Vertical Integration PDP Working Group
TRANSCRIPTION
Monday 17 May 2010 at 17:00 UTC

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 http://audio.icann.org/gnso/gnso-vi-pdp-20100517.mp3

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Coordinator: Excuse me. I'd like to remind all participants this conference is being

recorded. If you have any objections, you may disconnect at this time. You

may begin.

Mikey O'Connor: Thanks, (Kelly). This is Mikey. Welcome to the vertical integration call for this

week. We have a lot of folks online and a pretty simple agenda. Mostly we're

going to focus on the matrix that we've all been working on but special thanks

to Kathy Kleinman for being the scribe on that.

We have one new proposal - the IPC proposal - and so we'll kick-off with that.

Oh, Eric, could you mute your line, please? Thanks, and we'll have a short

update on sort of the way things are shaping up in Brussels for the face-to-

face meeting slot. Thanks to all who filled out the doodle and we'll give you

an update on that.

Is there anything else that is really on people's mind that they want to insert into the agenda at this point? I think the main focus really needs to be on the matrix and getting the conversation notes.

The next few weeks are where we try to find where if any we've got areas of consensus so - oh sorry, Eric, I didn't mean to falsely accuse you on that - anyway, I'm not hearing a great deal of conversation about the agenda so I'm going to take that as a sign that we should proceed.

Gisella, could you go ahead and call the role?

Gisella Gruber-White: Certainly. Good morning, good afternoon to everyone today's vertical integration Monday the 17th of May. We have Mikey O'Connor, Jothan Frakes, Siva Muthuswamy, Faisal Shah, Jeffrey Eckhaus, Berry Cobb, Keith Drasek, Michael Palage, Jeff Neuman, (Budwa Shombi), (Catherine Ulna), (Jaka Ruska), Alan Greenberg, (Steve) Pinkos, Eric Brunner-Williams, Avri Doria, Sebastian Bachollet, (Falkirk Ryman), Kristina Rosette, Phil Buckingham, (Tara Mustala), Ron Andruff, Roberto Gaetano, Statton Hammock, Richard Tindal, Scott Austin, Thomas Barrett, Tim Ruiz, John Nevitt, Graham Chynoweth, Jean Christophe Vignes and Brian Cute.

From staff we have Glen DeSaintgery, Mike Zupke, Margie Milam, Dan Halloran, Amy Stathos, myself Gisella Gruber-White. We have apologies from Michele Neylon, Cheryl Langdon-Orr, (Banda Scotasini).

If I can please remind everyone to state their names before speaking for transcript purposes. Please use star 6 to mute and star 6 again to unmute. Thank you. Over to you, Mikey.

Mikey O'Connor: Thanks, Gisella, and thanks to all of you. Moving right along, Kristina's up first to give us sort of an introduction to the IPC proposal. Kristina, I didn't know if you had anything specific to put up on the screen so we're just carrying the matrix with the IPC role in it but if you have something else that you'd like to

have on the screen instead, just e-mail it to me and I'll quickly put it up for you. Over to you.

Kristina Rosette: I don't, Mikey, and I guess what I'd like to do simply because I think one of the benefits of the matrix is also one of its disadvantages, mainly that you have to really condense everything so what I'd like to do is just go through the proposal more broadly and tracing back to the IPC constituency statement and then circling back to the matrix itself.

I should say at the outset that the IPC generally supports the strict separation approach approved by the board thus far but we do believe that there are circumstances under which exceptions should be recognized.

And what we've proposed here are three variations of a dot-brand registry model that we believe if they meet the relevant criteria that we set out should be treated as an exception from the strict separation requirement.

I should also note that there was a fair amount of discussion within the IPC about do we believe that we should be proposing a more broad single registrant exception and various iterations of that.

And the decision ultimately that we reached as a constituency was that because we are the intellectual property constituency that we would focus within our remit and the fact that we're not proposing anything more broad or more general doesn't necessarily mean that we wouldn't support it.

It's just again to recognize the scope that our remit is considered to be quite narrow so in any event, registry meets one of the following - falls within the relevant models - and meets the seven additional criteria.

We think that it should be allowed to control an ICANN-accredited registrar solely for the purpose of sponsoring registrations in that particular dot-brand TLZ, should not be required to use an ICANN-accredited registrars for

registration of second-level within that TCLD or be permitted to enter into exclusive arrangements with one or a limited number of ICANN-accredited registrars for the purpose of sponsoring registrations in that TLD.

The first model that we've set forth is what we've referred to as branded single registrant, single user where dot-brand where the brand holder is the registered nameholder and the user of all the second-level domains in the TLD.

This would be where the owner/holder operates the registry directly. Indirectly it's the registered nameholder for all of the second-level names and is the user of all the second-level names, that no second-level names are registered or delegated to third parties with the exception of wholly-owned subsidiaries or what would be considered otherwise affiliated companies.

What we were trying to - we gave an example in our model - and we tried to stay away from using specific brands but what we were thinking about was for example in the model of the retailer which we identified its brand would be "buystuff."

It would be the registry, the sole registered nameholder and for example locations.buystuff, housewords.buystuff, all of those second-level names would be registered in its name and used by it directly.

The second model that we proposed was a branded single registrant multiple related user and the difference there is that the trademark owner is still the registry, they're still the registered nameholder of all the second-level domains.

But they license those second-level names to third parties that have a preexisting delineated relationship with the brand owner where the registration agreement that would control that license is essentially part of an ancillary to a primary agreement for goods or services between the trademark

owner and the licensee and when I say primary agreement for goods or services, I mean goods or services other than domain name registration-related goods or services.

The third was - and I should not that when we get to this third one - that in its initial iteration, there were two additional models but after circulation of the proposal, the IPC decided that it would be more appropriate to narrow what we were proposing and so we've dropped those additional two.

But the third and final one is where you would have a branded trademark license, multiple registrant, multiple user and again this would be where the - a dot-brand - where the trademark owner and its licensees, trademark licensees - are the registered nameholders and users of all the second-level names.

And this would be kind of lend itself to franchises, you know, (.Casberger) and you could have a particular franchisee in a particular location have a second-level name that corresponded to his or her name or to the location again, kind of setting aside for now some of the geographic issues that are going to come into play in new gTLDs.

And so the idea with this model was that it would be important for trademark owners that wanted to maintain strict control over registration of second-level names but that wanted to have some flexibility as to how - who - was identified as the second-level registrant.

Turning now to the specific conditions that would apply to all of these models, the first would be that - and implicit among all this - is that the dot-brand has to be an identical match to a trademark owned by the trademark owner and more specifically the trademark to which the dot-brand is an identical match has to be the subject of trademark registrations of national effect in at least three countries in each of at least three of the five ICANN regions.

This was felt to be an important criteria to try and minimize and eliminated gaming and abuse of the exception and in fact that was what motivated many of these additional criteria is to make sure that they really only applied to the types of models and type of entities that we envisioned that this exception would apply to.

There was not unanimity within the IPC. This particular requirement there were some that felt it was too stringent but the overall consensus was that this is where it should be.

For first-round applicants, those trademark registrations of national effect that I just talked to had to have issued on or before June 27, 2008 which is the date of the board resolution at Paris relating to new TLDs.

Third, the dot-brand exemption is inapplicable to trademark owners whose principal business is the operation of a domain name registry, registrar or reseller and again this is one that was felt to be most relevant for purposes of avoiding gaming.

The relationship is between the dot-brand, TLD and its customer/registered nameholder to the extent that that is a third party is defined by terms of an agreement that kind of incorporates the terms of registration agreement but is really broader and more directed at a kind of traditional trademark placements agreement or franchise distribution agreement.

