operate, et cetera.

Some of these ideas coming from that team might not be satisfactory to our CSG just because they may not fit with our structure. And our structure, as I'll explain in a minute, might be different from some of the structures of, let's say, the Registrars or the Registries where the CSG is - or their SG is essentially them.

Uh oh, screen of death has arrived. Jim Baskin, I'll be dropping this computer off with you (today).

Man: Time to go, Jim.

Sarah Deutsche: This is the visual equivalent of that siren that you heard earlier, so it didn't matter because I only had four slides anyway, so. Anyways, charter was supposed to be - is supposed to be approved by the ICANN board in December at the Cartagena meeting.

So just backing up, I think that gives us probably to October to try to finalize something. There are a number of issues that we need to consider when we're drafting the final charter.

Just very briefly, we've got issues such as, you know, what is this mission going to be of our CSG? What is our structure? What are the constituencies' rights and responsibilities? What is going to be the role of the CSG versus the role of the individual constituencies?

And the role of the CSG versus the role of our councilors working on the GNSO and the GNSO in the new structured world, how will that fit with the CSG?

There are really kind of complex structural governance issue that we're going to be trying to figure out. Just to give you some examples of some of the big picture issues on structural and governance questions.

One big picture thing we're going to keep in mind when we're drafting this charter is how can we ensure that the CSG has sufficient flexibility in designing its own self-governance mechanisms, especially if the structure of the CSG might differ from those of the other SGs?

So we're going to want a very flexible structure that leaves room for the constituencies to formulate positions and doesn't necessarily shoehorn everything into the CSG.

And that raises the issue well, what should the role of the CSG be. What is our purpose? What's our scope? How is that going to affect the governance issues, like the ICANN and the review teams?

And then what mechanisms - we're going to have a lot of housekeeping issue, like mechanisms for formalizing our communications with the constituencies and our councilors, et cetera.

We discussed - the CSG Executive Committee met and we discussed a little bit of some of these issues, such as the mission of the CSG. Right now the interim charter the mission is very, very general and broad. We may want to make that a bit more specific.

We may want to include, for example, the IP community isn't even mentioned in the charter it probably should be. We may want to discuss a bit about what our specific mission is.

The CSG right now is open to three recognized constituencies, but it also could include any additional constituency later recognized by the ICANN board and assigned to the CSG. So we will need to discuss what should be the CSG's role in recognizing a new constituency.

Should there be a chance for that constituency, for example, to first sit within one of the existing ones rather than kind of have a new one foisted upon us. And then how would that affect our voting and other issues like that.

Some of the other constituencies, like the Registrars and Registries, require the SG to elect and appoint council members. The CSG right now in the interim charter says that will ensure that our constituencies do so. So I think part of our role here again is to look at this in terms of flexibility.

We also right now the CSG serves a liaison role in creating policy and that is something we're going to need to define. What does policy mean for

purposes of the CSG Charter? Are there some issues that run across the constituencies, budget, ICANN structure, et cetera.

There could be issues we want to issue joint comments on from time to time that run across the constituencies, so we'll try to identify tasks where we can work efficiently together and make this part of the CSG's role.

And, you know, are there going to be task forces. What are going to be the structures that the CSG uses? We'll also be talking about housekeeping, voting issues, creating a Web site. How to communicate.

Finally, the GNSO Operations Steering Committee working team has put out a lot of ideas on how constituency should work. Many of these ideas either don't apply to the CSG or we have to be careful that they're not mandated upon the CSG.

So, for example, the working team recommends that all the SGs have a fee structure. Well, the CSG probably doesn't want to charge a fee so we'd have to work through issues like that, or membership rules. If you're a member of the constituency, you're automatically a member of the CSG.

Term limits is something that is in the working team's recommendation and that is something that should apply to the constituencies and the SGs. And then as I mentioned, you know, we're going to have to create a Web site and have issues to publish our rules and procedures and that type of thing.

So the next steps are basically, as I said, a permanent charter has to be completed by October. It has to be reviewed across the three constituencies, and then approved by the board at the Cartagena meeting.

