

**Vertical Integration PDP Working Group
TRANSCRIPTION
Thursday 08 July 2010 at 19:00 UTC**

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Contracted Parties House

Registrars Stakeholder Group

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Statton Hammock
Volker Greimann
Eric Brunner-Williams
Amadeu Abril
Jothan Frakes
Thomas Barrett
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gTLD Registries Stakeholder Group

Brian Cute
Ken Stubbs
Kathy Kleiman
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Keith Drazek

**Non Contracted Parties House
- Commercial Stakeholders Group**

Berry Cob -CBUC
Mikey O'Connor – CBUC- Co-Chair
Michael Palage - CBUC
Scott Austin IPC
Ronald N. Andruff – CBUC
Jon Nevett – CBUC
Kristina Rosette – IPC

- Non-Commercial Stakeholder Group

Avri Doria

Internet Service Providers and Connectivity Providers Constituency

Tony Harris - ISP

Individuals

Roberto Gaetano - Co-Chair
Phil Buckingham
Richard Tindal
Anthony Van Couvering

ALAC/At Large

Cheryl Langdon-Orr
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Staff:

Margie Milam
Glen de Saint Gery
Marika Konings
David Giza

Apologies:

Katrin Ohlmer
Vika Mpisane

Mikey O'Connor: Okay. Well anyway. Let's spend a minute on the agenda and then as the rest of the folks have joined the call, we'll call the roll and get started. Really today's call is about the drafting efforts that have been going on for the last three days. And so what I've done is just divided the agenda into really three major parts, my attempt at DAG4 drafting sort of exploded. I just wanted to figure out what to do with that.

And then the last item is sort of to take an assessment of where we're at and the way forward because we are starting to run pretty close to the end of the time in our work plan. Any thoughts about the agenda before we call the roll and get going?

I don't see any hands up. So Glen, why don't you go ahead and call the roll and we'll get started.

Glen Desaintgery: I'll do that with pleasure. Good morning, good afternoon, good evening everyone. This is the Vertical Integration call 8th of July. On the call we have

Baudoin Schombe, Cheryl Langdon-Orr, Mikey O'Connor, Keith Drazek, Volker Greimann, Sebastien Bachellot, Roberto Gaetano, Jeffrey Eckhaus, Ron Andruff, Eric Brunner-Williams, Amadeu Abril I Abril, Avri Doria, Alan Greenberg, Anthony van Couvering, Berry Cobb, Tony Harris, Statton Hammock, Tim Ruiz, Scott Austin, Ken Stubbs, Kristina Rosette and Jon Nevett.

And for staff we have David Giza, Marika Konings, Margie Milam and Glen Desaintgery myself. Have I left off anyone? Thank you. Mikey, over to you.

Mikey O'Connor: Thanks Glen. Okay. So we've got sort of three big pieces of business to get through. I didn't have any particularly complicated ideas in terms of orders so I sort of at random put Tim and the exception process first.

Tim, do you have a different draft that you want to share with the group. And if so, if you email it to me I'll put it up in that...

((Crosstalk))

Tim Ruiz: No. I have my draft is out there. Anthony created one so those are the two drafts you got.

Mikey O'Conner: Okay. How do you want to proceed? Do you want to try and sort of summarize the two, summarize the major differences?

Tim Ruiz: Me no. Actually I prefer not.

Mikey O'Conner: Okay. Anthony, do you want me to put Tim's up and then you insert differences?

Anthony Von Couvering: Well I did that in a red line version Mikey. I'm happy to quickly summarize...

Mikey O'Conner: Okay.

Anthony Von Couvering: ... if it's helpful for people who didn't read it. And Tim can correct me if I mischaracterize what he - in broad strokes Tim's draft looks for narrow exceptions that are based on - effectively a narrow definition of community, which I might also call disadvantaged registries.

And my draft essentially doesn't try to define the character of the registry but has exceptions for those registries which are not adopted by registrars in a meaningful way. Meaning that either they don't adopt them at all or they don't adopt them in a way that can communicate to the - their identified user base. In other words, for instance if something's not in their own language or scripts. So those are the essential differences.

Mikey O'Conner: Okay. I've got your redline in front of me and I'm sort of quickly transforming it into something that I can put up on the page. But I'll go ahead and run a queue on a conversation about those while I'm doing that. Anybody have thoughts either way on how that should proceed? Amadeu, go ahead.

Amadeu Abril I Abril: Okay. Can you hear me now?

Mikey O'Conner: Yeah.

Amadeu Abril I Abril: Okay. Just fighting with the mute button. I have several questions for you Mikey. What are we supposed to do with these (fee) proposals? My question is the following. I have nothing against a lot of things in favor of what Tim has said. I have also a lot of things in favor some of the things that Anthony has proposed.

The problem is that both things are just one view of the cathedral or just one phase, one side. We are talking about one concrete type of exception. Then we have a (shield) as another type of exception.

But I was really, you know, hoping that this exception exercise was about having possible types of exceptions and then deciding which one will work considering or not because I think there should be other exceptions to the register, registrar should given the look of their eyes. Even if they accept the principle, I think there are other exceptions possible.

Mikey O'Conner: So the question to me is what Amadeu?

Amadeu Abril I Abril: The question is we are discussing this but like the question is - let's imagine I say that I think that this proposal is okay. Doesn't mean that this is all for exceptions? That's the sense of my question because if that's the same, they should say no even if I like or I'm seeing with probably some changes, you know, somewhere in me this exception, yes I think it makes sense but I don't think that this exceptions in general.

Mikey O'Conner: Tim or Anthony, either of you want to respond? I'm not...

Anthony Von Couvering: Sure. I'll be happy to respond. I think that the format that Tim laid out is good in that it sets out the issue. It frames that there's some kind of base agreement, which I struck out (rack two) and put to be determined and then there are a number of enumerated exceptions.

So you could add to that list without a problem. The reason I put in the ones that I did was that I think they need very little compliance and so it's simpler whereas the other ones would actually need to be watched or at least some determinations made by panel and so on.

So my object was to come up with a simple thing but there is nothing in the structure of the document that wouldn't - that would prevent people from enumerating other exceptions that they thought were worthy and possibly one's that neither I nor Tim thought of.

Amadeu Abril I Abril: Okay. Then the only thing I'm saying is that after the call I will send a proposal that Mikey you do whatever you want with this and we'll take it as a formal proposal if you don't want to. As a proposal for a sort of let's say automatic exception market base one; that is it doesn't need the sort of (unintelligible) that Anthony was describing. That could be added to this. It's not, I repeat, nothing against the proposal on the table.

Mikey O'Conner: Yeah. Anthony that's what I heard you saying. Tim your hand came up during that. Do you want to respond as well?

Tim Ruiz: Yeah. You know, I - what again with my original purpose was suggesting this or goal was to provide the possibility of some exceptions for I think as Anthony put it, Anthony put down. Those that may be possibly disadvantaged economically perhaps or in other ways. I think one example I did see in Anthony's, although I don't support his changes overall, one example I saw in there was that I think a language community that had limited support from registries, registrars something of that nature.

And then I think perhaps something like that could make sense. So I don't disagree that there might be other cases. But my goal wasn't to figure it out how to do something different to solve the vertical integration issue.

