Consumer Metrics Project Discussion
TRANSCRIPTION
Tuesday 30 August 2011 at 2000 UTC

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http://audio.icann.org/gnso/gnso-cci-20110830-en.mp3

On page :
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Participants on the Call:

Rosemary Sinclair – NCSG
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Debbie Hughes - NCSG
Steve delBianco – CBUC
John Berard – CBUC
Olivier Crepin Leblond – ALAC
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Apologies
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Participants on the Call:

Coordinator: I would like to inform all participants that today's conference call is

                 being recorded. If you have any objections you may disconnect at this

                 time.

Woman:　　　　　Thank you very much, Operator. Good morning, good afternoon, good evening to everyone. This is the Consumer Metrics Call on the 30 of August. And on the line we have Alex Gakuru, Rosemary Sinclair, Olivier Crepin-LeBlond, Wendy Seltzer, and Steve DelBianco. Cheryl Langdon-Orr is on Adobe Connect and we are trying to connect up to her again. I think there are probably - apologies from Carlos Aguirre.

　　　　　　　　And for staff we have Brian Peck, Margie Milam, and Maguy Segur. May I please remind you to say your names for transcription purposes and - before you speak. And that's over to you, thank you very much Rosemary.

Rosemary Sinclair:　Thanks, Glen. And good morning, good evening, good afternoon everybody. Thanks for joining our call. I'm looking at the proposed agenda for the meeting and note that we've got suggested item, Dakar Meeting Planning before we get into our discussion for today, which we were going to - or we are going to focus on consumer trust although having seen some exchanges between Wendy and Tim, and Steve.

　　　　　　　　I thought it might be useful to just go back to competition and choice just for a little while so we can capture those views in our proceedings on the call.

　　　　　　　　Now the Dakar Meeting Planning, I guess, is a suggestion that we start thinking about what we want to do for administrative purposes. In other words, getting a room organized and sometime in the schedule, which I know is always very pressured. I'm wondering is there some background that perhaps Margie could provide us on that? And then we can work out what we want to do.

Margie Milam: Thank you, Rosemary. It's Margie. Yes, I put that as a suggest topic because as the meeting gets closer we'll have to - exactly, put in a meeting request. If the group intends to meet, get an agenda set, and, you know, all that.

And so I wanted to - since we haven't spoken in a few weeks at least to at least poll you guys to see whether there was a desire to have a meeting and to cover on this topic or if not then that's fine too. But it's probably a good time to talk about it.

Rosemary Sinclair: Yes, okay. That's fine. I guess - Rosemary here, the first thing is just to understand who will be at Dakar. I won't be for example but I'm quite happy to be part of an audio conference. Could other people just give us an indication of who will be at - physically present at the meeting? Steve will be. And we're just waiting on Olivier and Alex. Olivier, good. And Alex, okay. So - and Wendy.

So that sounds like we've got a core of our group who are going to be at the meeting. And Olivier's saying that Cheryl will be, that's great. So I think it probably would be worth us getting together face to face for those who are going to be there and me on the phone for a couple of hours to progress our discussions. So what do other people feel about that idea?

Steve DelBianco: This is Steve, Rosemary. I definitely think we should meet in Dakar absolutely.

Rosemary Sinclair: Great, and Olivier's giving us a thumbs up, which I guess is good. So I think that Margie is leaving you with a request from us to work on

the scheduling probably with Glen I suppose to find us a time. Would a couple of hours be enough do people think? Or do we need longer than that?

Margie Milam: Or shorter in terms of fitting in with other obligations.

Rosemary Sinclair: Yes.

Steve DelBianco: This is Steve, I would recommend it 60 to 90 minutes very early in the week, potentially in the weekend if we're there. And then later in the week after we've had a chance to meet with our respective constituencies and council so we can get some things finalized on Saturday or Sunday and then meet again potentially Thursday, an hour each.

Rosemary Sinclair: Okay, that sounds like a good idea. So any other views on that proposal that we get together for, say, 90 minutes as early as we can and then meet with our respective groups and then come back together some time towards the end of the week. Olivier?

Wendy Seltzer: I think it would be a mistake - this is Wendy. I think it would be a mistake to make a consensus call based on those who are in Dakar or able to have an input there.

Rosemary Sinclair: Yes, that's a fair comment, Wendy. I'm not sure that we'll be at that point myself. I think we'll be having another discussion but I don't know that we'll be near consensus. What do others think? Olivier, you next...

Olivier Crepin-LeBlond: Yes, it was very - (unintelligible) here for the record. Yes, it's a good idea to meet, meeting earlier in the week is a good idea as well.

Of course I think we should try and set a time as early as possible because everyone is about to put together their schedules for Dakar Just one advanced notice, on Sunday it's going to be very hard for anyone from at large because we've got our working day all Sunday.

So that's something to keep in mind. But I'm all for the thing - you might wish to do is to just do Doodle Polls and find out what are the most suitable days for everyone, bearing in mind it probably will be impossible to find something that will be suitable for absolutely everyone but there you go. Thanks.

