ICANN
Transcription
New gTLD Subsequent Procedures Working Group call
Monday, 24 September 2018 at 20:00 UTC
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Julie Bisland: Can you go ahead and start the recording?

Operator: Absolutely. Recording has started. Please proceed.

Julie Bisland: Great. Thank you so much. Well, good morning, good afternoon, good evening, everyone, and welcome to the new gTLD Subsequent Procedures Working Group call on Monday the 24th of September 2018. In the interest of time, there will be no roll call. Attendance will be taken by the Adobe Connect room. If you're only on the audio bridge, would you please let yourself be known now? And I do have Jamie Baxter noted. Anyone else? Okay. Hearing no more names, I would like to remind all participants to please state your name before speaking for transcription purposes. And please keep your phones and microphones on mute when not speaking to avoid any background noise. With this, I will turn it back over to Jeff Neuman. Please begin, Jeff. Thank you.

Jeff Neuman: Sure. Thank you, Julie. Welcome, everyone. So, as normal, we'll start in by reading the agenda and taking any changes to statements of interest. And then, you'll see we'll go through section (inaudible) again, just to cover any changes that we made since the last time, which actually was last week, that we reviewed it. Have not been getting too many comments via e-mail, which is okay, so -- but, if people do want to see changes. The point of going over these sections several times is to get your comments in so that we can be prepared to release this report by at least a week before the ICANN meeting. So, that timeframe is coming up. And so, after that, we'll do yet a third reading, I guess, of sections 1.1 through 1.4.

The fourth item, which I know generated a couple e-mails, probably because of my poor choice of words for the topic, is last call for input on SAC090 matrix. I appreciate the comments that we got from both Anne and Jim by "last call," and we'll talk about this more. I didn't mean literally

last call on all of the subjects and content in SAC090 or the recommendations. It was more a last call on this matrix, which really sets forth where we are on those items and how we get towards completion as opposed to last call on the content of SAC090 or the recommendations therein. So, I will apologize for the shorthand wording of "last call," but we'll get back to that when we get to number four on the agenda.

The next item then we'll review is ICANN 63, and then we'll cover briefly the approach that we're going to take for CCT review team final report, which is also an action item for this working group. And then, we'll get to any other business. So, I will ask right now if there's any other business items, and then we'll ask again towards the end of the call. So, is there anything anyone else wants to put onto the agenda? Okay. Not seeing any. We'll ask for -- if there's any changes to statements of interest that anyone would like to declare on this call. Greg, please?

Greg Shatan: Hi, it's Greg Shatan for the record. I just wanted to mention that I've (inaudible) the President and Chair of the New York chapter of the Internet Society. So, I'm not sure if that's a change in interest, but it's certainly a change in something. So, wanted to let that be known. Thanks.

Jeff Neuman: Thanks, Greg. Congratulations on that new role, and yes, I'm not -- unless you're speaking on behalf of the Society, I'm not sure that that's a huge change to a statement of interest, although I'm sure it's a change in the amount of work you are doing and volunteering. So, congrats on that position, and I'm -- I actually looking -- I'm looking forward to hearing more about what that entails. Anyone else have any other declarations or statements of interest? Okay. I'm not seeing any, so we're going to go on to a second reading of the recommendations to 1.5.

I will note, and I think the whole group got it, I did see that Christopher Wilkinson did send around some comments. I've not had a chance to open it, so maybe, Christopher, when we do get to those items, I think there was a section on 1.5. So, if we get to those items and you want to bring those topics up, please go ahead. But, we will certainly review those written comments and add them to this report.

So, with that said, if we look at section 1.5 that's on Adobe right now, there's not too many redlines. It is -- whoops, sorry. Does everyone have control on their own? Yes, okay. It starts -- so, it's on page 19, as it says there, and I'm going there, as well. I know it's kind of small to read this off the -- but, you will notice that there are not many changes. The first change is really in the footnote on page 20, which is just a note that we added in to state that work track two looked at the issue of -- or the topic of non-discrimination, which is in section 2.10.2 of the initial report.

And so, there you can see that the work track requested and received information from contractual compliance, which looks at both audits and complaints received related to vertical integration. So, it's just a note that -- to one of the paragraphs on that page talking about the types of things

that registries would or could be able to do, support for registrars. It's in that topic. So, overall, it probably should have said this. Section 1.5 is -- relates to registrar support for top level domains and what -- essentially what can registries do, especially those registries that are finding it difficult to attract registrar attention.

So, on the last call, we talked about a number of different options, which are listed in section D, and then questions -- I think it's D, sorry, before I -- yes, section D. And then, in section E, a bunch of questions on those options, as well as some additional questions. There's at this point no -- nothing that would rise to the level of recommendations, but there are a number of options.

So, with that said, I'm kind of stalling a little bit for time to see if anyone wants to join the queue to introduce anything. So, Jim, please?

Jim Prendergast: Thanks, Jeff, Jim Prendergast. I'll bail you out and give your voice a break.

So, just a process, because I notice we don't have any preliminary recommendations at this point on this. But, I would sense that, within at least the registrar community, there's probably some pretty strongly-held feelings around this topic. And I'm just thinking, going forward, they may not see this until we put this out for public comment, and there's a variety of recommendations. What -- how are we going to -- what's the process by which we're going to assimilate the feedback on this particular section? And then, what are we going to do to try and either turn that into a recommendation or leave it as it currently is in the 2012 guidebook? Thanks.

Jeff Neuman: Yes, thanks, Steve (sic). It's all -- it's a very good question, and I, like you, share the view that I'm sure registrars have -- and registries, I would bet -- have some strong views on this, but we have not really heard those to date. So, I think I -- reading the tea leaves, unless there is a number of people that write e-mail comments within the working group or that come out in support of any of these options, I would guess that these ideas will remain options, and we will specifically seek feedback from the registrars, registries, and well, frankly, the community on these options to see if any of them could or would rise to the level of recommendations.

Remember, these are topics that came up not because they were necessarily in the charter or list -- the issues list, but they were topics that came up as a result of going through a number of -- well, going through the guidebook, essentially, and seeing if there were holes in areas that we didn't cover. So, I'm -- personally, I think it's okay to just have a bunch of options at this point, but if something does come about through the comments that rises to the level of a strong recommendation or recommendation, then this working group will need to formulate that, and my guess is then put that recommendation, if it's not already listed as one of the options, put that recommendation out for additional comments.