The additional criteria really relate to who the second-level registrations are used by in the second and third models though held in trust by the TLD operator and not delegated to third parties and I think that's a typo and that should be in models 1 and 2. Actually in model 1, there is no third-party user.

And then in the model 3s, although the second-level top brand registrations are delegated to the user, they're under quality control provisions of a traditional trademark license agreement that would allow the registry to

terminate the registration at will if the second-level registration was used in a way that went beyond the scope of that agreement.

We've listed some very kind of general objectives for why we suggested this really to guard consumers from potential harm, to encourage innovation within the new TLD phase, to allow rights-holders to provide maximum value and choice.

And in fact I should just note that a number of board members have made over the past several years suggestions to the trademark committee that a dot-brand TLD would in fact be the answer to all of their cybersquatting woes so this is kind of our responses to say great, let's go for it.

Turning to the matrix, it was again it was - yes?

Mikey O'Connor: Just a comment from the chat that you're covering a lot of ground awfully fast and some of the non-English speakers are having a tough time keeping up so if you could slow down. If you run out of time, I'll give you more.

Kristina Rosette: I apologize. No, and I apologize. I'm under a time constraint. I can't be on for much of the call so I wanted to try and get through this as quickly as I could.

Generally speaking what I've indicated in the matrix here is that for cross-ownership, it's essentially zero percent subject to these exceptions that we put forward where if the registrar agrees not to distribute the registry's TLD, is more cross-ownership allowed and the answer to that is no, kind of given the context of these exceptions.

Use of ICANN-accredited registrars would not be required for TLD registries that met the various - not only the model - but the additional criteria and similarly that a qualified dot-brand registry should be allowed to enter into exclusive arrangements with one or more ICANN-accredited registrars so that it could have the opportunity to select among registries and non-

discrimination, again kind of no for the qualified dot-brand exceptions but yet for all others.

It goes kind of complicated and fairly tricky to answer the community gTLD exception that (work in) gTLD exception because there's a recognition within the IPC that there are definitely dot-brands that could meet the requirements for a community TLD and similarly to the extent that that a brand TLD has some fairly significant requirements like posting of a bond to ensure that qualified third parties don't get second-level registrations or the like.

But there is a possibility that some of these brand TLDs may essentially be considered orphan TLDs so even though I put no in the matrix, it's really kind of which the understanding that some of the dot-brands could in fact be community gTLDs or orphan gTLDs.

Under the qualified dot-brand models, again meeting the additional criteria, could potentially distribute names directly. I've put not applicable for a number of the other columns simply because under the exception, it was hard to either say yes or no.

I should note that our model and proposal didn't speak specifically to the reseller on the RFP and I'm seeking clarification from the IPC as to whether we're going to say not applicable or whether we're going to amend with the understanding that if we're going to amend that we need to do that very quickly and I think that's it.

Mikey O'Connor: Thanks, Kristina. I'll give you a minute to catch your breath and there are several questions that came from the queue. Eric is first and he's got two questions. The first question is - read it off the chat - where in the DAG is the SR type?

I think this was probably actually a broader discussion for the whole group but Eric has raised this point several times on the list which is the status of the

single registrant idea is sort of in flux. Do you want to take a swing at that before I throw that out to the whole group for a little bit of conversation?

Kristina Rosette: Other than to say that I agree but there's really nothing in the DAG that I'm aware of that would specifically prohibit it and again I think that there - depending on how you wanted to interpret for example some of the community requirements - I think it's there and if it's not there, a number of the board members seem to think it's there because the trademark owners are hearing a lot about it from them.

Mikey O'Connor: Okay. Let me just do Eric's second question and then we'll get to Tim and then I've got a question from Jothan but then Eric followed-up - I've lost it, the chat here - the second question is he was asking how many dot-brands does the IPC advocate if dot-brand is a cure for cybersquatting?

Kristina Rosette: Well at the outset just so that we're clear, I'm not - I don't believe - the IPC is taking the position that dot-brands are a cure for cybersquatting. This is how ICANN staff and board members have been advocating the idea of new gTLDs to the trademark community.

So to the extent that there is such a position, I think that question's better directed at those staff members and board members who are in fact taking it. Having said that, as long as a gTLD applicant can meet the criteria that we've set out, we don't see a need for a numerical limit.

I mean, theoretically if you can meet all the criteria it could be 50. It could be 200. It could be 300. I don't think that there's necessarily any determination on a numerical limit that would apply.

Mikey O'Connor: Okay. Tim, you're next.

Tim Ruiz: Thanks, Mikey. Actually some of the observations Kristina might want to respond to them so they're not necessarily questions but just I know the

board, media and the others have talked a lot about dot-brand TLDs, whatever you want to call them.

I don't think they were necessarily implying that there was some special case associated with that. There's certainly nothing in any version of the draft applicant guidebook that would prevent a brand owner or a trademark owner for applying for their brand or their trademark as a TLD so I think that option has always been there.

There's no restrictions on the string so what we're talking about here though is making it a special case by providing exceptions that I don't recall the board or anyone else having promoted or suggested at least that I'm aware of and so even then, they certainly haven't been provided for in the DAG up till now.

And so just in regards to the exceptions themselves, I mean, in the first case that Kristina was talking about was a single registrant, single user, in all reality I mean with very little change, it's pretty much possible today. I mean, there isn't anything that I see in the guidebook that would necessarily prevent that.

There might be some minor tweak in the registry agreement to provide for it but certainly even the existing registries like Info and Biz and others, you know, we're allowed to reserve certain second-level names up front and then in many cases several hundred if not in some cases even thousands perhaps and those names are for registry use. They're registered to the registry.

They're not registered through an accredited registrar but those are all provided for up front and can be used so like (affiliate status in fly) I believe if you look that up, there's no registrar associated with that registration that that domain's in use because it belongs to the registry, it's for registry use, etc., so in a lot of ways if you look at it that way, the first case is already possible but what concerns me about the other cases is two main issues.

One is the competition issue because it seems to me that events could create an unfair competition advantage by allowing exceptions because when you think about the number of brands or the number of trademarks that actually exist in the world that might qualify for this, you're basically taking tens of thousands easily if not millions of potential customers out of the market.

And in giving them straight-to-trademark and brand owners who have various exceptions on uses of registrar and being able to sell direct and things like that that generic TLDs don't have or typically won't have in the program.

Because when you look at the broadest sense, broadest application of these exceptions, it's going to cover just about every business or possible heavy business or company on the planet except for perhaps some non-profits I think as Avri was noting on the list.

So that concerns me and then just the enforcement aspect of it I think - and I'm not trying to imply ICANN can't enforce its contracts or what but you know, we have to be realistic that the more complicated that these exceptions become and the more in-depth that ICANN has to look at third-party agreements and all kinds of arrangements, business structures and all these kinds of things, if it makes it more and more difficult and more and more expensive for ICANN to be able to adequate enforce those things.

So I think that that alone should make us step back and take a look at this so I'm not saying these things aren't - wouldn't add - some value in that maybe they shouldn't be discussed for this. My biggest concerns is that with the time we have, can these kinds of exceptions be made?

Can we adequate really study and research this so that we make the right decisions before this first round goes out and I think given that the first case can already be done, that we're best off leaving these more intricate exceptions for further discussion in a later round. Thanks.

Mikey O'Connor: Thanks, Tim. Do you want to comment on that, Kristina?

Kristina Rosette: Just very briefly. As to your first point, I absolutely agree that having a dot-brand TLD is different from having a dot-brand TLD that qualifies for exceptions to cross-ownership and vertical integration and that was not at all what - I was not at all - intending to suggest that they latter already existed or the brand that board members and staff had been advocating that.

