

Transcript

GAC/GNSO issues related to International Olympic Committee (IOC) and Red Cross (RC) names discussion group teleconference

14 December 2011 at 19:00 UTC

Note: The following is the output of transcribing from an audio recording of the GAC/GNSO issues related to International Olympic Committee (IOC) and Red Cross (RC) names discussion group teleconference held on Wednesday 14 December 2011 at 1900 UTC . Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at:

<http://audio.icann.org/gnso/gnso-gac-ioc-20111214-en.mp3> On page:
<http://gnso.icann.org/calendar/#dec>

Attendees

Jeff Neuman - Registry SG group leader
Lanre Ajayi – Nominating Committee Appointee
Joy Liddicoat - NCSG
Thomas Rickert – Nominating Committee Appointee
Alain Greenberg - ALAC
Osvaldo Novoa - ISPCP
Phil Marano - observer
Brian Beckham - observer

ICANN Staff

Margie Milam
Brian Peck
Glen de Saint Géry
Nathalie Peregrine

Apologies:

Stéphane van Gelder
Wendy Seltzer

Coordinator: 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.

Glen DeSaintgery: Thank you very much (Kelly). Good morning, good afternoon, good evening everyone. This the IOC call. It's the first one and it is on the 14th of December.

On the call we have Jeff Neuman, Thomas Rickert, Joy Liddicoat, Alan Greenberg and Brian Beckham has joined the call but I see that he is not on our members list. For staff we have Brian Peck, Margie Milam and myself Glen DeSaintgery.

May I ask you all please to say your name before you speak for transcription purposes? Thank you very much. And I also see that Lanre Ajayi is on the Adobe Connect.

Jeff Neuman: Okay.

Glen DeSaintgery: Thank you Jeff. Over to you.

Jeff Neuman: Thank you Glen. Everyone that's here, welcome. We have a kind of small turnout but I still think we can get started. I sent around a document last night. I apologize for not sending it around sooner. But that document is not meant to be any kind of position on any of these issues. It's more to try to reflect the discussions that we had in Dakar and questions that have been posed.

So some of these I, you know, again they're topics I think we should talk about and Stephane actually already responded with some of his thoughts.

And once again, what's helpful is the way I'd like to conduct the group is that, you know, even if you discuss something on the line now or during the call, I still want to leave open plenty of time to comment, you know, on email or for you all to go back to your groups, collect additional comments, change your comments, whatever they are so that you all can answer these questions and kind of reach consensus on these items.

One of the items that's come up and Brian's on the call now from the World Intellectual Property Organization. We have a list of members of the working group. And Glen, just help me - help correct me. Was that - that was an open list. It's not just restricted to Council members or did we restrict it?

Glen DeSaintgery: As far as I know Jeff it's not restricted to Council members. But at the time it was Council members that responded.

Jeff Neuman: Okay. So from my perspective, and I just - I want everyone to weigh in on this, I am fine having anyone as long as we have the capacity - of having anyone join these calls either just, you know, in an active fashion or as an observer.

I know that we've gotten questions from the International Olympic Committee or those that represent the Olympic Committee to be on these calls to observe and to be available to answer any questions that anyone might have.

So I asked them actually to get off this call until we had this discussion. I wanted to make sure you all are comfortable with it. Does anyone have any thoughts? Would anyone object to us allowing them on the call?

Thomas Rickert: This is Thomas speaking. Actually I have no reservation. I think it's very helpful.

Jeff Neuman: Okay. All right.

Joy Liddicoat: It's Joy here.

Jeff Neuman: Yeah.

Joy Liddicoat: Yeah. I did forward information about the call to the (unintelligible) list. And, you know, and I can transparent while I have no problem in principle. But obviously this is a - this is an informal group of the GNSO, you know, which is designed to I think to assist GNSO Councilors in their decision making from an, you know, for purposes of discussion with the GAC.

So in terms of decision making I think procedurally insofar as we might make decisions, and I'm not suggesting we would, then I think we just need to be careful to observe the protocol around, you know, Councilors' responsibilities to Council for the topic which we are discussing and Councilors to assist those discussions.