It was the fact that we can't find consensus on it so how can we - since that's true, how can we provide some exceptions for those that truly can demonstrate a need. Because that's what I'd want to be - I'd want to be careful about and I think trying to presuppose or, you know, precondition somehow registry failures and what we'll do with that I think is a dangerous track to go down.

We have - we had not had one. In fact we haven't had a registry that hasn't had registrar support and I would propose meaningful registrar support. And I see nothing that indicates that any of the existing registries that have

problems including museum, aero, any of the sponsored TLDs. This has nothing to do with registrar support. It has - there are other issues involved.

So I think, you know, trying to presuppose what the conditions might be in which a registry could falter or fail is dangerous. And we should deal with that when it happens. Certainly recognize that ICANN may propose some sort of exceptions. They'll put it up for public comment, allow the community to respond and then for that to be dealt with.

So that's not the purpose of what I was creating. That's probably the biggest area where it differs between what I did and what Anthony did. But could there be possibility of other exceptions? Yeah I think so. But I still - my goal would be to keep it very narrow.

Mikey O'Conner: Thanks Tim. Margie I am having a hell of a time getting that document Transponder 5 into something that could be shared with the group. So I'm going to throw the ball to you and see if you can get it up in the hole that I've created on our screen. Sorry about that.

Anthony, is your hand up - left up from before or is this a new thought that you got?

Anthony Von Couvering: No, that's me new.

Mikey O'Conner: Okay. Go ahead.

Anthony Von Couvering: And I think one way in the spirit of getting stuff done that we might proceed is to come up with a framework that we can agree on and enumerate some exceptions and perhaps take a sense of the group of which exceptions have more support.

And obviously those could be added and then, you know, throw that over the (trans) into ICANN and let them with the full sense of what the sense of the

group is even though it's fractured come up with something that they then put out for comment.

In other words, we may not have to do more than simply say that we would, assuming that we end up with something that needs exceptions, we may not need to do more than say that we recognize that there are exceptions that could be made and here are some of the exceptions that members of the group have identified and here's some sense of the support that these exceptions have.

Mikey O'Conner: Now what we could do Anthony and Tim is we could use this part of the document to simply describe the process. And then the exception part could be either examples or to be determined. But simply acknowledge that right now there is the need for an exception process of some sort without specifying which ones. Does that carry it further in the direction that you were thinking Anthony or does that go too far?

Anthony Von Couvering: I think it would be useful for whoever is drafting something for comment to have some idea of what kind of exceptions this group was thinking of rather than just leave it completely open but otherwise I agree with you.

Mikey O'Conner: So what if we called them examples and then...

Anthony Von Couvering: Yeah. Okay with me.

Mikey O'Conner: ...acknowledge that the group is quite divided on these. We could go ahead and poll on those and give people a sense of where the group stands on them.

Anthony Von Couvering: Especially with the advocates care to, you know, write, you know, a small amount of text describing why they think it's useful or not, you know. So that when there's someone who's trying to put this together, they have a

sense of the thinking behind it rather than just the bare examples. I think that would be useful.

Mikey O'Conner: Yeah. I...

Anthony Von Couvering: Because I don't...

((Crosstalk))

Tim Ruiz: I don't disagree - I don't disagree Mikey as long as this doesn't become a tool for everyone to try to circumvent the fact that we don't have consensus on any of these issues. But we're going to try to throw out the kitchen sink in for exceptions. I think that's the danger we run into here.

Mikey O'Conner: Yeah. Well that's actually part of the appeal of the notion of just describing an exception process without trying to include exceptions in that process.

Tim Ruiz: Right. But I mean we could get to where okay well we have one person in support of this exception; we have two people in support of this exception; we've got a list of 33 exceptions that all have a few people in support. I'm not sure that that serves a purpose.

Anthony Von Couvering: I agree with you Tim. I don't have any problem with that. I think that if you just wanted to say there should be exceptions and then people can put what they think should be an exception in their comments and let the staff read that.

That's fine with me too. I just think that if we go with something that has limitations, there are - obviously we've heard a number of different exceptions that people want to put forward. I put some. Tim has put some, you know, Kristina's put some.

Then if we just say there should be some exceptions and let people identify those themselves in their comments, that's another way of bringing those to the attention of ICANN without trying to, you know, pretend that there's consensus within this group. And I agree with you Tim that that would be incorrect to do.

Mikey O'Conner: Margie's got her hand up and then I'll go to Amadeu and Kristina but Margie go ahead.

Margie Milam: Oh yeah Mikey. I just wanted to clarify what document did you want me to try to put up?

Mikey O'Conner: This is - I guess the one that I was trying to get was the one that Anthony sent earlier today called CI Exceptions Redline (dot Ex).

Margie Milam: Yeah. I have that. I should be able to post it. Give me a minute.

Mikey O'Conner: Okay. Thanks. Amadeu. You may be on mute Amadeu.

Amadeu Abril I Abril: Yes I think I was on mute.

Mikey O'Conner: Yeah. Now I can...

Amadeu Abril I Abril: I will say very interesting things by the way to myself. In any case regardless of the number of exceptions one might have, you know, probably the important thing is that some exceptions will have reasons behind and will also have metrics and guidelines to have per se when they can be allowed. Like the exercise the team has gone through. These exceptions will be mature enough for the Board probably to take.

If other exceptions deserve consideration but we are unable to agree on metrics or guidelines or testing stats on which to, you know, contrast whether they meet the criteria or not, well it will be left for future evaluation. So

(unintelligible) just listing the exemptions but also providing the metrics or the guidelines and test stats to (locate this).

Mikey O'Conner: Tim, Anthony, does that fit in to the sense that you're seeing this go?

Anthony Von Couvering: It's fine with me. I like it. I mean I think we have to punt to a certain extent and we should just sort of define the limits of our punting. And I like Amadeu's suggestion.

Mikey O'Conner: Tim, are you okay with that?

Tim Ruiz: Well I don't know. I guess I have to see. I'm not quite sure I completely understand where we're going.

Mikey O'Conner: Well I - the sense that I've got is that the sort of payday part of the write up is the notion that there needs to be an exception process. And de-emphasizing the specifics of the exceptions in this but rather setting the framework by which exceptions would be evaluated if I were to re-characterize Amadeu's point.

Tim Ruiz: As long as it explains why we - like why we went down this road. I mean if there's agreement that we want to. But I mean it wasn't again to open a door for everybody to jump in with their particular exception because they feel they need it.

But it was to be sure that we leave an opportunity to address exceptions for disadvantaged - potentially disadvantaged applicants from whether it's developing countries or they're trying to address a, you know, a language based TLD for very specific community that isn't otherwise going to be addressed.

You know, somehow I mean that concept's got to get across. Or, you know, maybe it's that some felt that, you know, something needed to be in place

upfront to account for, you know, (the history about our family). No, I don't agree with that I, you know, I don't have any problem with that. It doesn't really - that doesn't really get into the vertical integration issue per se.

But to just say well that we all agree that there needs to be exceptions. Well of course we - everybody agrees with that. That's what we've been arguing about for the last six months. So I just think we need to be specific and clear about what this is about or it's just going to be confusing to whoever's looking at it in the end.