So to the extent that that was what you understood me to say, that wasn't what I intended to say. With regard to the single registrant, single user situation, this would be, you know, maybe that is the answer.

Maybe this is what we limit it to but again, these are the three models that the IPC has heard the most requests for from its members and as to the competition issues, in terms of taking TLD customers out of the market because they're not going to be registering names, I think in many cases that's not really true.

You're going to be taking the same TLD customer, you know, particularly where it's a single user and really just minimizing the number of registrations that that entity gets through third parties and frankly I think you're going to see that anyway with new TLDs.

As to the enforcement issues, again I think if you have more variations, if you have more enforcement issues, I think that's true. I don't think that there's any necessarily disagreement there but I also think that because of the monetary value that a brand has to its owner that there are much greater considerations at play here in terms of maintaining and protecting the good will associated with the mark.

The last thing any smart trademark owner is going to do is take any action that's going to reflect badly on its brand so I think as a practical matter, you're likely to have enforcement issues. I don't really know.

And as - if I could just respond and kind of preemptively to a question on the chat about what do you do about Apple not being able to get dot (I-ted), that was one of the issues that the IPC went, you know, there was a fair amount of discussion about that is how do you deal with the time cutoff and that's why for the first round we figured that this would be a cutoff that could be used.

And as to how do you redelegate them, you have that issue anyway regardless of whether they get a vertical integration across ownership exception and in fact that's an issue of significant concern to trademark owners and potentially a sign liability exposure to ICANN if they reallocate at that brand TLD to an entity that has no association with that brand but that's a conversation for another time.

Mikey O'Connor: Thanks, Kristina. (Jonathan) had a question on the list and then we'll go back to the queue. (Jonathan)'s question was is the IPC only suggesting that brands - is the IPC suggesting - that brands only receive the exception or is this identification that brands might be an example of where it is likely an exception to be merited. (Jonathan) if you could jump off mute, I can't make sense out of that now that I read it.

Kristina Rosette: No, I understand what he's asking and I think the answer isn't definitely the former or definitely the latter. I think it's closer to the latter in the sense that there was definitely consideration about the possibility that there could be other exceptions but again because we are the IP constituency that we thought it was more appropriate to focus on one particular exception set that fell within our remit under (road) to the constituency bylaws and by ICANN bylaws.

(Jonathan):   Thank you, Kristina.

Mikey O'Connor: Way to go. Richard. By the way we're running a little over time. I'm going to give it another four minutes till 35 after the hour and then I think we're going to have to draw a line under this one so if folks could sort of offer sort questions and Kristina short replies, that would be helpful.

Kristina Rosette: Sure.

Mikey O'Connor: Richard?

Richard Tindal: Yes, a question for Kristina and I think the answer is yes Kristina but perhaps rather than just guess, you might want to elaborate a little bit unless the answer is no and you can tell me that as well.

But if I had a trademark for say the word "music" that matched the criteria that you outlined as being required, you know, so many national registrations, etc., I take it then that I would be able to operate music under the same sort of single registrar scenario that you described. Is that correct and if so, could you elaborate on the implications of that?

Kristina Rosette: Yes, as long as you're meeting all the criteria and you fall within the model strictly, sure, but I think the implications are perhaps not as broad as you're kind of implying as they may be.

Because of the practical matter, some of those conditions and some of the restrictions on the model are going to not necessarily in fact won't lend themselves to generic use of a word that also functions as a trademark because in that case you're not going to have a trademark license in operation because you can't listen a generic word.

So if you're talking about dot-music for dot-music, not really that concerned about it. If you're talking about dot-music for perfume, then I think then you're going to meet the qualifications.

Mikey O'Connor: Thanks, Kristina. Avri?

Avri Doria: Yes, I have two questions, one of which - they'll both be quick - and one of which is Kristina one of which is for the chairs and group in general. The first one's considered if I understood your last comment or one before, basically if a set of conditions as stringent as your trademark one could be established for non-commercial international organizations or such as that, then that's not something that your proposal has an immediate problem with, but it would have to be something that would have a similar level of, you know, have been around for 50 years, be well-known by that name and many et ceteras. Is that a correct understanding?

Kristina Rosette: The answer is I don't know because it's not a hypothetical that was put forward to the IPC and that's what this is is a constituency statement. I think speaking personally I think if you can make the same rationale for exclusion and control and restricting the gaming, I would think that there is definitely something to be considered but again I think in these exceptions, it really comes down to specifics.

Avri Doria: Okay, thank you. The wider question I had is we hear the statement very often wherein in DAG V3 is such and such permitted and I'd just like to offer that that's really not a relevant question when basically we've been asked to contributed to future DAGs what should be discussed in terms of vertical integration.

There's all kinds of things we can come up with that may or may not have been thought about in earlier versions of the DAG so I'd just like to point out and perhaps ask others if they think that that is a relevant question. Thank you.

Mikey O'Connor: Thanks, Avri, and thanks Kristina. I'm going to draw a line under this chunk of the agenda. I appreciate the speed with which you covered a lot of territory and we'll move on to the next part.

To respond to Avri's second question, at least it's my impression as a co-chair that we have fairly substantial latitude in terms of what kinds of things we can describe and propose, both in the near term and in the longer term.

I do want to reemphasize that we really have two for the price of one missions. We have the short-term mission which is very short which is to come up with a description of consensus that can be inserted into essentially this round's applicant guidebook.

And then we have a much longer-term mission which is a vastly wider and deeper discussion of vertical integration that presumably will go into the next round and I think that we have a fair amount of latitude in both so I would tend to agree that if we could come to consensus around single registrant type language that that's within our remit both short and long term.

I don't know. Roberto, do you want to comment on that or shall we push along to the matrix?

Roberto Gaetano: No, I don't have any specific comment. I think you can go ahead.

Mikey O'Connor: Okay. Margie, I'm assuming that your screen is the one that's showing the matrix and as we get started, I was going to ask you to see if you could re-jigger it so that the whole matrix shows up. I think it's cutting off.

Margie Milam: Yes, actually it's set so you that you can do it yourselves.

Mikey O'Connor: Yes, it's cutting off to the...

Margie Milam: Yes, I had a hard time converting it to PDF.

Mikey O'Connor: Okay. To those of you on the call who have ready access to the list, I posted and I apologize for posting two back-to-back but I did post the same file to the list just before the call and it's probably going to be easier for folks to follow along actually using the Excel spreadsheet rather than the stuff on Adobe.

Oh Tim, I didn't see your hand was up. Do you have a comment before we go on or is that left over from before?

Tim Ruiz: I'm sorry. That was left over. I'll put it down.

Mikey O'Connor: No worries. I think that I would like to essentially spend about 15 minutes just allowing us to talk to each other about what we see in the matrix so far, areas where we seem to be converging, areas where we are diverging, but I think that there's a fair amount to digest in this matrix and before we get terribly specific on approach, I'd like to have just sort of a general conversation along the lines of clarifying entries, finding similarities, finding areas of convergence.

And then from there I'd like to spend some time sort of talking about your preference as a group as to how to move the ball forward mechanically. I have some ideas but I don't want to put those in the way of a broader, more general discussion about what we know so far.

So Kathy do you want to chime in with any observations? You were the scribe and often scribes see stuff as they're scribing? By the way, I'm going to ask Kathy maybe after the call whether she'd like to give up the pen partly because it sounds like she's really busy and if she would like to do that, I am retired so I'm not nearly as busy and I could cheerfully take up the pen on that but we'll talk about some of the mechanics later. Kathy, any thoughts before we throw it open to the product group?