Jeff Neuman: Joy, that's a very good point. I think you're absolutely right. So I think what you're saying is as long as we understand that kind of dichotomy

and as long as we - I don't hear that you're objecting to this right. I hear more that you're just...

Joy Liddicoat: Not objecting. I'm just talking that we'd be aware, you know, of the context in which we're having the discussions. You know, it's an important discussion for us to have with the GAC and it's important that, you know, we are free to get input from, you know, diverse people. And I have no issue in principle but I'm just mindful that in terms of decision making it should be being it's Councilors for using this process to assist their input into a discussion with GAC.

Jeff Neuman: I think that's an excellent point and I think I'll send out a note just clarifying that after the call and just making that point. And with that said, Glen, I don't know if you have time. Can you - do you want to shoot (Philip) an email telling him he can join if he wants?

Glen DeSaintgery: Pardon Jeff. Do I want to?

Jeff Neuman: Can you send an email to (Philip) saying that he and (Jim) can join, that we've had our discussion.

Glen DeSaintgery: Yes I'll do that. I'll do that.

Jeff Neuman: Okay. Great. Okay. With that said, I think one of the first - so I submitted this document. Again, it's just kind of questions to help us with the discussion and give us things to talk about in some sort of orderly fashion.

I think Joy just made me think of another item that we kind of need to talk about or at least think about is what is our ultimate deliverable,

what do we do as our ultimate role? I think Joy was very clear and I think made a lot of sense. And our ultimate role is to provide guidance to the Council on this issue and in its communication with the GAC specifically on this issue.

Does anyone want to add anything to that?

Joy Liddicoat: Jeff, it might just be helpful if you just - I know you've seen that briefing note overnight. Just to clarify the trajectory of those discussions at the GNSO Council for people who might be unfamiliar with sort of the horizon of time for this discussion and Council deliberations on this topic.

Jeff Neuman: Sure. So during the - I think it was in September the Government Advisory Committee submitted a - actually I should go back even before that.

In the meeting in Singapore at the end of June, when the ICANN Board of Directors approved the new gTLD programs going forward, they also temporarily - their initial decision was that during the initial round of new gtLDs coming out and the one that's supposed to start in January that the worlds Olympic and Red Cross would be - and in certainly languages would - all they said during that meeting and that resolution essentially would be reserved.

And they didn't really go into further detail. Although in the guidebook that came out in September, they further defined what they believed - the staff believed the Board meant when it said reserved. But it left in place - and all it said was that the reservation only applied during that first round.

And in subsequent in the guidebook there was some other provisions that more - at least in their mind more clearly defined what they meant by reserving it.

Subsequent to that, the guidebook coming out, the Government Advisory Committee submitted - I left one important item out. In that resolution in Singapore, there was also a note that said that the GAC and the GNSO could provide additional advice with respect to subsequent rounds or any other further protections that we all deemed were appropriate.

So in essence it basically kicked off some of the more challenging questions to both the GAC and the GNSO to discuss. The GAC subsequent, as I started to say, in September submitted a letter to the GNSO with a proposal on how they believe the Olympic and Red Cross thing should be handled not only in this first round at the top level but also in the first round at the second level and in subsequent rounds.

After that the - and that takes us to when we met in Dakar to discuss the issue. During the meeting in Dakar, GNSO Council discussed this issue and had a session with the GAC in talking about some of the questions that we had asked the GNSO. And it turns out that while we were discussing that issue, the GAC was already producing a document - a question and answer document that we finally got toward the end of the Dakar meeting.

And so now we have two documents. We have the initial proposal from the GAC. We have the questions and answer from the GAC. And then

we have some notes from our individual GNSO Council session that we had along with some questions that we had that came out of that. And I tried to reflect those questions in the document you see on Adobe right now, which was a note that I sent last night.

So what I see as the trajectory is we have to kind of answer at least in our own mind - the first question that I put on here which is is this policy or implementation? If it's implementation then we need to act fairly quickly on some of these questions because really the Government Advisory Committee would like to see this or some of these if not all of the recommendations applied during this first round of new gTLDs.