Rosemary Sinclair: Okay, well, how about if we ask Margie to do that, to set up a Doodle Poll and see what the preferred availability is for people and then we'll just do our best to meet all their requirements. So earlier in the week for 90 minutes and then the second meeting, could that be organized informally when we're at Dakar or do we want to try and find an hour or half an hour in the schedule?

Possibly we could just leave that second meeting to be organized at the first get together?

Steve DelBianco: Yes, I think so.

Rosemary Sinclair: Yes, okay, good. All right, Margie, are you okay to carry that item forward now?

Margie Milam: Yes, thank you very much for the input, that's quite helpful.

Rosemary Sinclair: Okay, okay. So now we get back to the substantive discussion and under any other business I'll talk about the motion to go to GNSO

Council. So we'll just leave ten minutes on the call. And I think we're scheduled for a 90 minutes call, is that right Margie or Glen?

Margie Milam: I believe so. I was planning on 90 minutes.

Rosemary Sinclair: Yes, okay, thank you. So we'll make sure to leave some time just to talk about the motion, maybe 15 minutes. So I wonder before we get into consumer trust with the people on the call who were engaging in the discussion about competition and choice would like to just update the whole group in case people have not seen the email interchange? So - and Wendy, are you leaving the call now, sorry?

Wendy Seltzer: No, not now.

Rosemary Sinclair: Not now, okay.

Wendy Seltzer: Probably before the 90 minutes are up.

Rosemary Sinclair: Okay, fine, thanks. I wonder, Wendy, would you mind just letting everybody know your reaction to the proposals that Steve put forward and then we can go back to you, Steve. Is that okay?

Steve DelBianco: Sure.

Wendy Seltzer: Yes, so - sure. And I'm trying to look at the spreadsheet on the screen which has unfortunately shrunk (unintelligible) screen.

Margie Milam: This is Margie. You can actually manage it yourself and enhance it and do a full screen if you want to look at it.

((Crosstalk))

Rosemary Sinclair: Segment on the screen. And I can change it, font size, but I can't make it full screen. But anyhow.

Margie Milam: Okay, yes, and maybe your setting but for the others you should be able to flip it to full screen and I did include the information that Steve sent around earlier.

Wendy Seltzer: So briefly my response to the definitions suggested - that Steve suggested were that they seemed to make competition and choice into the same thing where I think we've got a reasonable listing of items among which people might care to choose but I think we can do a lot better with economic measures for - if they're a competitive market place.

                 Are there barriers to entry? What does the pricing look like? What is the structure of the industry? And those are questions that economists ask about all sorts of information, industries as well other industries. And rather than reinventing what competition means I think we can use those definitions to our advantage.

Rosemary Sinclair: Right, thanks, Wendy. Margie, you've got your hand up?

Margie Milam: Yes, I just wanted to clarify, Section 1.4 and 3.3 and 4.3 on this spreadsheet, those are up in Adobe Connect that has the new consensus definitions that Steve sent around.

Rosemary Sinclair: Which version, Margie?

Margie Milam: It's on the screen right now.

Rosemary Sinclair: Screen right now, okay, fine. But you have to scroll ourselves
                 though down to 1.3.

Margie Milam: Yes.

Rosemary Sinclair: Right, okay. Sorry about that interruption. Steve, do you want to just
                 give us your views on Wendy's point?

Steve DelBianco: Sure, the definitions I put down were an attempt to create some
                 distance, some space between choice and competition because on
                 previous calls I feel as if not only the BC's initial definitions but on
                 previous calls we would continually find ourselves talking about choice
                 in terms of competition and competition in terms of choice.

                 And this was the perspective to say that the choice metric is one that's
                 evidence to registrars and users, which we've agreed were the two
                 dimensions of consumers that we care about, registrars and users.
                 And that for them, choice is about being able to find TLDs in which to
                 do a registration.

                 If you're an end user being able to find domain names that live in
                 certain TLDs that would be in your own scripting language and to have
                 a lot of choices like one that specializes in bicycles would be a .bike. If
                 I care about online banking I'd love to have something that would serve
                 us like a .bank or .financial institution that would say to me that there's
                 - a guarantee that that's a legitimate bank.

So that was what I was getting at by consumer choice because the consumer doesn't want - they want the choices but they don't necessarily care who the suppliers are that are operating it, that is of an indirect concern. So competition is an opportunity for us to do quantitative measures of what I indicated was the earlier quantity, the number of players in it which implies that there aren't significant barriers to entry because if we have a vast quantity and diversity of suppliers - and by suppliers we mean registrars and registry operators.

And to Tim's point, I think you could also count registry backend operators to the extent that that's important for diversity. But again, it's the distinction between choice and competition. And if we can agree on that we will have made good progress. But the consumer facing choices is where we want say on choice but for competition, as you say, it's something that a statistician or an economist would do to measure whether we've gotten diversity, do we have new entrants.