Kathy Kleinman: First, thanks Mikey for picking up the pen this morning when I was in meetings so thank you so much for getting out the last - the most recent - versions of the table.

Yes, an observation that the MMA proposal should probably move from Line 8 up to Line 3 so that we put all the cross-ownerships that started the zero percent together. Thanks to John Nevitt for helping create some of the granularity in the equal access concepts.

It turns out when I talk to people about and I just wanted to share this with the group, when I talked the (zeboha) registries, seeing the exceptions, whether it's the single registrant exception or the community exception or the orphan exception, when I talked about how the registry would distribute the meanings under the threshold, under whatever threshold you accept, 30,000; 50,000, everyone had a very different idea.

Some felt that the registry would distribute directly. Some thought that they would distribute through registrars, registries under equal access or their choice, they felt that they could 100% co-owner registrar so breaking this out so that there's nothing implicit that it's all explicit so we can talk about it I think was really helpful.

And yes I see a lot of convergence. I see a lot of ground for bringing things together but I haven't analyzed as fully as I need to do but I did want to know the timeframe Mikey and I'm sorry about that but let me come back to that.

How much time do we have to pull this together so that it makes a difference either in the current guidebook or what's going forward because a lot of things are closing this week so I was wondering about how all the schedules fit together.

Mikey O'Connor: This is Mikey. Let me just expound on that for a minute. Essentially what I proposed is a slightly different than the normal model in which what we will be

doing is essentially taking a snapshot of where we are every week and this matrix is the first iteration of that.

And we will continue to take snapshots as long as it takes up till the - in Brussels we are not on deck to present a report - we are on deck to present a status update and the situation with the applicant guidebook is a little bit complicated because the deadline for input to the guidebook is past. That was the deadline that went by on May 15th.

In talking to Kurt about this, the thought is that we still have a window open to respond to the board's indecision to develop an alternative proposal and have it considered by the board and perhaps adopted and inserted into the guidebook during the cycle of approval that effectively lasts until October but in reality we have a couple of pretty firm chunks of time that we need to spend.

We need to go out for another round of public comment and constituency statements and so effectively if we're going to come to a consensus about anything and have it make it into the guidebook, if I were being entirely cynical I would say we have until May 31st which is the deadline for materials going into Brussels and I would put a lot of pressure on the group.

In reality I think we have a little bit more flexibility but I think we do have to arrive at consensus before Brussels because after Brussels we then need to immediately jump into the process of public comment and refinement on whatever we come up with in order to make the window of getting into the applicant guidebook in a reasonable way.

So that's kind of a long-winded way at saying to arrive at consensus, I think effectively we have three or four weeks and whatever we come up with in that time is what we'll be able to bring forward in Brussels and everything else will have to defer to the longer, broader version of our mission. Anything else Kathy before I move on to the queue?

Kathy Kleinman: Just pitch a call for everyone to look with me to see where they see the convergences and who they can reach out to to help create them. Hopefully the table provides a guide for us as a group and a guide for us as individuals or all the organizations. Thanks.

Mikey O'Connor: Thanks again, Kathy. Jeff Eckhaus, go ahead.

Jeff Eckhaus: Thanks. Yes, I just wanted to actually - I got confused for a second - but I think Kathy cleared it up that this table, I just wanted to say be careful that this table, matrix, whatever we want to call it is being used just as let's call it an internal tool for this group to see where there's consensus, where there's differences and to help people reach out to each other, that we're not packaging this and distributing it to either the board or outside people.

For some reason I thought I heard somebody say that and then I just wanted to clarify that and make sure and then Kathy reiterated again that it would be used for people to reach out but that this won't be packaged up and sent out to anyone as saying hey, this is where the current - I wouldn't want outside people to say - this is the current status of where the group is. I just want to clarify that point.

Mikey O'Connor: Thanks, Jeff, and there's a little bit of a nuance to answer there. I mean, this is a public e-mail list and so...

Jeff Eckhaus: Oh no, yes. It was a key of that.

((Crosstalk))

Jeff Eckhaus: Anybody can open up and take a look and see where it is but there is a difference between that and us sending it out and saying here's the work of this working group and this is where we currently stand with this. You know, it's a push verse pull sort of presentation. I guess that's my point there.

Mikey O'Connor: Yes, well, and actually you're getting to something I was going to talk about in a minute but I'm going to jump on the opportunity to talk about it now and that is that as others have raised on the calls in earlier calls, what we really need to do now is get to a single draft that describes whatever it is that we're proposing.

And the mechanics of getting to that draft are something that I want to discuss later and hoping for some ideas on but it's that single draft that we'll take snapshots of and push forward week by week.

Right now that draft is very short because it hasn't been started yet but hopefully over the next few weeks, a draft will start to emerge that represents where we stand on this and that's what's going to get brought forward. Tim, go ahead.

Tim Ruiz: I guess my comments were on the same issue that I didn't update this or participate in this exercise with this grid with the idea that this was going to become somehow a consensus-gauging document.

In fact I was trying to make this point before on the last call but that this shouldn't be viewed as that but perhaps as tool to help us move in that direction so that's my understanding of this document and if anyone listening to these calls or looking at this document who is not participating actively is thinking somehow this is a reflection of consensus, that's way off base.

I mean, at the beginning of this call I think we heard something like 40 people were on this call and this document reflects the writing/views of less than half of that. I don't know if some of these documents are consensus views.

The IPC appears that it may be. I don't think that's necessarily true in regards to the others, certainly not from the registrars' perspective because I think

there's at least a half a dozen registrars or more involved in at least three of these proposals that don't agree with each other.

So clearly this is not a consensus document. I want to make sure that we don't ever give that impression and that any work we do towards consensus which is only a tool for that and anything we're going to guide with the board or staff before the next draft applicant guidebook that it had yet to be created. At least that's the way I view things.

Mikey O'Connor: I think that's completely in line with where I'm at too Tim that we need now to start focusing on getting to a draft and one of the interesting questions is how are we going to do that?

I would call on all of you to think about that for the next few minutes before we get to that part of the conversation because I think there are probably ways to get that done better than others and I think we need to talk a little bit about how we're going to approach that. Alan, go ahead?

Alan Greenberg: Yes, can we have some clarity on how we're using consensus? Sometimes when you're saying we reach consensus, it sounds like you're saying we reach unanimous consensus, that is, everyone agrees or we are just talking about general consensus which means most people, however we came to agree.

Mikey O'Connor: I forget that this is not an exclusively GNSO group so I need to back up. The GNSO has got terms that we use for the degree of consensus. There's unanimous consensus and then I'm going to falter over the terms but there are several layers of less consensus and then a layer that says no, that there's isn't consensus and I'm using in that context rather than in the pure unanimous context.

Alan Greenberg: I guess the question I'm asking is of the 11 proposals, if 9 or 10 of them agree that 14.36% separation is the exact right number, is that consensus?

Mikey O'Connor: I think that...

Alan Greenberg: That's a hypothetical question.

Mikey O'Connor: I think you get the consultant's answer which is it depends but it does not mean unanimous consensus. At the same time the goal is as close to that as possible paying special attention to minority points of view because that's what consensus decision-making is very interested in is the views of the non-majority participants and so we'll have to just wait and see on that but it does not mean 100% unanimous agreement.

Alan Greenberg: Thank you.

Mikey O'Connor: Tim, go ahead.

Tim Ruiz: I just wanted to make a comment about that, about the consensus. Part of it I think it's important we think very carefully about it because what we present, we don't know what will happen with it after we do that.

It isn't like we can count on the board taking what we give them or staff and putting this into practice verbatim so we might be a little bit surprised at how what we provide gets used or actually implemented.