The - if it were a matter of policy, then the question is do we have to do a formal PDP on this and kind of some procedural questions that are - that would stem out of the fact of calling it policy and how we provide advice to the Board.

So with that said, what I think we should do is there are a number of items here that if we accept the GAC proposal or some variation of that, there are some items that we'll need to go into the registry agreements, the new gTLD registry agreements.

If they go into the new gTLD registry agreements, they need to - that needs to be in place by the time the first new gTLD signs and agreement with ICANN, which if you look at their schedule could be as early as the third or fourth quarter of 2012.

If we are not able to meet those timelines, then the only way to change those contracts is to go through either a PDP if it's policy or if it's

implementation and not technically policy, you would then have to go through the change process that's defined in the new gTLD registry agreement, which I believe is in Article 7. I don't have it in front of me but I believe that's where you can find that.

The long and the short of it is it's much easier if it's implementation to get this all finalized before the registry - anyone signs a registry agreement. Then it would be after that fact.

So with that said, I just - I had to reboot my computer so I don't know if there's anyone on Adobe that has their hand raised.

Alan Greenberg: Alan does.

Jeff Neuman: Okay. Great. Alan.

((Crosstalk))

Alan Greenberg: Jeff, I don't disagree with you completely but partially. Even if it is deemed to be policy or contractual terms, it's nothing to prohibit them from signing a contract saying the specific details will be refined. That's not part of a normal contract but it's certainly something they can put in, you know, if we're not going to be able to meet the deadline of the first signing. There could be a placeholder there for it.

So I don't think we really need to worry about how it's going to be handled although I agree that target should be get this done prior to the contract signing if the timeline allows.

Let me ask a question...

Jeff Neuman: Sure.

Alan Greenberg: ...which I'm not sure of. In the history of the last ten years I presume the reserved name list for second level domains has changed. Is that a...

Jeff Neuman: Are you talking about between rounds or are you talking about...

Alan Greenberg: I'm talking about in real life has the list that .com has been subject to over the last 11, 12 years changed over time?

Jeff Neuman: I think com is a harder example because com didn't start out with any restrictions.

Alan Greenberg: Okay. (Unintelligible).

Jeff Neuman: Then I do think - the answer is I think in one instance, and I'm trying to recall what those are, I think that com has in their agreement that if any one or two character comes up and it's deleted, right, because they had all those registered initially, if any one of those two characters are deleted, I think it needs to be placed on the reserved list.

But let's go with an easier example like .biz. So in that one the agreement was between the - sorry. In 2001 we signed the first agreement for .biz and the same is for .info and .name and it was a reserved names list that was included in there.

That reserved names list didn't just include names that ICANN wanted to reserve but also included names that the registry wanted to reserve on its own.

Alan Greenberg: Okay.

Jeff Neuman: That list has changed in the terms of a registry could always petition ICANN to take a name off the reserved names list. And then it would be evaluated like through the registry the RSEP process, the registry services evaluation process.

But to my knowledge no new names were added to the list except when the contracts were renewed in 2006 when we had - when they finally had the side of the IDN protocol was going to be XN - XN dash dash and so all names with XN dash dash were then reserved.

Alan Greenberg: Okay.

((Crosstalk))

Alan Greenberg: What's you're saying is we have an established standard that the content of the reserved names list is not a GNSO policy issue that the GNSO has to take action on because it's being done at contract negotiation time.

Jeff Neuman: I would say that with the exception of the first names that are on the list and (unintelligible) new gTLD process, I would agree with that. I would say that's fairly accurate. I mean I'm not sure if everybody else would agree with that.

((Crosstalk))

Alan Greenberg: The new gTLD process looked at reviewed - looked at reserved names but it's not clear it was really policy. We were just, you know, tidying up house a lot with a lot of things, so.

Jeff Neuman: I personally would agree with that. Again, I'm not the authority on that. But I'd like to get a feel from the group. So what you're saying Alan is you believe -- and I'm kind of on the same side as you are -- that it's a matter of implementation as opposed to a strict matter of policy.