And I understand it's important to see if we can come up with reasonable prices. In fact, I had that in my first definition but I thought there was a good deal of pushback at the ability of coming up - to know what reasonable prices were. It may be possible to compare relative prices from before and after the new gTLDs. And I'll leave it at that.

Rosemary Sinclair: Okay, so I'm not sure that we're a million miles away here because just a comment from me, and it's Rosemary for the record, it's - the competition definition that Wendy is putting up, I think, is a good. It's the usually kind of ways of measuring competition that I'm also familiar with.

And, you know, there's kind of a known landscape about competition, what it is and how do you measure it. And the only other part of the conversation that I recall is that difficulty people were saying, you know, how would we know when we're close to marginal cost but I guess we can leave that for the minute.

And then on the alternative - on the other side of the coin if you like, consumer choice is a way of looking at this from the demand side. So we've got a supply side definition and metric in competition and consumer choice gives us a chance to look at this from the other side of the coin, from the registrants and the, I guess, consumers.

And we just have to come back to our definition of consumer here. But it seems me that the - these two definitions are working together. So what do other people think about that?

Okay, so should we - I note Wendy's typing so she might want to chime in on this. But in the meantime we - want to see reference to the economic measures in the definition itself. Wendy, is that for competition?

Wendy Seltzer: Yes.

Rosemary Sinclair: Yes, okay.

Woman: I don't agree with that.

Rosemary Sinclair: Okay, so if we go back to - now, let's have a look. We've got 1.3, that's Wendy's version. And 1.4 was Steve's version. Okay, well, I don't see that we're a million miles away in combining those two, 1.3

and 1.4. And I'm - it would be good if Steve could just come in on this point of the discussion. But it seems to me when we're talking about quantity and diversity we're not a million miles away from numbers of suppliers, market concentration, ease of entry and so on.

Steve DelBianco: Agreed, yes. I mean concentration's just the flipside of quantity and diversity.

Rosemary Sinclair: I think that's right. It's a kind of more technical term, isn't it. Yes.

Woman: Perhaps we should be making our definitions consumer friendly as well.

Steve DelBianco: Wendy, this is Steve. I actually thought that supplier diversity was a term that you gave us four weeks ago, that's where I picked that up.

Wendy Seltzer: I don't believe so.

Steve DelBianco: Okay.

Wendy Seltzer: Thanks, what I'm trying to put in here is some concepts of the market's sustainability of these new entrants. I could easily imagine a momentarily diverse base of suppliers that, you know, somebody with 90% and two dozen more with half a percent each. And that's not a competitive marketplace although it might look by some measures to be a diverse marketplace.

Steve DelBianco: It certainly might be a measure of new restrictions and looking at where the new registrations are happening as opposed to the installed

base of registration because it's very tough to move the needle from COM given that it has such a huge base.

But if a significant percentage of the new registrations in the one year after the launch of the new TLDs because this is a review that will be done one year after the first new gTLD is launched, we will be able to measure the new registrations to see if there's been significant diversity of where they're going. I should hope that would be more important than the aggregate diversity because of the huge installed base of COM's authority there.

Woman: Wendy, I would argue that they're both important whether we just - that they are both good things to measure and will both - will say different things about how much competition exists in the market place at the end of one year.

Rosemary Sinclair: Rosemary here, and the point that Wendy was just making about, you know, metrics indicating that there's competition, but when you're actually looking at it from the consumer experience side, for example, if you have someone who's got 90% of the market and dozens of people that have got a tiny, little percentage of the market, then the consumers may not choose those smaller people for a whole range of reasons; sustainability and the like being part of it. So I think combining these views will give us a much more effective set of measures.

So sorry, Steve, you've got your hand up.

Steve DelBianco: I do, thank you. One of the things we agreed upon in terms of definition is that we would do definitions and then we would add specific things that could be measured.

Rosemary Sinclair: Yes.

Steve DelBianco: My recollection is the definitions were supposed to be very consumer friendly (unintelligible) understand. Then we would start to add specifics and we would measure. We don't necessarily have to fit all of the things we're going to measure and jam them into the definition. But...

Rosemary Sinclair: That's a fair point, although I suppose in my mind when I'm seeing - visioning our report as they say, I would see, you know, us saying in our definition of competition is blah, blah, blah and it's measured by - so yes, these things would be very - you know, they'd appear in the same place if you like on the same page. And I've got a couple, you would see this in the chats Steve, people saying your audio's gone a bit wonky?

Steve DelBianco: Yes, got it. I dropped my headset. I'm back on the regular phone, thank you.

Rosemary Sinclair: That explains it. All right, so are people happy if we leave that difference and I think we've got a difference between competition and consumer choice. And we go to consumer trust? Is everyone happy if we do that? Yes. For now, we've got under three, 3.1 was the original definition that the BC proposed. Three-point-two is the alternative that Wendy gave us.

And now we've got a third, which is attempting to capture consensus. So perhaps if we just all refresh ourselves on those and then I might ask you, Steve, to just take us through the new one that you're

proposing and how you think that captures the elements of both views previously held?