So not only do we need to be clear but we need to be very thoughtful about what we decide to put the moniker of consensus behind. Thanks.

Mikey O'Connor: Thanks, Tim. Any other comments in general about the table, areas of convergence, issues, concerns? The next step it seems to me, I'm drawing on my recent experience in a completely different policy-making arena in that I'm also a broadband policy guy.

And when we developed the broadband policy for the State of Minnesota last year, one of the things that we did was essentially the exercise that we are completing - I don't think we've completed - but completing now where we essentially staked out the range of positions.

But then we began driving ourselves towards a single draft in an effort to give people the chance to negotiate basically. I mean, essentially what this is at this stage of the game is a negotiation and if we're successful in negotiating a single draft, that's fantastic and if we're not, that just means that Roberto and I have less presenting to do in Brussels and we'll move on to the next phase of the work.

Where I'm a little bit uncomfortable is that I have not participated in an ICANN negotiation with this many parties before and I'm now sort of talking in professional negotiation-speak. I'm not a professional negotiator but when Jeff Eckhaus mentioned (vatna), I sort of woke up and went ah, yes, I remember that term.

Because, although I wasn't a professional negotiator for the union negotiations at the University of Minnesota, I was a representative of one of the parties, I was the controller and associate VP for finance and so was involved in professional negotiations with the unions, all 22 of them at the U.

And I think that we are now at the stage where those of you who have professional negotiation either skills or experience or played such a person on TV could help us try to figure out the most effective way to get to a single draft and I'll do one more piece of my soliloquy and then throw the floor open to you.

There's a distinction to be made in and I'm going to stick jut with my role as co-chair, I'm not going to include Roberto in this part. I up till now have taken my job to be to facilitate the discussion but not to mediate it and by that I mean I view my job as making sure that to the extent I can there are clear

descriptions of what the rules are and then that the rules get followed in an orderly way.

Mostly what we've been working on is the tricky bit of having to move very, very fast in a process that's not typically done that fast and I have not participated at all in the content of the discussion and have gone so far as to recuse myself from the business constituency conversations about that because I don't think it's appropriate for me to participate in that.

When we get to this process of coming to a single draft, there may be the need for someone or several someones to act as a mediator between parties that hold different positions and I'm not volunteering to do that because I'm not very good at it and because I don't think I can handle that many roles but one of the things that I would like to throw into the mix of the next part of this conversation is whether or not we need such a person or two and if so where we should go to find them.

Now I'm going to turn the floor over to Roberto and then to Eric and then anybody else who wants to jump in the queue. Roberto, go ahead.

Roberto Gaetano: Well, I think that's about phases and while I completely agree that at this point in time we shouldn't - that we as co-chairs - we shouldn't get into the matter on the table and we shouldn't take positions on one or the other proposals and in fact I tried whenever I had questions or suggestions to phrase them as not to appear as being on one side rather than the other.

I think that when we are getting close to a consensus and when we are getting close to the deadline, it is inevitable that we as co-chairs we go running around and say okay, well, you said 15 but you know under worse circumstances you could accept 13 or 17 and this kind of things.

So it is feasible in the final round when we are trying to get a consensus and make the consensus poll. It is feasible if until that time we are staying out of

the fight so at that point, I think that we can get in and try to mediate and negotiate and try to figure out what the solutions could be.

I mean, that is of course it is something that has to be accepted by the working group and I think that we would see that in the facts. When such time will come, one opportunity is going to be when we have - if and when we meet in Brussels face-to-face - because then there's a lot of a kind of personal talking with people if we want to do also the work of mediation, that at least is my opinion.

Mikey O'Connor: Thanks, Roberto. Eric, go ahead.

Eric Brunner-Williams: Yes, you announced earlier - interesting soliloquies by the way from each of you - but previously you asked if there was any of the advocates wanted to add to the tables and I'd like to call them for the RSP/RO relationship.

Mikey O'Connor: Give me the letters again.

Eric Brunner-Williams: The Registry Service Provider and the Registry Operators, basically between the technical back end and the two or three people who rolled a piece of paper called the contract.

Mikey O'Connor: Okay. Consider that request granted and...

Man: I hope I'm on mute now.

Mikey O'Connor: Not yet. Now you are, there we go. (Mike) Palage, go ahead.

Michael Palage: Thanks, Mikey. I want to follow-up on your point on trying to reach resolution or I think you used the term mediation. I think two data points that would be very helpful in getting towards that angle of either mediation or resolution are the following.

One, it would be helpful to have someone evaluate the proposals. I think we're now up to a total of what ten proposals to evaluate those ten proposals on merits. Are they consistent with competition law and again this goes back to Kathy I think you pointed to some of the data points that were not originally considered by (Sallup and Wright).

What we've now done is we the community have come up with different proposals and different aspects. Let's have these put forward by a group of experts to see how they rank or their viability or whether they're consistent or inconsistent with competition law. That's number 1.

The other point that is sorely missing from our analysis is a consideration of the public interest. Almost every proposal here is being put forward by a contracting party or even in dot-brands, they will be contracting parties.

So when you look within the broader ICANN community and someone who could perhaps opine on an important public interest, I think this is something where we need to involve the GAAC and again I point to the discussions that took place between the board and the GAAC in Nairobi where they talked about involving the GAAC earlier into the policy development process.

So I think somehow reaching out and getting feedback from the GAAC in connection with these proposals would be very important engaging the public interest and once you have those two data points, the economists or the experts as well as the GAAC or in public interest, then that provides a foundation in which true mediation or resolution I think could be achieved.

Mikey O'Connor: Thanks, (Mike). A quick follow-up question for me and that is any bright ideas on how we do that in three weeks?

Michael Palage: Well, no, I think well I guess my response back is this snapshot that you're working towards, I think what we want to do is we want to take that first

snapshot which will be available in three weeks and then perhaps put that out.

I don't think we're really going to get towards the resolution or consensus building in three weeks. I just don't see that happening and I think what I'm focusing on is let's take this first snapshot and put it out.

And it is a case in point Mikey. Look at what we're doing in the high security zone, right? We're kind of putting out the control elements and we're going to be asking experts to perhaps solicit RFIs, people within the industry to say is this a viable mechanism?

So I view the snapshot not as here is consensus but here are potential models for providing the solution which the ICANN bottom-up consensus process has put forward and now let's get that expert analysis.

Let's consult with the GAACs and again they are probably best suited to opine on the public interest of this global resource.

Mikey O'Connor: I think I'll save pushing back for a little while but we do have sort of a time element that's working against us here. Alan, go ahead. Like Eric and Palage, I assume you guys are done. When you're done, can you put your hands down so that I can keep track of the queue? Alan, go ahead.

Alan Greenberg: Yes. Again I'm going back to consensus and something you said earlier on the short-term goal and the long-term goal. Your short-term goal is to try to get something in place for the final applicant guidebook, for this first round as it were. Is that correct?

Mikey O'Connor: Yes, that's right. That's our only goal as far as that.

Alan Greenberg: Which means we're looking for things which the various proposers and the rest of the group can live with but does not necessarily commit them to that

position for the final solution and ultimate way we treat vertical integration in the future.

Mikey O'Connor: I think to clarify just a little bit, it's what people can live with in this round if you will, the assumption being that then there would be a much longer study that extends maybe a year or something like that that comes to...

((Crosstalk))

Alan Greenberg: That's what I thought you were saying. I just wanted some clarity is although people have a reluctance to agreeing with things temporarily because temporary becomes permanent. The intent is that the discussion continue after the first round is locked in to find something that may be more interesting in the long-term future.

Mikey O'Connor: Yes, that's correct.

Alan Greenberg: Okay, thank you.