Alan Greenberg: And specifically not a formal PDP.

Jeff Neuman: At least at this point before a new TLD contract is signed I think that's definitely the case. Yes. Does anybody - and I'm trying to find...

((Crosstalk))

Alan Greenberg: Thomas has his hand up.

Jeff Neuman: Yeah.

Thomas Rickert: This is Thomas Rickert speaking. Now in terms of trying to determine whether we have been tasked with implementation of policymaking, I think since the Board resolution clearly stated that we're dealing with two (marks), IOC and Red Cross and it's translations and variations, this is a very concrete and specific task which makes me think or tend to believe that this is rather implementing the Board's resolution.

If we came to the conclusion that this is actually policy, I think then we would need to have a much broader discussion in terms of who qualifies for such treatment, which would make things much more difficult to deal with. And I, you know, looking at the Q&A that more or less says, you know, what makes those names qualify for the special treatment because nobody else has asked for it. That was one of the explanations that was given.

That wouldn't give me enough comfort to deal with it. So I think that there's a - there are good reasons to actually construe the task with being very specific and therefore implementation only which would make our implementation actually easier rather than very general and abstract policymaking.

Jeff Neuman: Great. One of the things I was going to ask and that - Margie, you're still on the phone?

Margie Milam: Yes I am. Sorry. I was on mute.

Jeff Neuman: So Margie - that's okay. Margie and Brian, perhaps it might help the group to know some of the - and maybe not on this call. But if you could give us some more context. When the Board referred the item out to the GNSO and the GAC, did they do so with the understanding that it was implementation or did they believe it was policy?

Margie Milam: Yeah. I don't know the answer to that but Brian and I will take it back and see if we can get any information on that.

Joy Liddicoat: Jeff, it's Joy here.

Jeff Neuman: Yes Joy, please.

Joy Liddicoat: Thank you. I'm taking from the discussion that we don't have enough information on this call to answer the question. And I think - so I think we've got some action out of that in terms of getting more information that will assist us with answering that question.

And I think that it's important for us regardless of the answer to the question to just keep in mind that we've had a specific, you know, approach from the GAC on this issue, which by the GNSO Council we want to respond to. And so that we should keep in our sights, you know, just how it is we want to engage with GAC on it.

And it may well be for example that we should be seeking some clarification discussing with the GAC about their understanding of where this is an issue of implementation or an issue of policy. But I wouldn't want that to necessarily be a barrier to us furthering our discussion today in the absence of the information to answer that question.

Jeff Neuman: I think Joy that's right and I think whatever happens whether - however we interact with the GAC, we're going to need to answer these questions ourselves.

Joy Liddicoat: Yeah.

Jeff Neuman: Because they did ask for advice from both of our groups. And whether the GAC wants to work directly with us or wants us to submit a response and then, you know, take it kind of that approach where we

would respond and they'd respond to us maybe at some point have a meeting.

I think irrespective of how we do that, I think you're right. We do need to move on and answer these questions and maybe other questions on our own and figure out where we stand as a GNSO and then we can kind of in parallel figure out how we work with the GAC on these issues.

Joy Liddicoat: Yeah. Yeah.

Jeff Neuman: Okay. Any other comments on this and I'll just note that Stephane had submitted his answer or his thoughts on this and he thought this was an implementation issue as well.

Man: Jeff, what's your view of it?

Jeff Neuman: I'm sorry. Say that again.

Man: What's your view on that?

Jeff Neuman: I personally believe that up until the time that we - a contract is signed, it's implementation. And then after that point once they - for the first gTLD contract that's signed, it is - it may not be policy in the way that we think of policy as far as like a PDP but I think it's something that has to at the very least go through the change process and the ICANN agreement.

And I take Alan's point that you could always change the agreement now to say a process to be determined later. I don't think you're going

to have too many happy registries that are going to be thrilled with that solution. And I think once the agreement is signed, the first agreement, you could have a launch of that TLD within a month.