Steve DelBianco: Thank you, I would say that on a couple of the previous calls, I think, Wendy you were not on those calls and so some of this doesn't bear enough carry over of your views and that's entirely the case, but on some of those calls we did discuss whether consumer trust had to have in it measures of stability and security, the DNS.

And a number of us on previous calls felt like those are not part of the consumer trust. They are part of the main mission of ICANN, to maintain the security and stability of the main-name system and identifiers.

So we didn't feel it was necessary to load those back in to a definition of consumer trust. Instead, we focused consumer trust the way the affirmation had on the new gTLD program in a sense that the new gTLD program is really about lots of new TLDs with registry operators who make promises about the mission and purpose and how they're going to screen registrants in some cases and other cases not. How they're going to differentiate themselves from other TLDs that are already there.

And all of those promises, all those value propositions or what it's supposed to create the choice in competition, the TLDs are promising to the world. So consumer trust in this sense looks directly to whether the TLD operators are living up to their promises at the same time they're complying with whatever ICANN policies, both new consensus policies and previous.

And then the - all of the documents that they've signed like the code of conduct for their registry operator, the documents they signed with respect to living up to the UDRP and trademarks and right protection, the documents they signed in the actual registry contract. So that's a big compliance question to know whether the operators are being held to the compliance with their proposal, with ICANN's policies, and then finally with relevant national laws.

I don't have any concern whether it's all laws or just relevant national laws. And I believe in conclusion that this is what a consumer, both a registrant or an end-user, would say a year after they've launched, yes, I feel like I have a greater degree of consumer trust with these new domains than I did for the previous.

Or I have greater trust in the domain name system as a result of all these new gTLDs because a lot of them promise and deliver a greater amount of integrity. They screen the registrants. I don't have to worry about my online banking at a .bank soft domain so I feel like we have improved consumer trust through the program, thank you.

Rosemary Sinclair: Thanks, Steve. Wendy, you're in the queue.

Wendy Seltzer: Thank you, so Wendy. The noncommercial constituency disagrees with that view of where trust is supposed to be rooted and what trust means.

So the value of the new TLD program is in giving you - domain users multiple stable homes for their domain registrations and that's not based in whether they offer interesting or useful propositions about how those TLDs are to be used but that they stably resolve the domain

and to the end user when he or she request the domain it will resolve to the place where the registrant asked for it to resolve.

And that's the trust that is basic to the functioning of the Internet as a unified system of identifiers and connections. And the other things are things that to some consumers will be valuable, to others will interfere with the functioning of the DNS, but would deem to me to overload the definition to add in various - well, if we talk about compliance with national law do we mean compliance with every national law.

Do we want the registrar and registries operating in countries that have decided to turn off the Internet suddenly to stop resolving? And does that increase the trust in the Internet or in the Internet's management system? I think we - while we have been given to deal with trust I think we do most effective job if we keep that to a narrow and minimal definition.

Rosemary Sinclair: Alex, you're next in the queue.

Alex Gravure: Thank you, Alex speaking for the record. Yes, I support Wendy's view on this because all the applicants in this new program are (unintelligible) for security and stability you have to X, Y, Z and therefore on the (unintelligible) for the very reason of security and stability.

So therefore, (unintelligible) in terms of the competition, in terms of what we are doing here, that's not really negate or that doesn't overload what we are doing because, again, it's inline with echoing what they are doing in terms of acquiring the (unintelligible) new program. So yes, indeed, I do agree with Wendy on this. Thank you.

Rosemary Sinclair: Thank you, Alex. Wendy, are you still in the queue?

Wendy Seltzer: I do not mean to be.

Rosemary Sinclair: Okay, fine. Olivier?

Olivier Crepin-LeBlond: Thank you, Rosemary. Olivier here for the transcript. I'm really sorry if I'm rocking the cradle a little bit but I wonder why we're going through this again when on the document under 3.2 looking at the notes we see that the third note down says suggestion to include concept of this stability and consistency of domain name resolution to the BC definition.

In other words, adding - appending the 3.2 definition to the 3.1 definition, which is the one by the business constituency and which I believe is the one which we are - I mean I would say is probably the closest from what I think is correct. I see that Steve has also written one. I don't know. I don't agree with Wendy's one. I think it's too narrow a definition all together.

Rosemary Sinclair: Okay, thanks Olivier. Perhaps if I can put my own comments, this is Rosemary for the record. I wonder whether we've actually got two streams of thoughts here. One is about DNS stability and security and that is a very important technical underpinning if you like for consumer trust in the whole system.

But the second level, and I think this is what the broader definition is trying to capture, is all the work about contracts and compliance around the - not so much commercial but the undertakings that ICANN

expects from registrars and registries. And I think what we're trying to do in the broader definition is capture that body of work, those undertakings into this definition of confidence.