Mikey O'Connor: Kathy, go ahead. You might be on mute. There you go.

Kathy Kleinman: Can you hear me? Great. I just wanted to respond to Eric's comment about adding a new line to the table and this is what part of the problem would be in the table draft there but a specific line.

One of the purposes of the table, the goal was really to distill the key elements of the proposals that most people had commented on and try to compare them against each other and one of the issues that they'd come up with back then, registry serves providers becoming registrars.

I don't believe any proposal has listed front end and back ends so I wouldn't put adding that to the table because I don't think that helps our crystallization process.

Mikey O'Connor: Thanks, Kathy. Scott?

Scott Austin: Thanks, Mikey. I guess first of all I like what (Mike) Palage had to say in terms of direction but I guess the question is as you suggested, how long would it take to get an expert in place?

I will say from patent litigation, it seems to be that getting an expert in place is one thing that will help drive consensus though because people have to agree on what the background of the expert and essentially what he's supposed to be doing and I think that would be helpful even though it may not be able to be completed within a particular, you know, the timeframe for the DAG.

The other question I guess I have is the materials that are on the grid right now, do those represent sort of final positions or are they - is this sort of a chessboard that's moving based on what other people add?

If somebody changes their position, will this grid change? Is this a dream sheet or were these put in place with the idea that there were going to be alterations based on what others had to say?

Mikey O'Connor: Thanks, Scott. My understanding of the current draft of the table is that this will - this is essentially the state of play as of this morning - and that it's possible and in fact likely and in fact encouraged that these positions will change, hopefully converging over the next few weeks.

If they don't, we'll find it awfully hard to draw a single document out of them and we will basically return to Brussels and say in the short term in time for the applicant guidebook, we weren't able to arrive at consensus around any modifications to the board resolution and we'll move on to our longer much more exhaustive phase of work.

So yes, this I think is a fluid document. This is just this morning's version of it. Eric?

Eric Brunner-Williams: Thank you, Michael. In response to Kathy, if the person holding the pen for the matrix is unwilling to add a column from the competing proposal, then the person should retire from holding the pen. Thank you.

Mikey O'Connor: Okay. Jeff Neuman, go ahead.

Jeff Neuman: Yes, I just want to comment on a couple things. (Mike) Palage said that we would go out to an expert and see whether this is consistent with competition. I think that's kind of the wrong question to answer or to ask. It's not whether it's consistent with competition law because I think all of this is consistent.

This is a very unique environment that we have. It's not - well, a lot of people like to think of it as purely private parties dealing with each other in contracts - it's not really that and it's not fully - it's not a government - but it is quasi-regulatory no matter what people think about it.

So I'm not sure what good it's going to be to bring in an expert because all they're going to tell you is well a normal private, you know, there's going to tell us what (Sallup and Wright) did.

When you have private parties dealing with each other in a new industry, this is what's best for consumers but in a quasi-regulatory environment, that's where things get a little sticky and a little bit different so I'm not sure what added value that is although obviously it should go out for comment to everyone, ALAC, GAAC, everyone in the community who hasn't participated.

I mean, this obviously should go whether the ALAC speaks for the public interest or the GAAC as I put in my comments on the chat, that's debatable but obviously it should go out to for comment.

I thought I understood Eric's point about having a column for registry service providers and registry operator. It wasn't my understanding - well then Eric you said something this last time which kind of confused me - I mean, I do think we need to get into the details as to how registry operators and registry service providers should be treated and to avoid some of the gamesmanship that come out of the general principles.

So I didn't understand that as a new proposal but anyway and then on the last thing, yes the grid will change but at least in JN squared in our proposal, we put down that it's the fundamental premise the ownership or control, if that's not either at or below what we had assumed then the other assumptions like equal access or the registrars and some others may change and I'm assuming other proposals are probably the same.

Mikey O'Connor: Thanks, Jeff. I'm assuming now that the queue is empty and so here's my thought which is what we did in Minnesota. We had folks that were fairly far apart.

I was on one extreme, the carriers were on another and what we did is we broke into small groups and wrote essentially pieces of the report in small groups and brought back these pieces of the proposed language that had been hammered on by hopefully people with very divergent points of view before they came back to the main body.

Those chunks of language then got hammered on again by the main body and if we could get to agreement, so be it and if we couldn't, we sent it back for another cycle of rewrite.

And that's an approach that's by no means necessarily the right one but that's the one I would throw out on the table as the way that we tackle this for the next two or three meetings to see if we can indeed get to a single draft that can be supported by hopefully everybody.

If not everybody, then I think it has to be a pretty substantial consensus, otherwise we're going to have a hard time selling it back into the community but again this is where my question is to those of you who've done some of these big complicated negotiations within the ICANN context before have any experiences that you felt worked really well to getting to a single draft like that.

We basically have not very much time and that's the way that I thought of to do it but I'm all ears for other approaches. I'm going to take that silence I hope as agreement and not dismay and turn then the conversation to what kinds of chunks does the matrix - the table or just your knowledge of where we're at - present as to what kinds of pieces of a single draft we could start writing and then maybe trying to approve you people to write some of those chunks. Tim, Eric? Tim first then Eric, then others. Go ahead.

Tim Ruiz: Mine goes back before your recent question - can you hear me?

Mikey O'Connor: Yes.

Tim Ruiz: Okay. Mine goes back, my comments about the - what did we disagree to by not saying anything? Did you recap that because a lot's been going on both on the call as well as on the chat and so I kind of lost track.

Mikey O'Connor: Yes, that's fine. Basically what I'm proposing is that - well, I'm proposing two things - one thing that I'm proposing is that we begin with this call to transition to crafting a single document rather than a series of proposals and that that single document is if we can craft one, the document that we take forward to Brussels, so that's part A.

And then part B is break drafting into chunks and encourage people with divergent points of view to join together in writing those chunks as a preliminary draft within those chunks get brought back to this group next

week for debate, refinement, acceptance or non-acceptance so really two parts; switch to writing a single draft and break it into chunks and get to work.

Tim Ruiz: Okay, so just a follow-up question then. I guess I'm not as optimistic as maybe others that we'll have a single convergence. I think Jeff Neuman makes a good point that it's going to be similar to a moving target because as a large number might come to agreement on a particular issue, then that might change views on other aspects that we're looking at in this grid for example.

So I'm confused about how we're going to, you know, are we by doing this single document then are we throwing out and how are we going to make sure that when we're done, we've captured, you know, here may be the things that there is some consensus on. It won't be unanimous.

I think that's just impractical to even assume but here's the things that we have rough consensus on, whatever you want to call it but it still as be including other views. I hope we're not implying that we're only going to give a single faction in it that says A, B, C, D and E and this is it and then we're not going to include minority views or other views.

If we can just talk a little bit about what this document is going to look like, that would be helpful I guess.

Mikey O'Connor: Thanks, Tim. I think that's a good question. In my mind, we either come to a document that we all can line up behind or we don't and if we don't, if we have minority - and this is a debate that we had in the broadband contest - we set as the goal and met that goal of not having a minority report.

And the reason that we did that is because we wanted to present a united front to the legislature and the governor of our state that this is the direction that we advised them to go.

I think if we include or if we feel we have to include minority reports in our document, then we have not, you know, we've essentially then thrown the decision back to the body that asked us to make the decision, namely the board.

And so what I think what the board is saying is we've got a track as we've laid out. If you can come to consensus on some other track, we will open the door and provide a mechanism to get that inserted into the DAG, maybe.

This is above my pay grade to predict what the board would actually do but I think that if we come in with minority reports, then effectively we won't have moved the ball forward.