Mikey O'Conner: One approach to this would be to let the two of you take another try at a draft either during this call or quickly thereafter. I'm not sure where to take it from here if we - if we don't - I'm sorry. Wait a minute. Before I say all that I should let Kristina speak. Sorry. Kristina you're next. And others of you could you mute. We're starting to get a fair amount of background noise on the line here.

Kristina Rosette: Thanks Mikey. I don't have a problem with our - in developing a concept by which exceptions would be applied for or even going further in identifying the criteria that need to be considered generally in granting them. And in fact I think that would be helpful to do.

What I do have an issue with is the idea that we would put forward only some of the exceptions but not all of them and that we would rely on public comments. I think I have problems with that for two reasons.

First I think it really just as a matter of fairness if any of the exceptions are going to be identified in this document, then all of the ones that have been put forward should be along with what level of support they have in large part because if I was understanding Anthony correctly about relying on public comment and maybe it wasn't just public comment but comment.

You know, the fact of the matter is the board told a number of us in Brussels that they don't read it. I know that the GNSO Council's got no mechanism to actually read it. It's really up to what the individual councilors do. I don't even know that there's a process for the staff to provide council with a summary in a timely fashion of the public comment.

And that's independent of the fact that you've got a lot of people out there who think that staff don't adequately summarize their public comments. So, you know, those are all bigger issues that to the extent that we're at the point where we're identifying what's going in our report, it - I really do believe that if we are going to be identifying any exceptions we need to identify all of them and a level of support for each.

Mikey O'Conner: How about that for an addition to the process, Tim and Anthony especially?

Tim Ruiz: No, that's - it makes no sense because then we're just back to where we were before. I don't see the point. Do you want to go down that road? That's fine. We're just going to end up with a duplication of the mess we've already got. So I don't know if that's where everybody wants to go I guess it's not...

Anthony Von Couvering: I don't change anything, you know. Sorry. I think we'll end up with a laundry list. Whether that comes in the report or via the comments, I don't really mind either way. I think as I said before that, you know, given the time constraints and the hardness of the positions, we're not going to come to a full consensus and we have to punt to some extent.

And the form of that does not really concern me that much. I understand what Kristina says. I certainly share the frustration at the apparent lack of, you know, what the Board takes into account from public comments. I don't know that that's any different from what they'll take into account from what we send them. But it's no mind to me either way.

Mikey O'Conner: So whoever just cleared their throat, could you mute? Okay. So let's see. Ron I guess you're next.

Ron Andruff: Thank you Mikey, can you hear me?

Mikey O'Conner: Yeah.

Ron Andruff: Very good. I just want to come back to something that was said earlier in I think Tim's comments. And he was talking about just being cautious. As you've seen me on this list for months on end, I just wanted to appear on the side of caution at all times because it's important that we do.

So I just want to bring it forward that before we hand anything off we as this work group need to do the work first. And clearly consideration needs to be given to this task that we're undertaking as much as any other element that we've been working on in this working group.

So I think we need to consider that if there are possibilities right now within existing policy that we have whereby we could utilize that policy and make amendments to provide for exceptions, it's probably a safer way than opening up something for anyone to just declare themselves they are that.

So if we need to give more study to it, then need to take the time and we - why don't we consider allowing these ones who feel they meet the SRSU requirements as were - we might define in some simple terms, as we understand them today.

They want to queue up as in the first round. So they actually get a place in a queue for their space. Nothing can happen to that space. It's parked until everything is resolved from our side, from the working group's side. I think that would be a better and more fair way forward.

Opening the door right now and just saying okay we didn't get the other stuff down and we're all frustrated so let's just push this SRSU thing out right now and get it in the books so we get started, that's not serving anyone. So I just wanted to provide another word (of caution). Thank you.

Mikey O'Conner: Thanks Ron. Tim.

Tim Ruiz: Yeah. I just - I guess just picking up on something Ron said about, you know, I guess my view wasn't that we end up with something else that we have to now include in our report that we don't have consensus on. I don't see where that gets us.

You know, if there's - if we're going to approach it as Kristina suggests, and I can understand why she wants to do it that way or why others do, you know, I mean really that's all we're going to end up with is just here's another process with all these same ideas that we discussed in the other part of our working group sessions that we didn't find consensus on. Now here's another thing where everybody's trying to get mandate and we don't have consensus on those either.

I don't see where that gets anywhere. But and the only other thing I want to say I think it's just too bad that as a result of all of our individual desires to get what we want out of this, we're going to end up just letting this be what it is and it'll end up potentially lacking some very valid applicants from doing things that we shouldn't have any issue with.

That don't involve, you know, just somebody trying to figure out another way that makes a lot of money or, you know, you know, multimillions \$100 million, billion dollar companies trying to figure out how to do things. You know, but just applicants trying to address a public interest need in a developing area. That's kind of sad but it looks like that's like where we're headed I guess.

Mikey O'Conner: I'm not sure how to proceed on this one. Jeff Eckhaus, go ahead.

Jeffrey Eckhaus: Thanks. I just wanted to bring something up that I guess Tim just made me think about this and I guess it's along these lines. Is that, you know, many people we've seen on some of the emails and some of the calls they say, you know, some of - we should let some of the exceptions that are in - that I'm using, I'm putting this in quotes in the public interest, you know, have the exceptions have these pieces.

But I really - I'm not sure that we can - we can ever, you know, this hot potato word or whatever what in the public interest just because somebody is small and, you know, works - and is in like a non-English language and in an impoverished country doesn't necessarily put it in the public interest.

I believe that there's been a lot of work by larger corporations that might have been for profit that have been in the public interest and I think that to classify things as just because they're smaller or they're not for profit necessarily in the public interest, I think that's a mistake.

And I think that's one of the, you know, the details that we need to get past. But I just wanted to put that out because there's a lot of large companies and corporations have done things in the public interest that were for profit companies and in English or in North America. So just wanted to put that point out there.

Mikey O'Conner: Thanks Jeff. Anthony, I think you're next.

Anthony Von Couvering: Yeah. I'd like (talking) to agree with both of the previous two speakers. Certainly my - and putting forward what I did was to number one get rid of the subjective determination of what's in the public interest or not especially on a global basis. I think that's, you know, almost as impossible as anything you can think of.

And secondly, to agree with him that, you know, my interest in this is to make sure that no one is it was a good idea. It just gets excluded or is faced which I think is the same thing with a huge regulatory burden or actual cost. And I use the idea of separation as an enormous cost for a small registry to be able to do what they need to do.

So that's why my proposal simply says if you can't get registrar support in a meaningful way, then you ought to be able to form a registrar yourself and distribute your own TLD so that you're not sort of sitting there with a registry and no distribution channel.

So I really did try to take what I thought were the good parts of Tim's proposal and put them in a different way that would require very little compliance oversight at least in this respect. And would simply remove what I considered to be real barriers to entry if we adopt say the (Rack plus) proposal for the most part. So I just wanted to make that point. Thanks.

Mikey O'Conner: Thanks Anthony. I think I'm going to park this topic for a bit and move on to the next one. I'm not sure - we're sort of getting between a rock and a hard place in terms of time and in terms of the way to proceed. My hope was that we would have language that we were a little bit closer to consensus on and at least it seems like we are that we could go out and do a pole on.