And so, one of the things, when we name or get liaisons from each of the groups, to the extent that there does come different proposals from the registrars, it would be great to have those liaisons make sure that they're bringing those recommendations back to those groups, even after the public comment period, to get their feedback. This is one of those areas where there was a lot of kind of brainstorming ideas, but it didn't feel like to me, or to Cheryl or the leadership team, that any of these rose to the level of a recommendation yet.

Okay. Anybody else? Are there any options that we think we missed? And Christopher, I'm looking to you because I -- like I said, I know you filed this comment, but I -- but if -- shortly before the call. So, is there anything you want to draw our attention to in your comment? Christopher, please?

Christopher Wilkinson: Yes, thank you, Jeff, Christopher Wilkinson for the record. First of all, an apology, because a week ago you -- I said I'd present a short paper, and you asked me (ph), so -- and I've done it at the last minute because, well, I don't need to go into the details of what I've been doing for the past week. I've just been very busy on several fronts.

The paper which you have just received comments, occasionally acerbically, on certain aspects of the 1.5 section. I think the -- from my point of view, and I've lived with these issues for 20 years because I helped David Maha (ph) design the original registry-registrar separation model for TLD, I wrote the registry-registrars separation for Dr. Mu (ph), who (inaudible) registry. And I've worked in economics with industry in various factors (ph) (inaudible) 50 years. So, there is a personal dimension to this.

In 2010, I advised very strongly the then-PDP not to proceed with cross-ownership, but to proceed with vertical integration between new registries and their registrar function. That comment was ignored. I have -- I sent you a memo copy of what I said eight years ago. Nearly all the problems that have been discussed (inaudible) new registry -- independent registries entering the domain name market as a direct result of the cross-ownership decision eight years ago. I have no sympathy for ICANN for that. We brought this upon ourselves. It was wrong, and it has resulted in anomalies and difficulties which (inaudible) forthcoming (ph) rounds (ph) must correct.

I've drawn attention to the anti-competitive aspects of cross-ownership allowing the accumulation of large portfolios of registries (inaudible) registrar. I suppose that, unless there's a specific antitrust case, and the argument that an antitrust case will (inaudible) half a dozen of the injured registrars so that registries wish to bring a case (inaudible) our (ph) transparency, the arguments are all there.
But, that's not the point. The main point, on the one hand, is to make sure this doesn't happen again, and on the other hand, and as a member of work track five, I think it's extremely important to ensure that there's no risk of accumulation of new geographical registries in the way (inaudible)

has proceeded. That would -- within the present registry registration market, what has happened is an inefficient, fairly benign mess of -- because the generics are all so (ph) small and around (inaudible). But, if you start -- anybody starts accumulating of registries with geographical titles, especially if they consider that they do not want to use them as the geographical (inaudible), I can forecast that there will be a political reaction internationally, which will block the (inaudible).

I've also drawn--.

Jeff Neuman: --Christopher--?

Christopher Wilkinson: --attention to a few other issues in the text. I'm sure that our excellent colleague who (inaudible) can pick (ph) them up. But, there's two--.

Jeff Neuman: --Christopher--?

Christopher Wilkinson: --that I really want to mention, only two. One is please don't talk about product defects and poorly-conceived TLDs. We had, and we still have, I hope -- and we still will have, I hope, the extensive evaluation procedure to exclude proposals which are product defects (ph) or poorly conceived. For the work track to turn around and say, oh, the problem is that the TLDs that we'll draft are poorly conceived, sorry, that's our fault. That's not their fault.

And there's another point at which the work track suggests that new TLD applicants should have private conversations with registrars in order to work out how their registry is going to succeed (ph) or not. Hey, come on, this is prima facie evidence of an acceptance of a cartel. You have to ask the registrar's permission to -- whether or not you can enter the registration market. No, there are other (inaudible)--.

Jeff Neuman: --So, Christopher--.

Christopher Wilkinson: --I've gone on too long, Jeff, and I close (inaudible) please read the paper. Thank you.

Jeff Neuman: So, thanks, Christopher. A lot of these comments, if I could just note, are related to the topic of vertical integration, registry-registrar separation, so we may move some of these comments to that section of the paper -- sorry, of the initial report. This section's really asking for whether -- if we do continue this registry-registrar model, which the initial report is recommending the continuation of the current model, then are there things that we can do within the current model that would allow registries to take additional types of actions with or without the approval of the registrars.

Appreciate the comment on the -- going to registrars prior to launching or applying for it. I don't see it as -- speaking personally here, not as Chair but just personally, I don't necessarily see it as seeking registrars'

permission. I think the text makes it more of an encouragement that, if you're going to be relying on a distribution model where it's the registrars that are going to be distributing the TLD, perhaps it's a wise thing to do to make sure that your ideas have some sort of legs with the entities that are going to be distributing your top-level domain.

It's not -- again, it's not a permission, but it's possibly something that could be seen as helpful to the applicant in knowing what it's in for if it does apply for the top-level domain. And so, if it looks like the text in here is making it sound like permission, perhaps we should then work on that text to make it more clear that it is more of a diligence item for an applicant, if it chooses to do so, as opposed to a requirement (ph) or permission-based.

Just noting from the comments, and then I'll see if Christopher has a follow-up, there was a comment that vertical integration was a policy non-making morass the last time around, and I think that's -- I think there's a lot of truth to that saying, is that in 2000 there was kind of one of those oversights when the GNSO was initially developing its recommendation. And it all stemmed from the fact that registrars had the ability to become registries, but registry is in their contract. So, if you were a legacy registry, you could not become a registrar. And so, there was -- viewed as an inequity (inaudible) contracts, and that's kind of what made the whole vertical integration to be -- take off.

So, without getting into the debate on vertical integration, because I do -- although that is very important, I think that is much more related to the initial report and the comments we get back, which was section 2. -- I think it was 10, which is referenced in here. So, we will certainly be getting into those conversations at a later point. But, specifically on -- if we do have this registry-registrar model, assuming that is the model, going forward, what are some things that we as a community are comfortable with, if anything, registries being able to do or assistance that ICANN may be able to provide if registries are finding it difficult to attract the attention of registrars which are the required distribution model under the ICANN agreement.

So, Christopher I don't know if your hand is up to respond, but if you want to go ahead?