Tim Ruiz: Well Mikey, that's just not the way we typically do things within ICANN policy. I mean, and the reality is that very rarely is there that kind of complete consensus. I'm trying to think of an example where we had unanimous consensus on a major policy issue and I'm just trying to be realistic here because it has a big impact on how we proceed.

If we're going to proceed with the idea that we're all going to come to 100% consensus on something, then we have a blank sheet of paper and that's probably what we ought to present because that's about what we're all going to end up with unanimous consensus on.

I'm just trying to be realistic here and not start this process with a certain concept or idea that isn't workable, I mean, I don't know how the view is but I just cannot imagine that we're going to have a 100% consensus view on even one thing, let alone a number of things.

Mikey O'Connor: You know, I think that what this gets down to is essentially a question of (R-tems) if possible. It's clear that given the amount of time we've got and the underpinnings that we've got that we cannot make recommendations that dramatically change either the status quo of today or the status quo of the

board resolution because we don't have the time or the underpinnings to do that.

On the other hand, I think we do have the opportunity and we've been invited by the board to do this to make some modest suggestions that can get folded into the DAG if we can agree to them and that's why I think that the negotiation part of this is going to be so important because just like in the other negotiations that I've participated in, this is the horse-trading period.

This is going to be the period where people are going to give up something in order to get something else that they feel is more valuable and we may not be able to do that in which case that's fine.

I don't necessarily think that there's a pejorative, you know, a negative connotation for that but I think that that's what we've been asked to do is come up with those things which we can agree on in a really short period of time and in terms of the usual ICANN process, I agree, I mean simply the timeframe is not the usual process.

But that's the cards that we were dealt and so we'll play them and see how they fall. I think that's the best answer.

Tim Ruiz: Yes, I know that's the cards that we were dealt Mikey which is unfortunate because I think some of these things have value but there's just no way that we can really resolve all the issues associated within the timeframe that we have to make everybody comfortable so I think that's my point that we haven't rarely ever come to 100% unanimous consensus on any major policy issue even when we've had years to deal with it, you're talking about weeks and we want to start this with the expectation that we'll somehow come to some sort of unanimous agreement on these issues.

Mikey O'Connor: Well I don't think - I agree with you Tim - that the odds of us coming to a 100% unanimous agreement on all the issues that are in this table is a...

((Crosstalk))

Tim Ruiz: I'd be happy - I'd be absolute thrilled - that you throw from a shoe or something anyone wants to present, if we come to 100% agreement on one issue. Seriously, I'd be thrilled about it. I just think we ought to have realistic expectation going into this.

Mikey O'Connor: Right, well I think that it's important to set the expectations correctly and it's true that some of these issues just aren't going to get resolved and I think that's part of the reason why the board did what they bid, you know, they can't wait for us, that they need to start moving.

And so they've resolved them for us unless we change it and then dealt us a really interesting hand. Eric, you're next.

Eric Brunner-Williams: Thank you, Mikey. I have a process for your option which is to divide the proposal writing up into these proposals which deal with the standard type, proposals that deal with the community type, and the proposals which deal with some other type.

I think that some of the areas of non-agreement arise from the differences in type that each proponent is addressing but I share with Tim the observation that a single report is very unlikely and I'm plus one with just about everything that you just said unfortunately. Thank you.

Mikey O'Connor: Thanks, Eric. Appreciate the suggestion. Jeffrey, go ahead.

Jeffrey Eckhaus: Thanks. I think that Mikey I've got to respectfully disagree about having to have completely unanimous and I think - I was a member of the STI, you know, the trademark group - and we had I think that can be an excellent template because there were certain positions where people had minority, you know, there were minority opinions there and those were stated and

people - but the group - was able to come to some rough consensus about some pieces and some other parts to it and it was accepted by the board.

And I think that the process worked well so I don't think we're going to be able to get to a all-or-nothing and I do agree with you that there is going to be some horse-trading and deal-making going on now and it is going on at the moment but I think that if somebody has a strong minority opinion on something, if we do come to this then we should let them express it because it could be something that others will want to know about and just because we're not going to reach consensus, I mean, 100% doesn't mean we shouldn't let other voices still be heard in our final report.

Mikey O'Connor: Thanks, Jeff, and I also want to make it clear that this point of view on the minority report stuff isn't my decision to make. It's really the working group's decision to make. It's just the way that we did it in Minnesota.

Jeffrey Eckhaus: Okay, yes, I was going to say in this group we've seen some very good success with the SGI and I think the group could look at the report as I think it would work as a template from how we could go forward with this process and what maybe the final result could look like.

Mikey O'Connor: For those of you that were on the SGI, what was sort of the sequence of events? Who carried the pen? Who, you know, was it done mostly on phone calls. Was it done mostly on the list? Was it done with a small group?

I mean, that's one of the things that I was very curious about was examples of processes that worked really well really fast.

Jeffrey Eckhaus: It's Jeff here again. I think that for me it was we had twice weekly and we focused one - like one call was on the rights protection, the other one was on, you know, we had - it was split up so that each call was focusing on a separate issue and it was all done on the list and on calls.

There were - I don't believe - maybe I wasn't invited but I don't remember face-to-face, I mean, or maybe I completely blocked it out of my mind but it was mostly done on the list.

Mikey O'Connor: So was there a draft that was getting passed back and forth on the list and getting marked up?

Jeffrey Eckhaus: Yes there was and I think Kathy had a hand in that when she was in her old position. She was working on that and a few others did. It wasn't one person who had the pen but there were drafts about what people were working on and each constituency was putting forth their comments and their thoughts into the draft, and I'll let some others on the SGI who are on the call if they want to speak up of what you thought were the positives and what made it work well.

Mikey O'Connor: Brian, I see you in the queue. By the way, I'm going to take a time check and note that we are at the end of our official time and I apologize for running over but if you can hang in with me for another ten minutes while we drive this to ground, it would be helpful. Brian, oh, you disappeared. Alan? Are you referring - are you talking about the SGI thing?

Alan Greenberg: I was going to talk about the SGI. There are a significant number of differences, what one of them was that that was a - I'm not sure balance is the right group - but it was a representative group it dawned to me as we were looking at these proposals that if the JN squared proposers had not collapsed theirs into one, they would have more lines and it would look like 15% or some other position had a stronger position than they do right now.

So there's no real merit, there's no benefit in negotiating right now. You almost lose position with every negotiation and I think the issue on the SGI was people had absolute ultimate goals which they wanted to achieve and sometime got and sometimes didn't but they weren't going into it saying it's my proposal or the other guy's proposal.

It was handled on a much more a piecemeal basis and we knew exactly where our target is whereas here we're talking about two different targets, a short and long term and some of the proposals have said clearly this is a short-term proposal, we'll talk later, and other ones I think from the context look like it's a long term so we're going into it with almost two different complete mindsets which didn't happen in the SGI.

Mikey O'Connor: Okay. Jeff Neuman, go ahead.

Jeff Neuman: Yes, so I was heavily involved in the SGI in a lot of the drafting as was Kathy and you know, there are a couple of differences between the groups but a couple of similarities.

The differences are that there was nothing in the background, in other words there were no secrets. Everyone was open and honest as to what they were trying to achieve and why whereas here, you have business plans and you have companies that are not willing - for legitimate reasons - are not willing share exactly why they want a particular proposal and what their business plans are.

In the SGI, we rolled up our sleeves and we basically said and from a registry perspective, it was Jeff tell me how a registry could implement this and when you say it's not feasible, why, and we really went into the details because there was no hidden agenda.

There was no new starts business plans that relied on any of this stuff or any of the registries' really business plans relied on any of this stuff but this is so different in a sense of you have real businesses here that are not sharing their business plans for legitimate reasons that are counting on this and they're not going to disclose it.

