

**SO/AC New gTLD Applicant Support Working Group (JAS)
TRANSCRIPT
Friday 05 August 2011 at 1300 UTC**

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<http://audio.icann.org/gnso/gnso-jas-20110805-en.mp3>

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Participants on the Call:

GNSO

Rafik Dammak - NCSG - Council liaison - WG chair

Avri Doria - NCSG

Alex Gakuru - NCSG

Andrew Mack - CBUC

At-Large:

Carlton Samuels - LACRALO - At Large - WG co-chair

Baudoin Schombe - At-Large

Cheryl Langdon-Or - ccNSO Liaison - APRALO

Alan Greenberg - GNSO Liaison – NARALO

Eric Brunner-Williams – Individual

Elaine Pruis - Mindandmachines

Sebastien Bachollet – ICANN Board

ICANN staff

Karla Valente

Wendy Profit

Seth Greene

Gisella Gruber-White

Apologies:

Olivier Crépin-Leblond - ALAC chair

Tijani Ben Jemaa - AFRALO - At Large

Evan Leibovitch - (NARALO) - At Large

Dev Anand Teelucksingh - LACRALO

Carlos Aguirre - Nominating Committee Appointee to GNSO Council

Michele Neylon - RrSG
Tony Harris -ISPCP

Coordinator: I'd like to remind everyone's today's conference is being recorded, if you have any objections you may disconnect at this time. You may begin.

Gisella Gruber-White: Thank you, (Jeff). Good morning, good afternoon, good evening to everyone. On today's JAS call on Friday the 5th of August we have Carlton Samuels, Cheryl Langdon-Orr, Alex Gakuru, Baudouin Schombe, Eric Bruner-Williams, Avri Doria, Elaine Pruis, Alan Greenberg. From staff we have Karla Valente, Wendy Profit and myself - Seth Green - sorry, and myself, Gisella Gruber.

We have apologies today noted from Olivier Crépin-Leblond and Carlos Aguirre. If I could please - and Tijani Ben Jemaa. If I could please remind everyone to state their names when speaking for transcript purposes. Also Sebastian Bachollet is about to join us. Thank you, over to you, Carlton.

Carlton Samuels: Thank you, Gisella. Good day, good morning, good afternoon everyone. Welcome to this JAS call for today, Friday the 5th of August. Glad to have you all on. If you are a part of the Adobe Connect room you will see the agenda we're proposing on the bottom left hand corner. It's a fairly straightforward agenda.

You would have seen on the list discussions about what we attend to do. The objective of these last few calls is to lock down the content for the final report. And so we are going to focus (unintelligible) like on the report sections that are listed there to ensure that everyone is happy, okay or more so than not with the content and the context especially in which the content is placed.

The reminder is up there for the SOIs. If you still need to send in your SOI please do so the staff and copy to us, the co-chairs, and ensure that is done in too short a time.

The first item is the reactions to public comments from the second milestone report. You would have seen the summary that was put together by staff. Thank you so much, Karla, for leading that. It helped significantly.

The summary kind of bring together all the comments onto the areas that there were made. And the question for me bringing it here is to ask you if there's anything material in those comments that you think would be useful or addition to the final report?

Eric has his hand up. Eric, you have the floor, sir.

Eric Bruner-Williams: Thank you, Carlton. I have a question actually before this topic which is about the agenda. Was the agenda sent to the mailing list prior to being...

Carlton Samuels: Yes, Eric, yes.

Gisella Gruber-White: Yes.

Eric Bruner-Williams: When was it sent?

Carlton Samuels: Three days ago.

Eric Bruner-Williams: Thank you very much.

Carlton Samuels: Matter of fact it was telegraphed more than a week ago this is what we were going to do.

So we do not believe that there's anything material - I say material from the public comments that would change anything in our final report. Well that's good to know. The comments are there, the final report is there. You will have one other bite of the apple probably towards the end of the month to do that.

So I would encourage members to have a look at the summary of the final report and make your suggestions for changing content.

The other issue is the - you would have seen the joint ALAC/GAC commentary. That would not have been in the report that was posted - the summary that was posted to the list by staff. For those of you who haven't seen it I would urge you to have a look and also make the same judgment as to whether or not you think there's anything that would have you change anything in our final report.

The second thing we want to deal with is the issue of the terminology for the members who have not seen it yet. We have decided to lock the terms. It's important to lock terms so that we all have a common understanding.

Avri, just to let you know it's not that I disagree so much with your choice of terms for the fund, the ICANN fund, I was just following on one of your comments that you could have multiple funds that is managed by ICANN.

And I just thought the word generic ICANN fund would be common and so if we had a name especially for the report that explicitly recognized or explicitly identified the fund we are talking about I thought the gTLD Support Fund would be best at this stage.

Avri, you have a response? Thanks.

Avri Doria: Yes. I think that there's a possible problem. And so I'm really raising more than anything else a warning flag. And this comes - even though I am participating at the moment from my perspective as an At Large I'm thinking back to when I was participating as a GNSO member.

And the GNSO one of the issues that they had was that we as one small particular group would decide or would be making recommendations on all

monies. And therefore - and I don't think I was actually ever suggesting that there would be multiple funds; I have no notion.

But within the thing that I had represented was that we form - we recommend to the board that they get on the stick and put together a, you know, a cross community working group which of course will give GNSO stomach pains at that point anyway, but a cross community group to figure out how to deal with the whole notion of funds including the first specific application being this one.

Now I don't really care if you decide to call it something else; what I'm requesting is that if you call it something else we put in a footnote that basically acknowledges that we are recommending only the piece that we care about but we're recommending that the board do the right thing and get this thing done in such a way that the community has buy-in, etcetera, etcetera.