So even if you don't have to do it by the time the first contract is signed, you have to do it before they launch.

Alan Greenberg: But if it's not a formal PDP issue then we do have a fair amount of time. Not years but we have a fair amount of time.

Jeff Neuman: Well the problem is you say to the TLD these names have to be reserved to the second level because the TLD's already launched and has already given out some of those names. That's a problem. Right.

And I think we are also - we need to separate this out kind of as I did in this document. We need to separate out the top-level protection from the second level...

Man: Yeah.

Jeff Neuman: ...because I think the top level one that is - if we were to adopt GAC proposal or something similar, that would actually need to be in place by the time the first evaluation panel or by the time that the first evaluations start.

Alan Greenberg: But the Board did pass a resolution covering the first round for the top - for the top-level domain.

Jeff Neuman: Sort of. Yes they did pass a resolution but - so here's - let's jump into it at the top level. So at the top level the Board passed a resolution to

reserve the Olympic mark and the Red Cross mark. And someone could correct me if I'm wrong. I think there were some languages that they had in there. I think maybe the six UN languages. But it was only a subset of foreign translations.

The GAC came back and said wait a minute. I'm sorry. And then so what the ICANN staff did is they literally stuck to that resolution and said no one can apply for those couple strings during the new TLD process as a top-level domain.

But they treated those names differently than it's treated other reserved names like test and example. So the word test and example, not only are those names reserved at the top level, but they also undergo a string similarity review so that if someone were to apply for an example with E-G-G-A-M-P-L-E, there would be a string similarity test done on that to make sure - or if the plural of that is examples were applied, they would do a string similarity review on those two strings.

Currently as worded in the guidebook and maybe Margie can jump in if I'm misstating this. In the guidebook right now it only reserves Olympic but wouldn't reserve or wouldn't do a string similarity test for Olympix with an X or Olympics with a CS at the end. It would only literally apply to those exact matches.

So the GAC proposal is that we should extend the protection to all of the foreign languages that they provide in their appendix. We should also extend it to - it shouldn't just be in the first round. It should be in every round. And they should do a string similarity or likely do a test and example.

So that's what the GAC is proposing and I'm assuming they did so in consultation with the Olympic Committee and the Red Cross. So I'm assuming the Olympic Committee and the Red Cross would like those protections. I'm sure they would agree with those protections.

So with the questions I came up with, the first question we should discuss is should these reservations just be for the first round or should it apply for every subsequent round and then when's our recommendation?

Joy Liddicoat: Could I just ask a question Jeff about the reserved name...

Jeff Neuman: Sure.

Joy Liddicoat: ...policy.

Jeff Neuman: Yes.

Joy Liddicoat: And at the risk of having a slightly (unintelligible) back to ask this question. I can see - because I can see the rationale for trying to tidy, if you like, to tidy up after the Board's decisions in terms of the desire to cover issues that haven't been covered; for example, the use of plurals and the use of the words in foreign languages.

But what I'm - what my question is is in terms of the use of the reserved names list for this kind of tidying I guess is the underlying issue. And leaving aside the quite entirely the substantial discussion about the pros and cons of the marks at all, there seems to be a cushion there about the appropriateness of using the reserved names list sort of in this way. I just wonder if you have a comment on that.

Margie Milam: Jeff, we don't hear you. You may be on mute.

Jeff Neuman: Thank you. Actually I was. Thank you. It's a good question and it's one that I think was initially tackled by the original Reserved Names Working Group. And it was also addressed again when there was a recommendation by the - a group called the IRT, the Implementation Review Team to have a globally protected marks list, which was sort of a reserved list for certain high profile or well known marks.

I think it's an interesting question. I think right now we have a - we definitely have Olympic and Red Cross on that reserved names list. That's already been decided. I'm not sure it helps us to address the philosophy behind using the reserved list for that purpose.

If I were to just put my old personal hat on without kind of not as a chair or leader of this discussion, to me it makes little sense having a name on the reserved list but not also look out for things that are confusingly similar. It kind of defeats the purpose.