So there's a need to be confident about the technical underpinnings but there's a need to be confident in an operational sense, not a technical sense but an operational sense. So if we can find a way of doing that then perhaps we can (unintelligible) without overstepping our role. And it seems to be in that new definition that Steve proposed the notion of complying with ICANN policies is capturing for me this second element of consumer trust in the whole system in an operational way.

Now Wendy, you're in the queue again.

Wendy Seltzer: Yes, thanks, just to make a brief comment.

Rosemary Sinclair: Yes.

Wendy Seltzer: So to make clear, first, what I'm saying is perhaps better phrased is consistency of domain resolution if you want a way to differentiate it from the security and stability of other groups, folks. I'm talking about a registrant's ability to assure that when you ask for the name that he or she has registered you get that name consistently each time.

And if we're talking as we have been in the chat about merging these definitions I would be amenable to considering compliance with ICANN policies. I don't think that ICANN is in a position to make policies about compliance with national law. And indeed, plenty of its policies force

registrars to have great difficulty complying with their own national laws for example around data protection.

Rosemary Sinclair: So...

Steve DelBianco: This is Steve if I can get in the queue.

Rosemary Sinclair: Yes, just before you do Steve, just for me to understand Wendy, if I'm looking at definition 3.3 you'd be happy if we pull out complying with ICANN policies but not...

Cheryl Langdon-Orr: If we include in the...

Rosemary Sinclair: Yes.

Cheryl Langdon-Orr: ...definition of complying with ICANN policies.

Rosemary Sinclair: Not go on to all relevant national laws.

Cheryl Langdon-Orr: Yes.

Rosemary Sinclair: Yes, okay. Thank you. Steve?

Cheryl Langdon-Orr: That was Cheryl saying yes, not Wendy. We're asking Wendy the question, just had a thought (unintelligible). It is something I can actually agree to.

Rosemary Sinclair: Sorry, Cheryl. So Wendy, did I get that right? Just kind of stop after ICANN policies and forget national laws?

Wendy Seltzer: Yes, thank you.

Rosemary Sinclair: Thank you. Steve?

Steve DelBianco: Thank you, whether you call it consistency of resolutions or stability of resolutions are both core functionality of the domain name system and ironically resolutions doesn't have a whole lot to do with ICANN. Resolutions are handled largely by ISPs who aren't even contract parties to ICANN.

So I would never object to somebody wanting to say that trust is a function of having things resolved accurately, it's why we work so hard at things like DNS (unintelligible). So I'm happy to put something in there but it can't be the only thing we measure in my opinion in consumer trust because to stop there is to leave out what I believe is the chief concern about the new gTLD program from the standpoint of government.

All of us who spent the last two years watching governments acquire a voice at ICANN, not only through the GAC but through individual governments, and watching how governments have been active in your other forum like the United Nations and IGF and ITU to put under a microscope this great experiment that ICANN is doing.

And they're going to look a year out to see whether new TLDs that have come out are complying with laws and that is a requirement. The applicants have to certify that they will comply with applicable national laws. I don't exactly know what that means and whether it's very single law of every single country but I am trying to insert in here something I have heard time and time again from the GAC.

And this was especially evident to any of you that watched or were there in person in Brussels when the GAC and the Board met to figure out the scorecard. And one thing we want to do here is to show that the affirmation is an agreement signed not only by ICANN but by one government, the US government.

And what it tried to do in that affirmation was to speak for the concerns the governments have about ICANN's accountability to that particular aspect of the community. I know governments aren't even the most important part of the community but they are part of the community. And I'm definitely doing the insertion of national laws to please what I believe is a constituency that has an existential impact on ICANN.

And by that I mean that a year into these new TLDs if things haven't gone well from the standpoint of governments that is an existential threat to us. They can threaten the existence of ICANN more so than any other body, thank you.

Rosemary Sinclair: Yes, okay. Cheryl is next in the queue.

Cheryl Langdon-Orr: I just wanted to ensure that we referenced (Michael)'s proposal under 3.3 in the notes section that he certainly feels that the removal from the sentence prior to the words relevant national laws...

Steve DelBianco: And I think that's fine by the way. I think, it's Steve, I think that's fine. Go ahead.

Rosemary Sinclair: Okay, thanks Cheryl. It seems to me that Steve is raising a very fundamental point. If we stop with complying with ICANN's policies

then within those policies we've got recognition of the points that GAC were making about the importance with complying with national law. So one approach is to leave it with ICANN policies understanding that within those policies is room for GAC issues.

The second approach is as we've got this in 3.3 is to call out quite specifically, perhaps dropping all. So we have ICANN policies and relevant national laws, that to me is a very significant philosophical call if you like that we're contemplating or considering. So are there other views about that? And then the second point that I think has come out of the chat is really a very important point in the discussion between Olivier and Wendy about the difference between registration and resolution.

Perhaps we pick it up by a - and I'm speaking in kind of in a thought bubble way here that registration is picked up in the competition part of our definitions. Resolution is picked up in the consumer trust part of our definitions.

Steve DelBianco: This is Steve, that wasn't what I intended but happy to take my turn.