Because I, A, don't want us to be recommending something that excludes use of auction funds. But if we include use of auction funds and say that it is directed only to gTLD what are we calling them - qualified applications - then - I'm just raising a flag that that could cause us one of those waste of time nasty loops thing, but you guys are presuming too much, etcetera, etcetera, etcetera.

So that's really my warning. Call it the blue team for all I care but just make an indication that if we are putting the word gTLD qualified applicants in it that we understand that there are other concerns with the use of these monies and that it's up to the board to figure out the right thing to do with the health of the wider community, you know, whatever nice language we put into say, yes, yes, yes, we know it's not just us. Thanks.

Carlton Samuels: Thank you, Avri. So noted. I accept that we can - remember this is just a recommendation for this report. As you say we put it in, we qualify it with the

statement that you have outlined for us. It would be good for you to take a stab at putting the statement together.

Avri Doria: Well I think my email might already be the stab.

Carlton Samuels: I was about to tell you that I would suggest that we just lift the content from the email and we can, you know, do a little word smith with that and get it done.

Alan, you have the floor, sir.

Alan Greenberg: Thank you. In reaction to the comment Eric made before about the .brand I just took a look at the IPC comment on it. And I in fact think that has merit. What I think they're saying is that an applicant shouldn't be excluded purely because the TLD they're looking at happens to be a trademark.

A .brand - the way we've been using .brand generically over the last year or so has not been that but the words in our report imply that simply being a trademark is enough to exclude it. So I think we may need a minor change in the words.

Avri Doria: I would, you know, again, sorry. Never mind.

Alan Greenberg: I'm finished at this point. What they're saying is just because it happens to be a trademark should not exclude it. Being used in the sense that we have talked about as a .brand that is being solely used as an advertising or a mechanism for, you know, furthering their commercial purposes should not, you know, is something we don't want.

On the other hand it could be well - it could be a not for profit trademark and I think we may need some refinement of the words. I'm glad - I'd like to hear what Avri has to say though.

Eric Bruner-Williams: I'd like to speak to this as well but I'm locked out of Adobe.

Carlton Samuels: Eric, can you wait until Cheryl comes in here and then you're on next and then I'll have Avri respond.

Eric Bruner-Williams: I can't see Adobe. Could somebody turn on Adobe for me please?

Elaine Pruis: Me too, please.

Carlton Samuels: Oh hi, Elaine.

((Crosstalk))

Andrew Mack: Me too. It's Andrew.

Cheryl Langdon-Orr: There's a bunch...

((Crosstalk))

Andrew Mack: Me too, please.

Cheryl Langdon-Orr: Yes, there's a bunch of people who'd like to get in so...

Carlton Samuels: Oh wonderful.

((Crosstalk))

Carlton Samuels: Because I only have six participants in Adobe.

Cheryl Langdon-Orr: Yes.

Carlton Samuels: But while we wait, Cheryl, would you like to speak, please? Go ahead.

Cheryl Langdon-Orr: I'd be delighted to speak. Thank you, Carlton. Cheryl Langdon-Orr for the transcript record. I think the point that Alan has just honed in on and I suspect that Eric was raising for the particular purpose is something that does need a little bit of expansion if we can find a few more minutes in today's agenda to at least air it and then take it to the list; that would be a very good thing, indeed.

I do see there's a vast difference between something that could be a trademark, I mean, just in my country there's 42 classes of them, and would not be in any one's definition a big brand. And I think we maybe need to tease that out a little bit because it may be one of those be careful what we wish for because we may just get it issues.

So if we can't deal with it - and I don't think we can because of the number of people on the call - we certainly - in this call we certainly need to flag it as an issue that needs to be clearly worked through and delineated in the wider community.

I mean, if it's dot insert huge multinational corporation that's a no-brainer. Well I'd hope it's a no-brainer for this workgroup. If we insert I'm well known in my region or sub region that's probably pretty close to a no-brainer as well.

If it's a I actually do have a registered trademark in whatever class - and as I said even in Australia there's 42 classes so it could be a multiple use issue - I think we're getting close to needing to look at our definitions a bit more carefully.

And that's not withholding any reference to purely not for profits or noncommercial entities so I fearfully say maybe we actually need some legal definition or advice on that. Thank you.

Carlton Samuels: Thank you, Cheryl. Just to note Karla is saying that she sees no outstanding requests for Adobe - nobody knocking on the Adobe door. But folks are

saying that they're trying to get in and are being locked out. So I'm not sure what's happening.

Karla Valente: Yes, I'm not sure what's happening either.

Alan Greenberg: Typically reloading the page will fix that.

Carlton Samuels: Yes, thank you, Alan.

((Crosstalk))

Carlton Samuels: So I'm suggesting - if you heard Alan's suggestion reload the page and try again let's see what happens.

Andrew Mack: I just reloaded and it didn't - Carlton, I just reloaded and nothing happened.

Carlton Samuels: Oh, try another time would you?

Alan Greenberg: Reloading and then requesting connection again will work. But I don't know what's happening this time.

((Crosstalk))

Carlton Samuels: I am not sure anyway. But let's see if we can get it sorted out. In the mean time...

Cheryl Langdon-Orr: Yes.

Carlton Samuels: ...Eric, you have the floor.

Eric Bruner-Williams: Thank you. I've killed my connection so I'll try again with the Adobe later. It's odd that it happened as soon as I asked about the agenda. But nevertheless there - a year ago someone from the Intellectual Property

Constituency gave me a heads up that someone would be applying for a .hopi so I looked into it and of the course the Hopi tribal government is not the trademark holder.

So the point is that there may be trademarks which are identical to the - identifications of communities but which are held by parties other than those communities.

So the suggestion that all applications which contain a brand or which are (colorably) close to a brand should be allowed if the brand is somehow identified with something other than a huge multinational. It seems to me to be fraught with danger.