And so I'm, you know, I'm not hearing sort of a strong thread of consensus around this. So I think I want to put this one on hold and we'll pick it up before the end of the call again and decide how to proceed.

But I guess I'd like to hear from the other two groups and see if anything is going to emerge. I mean essentially we're down to the place where, you know, I hate to say it this way. But we're down to the place where we have to make the consensus call.

And my hope coming out of Monday was we might have three areas around which we could build a consensus but I'm not sure that this one made it. So I think I'd like to hear from the other two groups and then spend the very end of the call sort of making the determination what to do next.

Keith. Go ahead.

Keith Drazek: Thanks Mikey. I just wanted - actually I think Anthony had his hand up before I did.

Mikey O'Conner: Yeah. That's fine. Why don't you go ahead and finish your thought.

Anthony Von Couvering: That's old. That's old.

Mikey O'Conner: Okay. So Keith you're on.

Keith Drazek: Okay. There's just been some interesting chat in the chat feature here and not specifically about all exceptions but about the distinction of what an orphan TLD is. And I guess I'd like to, you know, pose this question for everybody on the call.

In that is there any opposition in the working group to, you know, the concept or the presumption that an orphan TLD, an orphan registry, that cannot get adequate registrar support should be prohibited from taking that TLD to market?

I guess I haven't heard a whole lot of opposition. And yeah, I think there's still some questions about, you know, the timing and the process for determining what an orphan is. You know, and when that determination is made but, you know, is there anybody in the working group that opposes allowing an orphan TLD that to become its own registrar and self-distribute?

Mikey O'Conner: Avri, I think raised her hand and oh and I guess - sorry, I'm not paying attention to the order. Tim and then Avri.

Avri Doria: Tim was there before me.

Mikey O'Conner: Yeah. Tim, go ahead.

Tim Ruiz: You know, just a general blanket objection to that Keith. I myself know could there be objection in certain cases? I think possibly. So it's difficult to say. I mean that's a problem with a lot of these things to say that without knowing the situation and the TLD and who it's addressing et cetera, to say that there's a blanket - that there can be a blanket rule either way, that's the problem.

I think there certainly should be a consideration that if it does turn out that a TLD is working, that there's some mechanism to which they can appeal to ICANN for some sort of relief or exception. But I think that should be reviewed by the community.

I think - I don't think that decision should be made - that decision should be made in a vacuum and I think it's difficult for us to come up with a blanket set of rules that can be evenly and justifiably applied in every unknown case that could come up and occur. So I don't know if that's a really clear answer or not but that's the way I feel about it.

Mikey O'Conner: Thanks Tim. Avri?

Avri Doria: Yeah hi. On the subject, I'm having a problem with sort of making the objection. I think it's similar in this case. I'm almost agreeing with Tim that orphans are sort of very much after the fact. You can't know that something is an orphan before it actually happens and I do believe that we need to have a solution in place before things are orphan. Though yes I agree once

something is seen to be an orphan, something should be able to happen with it.

I think we've gotten somewhere if I understand in that an exception list and the existence of an exception list seems to be accepted. That the existence of a review mechanism of some sort to act as a checkpoint on exception list exceptions seems to be accepted. Maybe I'm wrong but just listening that that thought.

And if we have anywhere close to an agreement even though we still need to argue a lot about what needs to be on the exceptions list whether it's just needs based or whether it's also things like well if you're not - if you don't need a registrar's services, why pay for them or some other notion, that doesn't really matter.

We can have a longer discussion after having said if there is indeed consensus. We have consensus on building a exceptions list. We have (success) we have a consensus on, you know, having a review panel that reviews this exceptions list. And we will over the next couple of months work to give details on what are exceptions and what it means to get an exception kind of thing.

So, you know, getting half way to the point of saying we have something where we think we have an agreement. We just need more work to do the details and that's different than saying we need more time to come to any consensus. Thank you.

Mikey O'Conner: I'd like to capture that thought and sort of put that back to the group. The notion that we agree that there needs to be an exception process, that there needs to be an exception list and that more time is required to refine those lists. I think what I'd like to do is go to Tim and Anthony first but is that indeed the case that we agree on that and that the difficulty is in the details of the exception list itself?

((Crosstalk))

Anthony Von Couvering: Go ahead Tim I'm sorry.

Tim Ruiz: Well I was just going to say yeah I think that pretty much captures it. I think the way Avri - I think you just restated that. The way Avri said it if we can accept that there is an exception list but exceptions are reviewed by exception panel and that a set of guidelines, oops I just lost it.

Anyway the way she put it in the chat, I think that fairly represents how I would see it just as long as there's, you know, if it's still a by month consensus process that defines what that - what those exceptions are.

Mikey O'Conner: How about if we gave that one back to the three of you to redraft including Avri and the three of you this time to capture that either for the - for later in this call or very soon thereafter so that we could and poll for consensus on that? Would that be an acceptable way forward? I'm not hearing anybody screaming in pain. Let me take (Richard) and Jeffrey and then maybe that's the way we could proceed. (Richard), go ahead.

Richard, before you start, please people somebody who breathes very heavily is not muted. And it's getting hard to hear people over it. So if everybody could please mute that would be great, go ahead Richard.

(Richard): I endorse the orphan approach to answer Keith's question. And I agree with what Tim said about orphan. I agree with what Avri said as well perhaps with a small exception. Avri I think you said that a concern would be that it would be hard to establish whether you're an orphan or not until sort of late into the launch cycle of the TLD. But I think typically you would know pretty early.

You would - generally speaking I think you would know before you actually did sort of general public availability launch if you weren't getting registrars

offering new TLDs. I don't think we have a problem where someone was sort of unable to launch. I mean potentially their launch might get delayed while they went through whatever process we set up to get approval for orphans.

I don't think we're talking about a significant period of time in which the TLD is just simply can't be solved while we're waiting for this. I think - again I think we're going to know pretty early for a TLD that's in that situation. So and I think this is an area where maybe we are getting some consensus this orphan notion.

Mikey O'Conner: Thanks (Richard). Jeffrey, go ahead.

Jeffrey Eckhaus: Yeah. I think that I believe it was Anthony that said it on the chat and I'll sort of reiterate doing a - something about a registrar doing a last resort. And what I'd like to sort of flip that around as saying what happens now when ICANN de-accredits a registrar.

They put out sort of a modified or simplified RFP for registrars to see who would like to take over that registrar and then, you know, they have to answer a set of questions and then based upon, you know, there's a point system and it has to do with geography and other, you know, a whole bunch of other factors.

I think that if we use something like that it would be a much simpler process. We wouldn't need exceptions to the rule. And I believe it would prevent let's call it the green mail issue because of the competitive marketplace I think that there would be registrars lining up to do it and to say if you said here's what it is. I need to be the registrar and you have a pool of people and to be the registrar of last resort or to be one of a few, I think that that would be easy. And I don't think - I really don't believe that the orphan one would be in there.

And I think that maybe if we got past this point where if nobody took it which I can't believe it then we could deal with it. But I think there's so many options

and so much availability and processes that seem to work on this where registrars are fighting. I know that people have submitted applications for some of the registrars that lost their credentials that had like 100 names in it and there were multiple applications.