Christopher Wilkinson: Thank you, Jeff. I hadn't taken my hand down, I'm sorry. But, to give me back the floor, I would just say that the -- one of the problems with dealing with this initial report, all 300 pages of it, is to know where to hook (ph) particular points onto the affair. As things stand, the problem (inaudible) described in 1.5 derives (ph) directly from the (inaudible) floor (ph) decision to reject vertical integration as originally proposed and to allow cross-ownership in a form that (inaudible) competition in this market and privileged the largest registrars. I'll leave it at that, and I'll respond on the list to any more specific questions and comments. We can come back to many of these things.

Now, I think the last line of this document, which I just finished an hour or two ago, the last line (inaudible) that there is more to come. But, I won't (inaudible).

Jeff Neuman: Yes. Thank you, Christopher. So, we will -- as an action item, we will make sure that this paper and these comments go to section 2.10 of the initial report as well. I understand completely how, in even helping others, too, with their comments and responding to questions, I know it was difficult to find (inaudible). So, we -- we'll make sure that we do put these comments in with the comments we get back to section 2.10 on the vertical integration topics.

Going back to the chat, let's see, Rubens is suggesting market resources, and Greg is saying it'll be cleaner if some of the registrars were not also competing registries. Greg, is that a comment on vertical integration itself, or on these types of support items from 1.5?

Greg Shatan: I'll answer verbally. It's Greg Shatan again. It was more of a comment on Christopher's comment that registries going to registrars to see whether they're a registry or why has a certain gating look to it. And I agree that there's elements of both. Clearly, if you're building what you think is a better mousetrap, you'd like to ask those who distribute mousetraps whether you in fact have a good one. On the other hand, if they're also making mousetraps, that becomes a whole different kettle of fish. And then, it's not really -- it's not vertical. Is -- the verticality is not really the problem. The problem is the horizontality between the registry -- the new registry doing its market research and the existing registry qua registrar -- slash-registrar -- listening and saying, oh, that's a good idea. Don't do that. So, yes, obviously there's -- some of this is hypothetical, but some of it is not. I don't know that we're going to resolve or re-solve a vertical integration, but it does create at least a minefield that we can tip-toe through. I see Maxim's note there. I would say I don't know that there's a particular strategy, or it may be an implementation or something that just happened organically in a market where you have some players who are vertically integrated and some who are not, and it is not uncommon to have markets like that. But, they do definitely create higher risks, or higher antitrust concerns.

So, that is a -- it creates issues. I don't think they're insurmountable issues necessarily, but -- and I don't know that we're the place that' that's going to be resolved especially at this point in time, but I think we -- I don't know if we want to get caught up in that now, but at least recognize that there may be issues there. And if, in fact, there were, as Christopher suggests, actual flaws that occurred b of this issue, we do need to look at it. So, there's -- there is that issue. But again, I think it is the market now that we're in, and I don't think it's going to get unmade. That would be radical.

But, it certainly -- it poses risks and concerns that I -- have to be, on one hand, concerns of the individual market participants, but considering that

ICANN is kind of a central meeting place for those different participants, ICANN has its own issues in that regard, and not -- in that case, not unlike those of a trade association, although ICANN is decidedly not a trade association. But, nonetheless, even as a communal watering hole, it has certain risks. Again, I don't know where we go with that issue, but I would not dismiss it as an issue. Thanks.

Jeff Neuman: Yes, thanks, Greg. All of those points are well-taken, and certainly no one -- well, as Cheryl says, it's a very complex issue, and it's -- you're right. ICANN is not a trade association, although it does bring people together, and also at the same time it regulates -- I'll put in quotes -- it "regulates" the contracted parties as to what actions are or are not allowed, and there are a bunch of complications that stem from that.

Just going on into the chat, there's more on -- I guess this is on the confidentiality, or the fact that -- sorry, registries that go to registrars to discuss their ideas may actually be giving their ideas to a competitor, whether or not it's an existing registry or registrar, can apply later on. Christopher is saying ICANN is the competition regulator for the DNS, and Vanda is supporting that. And so, there's some other points being put on there. Michael says the question is how far must a registry and registrar be separated. It's possible for a parent organization to own both. Would that count as vertical integration or the cases where companies merge as such? There's a lot of complexity here that would need to be defined and worked out. So, Michael, I'll turn your attention to section 2.10 of the initial report, which gets at some of those and the rules. But certainly, why don't you have a look at that section, and if you have -- in the initial report that's out for comment, and if you have comments, make those in response there. Donna, please?

Donna Austin: Thanks, Jeff. Donna Austin for the record. So, I'm not sure whether this is relevant to what we're discussing now, but I'm not sure that I've seen it come up anywhere else. So, I'd just like to flag this and understand whether this is something that's being discussed by the working group or not.

So, the recommendation here is that registries must use only ICANN-accredited registrars in registering domain names and may not discriminate among such accredited registrars. Has there been any discussion about the potential reverse of this? So, one of the things -- and I know it came up in another context because, back in the day, (inaudible) registry had (inaudible), and we had trouble getting a registrar initially because we couldn't get that full Arabic experience, which was a requirement for the registry.

So, have we discussed in any sense whether registrars have an obligation to support registries, given that there is a very diverse range of registries and how they conduct their operations and how they do certain aspects of their business, if they're not considered very palatable or easy for a registrar to support, that could be a problem for the registry being able to secure registrar services. And of course, without registrar

services, that becomes a viability problem for the registry. So, I just want to know, is that something that we have discussed at all? And where should I go to look for that? Or is it something that we haven't discussed? Thanks, Jeff. And I'm sorry if I'm kind of railroading this conversation. Thanks.

Jeff Neuman: Yes. Thanks, Donna. This is Jeff. You're not railroading this discussion at all, and I'm trying to rack my brain now to remember. I know we had those discussions. I think they're covered, or some of that is covered in the vertical integration section. But, I also seem to think -- I thought some of that was covered in here. I think -- I'm trying to look at this section, but I will (inaudible) double-check where that is. But, there were some discussions that took place about the notion of whether we could require registrars to carry all top level domains. And I think there's one option in here that may address that. So, we'll go back and take a look, but certainly take a look at the vertical integration section, and then we'll go back to make sure and respond back as to where it's covered.