Rosemary Sinclair: Yes, just a - I thought it was a very interesting and useful discussion that was going on. Steve, you're in the queue so you want to respond to my thoughts?

Steve DelBianco: Thanks Rosemary. The point I'm making here is that registrations and resolutions are the two things ICANN does and they're both important to consumer trust because a registrant, when they make a decision to register in a .bank or a .bike top-level domain they're making that decision based partly on what that TLD - how they said

they would operate, how they said they would protect the integrity of that bank, .bank, top-level domain, that that would pay dividends down the road because consumers.

And end-users would end up trusting that registration more than a bank that ends in .com or something else. So over that year registrants are anxious to see the registry held to the promises that it made. So this is - that is in fact about the integrity of the registrations, not just the integrity of the resolutions which I understand is important to both registrants and end users. Thank you.

Rosemary Sinclair: Okay, thanks for that, Steve. Anyone else wanting to comment about this issue of ICANN policies and I think we're now at relevant national laws? Most people seem to be wanting to leave relevant national laws in the definition but Wendy's still concerned to remove it. And I guess I'm in a bit of a dilemma about this because what we're doing here is we're working up definitions and then measures and then goals within an ICANN context.

So my worry is that we'll be loading ourselves up with a very specific task if we're mentioning relevant national laws. I agree with Steve that ICANN absolutely has the problem of governments watching over our shoulder still being quite concerned about this private sector, bottom-up, self-regulatory model.

And from my own experience, they're concerned about it because in other sectors they've found it doesn't really work, that's from their point of view. The problem they've got, of course, is trying to do anything else other than support ICANN when you get right down to the bottom line. You know, if they don't like this then seriously what are they going

to do because the ITU and other UN type models have their own difficulties.

So I suspect the fact that we're even, as an ICANN group, looking at a body of work called competition, consumer trust, and consumer choice is quite a significant development from the point of view of governments and that perhaps it's therefore not necessary to put relevant national laws in our definition.

We might want to put it, if you like, in our explanatory memorandum or our background comments or, you know, to reference it - to call it out in some way but not to saddle ourselves with having to find metrics about whether we're, you know - metrics about whether people are complying with relevant national laws.

We could - could we perhaps, and sorry to be rambling on, but perhaps if we write in such a way then governments could call out to ICANN if people were not complying with their national laws? And then if that was an ICANN policy matter then presumably ICANN has a way of ensuring compliance. Anyway, enough from me. Would anybody else like to share their thought bubbles or comment on my thought bubble? Steve.

Steve DelBianco: Yes, I think you're really on to something there. This is Steve DelBianco. The affirmation calls for these review teams, and if you recall the CEO, the Chairman of ICANN and the Chairman of the GAC who make the designations to be on the review teams.

So this is an opportunity to pull the GAC in, this is a year after the new TLDs were launched, pull the GAC in and say, look, we want

governments to provide data on whether they have any remaining concerns about these TLDS, new and otherwise, to the extent that any TLD is not complying with any of your national laws in a relevant way that is affecting your citizens.

We want to know about. I'm not saying we would necessarily be able to solve everything and in many cases we wouldn't. All our tasks would be is to say to the government to tell us. This is what a review is, you're part of the community, don't make us go out and try to figure out whether the TLDs are complying. We would ask the governments to report on whether they felt there were any compliance problems with respect to relevant national laws and the new TLDs. Thank you.

Rosemary Sinclair: Okay, Steve. So if we did it that way then as part of our - one of our metrics could be the number of complaints that ICANN has received from governments saying that registrars and the like aren't complying with their national laws. So we could have it as a metric rather than in the definition?

Steve DelBianco: Well, no, I was arguing to keep it in the definition and explaining how it is we would get the answer because I didn't want us to saddle ourselves or the new team. It's not going to be us doing it. But whoever's on that team would say, what were those people thinking when they defined this term.

We can't go out and ascertain the level of compliance. So we would want to clarify that the compliance would be something that would be measured, and this is when we get to the measures, whether there were documentable complaints by national authorities with respect to the compliance of TLDs.

Rosemary Sinclair: Okay, understand. I've still got a problem with putting it in our definition but I'll mull it over. How about that? I'll mull it over. Are there any other views on where this discussion is up to? Perhaps if we can just make sure, Margie, to pick out any of the chat comments that would help us with this definition.

So perhaps if we can just try to clarify what we're prepared to agree to on consumer trust. We need to do some combination, and please call this out if I've got it wrong, we're doing some combination of 3.2 and 3.3 with dropping all from relevant national laws at the very least.

And then perhaps some of us still being uncomfortable with having that reference in the definition but understanding that it needs to be near the definition in some part of the report. But we can come back to that. So have I got that right that we're combining 3.2 and 3.3? Does anyone want to have a go at doing that? Steve, are you still in the queue?

Steve DelBianco: I'm sorry.

Rosemary Sinclair: That's okay.