So I think that there is a process. I think it works. I don't think we need to work on exceptions for this because there will be registrars that will do it and we can - we already have a process that works for it.

Ken Stubbs: Mike...

Mike O'Conner: Thanks Jeff. I just heard somebody call my name.

Ken Stubbs: Yeah. It's Ken Stubbs. I have a point (unintelligible). I'm sorry.

Mike O'Conner: Oh. Go ahead Ken.

Ken Stubbs: Yeah. I'm sorry Mike but we're 50 minutes into it the call. I mean correct me if I'm wrong, we originally budgeted 20 minutes for this and I agree that we're reaching some sort of an agreement but the agreement is on a very, very small part of some of some of the overall issues. And I'm afraid we're going to get done with this call with very little accomplished in terms of the total scope of the issues we had to deal with. I'm sorry. Thanks Mike.

Mikey O'Conner: That's fine. Thanks Ken. Tim, why don't we make you the last commenter on this one and then we'll push along to the next.

Tim Ruiz: Yeah. I was just going to - I was just trying to get some clarity on Jeff Eckhaus' comments and just make sure we're not confusing orphaned with failed because I think there is a difference. Orphaned is a situation where a registry can't really get a start because it doesn't have registrar support and that's one issue.

A registry may later fail just because nobody wants it and that's a different issue. And that I - that I'm not - I don't think we've been talking about necessarily but I wasn't sure that's what Jeff was referring to.

Jeffery Eckhaus: No. May I respond quickly? Tim I agree...

Mikey O'Conner: You know guys, I'm going to - I'm going to cut this off because I don't think it's really germane to the main thread of the conversation at this point. What I'd like to do is let Anthony, Tim and Avri go off and draft essentially a slightly more formal version of what Avri proposed since it seems as though that was the point around there was a fair amount of agreement and get that out to the list pretty quickly so that we can take a look at it over the next few days and try and drive it to ground on Monday's call if that's okay.

And I'd like to push along to the compliance and enforcement. Keith, I don't know who's got the latest draft of that but whoever does if you could push it along to Margie then she can share it for the rest of us. But is there somebody who wants to sort of describe where that conversation is at? I'm sort of thinking (Brian) but I don't want to put you on the spot if there's somebody else who's sort of the lead drafter right now.

(Brian), are you on the call or are you muted; maybe you're muted? Anybody else from the group that worked on that that wants to step in to the spotlight and...

Man: Which group is this Mikey?

Mikey O'Conner: This is the compliance - the compliance one.

(Brian): Mikey can you hear?

Mikey O'Conner: Yes I can.

(Brain): Hey Mikey. It's (Brian). Sorry about that.

Mikey O'Conner: Oh there you go. Now I can hear you.

(Brian): Okay. I'll as you asked just send it to Margie. I did send it to the list. I'm hoping that people on the call at least have access to it.

Mikey O'Conner: Yeah. And if it's the same one that's on the list, then that's fine. I wasn't sure if there was any subsequent conversation that changed it at all. And I just wanted to give you a chance to do the...

(Brian): Thanks. There was some subsequent conversation but no. What I sent to the list yesterday is what's on the table for discussion in the draft.

Mikey O'Conner: Okay.

(Brian): So if Margie wants to just post that. I'll (send it to her) right now and then (unintelligible) through it. All right. That's off to Margie and I'll just start.

Margie Milam: Can I ask a question? It's Margie. Is this something that Ken Stubbs circulated or is it...

Mikey O'Conner: Yeah, yeah.

((Crosstalk))

Margie Milam: Okay.

(Brian): Go it or you want to throw it up there?

Margie Milam: Yeah. I should be able to get it.

(Brian): Okay. And let me - while you're doing that, let me just preface by saying with regard to the comments from the sub working team on the list, this thing was put forward as draft. The sub working team - it was sent to the sub working team and I had gotten comments from everybody except Volker later in the day yesterday.

And apologies Volker but I, you know, somebody on the call last time had asked that the sub working teams post these drafts to the list so that everybody on working group could have visibility into what we were doing.

So under those circumstances late yesterday with a call today I know I hadn't heard from you but I had heard from others and I pulled the trigger. I don't view this as anything but a draft and a discussion document just to clear the air here. And looking forward to people's comments today.

So if you've had a chance to read it, it's what I would characterize as an outline of elements of a compliance and enforcement program if one was to be designed, built and operated for the new TLD vertical integration proposal as adopted. And as I know at the outset since we don't have a specific proposal that has consensus we can't at this very moment draft and tailor a compliance and enforcement program to a particular set of market conditions.

But that being said I won't spend a lot of time because some of these are under both the heading of compliance which is itself (creature) here and under the head enforcement that I put what are effectively bullet points of elements of each of those aspects of an overall compliance and enforcement program.

And in the compliance bucket I think that some of these - some of these elements like a

((Crosstalk))

(Brian): ...program are things that a company that would be subject to these rules would draft and circulate to its employees and provide training on; but a formal written compliance program is also something that ICANN's enforcement could develop and draft and circulate as almost a service to the companies that are subject to the rules.

And the example I used there is when I was at the Department of Commerce in the Export Administration Office, we had a handbook that was available to the public to exporters who were subject to the rules that identified the rules of the program, that also had explanations of how the rules applied; even had, for example, scenarios like a given fact pattern and how would the rules apply to this particular fact pattern.

So just to say that (unintelligible) compliance that formal written compliance program is both something that a company that's subject to the rules that's trying hard to comply with them, something they would be expected to develop and socialize and train on internally, but also something that ICANN's enforcement staff could develop as guidance as well.

The enforcement bucket, if you will, is obviously something that would be uniquely on ICANN's - it's their responsibility effectively. And again I've hit basic high-level points. You need to have monitoring into (unintelligible).

There are a couple of sub bullets there, use of data and information systems to identify trends, prioritization of the investigations, and promoting efficient use of enforcement resources, systems for public assistance in monitoring and detection.

Voluntary disclosures. This is an interesting element of a program that I used to work in where if a company detected that there was a violation of the rules and was a company that wasn't intentionally doing so, you can provide a mechanism whereby they effectively self report, drop a dime on themselves and then they go through a formal process of doing a summary, an

investigation, working with ICANN or the, you know, enforcement bureau in this sense and finding their way toward a more minimal penalty, if you will, because what happened was not by - not with intent. It was discovered, it was exposed and they did all the right things once they found out.

So there's a number of different elements here that can be put into place that in this instance would avoid the worst possible sanction being brought against a company. And of course that would also depend on the company's willingness to come in and disclose. So I'm not going to spend much more time walking through there. I'm more interested in the discussion points that people have around this because I think that everything is hopefully clearing up on its face.

Mikey O'Conner: Thanks (Brian). Before I start into the queue just one question for you. Do you think that it would - that this draft might just respond well to the same sort of approach that we just started taking with the previous one where we sort of sketch out the points around which we agree and then later in the document sort of specify the things that remain to be worked out so that we could get a stake in the ground around which we've hopefully got consensus and then clearly describe the parts that we still need to finish?