But, I seem to recall that we did discuss this, and basically the registrars had taken a view that their decisions on whether to carry all TLDs was based on a number of market forces, and so it was not feasible to say that all registrars had to carry all TLDs, although that has been proposed. So, let's find that. We'll find that, Donna, and we'll see if it was in this section or in the vertical integration section in the initial report. Oh, Steve says see paragraph three in section F. Thanks, Steve. I'm turning to that paragraph now.

Okay, yes, the working group -- so, we're on -- working group discussed the issue of market standardization. Is it that paragraph, Steve, or is it the next one? One, two -- oh, sorry, it's the next one. The working group discussed possible policy measures that could address the issue of registries with insufficient registrar resources. The working group discussed the possibility of a must-carry obligation -- that's on page 22 -- under which ICANN could require registries of a certain size to sell domains under these TLDs. I think that means registrars. Did we have a typo there, Steve? Yes.

So, that should say a possibility of a must-carry obligation under which ICANN could require registrars of a certain size to sell domains under these TLDs. Working group members noted that they could only possibly support the option if there was clear evidence of a failed channel defect. So, yes. So, Donna, we sort of address it, but if you have -- I think pointing out the Shalvica (ph) example, or if you don't want to name it by name, is if there's a couple sentences we can put in there about providing -- trying to generalize it, but providing a certain experience for the customers that may not be currently supported by registrars. I don't know if you'd want to help us with adding a couple sentences to that to more generalize it.

Okay, so Donna will review it. Great. But I do think that that's an important part. Okay. Anyone else have comments on section 1.5? All

right, let's turn then to -- if you go towards the -- back to the beginning, we'll do kind of a third read-through of the sections 1.1 to 1.4. Steve, correct me if I'm wrong. All the redlines here are redlines to the version that we reviewed last week, or are these redlines that are more cumulative, that include all of the redlines to when we first put this out. Great (ph), the latter. Okay. So, here's all the redlines, cumulative redlines, of what we've changed since the first time we put this out for discussion several weeks ago.

Again, I just want to emphasize the importance that our goals is to get this out by a week before the ICANN meeting. So, if we work backwards, our goal is to release this by -- sorry, I'm checking my calendar here because I did not memorize the date -- but the ICANN meeting starts on October 20th. So, if we go a week before that, and a weekday, so essentially, we want to get it out by Friday, October 12th. What that means is we have two more meetings of this working group, on the 1st and the 8th, to finalize all of these materials. So, please, while this is not a last call yet, we are getting closer to that last call for these subjects so that we can get this paper out for comment.

So, in reviewing the changes to section 1.1 that we have on here, or in here, there were some changes in the specific questions the PDP is asking. Just as a reminder, 1.1 is dealing with the last resort, so mechanisms of last resort, which ultimately, at least as of now, is the ICANN option. We are still seeking data from some of the -- sorry, this is -- that's more -- never mind. I'll say that when we get to the right section. This is not that section.

So, we -- the only changes are some wording changes on some examples in section -- so Steve, please?

Steve Chan: Thanks. Thanks, Jeff. This is Steve Chan from staff. And I believe the primary change for this section from the -- for the last working group discussion was to add elements about -- well, I guess alternatives to the auction of last resort. So, the one thing that was added was about a potential drawing as an alternative. So, I think primarily that's the change in this section. Thanks.

Jeff Neuman: Great. Thanks, Steve. And so, I see some of those changes in the deliberation section. And -- oh, actually, sorry -- in the last bullet point as where we're seeing feedback on. So, it's adding the notion of we already had in there the other options that were looked at by ICANN staff prior to coming up with the mechanism of last resort as being an auction, so we've now added, as Steve said, the -- seeking feedback on a drawing, as well.

And Sarah, I think you were the one that brought this up last call, and we'd (ph) have -- I think this is the same Sarah, L2 (ph), so, Sarah, please?

Sarah Langston: Thank you, Jeff. It is Sarah Langston for the transcript. So, I raised the suggestion of adding the determination draw to the initial report at the last plenary meeting as a -- I guess as a potential contention resolution mechanism because it seemed to fix a number of issues that this group had raised. So, a draw (ph), it doesn't favor those that have got the deepest pockets. Folks don't get paid for losing auctions. It removes comparative evaluations, or beauty contests, which many folks on this group had some issues with at some point. So, I really wanted to thank you and staff for adding it to the draft.

My comment, and I'm not sure of the best way for it to be accommodated, but, at the moment, the determination draw is only showing under the ICANN auctions of last resort section. And I would suggest -- when I made the comment, I was actually making it kind of as an umbrella statement, so either it should be reflected in the private auction section as well, or kind of as an over-arching concept, because it could replace both types of auctions, not just auctions of last resort, if that makes sense.

Jeff Neuman: Yes. Thank you, Sarah. That makes perfect sense. And what I would like to do, and I know we'll have a transcript from this, is also include in the deliberation section here the rationale for the drawing. I'm not sure we covered those very well in the deliberation section. I think just going back to what you said about -- well, there is a statement in here, the process -- now, that wasn't specific to your proposal, but there is a section -- there's a sentence in here that was changed to talk about eliminating the beauty contests in general. But, I think we should have a couple sentences in the deliberation section that, if we can go back to the transcript, pretty much repeats what you said as the benefits. And then, I agree with you in the sense that we should also reflect that umbrella suggestion in the private auction section, because, presumably, if the -- if there were a draw, presumably that would eliminate the need for a private auction. It may not complete, but it certainly would mitigate that to some extent. So, let's make sure we cover the rationale (inaudible), and then include references to that in the private auction section, which is the section 1.2.

And people are typing. So, as Jim says, so propose the draw as a way to eliminate both types of auctions. Well, certainly the draw would eliminate the official mechanism of last resort. I guess in theory, even if you did a draw and people didn't want to take the chance, I guess in theory you could still do a private auction to make sure that there's only one application left. So, you'd avoid the draw. I'm not sure how marketable or how utilized that private auction would be if that was an option, but I'm not sure it would completely eliminate the private auction as a mechanism of negotiation, if you will, between parties. But, maybe we should make that reference in 1.2.

Okay. Any other questions, comments, on 1.1? Phil says if we are to still have an ICANN auction of last resort, we need clearer recommendations of what to do with the proceeds. So, Phil, that is one of the lines in here, or one of the paragraphs in the deliberation section talks about following

the work of the cross-community working group. We don't know what their recommendations ultimately will be. It is certainly -- and I should say that that working group is focusing only on the excess auction funds from a 2012 round. So, anything that they recommend will not necessarily apply to future rounds.