We're going to be co-drafting with our other CSG reps some initial language. We would welcome any small working groups from within the three constituencies that want that language is created to offer suggestions.

And then hopefully we'll be back face-to-face probably in late September and proceed from there. And we'd also like to involve ICANN staff to make sure they're being supportive and that they confirm that our reading of various issues is correct and we don't have any unnecessary surprises at the end of the day.

Tony Holmes: Okay. Thank you, Sarah. I'm not going to open up for questions here. There's a little work to be done here. I will add a couple comments. One is that I think getting this right is the answer to so many of the problems that we struggle with today on a lot of the more detailed issues within ICANN.

And I would urge that within the constituency sessions this afternoon that attention is paid to this. We need to start formulating plans, but also thinking how we're going to tackle these together.

The other one point I was going to make is that I think out of everything Sarah said, one of the most important aspects of this is making sure that it's tackled in a way where we don't just look at it as though there's three constituencies.

This is going to endure for a long time and at some stage the commercial stakeholder group is likely to grow, and I think we need to address these issues thinking of that situation from day one.

So a lot more work to be done here and those of us on the CSG Exec will be getting together after the constituency meetings to actually firm up the plans as to how we take this forward, and all help is valuable.

I said I wasn't taking comments, I see Philip's hand. You've got one minute, Philip, no more.

Philip Corwin: Part of my role as Chairman of the OSC, there was discussion in the work team and we had same discussion this week at the Steering Committee level

as to what is the implication of the language in the work they're doing in terms of the recommendations for constituencies and stakeholder groups.

They had a lot of discussion on that. The wording they've got mostly throughout the document is should, which I think you can interpret as these are recommendations.

And indeed the type of the document recommendations (Ken Bull) from staff asked if those recommendations should all be incorporated to GNSO operating procedures guide. And we said, "No, that shouldn't be the case."

It might be useful as a joint statement from the Executive Committee to CSG because to post this now is we've recommended the OSC that report to council. They're going to be adopting it this session. It was already on their agenda. And then it goes 21-day public comment and loops back.

It might be useful just in that comment period for a statement from the CSG Exec Committee to simply clarify that is our understanding. And to point out the generic recommendations, but every group is unique and we have very special characteristics as a stakeholder group. So that might just be useful.

Tony Holmes: That's a very useful comment. Thank you, Philip, and certainly that's something we should come back as the CSG Exec having had those discussions this afternoon. So that's quite helpful.

So the one issue we haven't dealt with is what I termed as the position on future affirmation of commitments. And we heard this morning from the team that's really struggling to get this up and running with the initial team and some of the issues they face.

I think they were asking for us to help them as they possibly could. But one of the aspects of that is that that is the first team and they really are struggling.

It's groundbreaking stuff and yet we've got these follow-on teams coming along.

And I don't believe we're in a position where we can look at what happened the first time around and say that's the template, that's the way things need to go from here.

And we need to start having those discussions, and again, this is an issue we need to come back to this afternoon. But let's have some initial debates here. Marilyn, I know you have a few remarks to make on this.

Marilyn Cade: I do. And before I make them, if you didn't sign this we'd like for you to, and I signed all these guys in. but the other thing is I want to make sure there was a second sheet passed around that asked you if you had had experience in submitting comments and you weren't satisfied with them. So for those of you who haven't yet done that, I'd like to collect that as well.

I have all of the sheets, but too many of which are blank. The first - the need to respond quickly in developing a process and identifying candidates to fill the - to put forward to the selectors for the first review team came upon all of us very quickly.

And I think the council really jumped in and did the best they could in making sure that there was a process and that we could make sure as a community that we got names put forward. But be that as it may, we in that process began to identify that we needed to understand what the role of the SG is and what the role of the council is.

The council added with good intention the additional criteria that when we were on ground in Kenya we found that many members of the business constituency who were there did not think it was advisable to support because it would limit the highly qualified candidates that we were able to find in a very short nature. So it was a learning experience.

We also felt very strongly within each of the constituencies that the decision once a candidate was endorsed by the SG we didn't want the council, nor the selectors really, to be able to overrule the selection of the SG since it is after all someone who reflects the experience expertise and perspective, even understanding the point that this is review and it's not planning the future.