It's basically if a endorsement for support that is for ICANN money to be paid to intellectual property holders who are not intending to serve any entity other than themselves with very precious support monies and non-support money, or, you know, support in kind for the purposes of brand promotion which isn't necessarily the promotion of a community which has the same name but does not hold the brand itself as a matter of law. Thank you very much.

Carlton Samuels: Can I get a clarification? Eric, you are saying you are not opposed to having those names that what might appear to be a brand but actually represent a community disqualified automatically. You're saying that you should look a little bit further under the covers; is that what you're saying?

Eric Bruner-Williams: If - let us take the Hopi example.

Carlton Samuels: Okay.

Eric Bruner-Williams: If the Hopi Indian tribal government is the applicant then they meet the community definition, they meet the social group definition, they meet the linguistic and cultural definition, they meet the ethnic definition and they meet the economically less developed...

((Crosstalk))

Eric Bruner-Williams: ...economy definition. If however it's some third party which holds a trademark in some arbitrary jurisdiction for the string H-O-P-I they don't necessarily meet any of those qualifications.

So if we look at the applicant as being made by a community or meeting any of the other criteria except the trademark criteria and it passes for any of those reasons then the applicant meets the criteria that we have discussed for more than a year.

If the only claim that the applicant has is that their string happens to be the same as a group which could meet the criteria if that community were the applicant, but they are not, then it should not automatically pass the criteria by this gaming of the criteria, by using a string which happens to be the same string as a possible applicant could make but has not made. Thank you.

Carlton Samuels: Thank you, Eric. That clears it up. Thank you for that. I'm sure that others will have things to say about that. I see Avri, Alan and Alex. Avri, you have the floor. And we have to run quickly with this one.

Avri Doria: Okay. Just to say that I am extremely strongly against making any special statement that advantage trademark holders in any way. I'm sure even in the 42 classes that Australia has - and that's a wonderful number for number of classes - none of them are for a top level TLD.

And so I think that it is irrelevant. I think that we should not be making allowances for trademarks. I think we should stick to the language of saying no dot for brand applications are qualified for any help.

I think people going around owning names and then trying to get TLDs in the names that they allegedly own even though they're for classes that have

nothing to do with it would only be relevant in a .brand and it's something we should stay completely away from and make no positive allowances for.

Thank you.

Carlton Samuels: Thank you, Avri. So can I just ask this one clarifying question? So you are saying you would support Eric's construct as explained and understood?

Avri Doria: I think Eric's construct is too generous.

Carlton Samuels: Okay. Thank you, Avri. Alan, you have the next step.

Cheryl Langdon-Orr: And that's something you don't hear often.

Carlton Samuels: Thank you, thank you. Alan, you have the floor, sir.

Alan Greenberg: Thank you. I agree completely, without worrying about the subtleties as Avri is in her very last comment, I agree completely with Eric and Avri. What I was saying is an applicant should not be disadvantaged because it happens to be a trademark.

And based on the reading of the IPC comments - I haven't gone back to our original report - we may have said that unintentionally. I was not saying anyone be advantaged because it's a trademark; I said we should not absolutely and categorically reject someone because it happens to be a trademark.

All the other conditions still apply. I reject the concept of anything that resembles a .brand being supported. All I'm saying is don't reject someone purely because it happens to be a trademark as Eric points out perhaps not even owned by them. That was the only comment I was making not that anyone be advantaged because it happens to be a trademark. Thank you.

Carlton Samuels: Thank you, Alan. Just a clarification the key response from Eric's clarification was he listed all of the other criteria that would have been satisfied and that's where I think the clarification was extremely helpful. And I accept that.

The next person, Alex, you have the floor, sir.

Alex Gakuru: Thank you. I'm supporting Eric and what comments have been (inserted) before - sorry, Alex, for the transcript. And I just want to give an example. We have (Masi) in my region. And if you check who is (Masi.com) or whatever you'll find they are not owned by (Masi)s, they're owned by people in America. The (Masis) now want to have their own TLD and apply the community.

And then (unintelligible) also have a domain and is claimed as a trademark then they would actually be disadvantaging it, it would be blocking (Masis) from ever owning a TLD and people who own it are actually not even applicants. So I think it's important we do not disadvantage people on the claims of somebody who rushed and took somebody else's name and registered it as a trademark.

And there will be lots of conflict (unintelligible) of course, some of them unintentional, others just deliberate. So I think that's all I wanted to say. Thank you.

Carlton Samuels: Thank you, Alex. Point taken. Now something came up. My line has gone - oh it comes back. Eric, you have the floor, sir, your hand is up.

Eric Bruner-Williams: Thank you, that was in part just to demonstrate that it was now possible. But, yes, Alex the problem of hijacking by trademark holders or (versed) hijacking is a real problem and we should not encourage it by any means. Thank you.

Carlton Samuels: Thank you, Eric. So all that talk that we've had in the last little while is about response from the summary of comments from the second milestone report. I hope you notice that we have had a significant clarification that we should add to the report from this. And I think it was very useful.

Can we move to the next item on the agenda? We are focusing now on the text for the final report. And you need to pay attention to the text that speaks to applicant eligibility requirements. Recall also that we have changed the terminology and so you're going to see some changes in terminology here.

However can I have comments from the floor about this content? Do we have consensus? Oh my screen is gone again. Jesus, Mary and Joseph. Now it's back. Something is happening folks, I'm not sure.

Karla Valente: Yes, I'm sorry for that...

Carlton Samuels: Am I still on?

Karla Valente: Hi, yes you're on Carlton. This is Karla. I'm sorry for that. I don't see anything happening on my screen.

Carlton Samuels: Yes, I'm not sure what's going on, Karla. It just goes - it starts saying that there's nothing shared for a minute and then it comes back. Elaine said it's (unintelligible). Okay.

So I ask the question again of the group. Is everyone comfortable with the eligibility requirements section of the report? Eric, you have your hand up, sir. No?