And so, there were some in the working group that made the point that, if the CCWG on auction proceeds comes up with a way to distribute funds from a 2012 round that are not generally liked or accepted by the ICANN community, then the output of that working group may impact some working group members' views on having auctions in general. So, we are following that. I think that -- I think the working group is in support of the notion of, if there's an auction of last resort, that something should be stated outright with how those funds are going to be used. And maybe that is a recommendation that we should add, because I do know that that was discussed, that if we are to continue auctions of last resort, that the mechanism for the distribution of those auction proceeds should be known upfront, or at least it should be clear upfront what process that will be used to come to a decision on how to use those proceeds.

Jim, please?

Jim Prendergast: Yes, thanks, Jeff. Jim Prendergast. Just -- so, I've got a comment not just about auctions of last resort, but also private auctions. And it's more along the lines of taking into account what you said about we have two weeks. I know staff was looking in and doing outreach to the providers. I don't know if we made any headway there. The other thing that strikes me is that it'd be good if we can get -- trying to crack this nut and come up with new ideas on how to avoid auctions I think is something a lot of folks are in favor of, but, frankly, people may have forgotten that we're still compiling those. So, be good if there could be some sort of concerted communication out to the entire working group that says, look, we're looking for more ideas to include in the initial report. We've got some recently with Sarah's determination draw. There may be others that people haven't come forward with and to try and get those going on the list.

I think it -- I think getting as many options out on the table for this comment period is important, because this is such a big-money issue. There's no other way of putting it. So, judging by the conversations I was in in the breakout (ph) in Panama, I know the folks who participated in those felt pretty strongly. So, I think it'd be -- we've got to figure out what the other mechanisms may be that could solve for it, and I think we need a big group think on it. So, thanks.

Jeff Neuman: Thanks, Jim. I think that's really a good idea, and as I put in the chat, that will be -- Cheryl and I will follow up on that note to the full group. We'll also note we did -- although we did send it around, I think that when people are making recommendations, it may be useful to re-read the paper that was done that was attached to the very first version of the (inaudible) applicant (ph) guidebook that ICANN staff put out on its

analysis of the different options that it could use. It is now eight years after that paper. I think that paper came out in 2010, so -- if I'm not mistaken. It may have been earlier. No -- yes, it was earlier. I'm sorry. It might have come out in 2009. So, we're nearly a decade after that paper came out, so it's very possible that things have changed since those -- since that paper came out and the recommendation was made to go with a auction model of last resort. So, thank you, Jim. I've noted that as -- or we've noted that as an action item, and we will aim to get that note out tomorrow the 25th for me, anyway. This is tomorrow.

Going back to the chat, in 2000 -- Rubens says, in 2012, GoDaddy applied to some TLDs and withdrew all exactly to reassure -- oh, okay, so sorry, this is a comment based on the previous topic of separation. So, GoDaddy had, as Rubens notes, withdrawn their application because they wanted to assure the registries that they were not competing with them. So, Rubens says vertical integration doesn't seem to be the issue in play. Christopher Wilkinson says -- okay, so this is just more discussion on what the registries and registrars have done, so I will just leave that as chat notes because they are not relevant to the public auction -- sorry, the mechanisms of last resort or private auction. So, we will capture all that in the chat, but move on to -- yes, we started covering section 1.2, but let's go through and see if there were any other changes made. We will make the change of including drawings as an option here, which may mitigate the probability of private auction, so we'll make sure we include that. Trying to see if there were any other changes that were made. It looks pretty much like the changes were -- are still the changes that were from the previous call and before the previous call, which in the deliberations section on -- I'm on page eight -- about the reputational harm that private auctions could cause. And so, there's some more paragraphs in there.

Think those are the major changes in 1.2. Other than what we discussed, is there any other comments for -- on the private auction section? Still some good discussion going on about registry and registrar separation. Michael asked the question, is there a mechanism in place in case of multiple contested strings to prevent one company from essentially ending up in a de factor monopoly on gTLD strings within a given sphere? So, Michael, I'm just trying to narrow down that question. Can you give, like, a specific example of what you're trying to get at? Because there could be -- are you talking about contested strings within a given -- I hate to use the term "sector." Oh, great. Michael, please?

Michael Casadevall: Michael Casadevall. My thought here is if we had contested string, like just for a complete knitting, I don't know, just for an example, and you have multiple strings that are being contested in a single go. My concern here is a single company could essentially outbid everyone if it has more resources than other intenders. I'm worried that with the auction model, basically if we've got a multi-million-dollar company, they can literally push everyone else out of the market by contesting strings - being eligible, contesting strings, and essentially forcing others out. So, does that make sense?

Jeff Neuman: Yes, I think any time you have a auction as a mechanism of last resort, certainly it is expected that -- or it's certainly anticipated that the company with the most amount of resources would win. And certainly if a number of contested strings, especially within a given sector or industry or -- yes, I think is certainly viewed as a potential issue, that those with the most amount of resources could corner a -- corner -- I don't want to say a market, because market has been defined, or there's a lack of definition, in some cases, of what a toppable (ph) domain market is, but certainly the -- a company with a lot of resources could outbid and could push others out. So, what kinds of -- are you just ask -- do you think we should ask that as a question? Or are you thinking that there could be mechanisms put in? Are you just looking for us to address that as a question?

Michael Casadevall: I guess the -- Michael again. The question I have for the working group is should there be -- if we go with auction of last resort, which as I understand is still an open question, should there be a mechanism to prevent monopolization of strings by a single bidding entity. That's the question I have for the working group. I don't have an answer for it one way or another.

Jeff Neuman: Okay. And then, just to kind of narrow that down a little bit more, when you say "monopolization," do you have -- are you talking about within a particular sector? Or are you just talking about purely from a number of strings perspective?

Michael Casadevall: I would say both, although my concern would be within a particular sector.

Jeff Neuman: Okay. We did have a section as an over-arching issue in the initial report, sort of touches on whether there should be anything that restricts the number of applications from an individual company, and the response from the working group was no, that putting that kind of limit seemed a little bit arbitrary and difficult to enforce. This is a little bit different, where you're now talking about the number of strings that could or should be delegated. So, does anyone have any comments on that? Christa says that theory was kind of mentioned. Auctions where an applicant was applying for TLDs to lose in auction and receive a financial windfall and how that might vary from an applicant with numerous different applications and related or different industries. Rubens points out dotcar, dotauto, dotautomotible, those industries, and Rubens says, by the way, those strings were individual registries which then formed a consortium to operate them together.