Steve DelBianco: No, but ironically I've been researching the guidebook and finding all of those references to national law, both with respect to the application and the GAC early warnings. So I would reference all of you to the May Guidebook, look up the word national law, and you'll see why I feel like that belongs in here somewhere. Thank you.

Rosemary Sinclair: Yes, no, I understand the fact of the matter, Steve. It's - my only issue is whether we call it out specifically in the definition or we say to people - or we leave things with ICANN policies reminding people that, for example, in our guidebook we many references to relevant national laws and we're expecting people to meet their obligations under those national laws. It's just a kind of technical drafting thing for me, that's all.

Okay, now how will we go about trying to combine Wendy's point? Perhaps, would it be all right to ask both Wendy and Steve to just have one more go at their definition now that we've had this discussion.

Steve DelBianco: This is Steve. This is to combine something on stability and consistency of resolutions.

Rosemary Sinclair: Yes.

Steve DelBianco: So adding the words - you know, not only the degree of confidence among registrant users that resolutions occur reliably and that TLD registry operator's fulfilling its proposed purpose. So we could put it right in there, confidence among registrants and users that resolutions perform reliably and - so adding those four words, resolutions perform reliably and.

Rosemary Sinclair: Okay.

Steve DelBianco: Wendy, what are your thoughts on that?

Rosemary Sinclair: We still got Wendy?

Wendy Seltzer: I am still here for a couple minutes. And given the comments that we've heard about not being so much resolution throughout the chain but resolution at the registrar and registry you might say consistently but I won't try to wordsmith it right here. In fact, I think - sentence that comment in an email.

Rosemary Sinclair: Okay, thanks for that. So that means we've actually had at least a first pass through all the definitions. The next task that we've got and bearing in mind they're work in progress, not agreed to at this stage, but my suggestion that - would be we go back to each of the definitions, perhaps in our next meeting although we can start this today if we want to, and start looking at the metrics for each of those definitions, the measures that we would want to adopt.

Steve DelBianco: I think that's a great move.

Rosemary Sinclair: Yes, okay. So could we just take a little time on the motion and I'm not sure - can we get this into the Adobe Connect (unintelligible) because we...

Margie Milam: Yes, this is Margie. I can get that in.

Rosemary Sinclair: Thanks, Margie. Because I just thought it might be worth revisiting this before the next council meeting, which I think, Glen, is on the 20th. And we have to have all our motions in by the 14th. Have I got that right?

Margie Milam: I believe it's the 22nd.

Rosemary Sinclair: The 22nd, okay, yes, that makes more sense because the date day is the 4th. Okay, now I'll need to go to full screen on this and I'm going to after this meeting just remind all GNSO Councilors that they have this motion and try to seek any comments before the meeting. I think the main comment that I'm going to get it still the concern - is it possible to scroll down, Margie, to the...

Margie Milam: I'm sorry. I'm sorry.

Rosemary Sinclair: Yes, got it. Yes, I can do it myself now. I think the concern is going to be around the joint working group matter. And - but we have covered that by the last resolved clause. So in the event that the first resolved clause causes too many concerns, the joint working group, the last resolved clause provides an option for this work to continue as a GNSO Council only activity but of course, with all the participants in the work that are part of it now.

I just wanted to remind everybody that I'm going to take that motion forward and check whether there are any comments or issues that you want me to resect in my discussion with the other councilors. Now I've lost the - I have to go back out of full screen and get the queue. There we go, Cheryl.

Cheryl Langdon-Orr: Thanks, Rosemary. I certainly appreciate the resolve list that's there and I would not suggest that I would be second guessing what the debate in the GNSO Council might be but I did think that, at least from my reading of the resolution, it is not specifically requesting either a joint or several approach between the SOs and the ACs.

Rather it is asking the SOs and the ACs to respond to this issue of definitions, measures, metrics, etc. So I'm just wanting to make sure that with the first paragraph whoever is debating this point on the workgroup's behalf has all the necessary reactions to that sort of challenge.

In other words, the (unintelligible) would argue that the resolution actually asks for a joint working group. I think it would be more effective and efficient if it was a joint working group, and I think we would benefit in the use of the human bandwidth and manpower available to the component parts of ICANN. But I'm not sure that the resolution specifically is requiring the weight of the GNSO to agree to it.

I also wonder very much about the GNSO directing that a joint working group be formed that affects other than the GNSO. As far as I know it has little if any power over the rest of us to do anything. So perhaps we need to watch our terms here before some of us dig in our heels and become difficult to deal with.

And the last one, the resolve further in the event that no other SO approves the terms of this charter is almost a subset of that. Presumptuous when no other SO or AC has formally been involved in the writing of this charter. It's another, I think, sort of heading towards thin ice that the word needs to suggest this charter is agreed to by the GNSO could be offered to the other - SOs and ACs as a template for joint activity.

Just a little concerned, first of all, about how strong the arguments will be in the council about whether or not anything needs to be done

jointly or not. I think my views on why it would efficient to be joint are well known and I don't think they're isolated to just my views.