Like once you've already made the decision to put a mark on the reserved list, right or wrong whether you agree or disagree, to me it doesn't make sense to not do the string similarity review because I think you could easily have gaming. I think it's kind of - it's one of those - now one they argued would someone spend \$185,000 to game the system. That's a whole separate question.

But if you're going to go 3/4 of the way to protect the mark, you might as well go the full way like give you all the other marks that are - that

you have a string similarity review. Again, that's my total personal opinion. So it's not a registry position necessarily. It's how I feel.

Thomas Rickert: This is Thomas again. I think this is - at this stage it's very important to bear in mind whether we're actually doing policy or implementation. Because if more trademarks or more names would qualify for the special treatment, imagine if an unlimited number actually of names would be eligible to similarity tests as well. You know, that would make the whole process very unpredictable.

Man: Yeah.

Jeff Neuman: (I understand). So I think the good news here is that if you look at the GAC Q&A and also as they discussed with us, they are really talking only about these two categories of names, the Olympic and Red Cross and only the names that are attached as the exhibit to the original proposal. So it is...

Alan Greenberg: Jeff, it's Alan. Could I get in the queue also?

Jeff Neuman: Absolutely, please. Yes. Alan.

Alan Greenberg: Yeah. I think Thomas still had something, no?

Thomas Rickert: I just wanted to say that at this stage I think it's important for us to determine whether we're going to continue our discussion in the light of being tasked with implementation or with policy because I think, you know, the mindset is completely different.

So my proposal would be to discuss in the light of being tasked with implementation and completely reconsider if we are advised otherwise.

Alan Greenberg: Okay.

((Crosstalk))

Alan Greenberg: I'll comment on that also.

Jeff Neuman: Yeah. Let me come back to that. Let me go with Alan and Joy was that you as well?

((Crosstalk))

Jeff Neuman: Okay. Alan and...

Alan Greenberg: Several points. On Joy's original comment essentially on is this the - is the reserved names the right vehicle, I treat that as religious or you called a philosophy argument. It's quite clear at this point we are going to be reserving some of these names in some ways. I mean the edict has been passed down and it will happen.

The, you know, we need to do the details. It's the very least in the first round. On top-level domains it will happen. So, you know, whether we're using the right vehicle or the wrong vehicle, the net effect will be the same.

I very much think this is implementation. The mind boggles at the concept of a policy naming very specific organizations like the Red

Cross and the International Olympics Committee. You know, I find a problem with that.

You know, just as we've had other issues, you know, in the past, you know, with the post office and things like that and different - or the International Postal Union, you know, where the vehicle had to be somewhat different. That wasn't the policy issue. It's implementation.

So I think we need to make a statement that we believe it is implementation. I think we need a companion statement with that that says this is in light of the fact that we're talking about the Red Cross and the IOC.

If we're starting to talk about far more generalized things, you know, aka, the global executive marks list or some son of that, then it's a different game. And what we're talking about is not - are not the rules that we would - that we would go for that.

So I think we frame any decision recommendations we make in light of it is with these two. You know, we've been assured by people who know that these are the only organizations in the world that have such wide international support and not agonize over it.

My specific question regarding your original question on should we be looking at similarity and things like that and I don't know the answer to it. My question is if we don't have such rules, does the GAC have grounds for objection to someone trying to get Olympics if Olympic is protected under the current rules today where we're not saying similar to?

That's all I have and I'm leaving with that question because if they have grounds for objection and we believe they might, then we might as well put all the rules in and not have to use these expensive objection process.

Jeff Neuman: I'd say Alan that's a very good point. And maybe I can ask Margie, is that a question we could take back to (Kurt)?

Margie Milam: Yeah. This is Margie. We can go ahead and do that.

Jeff Neuman: And I would think (unintelligible) the GAC doesn't have the objection. Those organizations would certainly have the right to object based on their legal rights because they have trademarks for those.

Alan Greenberg: Yeah.