                     So, should we add to the list of questions in 1.2, taking Michael's idea, and see if the community does have concerns of one entity, or group of entities -- I won't say monopolize, because that's got a pretty specific meaning, but we'll come up with something better to use than that term. But, essentially, is there a concern that there'll be one entity, or a group of entities, that monopolized the strings related to a particular industry, and if so, are there any proposed mechanisms that could or should be used to mitigate that.

So, Steve says, Michael, the issue you are talking about seems to be potentially present -- oops, chat's moved up on me here -- whether or not there is string contention, which is true. Michael says -- or Phil says, Michael, there's nothing to stop a big-pocketed company at the moment from acquiring them I guess after the fact, which is also true. And Christy (sic) uses the term oligopoly for situations where it's a number of -- or a few entities that control a market.

So, I think all of those are good comments, and I think all of those -- if there is a -- if the community is concerned about the monopolization or -- I don't know if this is a word -- oligopolization of particular strings, then Steve and others are -- Phil are correct that that would also be a concern, going forward. So, Steve says I mention that because the topic -- sorry, I mention that only because it's being discussed that this topic concept be included in 1.1 or 1.2, and it might be more applicable somewhere else. So, it may -- yes, Steve, I think that's right. I think while it is applicable here, but it's also applicable when we talked about the overarching issue and the number of application. So, we should come back to that part of it if we are concerned about this. Alexander, please. I know you had your hand up. You've put something in the chat. Do you want to speak?

Alexander Schubert: Yes, hi, this is Alexander Schubert. What I wanted to mention is that this may be another reason why we should consider to have some kind of entry barrier. On the one hand, we are saying, okay, we want to have low entry barriers for a low monetary entry barrier to make it more easy for financially not-so-strong applicants. On the other hand, obviously if we have very low entry barriers, for example a very low application fee, it would make it very easy to round up a bunch of strings around a certain, for example, industry, and take them, for example, off the market. I'm finished.

Jeff Neuman: Yes. Thank you, Alexander. I think there may be others, as Greg actually just put on the chat as I was about to say it, high fees do favor the deep pockets, but in a different way. So, I think you're basically -- yes, you may have less strings that might go to the -- those with deep pockets, but you'll have less applications overall. So, by having less applications overall, you may be allowing those with deep pockets to monopolize the market by not encouraging others, especially if you took, let's say, Sarah's view, which she said it would be -- could be a draw as a contention resolution mechanism, in which case it wouldn't matter how deep your pockets are. As long as you can afford the application fee, then your changes of being awarded the string, if it were a draw instead of an auction, would not favor those with deep pockets. So, as Christa says -- yes, sorry, go on. Is that Alex?

Jamie Baxter: Yes. No, I apologize -- it's Jamie Baxter -- for cutting in, and I apologize for any back noise -- background noise (inaudible) on the street. But, I'm not saying I think this is a good approach going forward, but when I hear what the concern is, it seems as though one option could be to introduce limits on how many auctions somebody could compete in for procedure.

It doesn't prevent them from submitting an application. It doesn't affect the fees that have been in discussion about -- or what the fees should be for applications. But, if the goal is to prevent monopolization, perhaps there's a method where a limit to be put on how many auctions an applicant to participate in per round. Again, I'm not condoning it. I'm not saying it's a good idea. But, it was just a thought that came to me, which is something that could be controlled, or perhaps controlled a little bit better, if that solves the problem. Thanks.

Jeff Neuman: Thanks, Jamie. That is another option that has not been discussed, so I think we -- we note that you're not endorsing that proposal, but it does put another option on the table that we should include. So, it would be -- I guess that would be for more of the mechanisms of last resort than it would be for the private auctions, so it might fall into section 1.1. But, we'll find a home for that suggestion.

There's some more discussion on the high-fee alternative. And Alexander points out that the draw method will enable bad actors to force good actors to buy them out. Alexander, maybe you can put something like that into writing. I think that's an interesting thought. And in the deliberation section, if you have -- want to put something as one of the possible con, can you submit that in e-mail to us so that we can put that in a -- your concerns in a paragraph? As Greg says, only if you think the bad actors have the luck of the draw.

Okay. Why don't we go -- Steve, please?

Steve Chan: Thanks, Jeff. This is Steve from staff. And actually, just to follow on from Jamie's suggestion that he clearly does not endorse, and just suggesting that as an option, I would note that there is a section in the initial report out for public comment now on application limits, both from the context of the limits on the overall round as well as applications from any individual applicant. And at least preliminarily, the conclusion there was to not limit. I know this is a little bit of a different flavor, but I just wanted to note for context that, at least preliminarily, there is a general agreement within the group that there should not be limits on both the overall round and for the number from any individual applicant. Thanks.

Jeff Neuman: Yes. Thanks, Steve. I think you draw the right tie, although, as you kind of acknowledge, this is a little bit different. So, at the end of the day, if there's an applicant that finds -- that apply for 100 strings and it finds out that 30 of them are in contention, and we set a limit of 15 -- I'm just, again, making this up out of my head -- then it may put a -- you're not saying that they couldn't apply for it. What you're saying is that they can have all of those strings that were uncontested, but they can only participate in a limited number of auctions. Again, not endorsing that idea, but I do think that we -- it is a little bit different flavor, but it's right to point out and make the reference back to the application.

Some more discussion on the chat about high fees option, I think which a lot of it repeats some of the discussion that's already in the initial report

and some other comments here. And then, there's a reference to excluding work track five. I'll leave that as it is right now. Okay. Can we then go to 1.3, because I do want to get on to some other items on this call? 1.3, as a reminder, is the -- starts on page nine. Am I on the right page here? Yes, nine -- or 10, sorry, 10 -- the role of application comments. I don't think there were too many changes here. There's a change in E, which is an explanation. This I think (ph) came about from Jamie. This deals with the community priority evaluation comments, and there's an explanation of the longer period of time and a question about that explanation or the reasoning that's in here. So, Jamie, please do take a look at that change of language, make sure that covers what your comments were. But, that was the only changes that we have in that section.