(Brian): Yeah. I mean I'm really open to how - what peoples reactions are to this and if, you know, trying to find where there's consensus or not is part of that process.

Mikey O'Conner: Okay.

(Brian): (Unintelligible) do that.

Mike O'Conner: Thanks (Brian). Anthony, go ahead.

Anthony Von Couvering: Thanks Mikey. I just wanted to bring up a couple of the conversations we've had in the subgroup, the comments that were made

which were, you know, a couple. First, you know, I think that (Brian)'s draft is an excellent sort of (description) of a compliance program but there are two things that I have issues with.

The first is that it doesn't really talk about what we're - what the harms are that we're looking to address. And the second is that it is very much a big company sort of program. I mean if you took a ten-person registry and asked them to do all this, that would quickly become 15-person registry and, you know, with a possibility of doubling the costs.

So I would certainly like to see this, you know, go forward in the context of actual harms that we're looking at and try to keep it as simple as possible so that we reduce the burden on the people who are monitoring the compliance and enforcing it first of all.

And secondly on the registries themselves so that we have a simple program as possible that people can comply with and there are not a lot of ambiguities so the people end up not complying even though they thought they were.
Thank you.

Mikey O'Conner: Thanks Anthony. Ron, go ahead.

Ron Andruff: Thank you. I'll just pick up on what Anthony just brought up. And while it seems a very daunting task, right now the International (LIP) Committee working through WADA, which is the Anti-Doping Commission to make sure that all athletes that participate at the games are drug free.

And this is to do with policy that the athletes have to be available within 24 hours or 12 hours of these people walking, showing up so (unintelligible) came knocking at the door and the athlete wasn't there within 12 hours (unintelligible) have to show up.

And that's a very interesting program because you can imagine the enormity of it. So in this case what is quite possible is there are - from the federations point of view, it becomes very difficult for them to meet this requirement. Because in many cases with some of the smaller federations are a half man and a dog that manages Secretariat.

So in order to accomplish that, they work through a combined effort where everyone contributes to a pool and that pool more or less pays for all the anti-doping requirements. So this can be done in the same way that there's a small fee that's put forth if necessary. Thank you.

Mikey O'Conner: Thanks Ron. Jeffrey, go ahead.

Jeffrey Eckhaus: Thanks. And I want to - I don't know, Ron that was exactly my philosophy when I sent - I mean, you know, with the blizzard emails everyone has but I had actually sent that proposal to this list maybe a month ago saying that groups who wanted co-ownership or other compliance it was put into a pool.

And then that pool would fund the compliance and audit issues, specifically the audit issues so that there wouldn't be one specific registry that would be targeted and also saying, you know, the issue sort of with what happened with the ratings agencies where it was saying hey one person was paying for their rating so the judgment was somewhat biased. If everyone put into a pool, you didn't know who it was and it was paid through by an independent party. And that was my piece through - my suggestion on this.

And I guess the overall question then is for the people, you know - I guess Ron and (Brian) were both supported of the (Rack) proposal was that with these, you know, these issues - with these compliance pieces in place, would that group sort of compromise on there or if not then what is the purpose of some of these compliance issues? I guess that's my - I'll leave with that question.

Mikey O'Conner: Thanks Jeff. Tim, go ahead?

Tim Ruiz: Yeah. I think that's an interesting approach to the funding. What I guess I'm still not clear about is who's going to do it. Again, in Brussels we got mixed messages from Board members. On one hand, you know, we'll do whatever is required. On the other hand, we had others saying we want it as simple as possible. We don't intend to all of this blah, blah, blah.

So funding is one thing. Figuring out, you know, who's going to be responsible is another and that's where we're not clear.

Mikey O'Conner: Ron, before I turn the floor over to you, I sort of want to focus us back on the parts of this that perhaps we agree on. Some of this conversation is clearly going to have to go into the figure out later pile.

But if people could amplify the points of agreement right now, that would be helpful. Because really our goal at this stage is to find those and bring them to the fore and make it clear in the interim report that these are the things we agree on and these other things that we're going to continue to work on both during the public comment period and perhaps even beyond the final report. So with that, go ahead Ron.

Ron Andruff: Thank you Mikey. No, there was a question that was asked by Jeff Eckhaus. I just wanted to respond from my perspective. You know, where do I stand in terms of the (Rack) support? I've always stood in the position of we have to move forward cautiously because we're about to embark on a expedition that we've never done before. And we're going to ring a bell to tell the whole world for four or five months in advance that we're about to go and embark on this exercise.

And if the whole thing goes (kafluey) because we just got - we just try to do too much stuff, then it's nuts. I mean it's all on us. We are the ones building this. So let's be very clear that my support, you know, whether it's a 15% or

whether it's across the board or anti-gaming, all of these things come back to the same thing.

It's about all of the elements of this thing. It's not just what is gaming or what is this or what is that. It's the whole package and how it fits into an Internet that's going to now stand up for the next 100 years based on a lot of the principles we're putting in place.

So when I - when somebody says well we can do things right away, I say okay well then good but what if we don't. And then we get there and we still have to paint the whole room we've got a gallon of paint; we're not going to make it and we're going to look like fools. And I'm not caring about my reputation. I'm caring about the work that we've undertaken here to do what's right here.

So the point is as much as we all are anxious to do things and I agree we should, let's make sure we just plan the time necessary. I don't think we need to stand the whole thing on (VI). I think we're pretty well there. We're going to have - in the next couple of days we'll sort it out. But in terms of working on these other elements, let's just give ourselves the time to do it. Thank you.

Mikey O'Conner: Thanks Ron. Ken, go ahead. You may be on mute Ken. We're not hearing you yet. Still not hearing you.

Ken Stubbs: Hello Mike?

Mikey O'Conner: There we go. Now we hear you.

Ken Stubbs: I'm sorry. I'm pressing star 6 doing everything I possibly can to try to get there. I don't who it is particularly - I think it was Jeff Eckhaus who just asked a question regarding compliance. Jeff it's very difficult to answer that question.

What do we go on? Do we go on why (Ron)'s comments that out of whatever we need, we'll do it? Do we go on some sort of a clear definitive plan for managing compliance? I think that's exactly how you have to go about it. You can't go on a shallow promise because I'll tell you right now, as Tim indicated, we're getting different signals from different people.

You know, on one hand somebody says whatever you need, we'll do it and the other hand they (all) says well that's (not really) the case. We don't have the money to do it. We're going to rely on third party.

And, you know, until somebody gives - at least I'm speaking for me and strictly for me, not for (unintelligible) but me. Until somebody gives me a sense of certainty, a sense of order and a sense of predictability, how in the hell can I make a decision about how to move forward? I mean right now it's totally unstructured. We have no idea what direction we're talking about in terms of compliance.

We don't even know whether we really have a commitment. We got somebody saying something but actions speak louder than words. Thanks.

Mikey O'Conner: Thanks Ken. We do have some interesting background noise. I had one characterize it as a duck but certainly unusual. So again if people could mute that would be great. Before I go to - oh David's got his hand up. David, before I go to you, let me offer one more suggestion.

And that is that we as a working group could it seems to me write proposals that have conditional approvals (in them) that says if the following things happen then the following other things could happen. And essentially what we could do is we could layout the roadmap that's acceptable and present that as a recommendation.