Eric Bruner-Williams: Actually my hand up was about the previous section. I wanted to point out that there was substantive comments, it was interesting made - but it was made at Singapore not the written public comments. Thank you.

Carlton Samuels: Okay.

Andrew Mack: Carlton, this is Andrew. Is there nothing we can do for Adobe? It's making it a little hard for us to participate on this side. And I know that I'm not the only one who's struggling with this.

Carlton Samuels: I understand, Andrew. I don't know what's happening; I don't know why you're locked out and everybody else is. We have 10 participants now so some folks have - four other persons have managed to join. I am not sure why you haven't. But you have audio and if you need to say something simply just shout and I will give you an opportunity, sir.

Andrew Mack: Great, I'm just trying not to interrupt the floor.

Carlton Samuels: No, I really wish you would interrupt the floor if - we need to have closure on these items and I really need to get a sense and the staff support people listening very carefully to any comment that might come out of this. We are really trying to get this thing locked.

So no applicant eligibility requirements, there are no great issues with that?

So now there were some clarifications that were offered. There were questions about objective...

Karla Valente: I'm sorry to interrupt, Carlton. I'm not sure if you're looking at Adobe but we had Elaine and Alan with their hands raised.

Carlton Samuels: Oh, Elaine, I'm sorry - just came back, I was away for a minute. Yes, Elaine, you have the floor.

Elaine Pruis: Thank you. This is just for my health since the text is not on Adobe would you mind referencing where it is in the document? I finally found applicant eligibility requirements under 12 so maybe that would help...

Carlton Samuels: Karla, would you just please put the link - it was sent out on the email list but can we just put the link in Adobe please?

((Crosstalk))

Karla Valente: Yes, the link is already in Adobe. It is at the top of the notes.

Carlton Samuels: Oh yes it's on the top.

Elaine Pruis: Right, I've got it but I need to know where in the document - what we're talking about.

Carlton Samuels: We are talking about applicant eligibility requirements.

Alan Greenberg: Okay it's at the top of what?

Andrew Mack: Carlton could you - Karla, could you go ahead and send that through the email? I'm sorry, we're still not getting any Adobe on this side.

Karla Valente: Already doing that.

Alan Greenberg: And for those who are on Adobe...

Andrew Mack: Thank you very much, appreciate it.

Alan Greenberg: For those who are on Adobe...

Carlton Samuels: Yes, it was already sent out in the email but let's send it again please.

Alan Greenberg: ...the link is at the top of what? There's four boxes on my screen.

Carlton Samuels: Note - on note, note, note, in the note box on Adobe, Alan.

Alan Greenberg: That's the fourth bullet in current status?

Carlton Samuels: One, two, three, four - yes.

Alan Greenberg: Thank you. Which for some reason is not clickable.

Carlton Samuels: Oh dear. Can you look to the email and you probably will see if you have access to that.

Alan Greenberg: Okay I know how to cut and paste.

Carlton Samuels: Did you want to make a substantive comment, Alan or is...

Alan Greenberg: Well I originally put my hand up saying - when you phrase these questions, Carlton, you ask does anyone have any objection; that does not necessarily imply anyone has looked at it as indicated by the next couple of comments. So careful how you ask the questions please.

Carlton Samuels: Sure, I know, I am presuming that everybody had looked at it - would have seen it because it was - the link was sent out to the - with the terms of reference to the link. So my apologies.

((Crosstalk))

Alan Greenberg: Some of us sadly do have other lives.

Carlton Samuels: Yes I understand that's very true.

Andrew Mack: Can you point us to exactly which part we're looking at right now? I'm sorry, that's part of the challenge; we've got a lot of volume of stuff and trying to keep us on the same - looking at the exact same text - issue is part of the challenge I think.

Carlton Samuels: We are looking at applicant eligibility requirements, Andrew.

Alan Greenberg: At the top of page pointed to there are three documents pointed to, a draft final report, a draft final report copy and - yes and draft final report copy.

Andrew Mack: Copy.pdf, right?

Carlton Samuels: Yes,

Andrew Mack: Which one are - which one are we referencing?

Alan Greenberg: They're all the same but three different...

Carlton Samuels: They're all the same, they're all the same.

Alan Greenberg: ...formats. Got it, got it.

Carlton Samuels: All the same.

Alan Greenberg: Okay.

Carlton Samuels: Just different formats.

Alan Greenberg: That's not obvious. Okay.

Andrew Mack: Thank you, Alan. I agree.

Carlton Samuels: It really was sent out in the link. We have to assume some things, you know, and I'm sorry if we assumed too much.

Andrew Mack: No, no, Carlton I think the challenge is only that we are looking at a lot of volume of stuff. And if we've read something we want to be able to go back to

the right place in it so we can all be talking about the exact same thing that's all.

Carlton Samuels: Yes, yes, okay.

Alan Greenberg: Okay now what page in the document are we talking about now?

Alex Gakuru: Carlton, can I make a suggestion?

Carlton Samuels: Who's this?

Alex Gakuru: Alex.

Carlton Samuels: Alex, yes, yes, Alex.

Alex Gakuru: It would be nice if what we are going to be discussing is summarized into one document and that's what would be scrolling at the top.

Carlton Samuels: I was just going to ask staff to just cut the portion and put it in the notes section.

Alex Gakuru: So that as we go to the others it can be...

((Crosstalk))

Carlton Samuels: I was just going to do that. Just ask - and I think Seth is taking care of it. Just cut the section and put it in the Adobe.

Alan Greenberg: Tell us what page in the PDF it's on.

Karla Valente: Page 12.

Alan Greenberg: Thank you.

Carlton Samuels: Page 12, yes. Alex, you still have your hand up, sir. Would you - are you...

Alex Gakuru: Oh I'm sorry, I'm sorry, I'll put it down now. I'm though, thank you.