So much of the discussion in the leadership of the CSG has been about how we quickly get an SG process and work through this next two set of appointments we need names put forward by the 15th of July for SSR, Security Stability and Reliability, and WHOIS.

And we have to make a decision both where the names come from, whether there are extraordinary qualifications, for instance, for SSR meaning it's not just because you are in a constituency but you actually have particular expertise that can make you effective within the team.

So lots of things we need to deal with in very short order. We also have a resolution that the council had drafted and put forward and will be voted on on Wednesday.

And stakeholder - the leadership of the stakeholder group has asked for modifications in the resolution and our councilors have been working to get a modification in the resolution that would allow the process to go forward, but leave it open on whether it is a single fixed process that would continue.

So, for example, we may - there's language that would say, "The process we used in this round would be the process we use for all perpetual rounds." And the leadership is not comfortable with that. We'd prefer to have that just an open question and to say, "Here's the procedure that we followed for these two selections."

So those are some of the things we're grappling with and you'll hear more about them in your individual constituencies. The one point that we strongly agreed on and we have gone ahead and made that point and encouraged everyone to make that point.

And that is that each stakeholder group in the GNSO must have at least one representative on the review team. Not just one name put forward, but must have at least one representative on the review team.

As a leadership team, we do not consider budget an excuse. And I will just say that flying the entire team to both Cairo and to China, while that may be laudable in terms of rotating around the world for the group to meet, the fact of the matter is this group is responsible for working among itself.

Need to do outreach can be handled by remote participation and it is very expensive to move an entire team and to bear the cost of the jetlag and other kinds of problems. So we would think that priority needs to be given to - not to use that as an excuse for saying there can only be two.

Wolf Knobens: Wolf Knobens speaking. Marilyn and all, I would like to comment on two topics - on two items. One is the number of the representatives on the list for the future (RT) teams.

There is no doubt on council level that it should be at least four members to a GNSO so that each stakeholder group gets a representative on that level. And then there's a firm commitment and a firm message towards the board and towards selective in that respect.

The other thing is with regards to the upcoming motion on the (RT)s with regards to SS, Security Stability (unintelligible). You know, we had this discussion since the Nairobi meeting internally.

And there is (drafting) team of the council where all constituencies had representatives, not only as a stakeholder group, but constituencies were represented on that team and on the email list.

And it may have turned or as it's just coming back to our process here within the CSG that due to the lack of having a real proper and a finished finalized process how to communicate within the CSG, we now are faced with a problem to move on this motion and to question how to deal with it tomorrow at the council meeting.

So it's a situation I see, so (this type) that question that we have to discuss (unintelligible) on the question how is the stakeholder groups influence is with regards to - in relation to the council influence on the development of that.

So the question is really how do deliver that tomorrow I see it as follows. So it could come out that the way we are dealing with it and how do you want to be that is reflected in the council motion tomorrow is going to be rejected. It could be.

So, on the other hand it could also turn out that in addition the existing - the original motion, which doesn't reflect any of our requirements, is also going to be rejected. That would mean that the application process is already open to applicants, but we don't a GNSO process to deal with it.

So that would blame the council I would say that in total because nobody understands, really, what we are doing there, why we are targeting so heavily on those questions and (unintelligible) the chance to have a process in place when applications are available.

So that is only a question whether we could find a way to compromise on that, to find a compromise on that tomorrow in order really to get it through. And a compromise, from my point of view, could be that - you know, you remember we have two items - two topics.

One is the process item, which was made by Steve, and so we are really relying on that to have this requirement should remain in the process.

But the other question with regards to the question of should there be a process just for all (unintelligible) with a chance to amend it if required in the future, or should it just be a process for the (unintelligible), which we discussing now. So I would say we could be open for that question.

Tony Holmes: There's been a number of assumptions made all the way through this, certainly, and I think those of your own accounts who have got a pretty difficult task because we've only got between now and tomorrow to find some way of fixing that.

But the problem is, those assumptions have been made by various people that that's the role of council and that's how it acts because there's not been anything else there. We're in this difficult situation we are now. Kristina.