And finally, sections 1.4 on change requests. I don't think there were too many changes. We get back to section E again, which are the -- what we're seeking feedback on. And there's an added section in part A, so it's E, first bullet point, sub-bullet A, which says the implementation guidance asks that ICANN provide better clarity on what types of changes will or will not be allowed, and also what changes may require reevaluation, are there suggestions on how to provide more precise guidance, would the guidance replace or complement the criteria from -- that was referenced in section B above. So, that I think, until you get to page 17 in the deliberation section, says one working group member had concerns about some of the details for allowing joint ventures. The working group member asked what factors would lead to reevaluation, which I think we kind of put as a question in the -- well, we just talked about a question in section E, some rewording of the next paragraph to make it a little bit more clear. And I am having a scrolling issue here. That was it on 1.4. So, any questions on the materials we just went over?

Okay. So, again, we'll go over all five of these sections on the next call. We have two more calls to really get this part down to final. I know that we are currently researching what element needs to be included in a supplemental initial report; in other words, do we need to include all of the -- I won't call them -- well, boilerplate, I guess, so that was in the initial report. I don't think we necessarily do, but we are double-checking to see what needs to be in a supplemental initial report. The thinking is that this supplemental report will go out for comment starting on the 12th for the required 40 day or so public comment period. It is relatively limited in number of sections, so we don't think that it should need too much time -- additional time to comment on, but we'll start the comment period at that time, the week before the ICANN meeting, may add a couple days because it is -- because we do have the ICANN meeting in between. So, we will take that into consideration.

Okay. Moving on to the SAC090 matrix, I do want to explain, again, I kind of set this at the outset. My poor use of words in calling it a "last call" was really intended to be a last call on the matrix itself as opposed to the content within the matrix. In other words, the thoughts -- if you look at that matrix, which I think we'll pull up on Adobe, hopefully, that matrix, the

last two columns are really the important ones for us, which talk about how our approach to addressing those issues. So, it's a last call on our approach as opposed to a last call on the content, which I think -- Jim and Anne, I think that's what you guys were getting at.

You may have -- because of my choice of words, you may have read into that that that was a last call on the content, where it as not intended to that. Obviously, there are some elements here that depend on SSAC follow-up. There are some elements in here that will be further enhanced by the comments that we get back to the initial report. So, we just want to make sure that we are going in the right direction with our approach.

So, with that said, Anne, I see your hand, so please?

Anne Aikman-Scalese: Yes, thank you, Jeff. Thanks so much for clarifying it. This is Anne Aikman Scalese for the transcript. I think in light of what you said, we just need to make sure that we reflect the further work that we need to do in these interim comments.

I mean for example, on recommendation four, we talk about the unfinished work of the SSAC, and we talk about recommendation to be made to the Council, but we don't refer to our own unfinished work at all, or the need to process public comment on the topics. And I think that that just needs a lens throughout here in terms of the remaining work, because we're talking about everybody else's unfinished work but our own.

Jeff Neuman: Yes. Thanks, Anne. And on the last call, I did add in the commentary, although we didn't put it in the words (ph), that when something says "completed" or it's addressed, it doesn't mean -- it means exactly what you said. It means that we obviously (inaudible) the comments that we get from the initial report, or from supplemental report, whatever is relevant. So, we will add something into this document so that it looks more like a standalone document, where when we said -- when we say things like the work, it's completed or there's nothing identified at this time, that really means that it's just business as usual with respect to our work. There's nothing we need to change. It was really intended to mean there's nothing we need to change about the way that we're approaching this issue, which indirectly means that, yes, we're obviously going to continue working on the issue through the public comments and through additional work within the working group. We will make that more clear, but that would be (inaudible).

Anne Aikman-Scalese: Yes. Just the simple suggestion, and I think that if I'd had something other than a PDF, I could have put this in. But, like, on recommendation four, we say the PDP WG intends to provide its recommendations as GNSO Council. I mean, if we just said before that, after receiving public comment and issuing a final report, the PDP WG intends to provide -- in other words, just some kind of reference to the public comment, that we're paying attention to it versus projecting a result. Thank you.

Jeff Neuman: Yes. Thanks, Anne. We'll figure out how to put that concept in there, but I think we're on the same page. It was all intended to -- this was not intended to circumvent the public comment, and all of this work, there's nothing identified or complete. It was meant to mean, like, this chart was really aimed at what do we need to do differently than what we're already doing to get to a final report. So, we'll make that more clear, going forward.

Okay. Any other questions on SAC090? Anne, your hand's still up, but I think it's just left over. Okay. Great. So, Christopher, please? No. I guess, Christopher, you're not in the queue?

Christopher Wilkinson: No, that's a mistake. Is -- my screen here is not responding correctly.

Jeff Neuman: Okay. All right. So, okay. So, I will ignore that hand, Christopher. If you do want to break in, just let me know. I know you're -- I notice the difficulty. I've had that happen when my computer gets stuck sometimes. You think you've put the hand down, it doesn't go down, you push it again, and it's just because your computer was -- or my computer was slow to react.

Okay, quick discussion on ICANN 63 just to, again, review what we talked about the last time. Our sessions are all filled, scheduled for the first day on the 20th, which is a Saturday. The work track five sessions are in the morning. Our sessions are in the afternoon. So, I do understand, and we understand that they conflict currently with the EPDP sessions, which is unfortunate but unavoidable, and so obviously, some people may have to make a decision as to which sessions to attend.

But, other than the PDP -- EPDP stuff, it's relatively conflict-free. Steve's posting the times up now. The full working group session is -- you'll see the time that Steve's put there. It's actually divided into three different sessions. But, one of the sessions will be devoted to reviewing the supplemental initial report. The -- sorry, Jim just put a comment that I just started to laugh to. It says that the EPDP is going to be done by then, so we don't have to worry about it. I don't think that that's the case, although they're meeting I think this week, so maybe they will make a ton of progress.

So, the sessions we have in mind are, as I said, the first session to look at the supplemental initial report. The -- another session is to go over the rules of engagement and to start discussions on -- for the sub-groups that we are creating. So, recognizing and taking Jim's suggestion from last time, we will be coming out shortly with a document that provides a high-level summary of how these groups will work and to -- committed to providing more details on that by the ICANN meeting. So, we will have that in place. I think that was a great comment.