Carlton Samuels: Thank you. Seth you're getting through with cutting and pasting to the notes section? It's blank at the minute.

((Crosstalk))

Seth Green: Yes, thanks Carlton, sorry it just takes one second, please.

Avri Doria: The whole document could have been put - it's a PDF so it could have been put in Adobe.

((Crosstalk))

Carlton Samuels: A link was done to do that but it's not working so well.

Avri Doria: Oh.

Alan Greenberg: That's okay. Once we have the actual PDF in the page we can see it.

Cheryl Langdon-Orr: Adobe is - sorry, Cheryl for the record. Adobe does - this particular Adobe room seems to be gremlin'd though so we might...

Carlton Samuels: Yes.

((Crosstalk))

Carlton Samuels: Yes, yes it is. And so we are trying so hard, Cheryl, thank you for noting that.

Avri Doria: I suppose that's why you sent everybody a copy of the PDF in the agenda, though.

Carlton Samuels: It actually was sent.

Alan Greenberg: Carlton to answer your question subject to the things that are still saying subject to review and things like that I think basically support what's there.

Carlton Samuels: Thank you, Alan, so noted. My problem is I have to go between the PDF and the Adobe Connect and so I don't see when others are - people are on.

Alan Greenberg: Just keep the hands at the very left of the screen visible.

Carlton Samuels: Yes.

Alan Greenberg: The skill one develops after chairing a few meetings or a few groups.

Carlton Samuels: Thank you, Alan. I am trying to fix my screens to do that.

Karla Valente: Carlton, this is Karla.

Alan Greenberg: There's a hint; you cannot run a meeting from a laptop.

Carlton Samuels: And I am on a laptop.

((Crosstalk))

Cheryl Langdon-Orr: I beg to differ.

Alan Greenberg: Well a very large laptop perhaps.

((Crosstalk))

Carlton Samuels: I think Andrew wants to say something. He agrees with Alan's point and he needs to get in line. Andrew, you have a...

Andrew Mack: No, Carlton, that was from a while ago. It was on an old window on your laptop.

Carlton Samuels: Okay.

Cheryl Langdon-Orr: Yes, I think you've got a bit of a lag issue there, Carlton, that does occasionally...

Andrew Mack: Yes, this is back - back when Alan was making earlier comments I was agreeing. But...

Carlton Samuels: Okay, no I was switching between Adobe and my PDF and as well as Skype - he was on Skype.

Alan Greenberg: Karla now has her hand up.

Carlton Samuels: Karla, you have your hand up.

Karla Valente: Yes I do. I just wanted you to know we're not changing the pause because Adobe is reacting very strangely and we don't want to create more issues. But I copied and pasted this applicant eligibility requirements that starts on Page 12 on the notes right now.

((Crosstalk))

Karla Valente: ...that on the wiki. You also have it on the notes for the ones that are not able to access the wiki.

Carlton Samuels: Thank you Karla.

Cheryl Langdon-Orr: Yes, thank you.

Carlton Samuels: Very helpful.

Cheryl Langdon-Orr: I wonder - Cheryl here and it's probably almost a moot point in this part of our process but on a number of other heavy use issues in the Adobe rooms occasionally we just need to start fresh or they get flaky. And I don't know why they do it but they do.

So for some of the workgroups in the wonderful world of ALAC purely ALAC we've started limiting our Adobe rooms to specific (month) sets and things not because of, you know, some anally retentive habit of filing things and having stuff it's just that occasionally rooms get flaky and we've discovered by experience that they tend to get flaky when they've either been used a lot or have had a lot of data go through them.

Maybe this is happening with the JAS workgroup now. But hopefully...

((Crosstalk))

Carlton Samuels: That's true, Cheryl. We've actually experienced that and you're quite right. Our usual response is to just recycle it. Well as usual you have the retention...

Alan Greenberg: Since we're not trying to archive - or carry our chats or anything else...

((Crosstalk))

Alan Greenberg: ...there's no reason not to start a new one next time.

Cheryl Langdon-Orr: Yes, yes, it just doesn't seem to make any difference. Just need to, you know, clean it out, put it aside and start fresh. Heaven only knows why.

Alan Greenberg: And since the title of this one is July it's probably appropriate to change it anyway.

Avri Doria: Called software...

((Crosstalk))

Carlton Samuels: Okay.

Cheryl Langdon-Orr: Okay.

Carlton Samuels: Thank you all for - and apologies for this little techno...

((Crosstalk))

Carlton Samuels: ...here. So you heard Alan's comment and his provisos. Could we assume that this is supported by the majority?

Alan Greenberg: I think it's safe to be...

Cheryl Langdon-Orr: Cheryl here, Carlton.

((Crosstalk))

Carlton Samuels: I'm sorry?

Andrew Mack: Which is the this to which you refer?

Cheryl Langdon-Orr: Yes.

Carlton Samuels: Applicant eligibility requirements. That content.

Andrew Mack: So all of it in its entirety?

Carlton Samuels: Alan read it, looked at it and he said that provided we take into consideration a few small clarifications, recommendations that were made, he substantially agrees with what's here. That we're doing, Andrew is we're trying to lock the content in each area of the report for the final report. And we're trying to estimate whether or not we have what kind of consensus is there. So we are going to...

Andrew Mack: I understand, Carlton, I was just trying to figure out how broad - what was on the table currently that's all.

Alan Greenberg: By the way what I commented on is the three ands, not the two clarification notes afterwards, yes.

Carlton Samuels: That's the thing.

Alan Greenberg: Okay so it's the first half of what is in the notes screen is what I commented on just to be clear.

Carlton Samuels: Alex, you have the floor, sir.

Alex Gakuru: Yes, thanks Carlton. I was suggesting that maybe as the chair you take us through the (beat) and then you - once you have read the (beat) you ask for opinion on that one or maybe the position of the people then we skip - move to the next one. That might be easier for us to be in sync. Thanks, Carlton.