But I think we might need to just be careful of the reaction that, for example, another SO or NG or AC might have with wording that looks very much like the GNSO telling us or what we should or shouldn't be doing and how we do it.

Rosemary Sinclair: Yes, well, Rosemary for the record. I've got until the 14th to amend the motion and then send it around. So let me take that feedback onboard Cheryl and just see if I can write in such a way to reduce those concerns.

Cheryl Langdon-Orr: Yes, GAC I'm sure will say that GAC will do what GAC does the way GAC does it for example. And I'm unable to predict how ILAC would react to something that looked like a GNSO deciding what we would or wouldn't be involved in.

Rosemary Sinclair: Yes, okay, good. Thanks for that. Any other comments about the motion.

Steve DelBianco: This is Steve.

Rosemary Sinclair: Steve, yes. I see.

Steve DelBianco: Thank you, I really appreciated Cheryl's expression of concerns so as it doesn't seem as if the GNSO is imposing its will in any way or powers. And I understand you're going to potentially soften the tone a little bit in response to what Cheryl said, did I get that right?

Rosemary Sinclair: Yes, that's what I'm thinking, yes.

Steve DelBianco: Got it, got it. And then at the same time I would like to beef up the rationale, it may not be in the motion, it may just be in the discussion, but the rationale for doing jointly...

Rosemary Sinclair: I've lost you Steve.

Steve DelBianco: Sorry, am I still here? Are you hearing me?

Rosemary Sinclair: Yes, you jumped out again. Yes, rationale.

Steve DelBianco: Yes, if we do not have a joint working group what ends up happening is anybody who wants would lob comments into the Board. And the Board would then sort of arbitrate or adjudicate or sort of make its decision about what it wants the definitions to be because remember they've asked for advice and presumably it would open up a public comment period of some time or invite the advice by letter to these four ACSOs.

So if they get advice that hasn't been discussed across ACs and SOs there's no opportunity for them to understand where there were compromises that were already made or thinking that was improved as a result of conversations like the ones we've been having.

So I just feel like the rationale, whether it's formally in the motion as a whereas or whether it's informally in the discussion, we've got to explain that having conversations among the ACs and SOs can only improve our understanding of each other's views and has a good opportunity of producing a consensus advice at least in some areas

that will be better than advice that came individually. And it will make it easier for the Board to make its determination. Thank you.

Rosemary Sinclair: Thanks for that and I'll certainly - I'll think about that in terms of the motion but certainly will make the point in the discussion. And it's much easier to make the point, Steve, now that we've had a few of these incredible conversations. Margie, you're in the queue?

Margie Milam: Yes, it's Margie. I just wanted to point out that according to the resolution anyway you're intending to do a report by (De Carr), which means we would have to meet the publication deadline for Dakarwhich is normally two weeks before the meeting itself. I don't know the exact date, maybe Glen does, but my question to you all is do you think we can meet that timing or should that part of the resolution be updated?

Cheryl Langdon-Orr: I think it should definitely be updated.

Rosemary Sinclair: Yes, I think that's a bit ambitious, Margie, now that we draw a breath and have a look at it.

Margie Milam: I thought so too.

Rosemary Sinclair: Yes, so I think we'd be having a - what do we call it if we just kind of pull our thoughts together.

Cheryl Langdon-Orr: A milestone update.

Rosemary Sinclair: Or a progress.

Steve DelBianco: Yes, interim report or update.

Rosemary Sinclair:	Yes, I'd even avoid interim report because...

Steve DelBianco:	Yes, don't use the word report, good point.

Rosemary Sinclair:	Yes, avoid report - report is a bad word to use at this point. So we'll have a milestone update, okay, that's good.

Margie Milam:	Perfect, thank you.

Rosemary Sinclair:	Okay, now we've got about 20 minutes. Do we want to start on measures now or do we want to leave that for the next call? And I guess it depends if anyone's got a contribution to make on measures.

Well, my suggestion will be that we leave that for the next call and we follow the process that we followed this time. We start with competition and then we look at choice and then we look at consumer trust. So our next call the focus would be on the measures that we would suggest are used to measure competition. Is everybody okay with that?

Steve DelBianco:	Yes.

Cheryl Langdon-Orr:	Yes.

Rosemary Sinclair:	Okay, well, in that case, and just next meeting, will we make it two weeks from today recalling that I caused this meeting to be one week later than it was supposed to be? Or will we get back to our usual schedule, pardon me, and meet next week?

Steve DelBianco:	I'm okay - this is Steve, I'm good with next week.

Cheryl Langdon-Orr: Yes, I would like to get back to our normal schedule. Timing is kind of tight.

Rosemary Sinclair: Okay, all right, well, we'll go for the normal schedule which would be this time next week. Great, thank you very much everybody, it's been a great discussion.

Steve DelBianco: Thanks, Rosemary, everyone. Bye now.

Rosemary Sinclair: Bye.

Cheryl Langdon-Orr: Bye.

Olivier Crepin-LeBlond: Thank you very much everyone, bye.

                    END