And then, on the third topic, which we're hoping to do R2 (ph), is to really discuss not just what work this working group will need to do to get to completion the final report, but also to discuss whether -- and with ICANN staff what else needs to be done from a community standpoint to begin the thinking on implementation of the next round. And so, we will narrow that down. I know that's pretty vague, but we're hoping to get ICANN staff participation, hoping to get GNSO Council leadership involved in those discussions, as well, things, questions like can we start an implementation review team while the Board is considering the final report. There have been a number of ideas of -- that have come forward as to how we can get certain things moving on parallel tracks, if possible.

So, we're -- was hoping to get some, as I said, ICANN staff involved and hoping to have a good community discussion on what things can be done now, what absolutely positively needs to wait, and things like that. I don't think it's too early to start those conversations. They are early-level conversations, but I think that they'll get the community kind of thinking about it so it doesn't just necessarily have a final report. And then, all of a sudden, it's only when it's accepted by the Board that people will start thinking about, oh, great, now we need to implement it, and that could take a fairly long period. It's gotten (ph) purely sequential.

So, Jim's got a comment in there, which I do want to save for AOB. But, is there any other questions on the -- GG's got a question. Any update on the anticipated time commitment for participation in the sub-groups? That is -- GG, great question. I promise to have a high-level overview within the next week or so of the rules of engagement. I think it will be similar to the work tracks, how they operated with -- well, with weekly calls, or biweekly, still engaged in some discussion amongst the leadership team and trying to work backwards from when we want to -- or when we hope to have a final report done. SO, we're still in the analysis phase on that.

Okay. There's some good chat here, but I want to get back to -- for any other business. Jim raised a question on the public comment period that ends in -- I think, according to his calculation, less than 27 hours. I know this is a deadline-driven community, but is anyone concerned that, as of now, there are only a handful of comments submitted to the comment period, like less than five. So, Jim, I'm not concerned at this point because I know a lot of groups that are working on (inaudible) like most groups, they'll get their comments in at the very end.

If it turns out, after those 27 hours, that we still only have a few comments, then yes, I will be -- we're (ph) concerned that I will certainly follow up personally with each of the groups. We have had one informal request for a heads-up that someone may request an extension. At this point, we are reluctant to give any additional extensions absent extenuating circumstances. But, obviously, we are a community group. We do depend on participation from the community and feedback. So, I'm still thinking positive for the next 27 hours, that we're going to get a ton of comments at the very end. But, certainly if we -- if that does not come to fruition, Cheryl and I will be contacting a number of groups that

we anticipated would be submitting comments and see where they are in that process.

And really, that deadline is in place so that we can have enough time for ICANN staff to rake out the comments according to our sub-groups to do some analysis of similar types of comments, but more kind of tabulation of where the comments fit in. And in order to do that and have some time for us to review it as a working group prior to the ICANN meeting, this needs to be the deadline. So, I think if some comments come in after the time, there's a danger of those comments not being in the initial matrix and things that we review before the ICANN meeting, but not the end of the world.

Just look at the chat here. I suspect some may trickle, Cheryl says, through the end of the week. I'm sure that will happen. Jim, Please?

Jim Prendergast: Yes, thanks, Jeff. As somebody who's a potential volunteer for the triage subgroups, I'm not opposed to a few comments coming in, I mean, make the job a little easier. But, more seriously, when you -- I noticed you had mentioned earlier, we'll get a description of sort of the roles and responsibilities and the time commitment, et cetera, for those who are interested in the comment review subgroups. I know you've talked about it on the mailing list here, but is there some sort of formal request that you and Cheryl would be doing to all of the SOs and ACs and all the other acronyms that describe all the groups, that they're formally asking them for liaisons, or was that -- is what we've seen what's going to go out there?

Jeff Neuman: Yes, thanks, Jim. So, our hope was that the working group members would go to those groups and bring our requests. If people think that we should do a more formal request, we certainly could do that. I know that there are some constituencies and stakeholder groups that are already discussing this. But, if anybody thinks that we should do a much more formal communication, we could certainly do that. But again, I was kind of hoping that the working group members from the (inaudible) groups could inform those groups' leadership teams and hopefully get word out.

So, if you all want that, or if groups feel like they should have it, or we find out that we're not hearing from certain groups, we can do a more formal communication. Right. As Cheryl says in the chat, the desire we thought was not trying to be very formalistic in this because we were doing kind of a lower case liaison and not formal representative. So, if anyone's having difficulty or has not yet approached their leadership or thinks that someone needs to do that, let me know. I know the registries, the registrars, the IPC, PC (ph) and others are working on it, and the ALAC is working on it. So -- Jim, please?

Jim Prendergast: Yes. Thanks, Jeff. Jim Prendergast. I'm thinking of the SSAC, because we've got a lot of outstanding questions and a lot of uncertainties already. So, I don't -- if somebody has been participating in this work track who's from the SSAC, I'm apologizing for not knowing that, but I don't think I've

seen that. So, I don't even know if they're aware that we're looking for those types of liaison roles even if it's an informal one. So, that type of communication I think would be important. I'm sure RSAC is another, and there's probably others that I'm missing. Thanks.

Jeff Neuman: Okay. That's a good point. This is Jeff again. So, for now, what Cheryl and I can do is we'll send an informal note to SSAC to probably the GAC and RSAC and not make it (ph) -- the thing we want to avoid is (inaudible) not much more formal than it is. So, we will do our best to describe the roles in an accurate manner and one which does not raise concern within those groups that we are asking for formal representation. So, Rubens does say John Levine (ph) has been on some calls, and Jim Galvin has been in some calls. But, perhaps we should -- Cheryl and I will take that as an action item to send them something very informally. And if you are part (ph) of those groups, please -- and they ask about that communication or it gets passed on to the group, if you can let them know that this is very informal and what the role is that we discussed on these calls so that hopefully we don't get some upset letters from people saying that we can't give you formal representation.

So, I know we've gone two minutes over. We have not yet (inaudible) a chance to do -- to look at the last subject, which is the CCT review team final report, which is okay. We'll push that item to the next meeting and hopefully have a document for you to look at prior to that meeting anyway.

So, with that, we will talk to you all next week. Please do send e-mails on sections 1.1 through 1.5 of the supplemental initial report. We will be releasing this report by no later than October 12th, so two more meetings to discuss them. Thank you very much, everyone, and sorry for running a couple minutes over.

Unidentified Participant: Thanks, everyone. Talk to you later (ph).

Julie Bisland: Thanks, Jeff. Thank you, everyone. You can disconnect all lines. today's meeting is adjourned. Have a good day.