Kristina Rosette: I would echo what Wolf-Ulrich said. I can tell you that there are certain members of the NCSG that for reasons that I can't even begin to fathom are being rather obstructionist about this.

If we want a motion that will pass - and I can tell you that not only are they going to point the finger at the council, but they're going to point the finger at the CSG because they're already made clear their position that the motion that was originally put forward was approved by the drafting team and that was our chance to raise issues.

So I'm just letting everybody know that this is realistically where we're at. I really think what we need to do is to just let go of the proposal that the motion specifically state that it only be for the SSR and WHOIS. We just need to let that go.

If we want to be able to require the council to use the selection process, the endorsement process as we would like to amend it. And for those of you who haven't spent time amerced in this, each stakeholder group will put forward to the council one person that they would endorse.

The council has identified diversity gender and geographic diversity goals that it would like the slate of candidates that it endorses to the selectors to represent.

What we would like to see and what the motion we have on the table is that if that initial - the council will say, "Great, we'll take all four we're not going to second guess the stakeholder group. They're on."

If that group of four does not meet the diversity and geographic region - gender and geographic region diversity goals, the council will then look to an additional one or two candidates also identified by the stakeholder group.

So that we would be responsible by the life 15 for putting forward for who is, for example, here is our principal candidate, here is additional Candidate Number 1, additional Candidate Number 2.

If the council needs to go beyond those first four, one from each stakeholder group, to meet the diversity goals, it will then look to whatever additional candidates have been identified.

I should note that any additional candidate has to be different in gender or geographic region from the principal candidates. You can't have a slate of three people that are the same across the board.

If for some reason the council cannot come up with two additional candidates from that pool of candidates, which could be anywhere between 0 and 8 depending upon how many stakeholder groups put them forward and how many for each, they can then go to the broader applicant pool.

In other words, everybody that put in an application that wasn't selected by or, you know, identified by a stakeholder group. That, I think, has a much more realistic chance of getting passed than the addition of we're only going to use this for the next two procedures. And, frankly, I think we are going to have to choose which one we want.

And it would seem to me that it would be more in keeping with our concerns and our goals for what the council is that we focus more on making sure that the council has first look to stakeholder group identified candidates than to say on its own we're going to go to the applicant pool and pick for you. I think we just have to make a choice and that's my recommendation.

Tony Holmes: So just a clarification, in terms of the diversity requirements, that actually could take precedence over the fact of having one per group. That's what you're saying, in essence.

Kristina Rosette: No.

Tony Holmes: That's the way I understood it.

Kristina Rosette: No. The council is going to put forward automatically all four candidates, one from each stakeholder group. Those automatically go forward.

Man: But it may not meet the requirements of diversity.

Kristina Rosette: In that case, they want to be able to identify up to two additional candidates that when added to the four will represent diversity. And it would be from that pool of six that the selectors would pick.

This is - Marilyn, I now you're shaking your head, this is the way it is. So you're going to have to choose.

Marilyn Cade: I know, Kristina, but I just want to make a point. So let's just walk through this. Let's say there are four stakeholder groups. In the situation you just described, in order to ensure - let's say that all four stakeholder groups put forward women, as rightfully they should, and the - but two stakeholder groups also identified a male.

In order to meet the diversity, I think in fact you could find a situation where - I'm just trying to go through the math here. So that would mean that in order to have a male, the council could say, "Well, we're going to pick a male because there were only two males put forward."

And so that could drop a stakeholder group. So it creates a situation where every stakeholder group is going to have to put forward an alternate. That's just one point I would make. But I actually have a more specific question.

The original proposal for an edit did say would not extend to future groups. The modification that I proposed was just to leave it unclear. And, you know, that may still be unacceptable. Two of the registries told me that they could accept the language but I did not negotiate further with them.

I just asked them that question. But I think the point that both, Wolf and Kristina are making that we need to look at the bigger picture is, I understand it, but I will say that if the decision is to let it go in order to get the procedure. I feel the need for the councilors to - you know, we found ourselves in this salutation before...