We would have to insert that into this document if we wanted to do that. But it seems to me within our brief to do so. And with that, David, go ahead.

David Giza: Thank you Mikey. I appreciate the opportunity to talk with the group just for a few minutes here. I just wanted to provide a little guidance based on, you know, my review of the work coming out of the sub team.

And, you know, you know, first of all I would sort of echo what you've heard already from (Brian) that, you know, the framework makes sense. You know, basically I would reorder it a little bit just into five key topics such as compliance risk management; policies, procedures and controls; allegations for reporting investigations and enforcement; training and communications; and then finally measuring and reporting the program's effectiveness.

But even when you have those five broad buckets, what really counts is the work that goes on in each one of those five buckets. And so I just wanted to share with the group that late last year our team, the compliance team, performed a new detailed program operational readiness assessment.

And so I do have some information that I can provide to (Brian) and to Ken that we can feed into this document, which will actually help put a little bit more substance behind each one of these key three activities or areas or even, you know, you know, potentially five key activities or areas.

But I think with that type of framework, that's a good first step in getting the kind of assurance that I think Ken and others are looking for that, you know, that ICANN will step up to the plate here and make the investment to move this forward.

Mikey O'Conner: Thanks David. And, you know, one of the senses that I've got just standing on the sidelines of the conversation is that there are really two broad views. One is that compliance is important but that we can proceed without having it entirely in place. And another group, which says compliance is important and we can't proceed until it's been demonstrated to be in place.

And I think that the point of agreement is that compliance is important. And that to the extent that we can layout a roadmap to a compliance function that's going to be effective and up to the task and, you know, essentially build a comfort level with that, that goes a long way in addressing some of the issues that people have got.

Ron, I assume your hand is left up from before. So I'm going to go to Alan and then if it's not, I'll come back to you. Alan, go ahead.

Alan Greenberg: Yeah. Okay. Am I on?

Mikey O'Connor: I think - you're on. Go ahead.

Alan Greenberg: I think - I was listening to (Brian) and then a little bit in today that I get the feeling that one of the problems is we are over designing and over structuring this compliance concept because we have such a low understanding of what the current group is capable of and what they're planning for the future.

And I'll give it as an example - it's not an iron clad one. But in the past where we've had some serious infractions - I don't know if that's an editorial comment on what I'm saying.

Mikey O'Connor: Yeah. Whoever's got their phone ringing, you should mute.

Alan Greenberg: When you look at what ICANN has been able to do in some serious problems we've had in the past, they have normally, you know, de-accredited the registrar on grounds of financial ones. They didn't pay their bills in addition to being negligent in some other way or the owner had a criminal record.

In other words, we get them on technicalities that where they have been sloppy along the way and not actually get them on the infraction of the rules itself. And that gives a lack of confidence that whatever the rules and

structure we come up with in the future, we're going to be able to really address them.

You know, if in the worst case we have someone who's violating the rules but isn't a criminal and does pay their bills, are we going to be in a position to really do anything or not? And I think it's that lack of certainty, that lack of belief that ICANN will be in a position to do anything that's causing us to overreact in many of the details. Thank you.

Mikey O'Connor: Thanks Alan. And I think that essentially one of the points that we need to get into this draft is this lack of confident being a huge barrier to the group in terms of arriving at consensus on some of these other issues. Ken, go ahead. You're muted again.

And we're still not hearing you. That star 6 thing, you know. You should be able to un-mute him. Oh, that's an idea. See if I can do that. I thought of that, God. Can't find him in the list. Oh he's not muted. Ken, you're not muted. Is maybe your phone muted or is this the dreaded Ken Stubbs phone again?

Woman: Could be the dreaded Ken Stubbs phone.

Mikey O'Connor: Yeah. I think that the dreaded Ken Stubbs phone has intervened. (Brian), is that enough feedback for you to take another pass at this? We're - we are rapidly running out of time. And...

(Brian): Let me apologize for the background noise but yes, certainly I can take that feedback and circle back to the sub team and put the next iteration together. And yeah, David Giza, that was you, I'd certainly be interested in anything you had to offer.

David Giza: Absolutely. I'll make sure to connect with your (Brian).

(Brian): Thanks.

Mikey O'Connor: Okay. I'm not sure if Ken was going to bring this up but we are running pretty short on time. So I would like to take a sense of the group as to how to use this last 15 minutes. Clearly we're not going to be able to give all of the remaining agenda items due treatment. What's also emerging is that a lot of these drafts are going to have to come back before us on next Monday's call which is going to make life very tight next week but that's the breaks I think.

So would people prefer to hit SRSU, talk about the way forward in general? What's the sense of the group? SRSU? Amadeu, go ahead.

Amadeu Abril I Abril: No just to say that I would like discussing the piece about the way forward general.

Mikey O'Connor: Okay. How about others? Why don't we do - Kristina, go ahead.

Kristina Rosette: Just that I'm going to be completely un-accessible from Saturday through next Thursday. So to the extent that I have some responsible with regard to SRSU, it would be helpful to get a little bit of guidance as to where everyone is. I mean there's obviously been a lot of traffic but I haven't been - it hasn't been entirely clear to me whether there's any provision at least of the IPC proposal that if we tinkered with them or tweaked them, people would be able to live with them.

So - and I'm happy to kind of punt to Scott and other IPC members on the group, but if there there's anything I can get done before that, I'm happy to do it.

Mikey O'Connor: Okay. Ken, we'll give you another try if you want.

Ken Stubbs: Yeah. Mike, can you hear me all right?

Mikey O'Connor: Ah, I can hear you. Go ahead.

Ken Stubbs: Okay. Fine. I have two suggestions. First of all, most of us have time blocked for the call on Monday already. My suggestion would be to add a half an hour to the call. It's clear that we're going to need a little more time on Monday and if we don't budget for it now, it just becomes a crisis in the last 30 minutes. So I would strongly suggest you consider doing that.

And a necessary, this is for right down to the nub, if we have to add a half an hour onto the second call, that's fine. Those people who make it, fine. Those who can't, that the way life is. You know, I know it's a tough time (be it) for all of us. Just some good thought. Mike, thanks.

Mikey O'Connor: Thanks Ken. Good ideas. Let's do that. Let's plan on another half hour on both calls next week. And given the fact that we are giving ourselves a little bit more call time, let's spend a few minutes talking about SRSU so that Kristina and Scott and the rest of the gang have some feedback on the draft and then let's wrap it up.

So I'm not sure if the draft is out on the list. Maybe Margie you could hunt it down and put it up in the sharing window. And in the meantime, does anybody kind of want to summarize the state of play on SRSU at this point? Are there points of agreement that are emerging or are we essentially at the same place that we've been sort of all along? Anybody got any observations on that?

Kristina Rosette: I mean the only observation that I can make is that there seems to be a verging on consensus among the non-contracted party house participants of the working group that the exception should exist.

I haven't really seen much traffic on the specifics of the various conditions all of which were really intended to limit the applicability of the exception, not because we think we're better but sole to limit the potential for gaming. That's really what all of those conditions are intended to do.