Jeff Neuman: You know, those organizations can certainly object and probably would be very successful. It certainly is if someone were to go with Olympix with an X and it was clear from their application they're going to be using it for whatever, sporting events or something similar, certainly the Olympic Committee would have the right to object and I would think succeed.

So I kind of - to answer your last question if they have that right to object anyway, then, you know, putting it into - making it undergo a string similarity test is not a big deal because they would probably succeed anyway.

The other thing I do want to note and then I want to go back to Joy is that these marks are the only marks that are reserved that do not

undergo a string similarity review. Even .biz, dot, sorry, even any existing TLD undergoes a string similarity review. Right.

So these are the only two marks that ICANN staff put in there that are limited to exact matches that there's no string similarity review. Which again to me is kind of confusing because if you're going to go 3/4 of the way by protecting those marks, you might as well go the full way and at least allow them the string similarity review because it is fairly limited.

Alan Greenberg: Jeff, very quick question. It's Alan speaking. The string similarity review, doesn't that - isn't that done against all existing or applied for TLDs and their reserved names list?

Jeff Neuman: It applies for all existing (n) TLDs and the words text and example or would not apply as the guidebook is currently written to...

Alan Greenberg: It didn't say the reserved names. It was - it used test and example. Okay. Got it.

Jeff Neuman: Right. So Joy, did you want to jump in?

Joy Liddicoat: I did. And my question earlier just in response to a comment that was made was not a (religious) one at all or for a (unintelligible). In fact, you know, with my un-legal background it was quite specific - I had a quite specific purpose for asking it. And that is that is the desired implementation task to apply the reserved list - reserved name list policy (simpliciter)?

In other words, to simply extend the Board's decision-making and implementation since - to the full breadth of the reserved names list,

then that's - leaving aside the pros and cons of it is a relatively straightforward exercise.

If however, the concerns raised by the GAC and others are that there is some other or further aspect of the Board's decision and whether it be implementation or otherwise that extends beyond the reserved names list then that raises other - that raises other questions that's not - it's not a (simplicit) case of restrict of the reserved names list. So I just wanted to respond to that point.

Jeff Neuman: Okay. Thanks Joy. Anybody else before we kind of move on? And again, we're not solving these - we're not answering these (unintelligible) now. We're certainly going to take comments online and kind of on the next call we'll just - we'll go over these again, make sure we have agreement.

I now there seems a lot of people that are not on this call that probably have an interest in this. So we'd really like to get their input. But it sounds like to me that at least for now the people on this call seem to view this as an implementation issue and so in discussing these we can kind of keep that hat one and it gives us the basis to move forward with some of the other questions.

Joy Liddicoat: Well this is I would say certainly some more than others (unintelligible) but I think we'll also discuss it. We don't have enough information even in relation to the Board's own thinking about whether this was an implementation issue or not.

But I'm certainly happy to proceed with the discussion on the assumption that it is an implementation issue and see where it takes

us. And then to see where we are at the end of it in terms of the remaining question about policy. But I think others - some have clearly raised the question of doubt about whether it's one or the other.

Jeff Neuman: Right. I think that's fair enough. And I think that's one of the questions we should all go back to our groups to get some more definitive. But we'll go back to our groups and we've already asked Margie to go back to (Kurt) to see if she can get more insight from the staff as to what they believe the Board was - the direction the Board was giving them.

Joy Liddicoat: Right.

Alan Greenberg: Jeff, it's Alan. Didn't the Board at one point make a claim that they have not veered off from the original GNSO new gTLD policy that all the changes have been deemed to be implementation?

Jeff Neuman: I certainly think they've made that, you know, as a very general statement. Overall yes.

Alan Greenberg: In that case, their decision to all on the first round Olympics and Red Cross to be reserved is by definition implementation.

Jeff Neuman: Fair enough. I think we should make sure we're comfortable with that as well. Okay. So does everyone understand the questions that we have at the top level then? And do we think there's additional questions we should be asking ourselves and the few that I've laid out there?

Which is should it be permanent? Should it extend beyond like should it receive consideration doing string similarity as opposed to just those

exact matches? And again, the third question is should there be additional languages?