Kristina Rosette: I guess the problem I'm having, Marilyn, is I do not understand the insistence on identifying - on this first issue. I don't understand it so I can't explain it when Bill Drake is in my face about why is this so important.

Why is it so important that the motion identify that we're only going to use it for this one or the next one because his point, and I see it, is if the council

decides that this process isn't going to work, they just come up with a new one and put forward a new motion.

Marilyn Cade: All right. But you know, Kristina, they don't have a history of doing that and in the past it's been used against us to say, "Wait a minute, you voted in favor of it."

However, again, the alternate language I proposed at the end was just to leave it unclear. If the councilors feel that even after conversation with the registries and the NCSG, and I will agree with you - we, of course, all know that our discussion is public and it's being recorded.

I will agree with you that there seem to be strongly held views on the part of one stakeholder group. And I also agree that we need a procedure because we can't find ourselves in a situation where we can't send names forward.

But I had one question for you guys. You're assuming the only way for the SG to send names forward is to go through the council. And I understand that right now that seems to be the situation.

Tony Holmes: What I would ask here is that after the discussions we had this afternoon that the councilors certainly have some exchanges as to where we are because we're all going to discuss this anyway. And it's going to be helpful, we need to have that dialogue, I think pretty quickly.

Man: Mr. Chairman, we need to wrap up.

Tony Holmes: Yes, we do. Steve, I've got to finish here. You wanted to give a quick thought on the Non-Contractual Party House.

Steve Metalitz: I just want to report that we met with our counterparts in the - from the Non-Commercial Stakeholder Group in the Non-Contracted Parties House meeting and two things came out of that that I want to mention.

One, I think we have a draft and I know it's been approved by most of the members of the CSG Executive Committee for a joint statement with the Non-Contracted - excuse me, the Non-Commercial Stakeholder Group on this budget issue about the fact that the constituency support doesn't provide any support for our constituencies or our stakeholder groups.

In interest of time I won't read it. It's about three paragraphs, but I'd be glad to send it to anybody that's interested. But that's a first, I think, that we've had an official statement from the whole Non-Contracted Parties House on this.

Second, the one constitutional duty of the Non-Contracted Parties House is to select one member of the ICANN board, that's the seat now held by Rita Rodin Johnston, which expires in the middle of 2011.

So we need to come up with a procedure for doing this. There are some easy straightforward ways to do it. It could get a little more complicated. So a small teams being formed to come up with this plan.

Marilyn is one of the people on that, along with I think Wendy Seltzer, and so if you're interested - and John Berard. So if you're interested in participating in that, please check with Marilyn because we can - we need a small team to do that. Thank you.

Tony Holmes: I'm just going to remind people that this afternoon we have the constituency meetings, the ISP meeting commences at 2 o'clock. I believe IPC at 14:00 and the business constituency at 13:30.

Marilyn Cade: That's correct.

Tony Holmes: Well, there is an issue here with the room numbers.

Marilyn Cade: Let me just clarify the time. The (PC) is having a members only meeting at 1:15 and the public meeting starts at 1:45.

Tony Holmes: Well, that's the issue because the ISP is scheduled to meet in Room 311, 312 and I have been given no information that's been changed. As far as I'm aware that's still where the ISPs are meeting. So that's something we need to clarify.

Man: (Could you give) out the other one?

Tony Holmes: Well, certainly the IPC meeting is in Room 300. That's the one that is clear. 311, 312 and that's what's been posted on the site and no changes have been agreed. So my understanding is that the ISPCP meet in Room 311, 312 at 2 o'clock.

Man: And the IPC meets in Room 300 at 2 o'clock, right?

Tony Holmes: Which means the room for the (PC) meeting is in, I believe, 214, if this list is correct.

Woman: Or we may be in a stairwell or a side closet.

Marilyn Cade: Why don't we adjourn this meeting, and at least from 1:14 to 1:45 the (PC) will be in 311 and 312 and then we will switch and move to whatever the room is, Tony, what is the room?

Tony Holmes: It's Room 214 following that. So thank you for your attendance at this meeting and I hope you manage to get a bite of lunch before we change over to the constituency sessions. Thank you.

END