So to really talk to kind of compare the groups in that sort of way but on the other hand what we could do still is which we did in (nacra) because we had targeted conference calls.

We basically said and a much smaller number of people where we said look, on this conference call next week we are going to discuss specifically the clearinghouse and how a registry can interface with the clearinghouse and what the difficulties are, right, and we had an hour, two-hour targeted discussion on that.

Here I suppose we could break it down into smaller issues and just have smaller calls but I don't know. I mean, I look for suggestions on that. I wouldn't rule it out completely.

Mikey O'Connor: Thanks, Jeff. Brian, go ahead.

Brian Cute: Yes, thanks Mikey, just wanted to let the SGI comments clear out and I apologize. I had to jump off for a bit and I may have missed some of the answers to these questions.

I'm a little bit confused because it seems as though there have been some mixed signals recently in one sense that there might be kind of a two-step process here where the group comes together around items that might show strong support or maybe even got to a consensus, put those up to the council in this time period before Brussels and keep working on some others to see if there's a second phase where consensus or strong support develops and then put those up to the council sometime down the road this year.

I'm hearing now is we've got to get it done, we got to get in for Brussels. Can I ask what's motivating and we've got to get it all done for Brussels and I want to make one comment.

I think all of us recognize that there was by design an artificial aspect of the board resolution which was the sharp point of something to get us all around this table to negotiate and we recognize that we're all here.

Everything that Jeff just said is true but I've sensed nothing but genuine attempts to try to get to a final position by the group. Is there also an artificial element to this we got to get it done by Brussels now message that we're hearing because frankly my own sense and maybe I'm naïve is that we're all a bunch of adults.

We've been working very hard. Yes, we're all self-interested but I don't think if there's artificiality including a time pressure where I had to make something happen, I don't sense there's anyone around this table who's not going to work hard regardless to try to get something up to the council in the short term.

We all recognize what's at stake so my question is is this real or is there something artificial about this deadline?

Mikey O'Connor: This is Mikey. Since I'm the person in charge of routes and deadlines, let me comment. I'm working under sort of two assumptions. One is that in order to get - well, one assumption is - the draft of the applicant guidebook that's going out this time is going to be the last one. I have to make that assumption.

Presuming that that's the case, we've already missed the deadline - the formal deadline - for getting input into that process but essentially we've been offered a window by the board and I've confirmed it with Kurt that we have some more time.

I was negotiating like crazy about a month ago and there was just no way that we would make the May 15th deadline and so we have an extension effectively but that extension is still constrained by the fact that we still got to

get this stuff to them effectively pretty quick because we have to get it through the GNSO council and then we have to get it through the board and then into the guidebook.

And so there's no artificiality in terms of that deadline unless you assume that there's going to be another iteration of the applicant guidebook which I can't. As soon as there's an indication of that, then the constraint disappears. The long-term discussion may be where confusion has come in.

Way early in this conversation, I published a little memo to the list about a two-phase approach and the long term that I've been referring to is very long, a year plus and involves experts and economists and all the stuff that folks have mentioned and effectively is not aimed at the current amount of gTLD applicants.

So it may be that there's been confusion in terms of short and long term that I've introduced by accident. I didn't mean to do that. Does that clear it up for you Brian? May be on mute or maybe I did clear it up.

Anyway, we're running out of time people. I need to get a quick sense of where we go from here. Is it reasonable to carry this on to the list or do we need to drive this to ground on this call? Do we have the time to wait a week? What should we do? My immediate thought is...

Tim Ruiz: Hey, Mikey, this is Tim. I have a comment on that if you're...

Mikey O'Connor: Yes, go ahead.

Tim Ruiz: One thing I wonder is that - well I don't have to wonder - I know that behind the scenes so to speak a number of us have been working on negotiating, trying to find some ground for compromise on whatever.

And it seems to me that maybe we should give one more opportunity for these different parties or groups or whatever that have been working together to somehow make some sort of consolidated response or proposal or kind of update the group on where everyone's at so that we can maybe start this other process a little bit further down the road than kind of going back and redoing a lot of the work that's already been done by several people behind the scenes.

At least that's my - that's what I suspect - and then I've been involved in that myself so just that's a suggestion that maybe you give one more shot over a short period of time here to update where we're at and then move on from there.

Mikey O'Connor: So one approach would be to let that process unfold over the following week and see where we've arrived at next week's call. Does that sound like a reasonable time interval for that to happen? Roberto?

Roberto Gaetano: Thank you, I better get through...

Man: Mikey, if we're going to - if we're even thinking about a second meeting for the week, we should start a doodle on the potential time for it now. This week because next week is going to be too late to schedule one two days later.

Mikey O'Connor: Yes, we'll get that underway as well. (Robert), go ahead.

Roberto Gaetano: I want to just to reinforce first the fact that we need some of the jobs for Brussels because either - I mean, there are three possibilities - either we get it done by Brussels or we arrive in Brussels knowing that there's no possibility of compromising on any and we are absolutely at zero and those are the two clean-cut situations.

But if we get some work done, if we get some points of consensus, if we get some - the art of possibility - into Brussels, that will give the possibility of negotiating some more time.

I think that if we are on the way to get a result, I think that we can go to the community and say okay, we had a commitment to have a result at that point in time.

We are on the way and we just need a little bit of more time and that's a completely different thing than to start from the beginning in saying okay, we are not going to get it done for Brussels.

So this said, considering that that's my approach, the obvious consequence is that we need now to dig into the matrix. I don't know if we need another call this week or if we can let it go for the weekend and have everything on next Monday.

Maybe we need to launch a doodle poll because if we are going to have another call this week where half of the people will not be able to participate, that will start having a bit of bad feelings.

I'm not under the impression that now a couple of days more or a couple of days less is the important thing before we get a new call. The important thing is what we are going to achieve in the next call.

So I think that we need some kind of groundwork that we can do on the list, for instance to see what are the important things in the matrix, what are - are there any roles that we can combine?

Can we have some qualify some of the values in the sense that can we just check because and I did send a message on the chat, there are some people who say zero, some people 15% and some people 100%.

Now some of the people might say it's either 15% or we are not going to have any deal but some other people might say well, it's 15% but I can live with 20 so I think that we need to explore what are the soft possibilities now that we have the hard possibilities on the table hard coded in the matrix.

And I think that maybe it would be useful now that we have the full matrix on the table to leave also the possibility to different proponents to get in touch by phone and say okay, well can we come to a more drawing to agreement on that or so that we can diminish, we can simplify the matrix?

Maybe I'm reasoning like I'm a mathematician which is what I am but I'm trying to reduce the complexity of the matrix in order to make it more manageable and then go to the next stage. That's all.

Mikey O'Connor: Thanks, Roberto. Brian, are you in the queue still or was that leftover from before? The silence either indicates mute or leftover from before. I'm going to keep talking and Brian if you were really in the queue, you can break in.

I think that we're all sort of arriving at the same place which is now is the time to sort of do what we can to simplify the matrix, continue the negotiations that have been going on, identify the soft spots and I don't think it's practical to put another call into peoples' schedule this week.

I think it would be very difficult to find that but we will do a doodle poll for a second call next week which will give people a little bit more time to react and I will reflect on the call that we've just had and reflect with Roberto and we'll write a little description of what we're going to try and get accomplished on the next call and would be more than open to any suggestions from anybody that's participated in these things before.

I'm actually quite hopeful that we will have moved the ball forward quite a bit for Brussels and I thank you all for working so hard so far and continuing that

good work and with that, I have - I am terribly sorry that we ran over. I will try very hard not to do that again and we'll draw this one to a close.

See you next week and thanks.

END