Carlton Samuels: Yes it would but to tell you the honest truth, Alex, I don't want to read it because that's why it's put up there and that's why it is put out on the email list. I really don't want to read through it like a preacher in a church.

Karla Valente: And this is Karla, Carlton. The text that you see is very much the text that was at the second milestone report. There shouldn't be any controversy there.

There was some notes that I put on the PDF, on the Word document, that you will see on the right corner.

But that had to do with language consistency and adding some of those terms to our glossary which are not currently present in the glossary. So there's not really that much to say about my comments there. Other than that, as I said before, it is what it was on the second milestone report.

Carlton Samuels: Thank you, Karla. It's very good to point that out because I did mention at the top that there was some terminology changes that would be affected here. And that refers to your notes. And there was some question about whether or not you balance objective, subjective and it might be at this point that there should be a note in that area.

That said, Eric, you have the floor.

Eric Bruner-Williams: Thank you. Scrolling down about 2/3 of the way through the list there's the reference again to, you know, my hand just got lowered by someone. I really don't think that's really good practice.

But there is a reference to the least developed category list, 199 in the UN DESA list followed by the land locked developing countries, Category 432, and the small island developing states, Category 722.

It says if we never had the discussion over these in the past Singapore is on the small island developing countries list. Switzerland is on the land locked countries list. These are not lists that we should be citing as if they are completely useful without nuance. Thank you.

Carlton Samuels: Thank you, Eric. I take what you mean and just for clarification Eric saying that if you use the UN list and think it is god for everything and every occasion for all people you might in fact do so with risk of disadvantaging some deserving applicants...

Eric Bruner-Williams: Carlton, it's as if the effort that I put into bringing up these issues several weeks ago never took place. There is actually no change in the text which suggests that there was consensus actually that those comments were not useful or shouldn't be reflected in the current text.

Or that our process didn't actually incorporate some of the material that took place within the working group. One or the other but - thank you.

Carlton Samuels: Thank you, Eric. It's not that it doesn't matter; it may be that it was not caught and replied. That's why we have this process so that you can go back again and make sure that it's done. And I thank you for that. We will make note and could you please take a note, Seth, that there would be a comment that would need to clarify the use of the UN qualifications list in the report.

Cheryl, you have your hand up; you're next.

Cheryl Langdon-Orr: Thank you, Carlton. Cheryl Langdon-Orr for the transcript record. I had my hand up; I had my hand down and I've done all sorts of things. I had it up earlier and then most of the points were being picked up by Karla. But in response to Eric I read it slightly differently.

Although I do agree with him I find it annoying that someone with a yellow icon feels it's appropriate to lower my hand. I will lower my hand when I am damned well good and ready to cede the floor and let the chair know that I am ceding the floor. Are we clear?

Carlton Samuels: I am sorry to hear that, Cheryl...

Cheryl Langdon-Orr: Thank you.

Carlton Samuels: I am not doing it so I'm not sure...

((Crosstalk))

Cheryl Langdon-Orr: I don't suggest you are doing it; it will have someone - either Seth, Karla or Gisella who has the power to do that.

Now that said let me get back to my point. My point was I actually read the way that the Milestone 2 report and these words were written slightly differently to how Eric has interpreted them. And I guess that is something that we need to be careful of that if it's open to two types of interpretation it probably should be better clarified in the final report.

You see I read it that the examples, for example, where he brought forward both - well just let me use Singapore because it's in my heartland here in Asia-Pacific.

I very much doubt that Singapore would be suggesting they are an emerging market or nation or a country whose criteria would categorize under the world's poorer economies. They would certainly agree that they are on one or other of those lists.

But I think there is an overriding suggestion in how I read what is written that it is first and most importantly you are making a claim of financial hardship...

Carlton Samuels: Hardship...

Cheryl Langdon-Orr: ...and difficulty in meeting the payment requirements and we would suggest that your country is likely to be found on one of those lists as well. So I hear what's being said I just think it may not be as clear cut; it might be an interpretation issue.

And if I had my hand up I would now be putting my hand down. Thank you.

Carlton Samuels: Thank you, Cheryl. Well said; I agree with the way you see it. It's required clarification if it's there and it's important the clarification don't make it one or the other. It's a list of requirements and you have to jump through a big - a lot bigger hoop to get to the end.

Avri, you have your hand up; you have the floor.

Avri Doria: Okay yes, thanks. First of all I thank people that put my hand down for me because I'm constantly forgetting so - just so I can disagree with the previous two speakers on that one.

Cheryl Langdon-Orr: Well, you can try, Avri.

Avri Doria: I'll continue talking even though I put my own hand down because now other people can get in line. I always saw these things very similar to you in terms of they were just enabling requirements. It wasn't that being in one of these places - because every one of these places has, you know, really rich spots and people that have all the money in the world.

I don't think the, you know, maybe there's a few of these that don't have any rich people. But most of them have people that are exploiting their other people and have oodles and oodles of money in a Swiss bank. So - maybe it's not Swiss anymore.

But anyway so I just saw these as enabling that here was a base condition that needed to be met but it in no way qualified you; you had the rest of the sets of criterias to go through.

And so, yes, Singapore might have a larger group of people that had lots and lots of money but also if you went at all outside of, you know, the rich people places or, you know, were talking to the community of - I don't know how many of you while you were there were reading the newspaper articles and

the people that applied to be serving people in Singapore you realized that outside of the few and the foreigners it was not a developed place.

And so I think that as a base saying without this you don't even start. But it doesn't - it isn't the full classification. I think it's reasonable to add a note sort of covering the stuff Eric said and perhaps, you know, adding in the things that I'm saying if it fits that, you know, while this is a sine qua non you've got to have a bunch of other stuff too. Thanks.