And as I put on the list last night, this morning, there was a lot of discussion on the - in the IPC about should this just be a broader SRSU exception as opposed to just for brand. And ultimately although it was only a slight majority, the majority view was would IPC, you know, every - if there's someone else that wants to advocate for SRSU and other circumstances that's their purview but our responsibility is to the IP community.

So again, I don't think we're necessarily eliminating the possibility of the SRSU being limited solely to brand. It just wasn't what we put forward.

Mikey O'Connor: Thanks Kristina. Ken, go ahead.

Ken Stubbs: I'm sorry Mike. I forgot to take my hand down.

Mikey O'Connor: Oh, okay. (Richard), go ahead.

(Richard): Yes. So a question for Kristina. And I think we've exchanged emails on this on the list and also privately. But just so the whole group can kind of be the response here and think this through. Your concern with the method that I've been advocating which is use the registry list of reserve names - your concern with that is that you wouldn't be able - I'm asking you a question here by the way.

So your concern with that is that you wouldn't be able to negotiate a suitable contract provision with ICANN that should have gave you the flexibility to add to that list sort of as quickly and easily as the registry wants it to do. Because if you were able to negotiate that sort of provision, then it seems to me the registry and some reserve names is just a much faster, easier, cheaper way to do what you want to do as opposed to having your own registrar.

Kristina Rosette: That's certainly part of it. But the other part is that it's the view of most members of the IPC that going that route is much more susceptible to gaming

and abuse than having a specific exemption. And in fact what a lot of us kind of scratch our heads over is that it's no big secret that many trademark owners are not in favor of the introduction of new gTLDs.

But one of the arguments that we have heard consistently is that we need them because there's no good domain names left. Well, if you're setting up a situation where the registry can reserve for itself essentially all of the domain names, how do you change that?

So that really goes to kind of an underlying philosophical issue. But ultimately it goes to the fact that we just think that going the route that you suggested is much more likely to lead to gaming and abuse than the exemption.

(Richard): Okay. So let me just respond quickly there. But I mean that provision that I'm talking about is in the contract now. Has been for a while. So are you saying that you need to have that removed because it seems to me that if you're concerned about abuse in that respect that it's - that provision is already there and it has been for some time.

Kristina Rosette: I certainly agree with you. It's my understanding though that it's never been used to quite the scale or at least openly advocated as being used to quite the scale that I think you're suggesting. And that's where the concern comes in.

(Richard): You probably need to send that comment to the DAG in that respect. Because I mean at the moment it's structured such that a registry if it chose could register all the names to itself.

Kristina Rosette: It's on the list.

(Richard): I mean I don't - we're getting off topic a little bit here. I don't think that's going to happen because there's no traffic and there's no value to those names. It's

just the registry had it done in itself. Anyway that's a different string for us to talk about.

Mikey O'Connor: Okay. Anybody else got comments for Kristina about SRSU? Not seeing any. But I guess one of the things that I did hear is the possibility of broadening this - well, it seems like there are two forks to this. One is the possibility of broadening it to the non-brand holders. And the other is (Richard)'s point that he's been advocating for quite some time about the exceptions list.

Seems like it would be nice to run those to ground a bit between now and Monday if we could. And maybe get that into the draft. Alan, go ahead.

Alan Greenberg: Yeah. I guess what I've heard (Richard) say, I've read it. I took it in a different way in that I took it, and perhaps he didn't mean it that way, that we are still talking about an exception but the sole substance of the exception is instead of going to ICANN to get names added to the - to a block to the list that those with the exception would be able to add them up to a certain limit or within certain bounds.

So in other words, it's still an exception but it's structured in a very, very tight way without having 49 clauses on it. And maybe that wasn't what (Richard) was intending. But that was - that's what I have been hearing it as. So it doesn't apply to every TLD, every new TLD; only to those who have the circumstances. But it's a lot easier to phrase and structure than what we've been talking about.

Mikey O'Connor: (Richard), do you want to come back on that? That's not the way I was listening to it. So I'd be good to clarify that.

(Richard): I'm not sure I said it exactly but let me take a shot. What I'm saying is that the current way the DAG's written, any registry can reserve names for its own use. There's specific provision in their contract that permit that. And so what's less specific is when and how you can add to it.

Some people are interpreting it that you can only add to that list when you un-launch - at the time of launch and certainly the contract's not specific about what would happen if you wanted to add say extra names before and after launch and how quickly that would take, et cetera, et cetera.

But what I'm saying is that that's in the contract now. Anyone can do that. So it's SRSU would simply, you know, add all the names in my view that it wanted to use. It wouldn't have to use a registrar. It wouldn't have to pay a registry fee. It wouldn't have to pay a registrar fee. It would just simply register those names for its own use and use them. Like I believe that's possible now.

And I was just saying that if in fact we find that that's not possible for whatever reason, I believe it is and I think (Curt) at the GNSO session in Brussels endorsed that it was possible. But if for some reason we find it's not possible, then I do - certainly I support the notion of a cross ownership exception for single registrants, single user.

And I say that not in the context of brand but as any single registrants would use it. I know we have to define that precisely but that's what I support if we can make - if we can't make the current contract work, that reserve list works. I don't know if that clarifies or not but there you go.

Mikey O'Connor: Thanks (Richard). Okay. We're down to the last couple of minutes. Kristina, that's about what you're going to get I think. The highlights I think are the possibility of broadening this and also the possibility of mentioning (Richard)'s approach in the next draft.

And (Richard) if you would be willing to join that drafting team and maybe get some language about that inserted as an option. I think that this is really the method for allowing a single organization to register its own names and that what we need to do is go up one level and focus on the desirability of being

able to do that so that then we could poll around that in the group and see what sort of support there is.

That's it for this call. I will take Ken's idea under advisement. I think it's a good one if people can sort of mentally sketch out an extra half hour for the two calls next week. We're basically - in order to get an initial report out with the appropriate lead times, we have to publish it basically right after the call next Thursday, Friday or maybe it's Saturday. I can't remember. But very soon.

So we're pretty much down to the wire and we need something around which we can build a poll so that we can assess the level of support for some of these things. I'm going to go ahead and just continue working on the structure of the poll for the percentages things on the list.

And I'm going to...

Man: Mike.

Mikey O'Connor: Hang on a minute. I think the other two things that we really need is we really need the - Keith just before the call posted a summary of one of the Brussels molecules. We really need the other molecule summaries as soon as possible so that we can also build polls around those. And so that's the last request before I - I think - was it Ken that was speaking. Somebody...

Ken Stubbs: Yeah. It was Ken, Mike.

Mikey O'Connor: Yeah.

Ken Stubbs: I had a little chat - I had a little chat with Chuck Gomes and also it appears that the Council is in the process of trying to move their meeting, the one that they were planning on having I believe is it in September or whatever it is. I

think we need to be efficient to take maximum use of the comment period, you know, once it opens up.

We need to be able to work in real time based on the comments as they come in and take a look at them and try to react on them if there's things we find in there that are constructive to help us out. Thank you.

Mikey O'Connor: Thanks Ken. I think that's all correct. And we'll use every trick in the book to land this thing so that we can continue to work and keep working towards a consensus point of view. I commend us all for working this hard and staying civil. I know this is really hard.

But let's keep at it and I'll see you on Monday. Thanks gang. That's it for me.

END