Cheryl Langdon-Orr: Yes.

Carlton Samuels: Thank you - thank you, Avri. So we are - just to summarize and get out of this - we are fairly - consensus about the major pieces in this content save and except the few clarifying comments that might be required? Can we now move to financial needs? And that's just down.

I'm going to ask Karla if she could just put that content in. And it's now in the notes section of Adobe. And if you scroll through your PDF you'll get to it; it begins financial need. I'm asking the same question. Is it the sense of this group that the content that is in this area as the consensus?

Cheryl, you have your hand up; you have the floor.

Cheryl Langdon-Orr: Thank you, Carlton. Cheryl Langdon-Orr for the transcript record.

Certainly, I mean, I'm not going to change my mind suddenly now on text I've previously agreed to.

However I did wonder if it might be worthwhile as we have had the benefit of the call for public comment and the publication of the - might I mention for the record landmark joint advisory committee advice to the ICANN board between two of its - I would dare suggest vested interests in general community advisory committees - of the now final report at least recognizing

that these figures are in keeping if not nearly identical to issues being raised independently of our work group by the GAC and the ALAC?

That's all. Thank you.

Carlton Samuels: Thank you, Cheryl. Noted for the record; it's important. I did mention the - that advice at the top of the hour and asked folks to look at it and see how it might impact the final report so thanks for reminding us. And it is indeed in that spirit that I wanted our participants and our group members to take note.

Avri, you have the floor.

Avri Doria: Okay thank you. I have a problem with the way it's written. And I totally agree with adding content based upon what Cheryl was saying. You start reading it financial need and the first four bullets you get are financial capability.

So I would recommend that the second paragraph, the demonstrate need, etcetera, paragraph and however it gets amplified be the first thing and then there be a second - either section or subsection underneath it that says required financial capability so the first thing we're saying about financial need is you've got to have it and these are the kinds of things you have to produce to show it.

And then we're saying but understanding that you have financial need you still have to have some capability and the following must also be demonstrated. The way it's written now you start reading financial need and it says well, hey, I got \$45,000, yes, I got \$45,000, yes, I got \$45,000 oh okay, I got financial need.

And so - and perhaps, you know, there's something in the phrasing of those four bullets of what you've got, you know, that says you must be capable of contributing at least or, you know, or something to show that etcetera. So that's my point on that. Thanks.

Carlton Samuels: Thank you, Avri. It makes sense to me personally. Elaine, you have your hand up; you have the floor.

Elaine Pruis: So I'm looking at this sentence in the second paragraph, last sentence, as well applicants will be requested to detail any applicable constraints on management, human resources, IT infrastructure...

Eric Bruner-Williams: Not audible.

Carlton Samuels: Come again, Elaine. I don't think some folks are hearing you.

Elaine Pruis: Can you hear me now?

Carlton Samuels: I am hearing you yes.

((Crosstalk))

Cheryl Langdon-Orr: Yes.

Elaine Pruis: Okay so last sentence in the second paragraph, "As well applicants will be requested to detail any applicable constraints on management, human resources, IT infrastructure in the applicant's technical capabilities."

I would suggest that that sentence be rewritten so that the applicant is requesting help in those areas rather than pointing out their constraints. Because when they're entered in the actual applicant guidebook questions they have to - personnel resourcing and, you know, proving that you have all of these capabilities is required in order to pass the application.

So I think if you're pointing out all of your problems and constraints here you're going to have a conflict later.

Carlton Samuels: Okay.

Elaine Pruis: I agree with the content but I think that sentence needs to be reworked.

Carlton Samuels: Thank you - thank you, Elaine, I appreciate it. Might I suggest that you just make a comment on the wiki and - or suggest the exact wording that you think should go there? It would help significantly.

Elaine Pruis: Yes, I'll do that.

Carlton Samuels: Thank you so much. Alan, you have your hand up so you have the floor.

Alan Greenberg: Thank you. I put my hand up to say what was basically said earlier. I'll say it in slightly different words. We phrased all of our qualifications as must be capable of - anyone who's capable of paying 100% of all the costs is also capable of paying 1/4.

So I think somehow we need to imply that you can put that much amount in but you can't put much more in.

Cheryl Langdon-Orr: Yes.

Alan Greenberg: And that's - I'm not quite sure how to phrase that. But...

Carlton Samuels: Okay.

Alan Greenberg: ...you know, I mean, clearly we don't want to say...

((Crosstalk))

Alan Greenberg: We don't want to say if you can put \$45,000 in but, you know, \$48,000 isn't enough and \$46,000 is too much.

Carlton Samuels: Too much, yes.

Alan Greenberg: But somehow we have to get the tone there that I think what we all read into that but that's not what the words say. Thank you.

Carlton Samuels: Thank you, Alan. I see what you say. I hope we can do something with that in that area. If, Seth, you would take note of that it might be important for us to try to get together and do that.

Eric, you have your hand up; you have the floor.

Eric Bruner-Williams: Thank you. The comment that Elaine made actually applies to the prior two sentences as well. Not that they necessarily have to be rewritten in the sense that she mentioned but they all three sentences are within the section with the header financial need.

Yet none of these three sentences actually deal with financial need they deal with other issues. So this sentence of - that follows after the, one, two, three, four bullets...

Carlton Samuels: To demonstrate need applications will be required.

((Crosstalk))

Carlton Samuels: You're starting there?

Eric Bruner-Williams: Yes, to demonstrate need...

Carlton Samuels: Yes.

Eric Bruner-Williams: ...for whatever reason that shouldn't be, I mean, well, A, it shouldn't be under financial need.

Carlton Samuels: It's in the wrong place. I tend to agree with you.

Eric Bruner-Williams: Thank you.

Carlton Samuels: Thank you for that. I tend to agree. I just to let you know we are at the top of the hour. We started a little early so I'm going to go on for another six minutes or so. Are there any other comments in this area? We've had three very good clarifying comments.

I am going to implore the members who noted this if you can please just for the record put the comments up and - on the wiki. And if you would if you can find some content, some wording, some script that reflects what the thinking is it would be also good for you to include it in the comments suitably identified so that this - they are - our writers actually see it. Thank you.

Okay so we've run out of comments in this area. Can we just take the last one for the final five minutes?

Cheryl Langdon-Orr: Sure.

Carlton Samuels: This is the ineligibility criteria. And it's in the notes section just under financial need. If you scroll down in the notes section of the Adobe room you will see it in the notes window. And if you go the PDF you should see it - scroll down you'll see it as well.

Alan Greenberg: It's Alan. I put something in the note field which we...

((Crosstalk))

Carlton Samuels: I know that, Alan; I was just making a private chat to Seth to note this.

Alan Greenberg: Yes, I'm just commenting that we - when that's captured that might be the start of something that might say what we want to say.

Carlton Samuels: Eric asks a pertinent question in the (series), you wanted to know if we should refer to the GAC/ALAC language in this area. Alan, you have your hand up.

Alan Greenberg: Yes, as I read over what I just wrote I come up with a question; if someone says I'm really capable of paying \$90,000 but not more than that are we going to reject them or are we going to give them less?

Carlton Samuels: Good question, Alan.

Alan Greenberg: Well I think it's - comes down to the core of what we're trying to do here. Are we throwing away money because we've decided arbitrarily they will get 3/4 whether they like it or not?

Carlton Samuels: Eric had a quick response. Rafik, you have your hand up, sir.

Alan Greenberg: Yes, Carlton just to finish the point I was making is we have been saying that, you know, we shouldn't be doling out the money in bits and pieces but if someone in fact says they don't need the full support...

Carlton Samuels: Ah.

Alan Greenberg: ...we should be willing to accept that.

Carlton Samuels: I see what you mean, yes, yes it's slightly different isn't it? Does anybody have any comment on Alan's comment just before I go to Rafik?

Eric Bruner-Williams: Well yes I do. And rather than holding up my hand I'll...

Carlton Samuels: Go ahead, Eric.

Eric Bruner-Williams: ...speak. Yes, Alan, the - if the applicant has more than the minimum stated ability to pay that doesn't - the total cost that we're attempting to support the applicant is not merely the fee but the total cost. And so if the applicant has more than \$45,000 that presumably is money that can be spent on other necessary costs to the applicant not merely the application fee which is also a necessary cost. Thank you very much.

Carlton Samuels: Rafik, you have your hand up; you have the floor.

Rafik Dammak: Thank you. Just a question, I think I heard the reference to the joint statement between the ALAC and the GAC. I think it's about a government - if what we - because I'm just trying to read this quickly.

So to narrow that to explore only the national governments but I recall we had a long discussion on that and I'm not sure that we had consensus so I don't think that we can make any decision now at this stage because knowing that some people were against any support to the - to application that's backed by government so just maybe to clarify that and so that's all.

Carlton Samuels: Thank you, Rafik. I don't think it's a matter of - consensus. I think Eric's point was that we should make reference to it. And we have space in the format of the document to say whether or not it has minority support and so on. So there is a way for us to at least recognize it and move from there. It's good, too, that you point out that there is no consensus on this.

Avri, you have the floor.

Avri Doria: Sorry, two things. One is I suggested a type of language that could be used something like required at a minimum to pay blah but are also able to show an inability to pay the entire budget or the entire amount or whatever so that we're saying that this is the minimum they have to be able to pay but we're acknowledging that they might be able to show a budget.

And as Eric was saying all things considered budget that shows that, you know, maybe they can budget up to \$75,000 given the resources they've got and everything else they have to pay but. So I think we could possibly get, you know, the people with - who are doing the editing to sort of put in that kind of language, we might get there.

On Rafik's point about government and localities I tend to agree with Rafik. I was one of the people that was pushing very hard on nothing that has a government of any sort should receive aid.

And I think that we probably won't be able to change that consensus within this group but I do think it's a good idea to say that, you know, we seriously consider, you know, that and perhaps even to do another specific consensus call on that issue so that we can all reconsider our position in the light of the joint statement.

And the joint statement was trying to careful to give some kind of language that maybe was fuzzy enough, you know, constructive ambiguity that would allow us to accept something that meets that need. Thanks.

Cheryl Langdon-Orr: Yes.

Avri Doria: Hand down.

Carlton Samuels: Thank you, Avri. Rafik I see you have the support of Cheryl in your suggestion. Rafik, you have your hand up. This is going to be the last one; it's 12 past and quite frankly I am running late for a seminar. Rafik, you have the floor, sir.

Rafik Dammak: Yes, thank you. So just to also to make that clear that we take that - this joint statement as clarification from the GAC because if we remember that we ask them for more details a long time ago about this case so we can consider that

(unintelligible) from the GAC given just it's a joint statement between GAC and the ALAC. So...

Carlton Samuels: Absolutely Rafik, that's exactly how we were suggesting. Avri went one step further and said okay well let's see if maybe we need to have one more bite of the cherry to see if we can get a definitive answer from the team about consensus otherwise. So that's where it was.

I have to tell you that it's 13 past the hour. I am unfortunately committed to a seminar I'm a panelist on and I'm actually running a little late. So I have to bring this call to an end. I thank all of you for showing up and putting in the good work. See you all next week.

I would implore you if you have substantive comments do make the comments on the wiki; it makes it available for the drafters to see and it allows us to focus on it. If you have specific language that you would wish to be employed in the text please do make it suggested and make it clear that it is suggested language. I appreciate your help on this. Thank you all. See you next week. Good-bye.

Avri Doria: Bye.

Cheryl Langdon-Orr: Thanks, Carlton. Bye.

((Crosstalk))

END