The reason I say that is it's my understanding -- I have talked to representatives of the Olympic Committee on this issue -- that when they submitted their initial proposal to the ICANN Board, they had provided an illustrative list of foreign languages that they wanted protection in.

But they made it clear that is was just illustrative, that there were additional languages. They just didn't want to make the letter, you know, then pages longer or whatever it would be. ICANN took that list that they gave not as illustrative but as definitive.

So the question that we think of is you understand the ICANN Board interpreted as just this list, should the protection be granted in additional languages as was the original request by the Red Cross and Olympic Committee?

I don't know if anyone's got any thoughts on that now or if we could just hold that question and just have, you know, give some thought to it and try to answer in - on email. Anyone?

Alan Greenberg: It's Alan. The issue raised up of objection I think applies here as well.

So, you know, if by reserving it in French, that implies that it should have been reserved in Italian also, then I think we should do the job properly and reserve it in Italian or reserve it in the languages in the list they gave us.

Jeff Neuman: Right. Okay. I understand. Margie, you understand that point?

Margie Milam: I'm sorry. Can you repeat that?

Jeff Neuman: Yes so let me restate it. Alan, you can tell me if I'm wrong.

Alan Greenberg: Sure.

Jeff Neuman: Or correct me. So in the last discussion we wanted you to go back to (Kurt) to kind of look at the objection rights that the government would have and others would have to object to something that was like Olympix with an X as opposed to Olympics whether that would be a basis for an objection. And whether we think that would be a likely successful basis for objection.

And Alan's point with respect to this question is that same question could apply to foreign translations. Right. Do foreign translations of a mark - could objections be filed to foreign translations of a mark as well? Or could the GAC say look, that's the word Olympic in French. We know you didn't reserve it. But there's still a basis to object. Alan, is that sort of correct?

Alan Greenberg: Yeah. Yeah. You (got it). Remember we're dealing with marks, which are registered around the world or reserved around the world or whatever in multitude of languages.

Jeff Neuman: Right.

Alan Greenberg: That they do have by local law certain rights associated with those translations.

Jeff Neuman: Right. And I think your point before was look, if it's already protected around the world and they could object to it, then it doesn't really do any harm to put them on a reserved list or to extend protection to this. That was your point?

Alan Greenberg: A freedom of speech person might not say that but that's what I said.

Jeff Neuman: And one of the arguments that the Olympic Committee and the GAC had raised was that, you know, these are only two institutions. They are not wealthy institutions and can't really object - can't afford to object to every single combination.

I understand that could be applied to every single trademark but it was certainly one that the argument the GAC made that the Olympic Committee were (cross made) and certainly one that the Board I guess was sympathetic enough to at least reserve the two variations or the several variations or something that they want us to consider.

Okay. Again these are not - like these questions are open. They're not - we're answering any definitively and certainly people should comment on the email list.

And then if I could jump - sorry.

Thomas Rickert: This is Thomas speaking. I think in terms of a question whether it's permanent or just during the first round I think that reference that has been made to the first round and the specific mentioning in the applicant guidebook was just lacking GAC/GNSO advice at present.

So I think the original idea was to make it permanent. So I think we should actually consider to have - to come up with a proposal that it's not only applicable for the first round.

And then in terms of additional languages and variations, in my view for transparency reasons, so I think it would be very helpful to get a comprehensive and exhaustive list even though that might be long. But I think it's much easier for registries to implement and it would facilitate the process with the ICANN rep that to do similarity checks on each string.

I'm also thinking of, you know, original comment that you made that to you it would make limited sense not to take a holistic approach and also provide protection against similar strings. And I fully agree to that.

However, if we could come with a solution that would have a big list, even if it is big then it would at least give clarity to let's say Olympus as a camera manufacturer where they cannot go for an application or OLYMP shirts.

I don't know whether you know this manufacturer but there are some companies that also have trademark protection in certain territories of the world that I think would very much welcome if they had some clarity on whether it can move forward with their potential thoughts on their own TLD or not.

Jeff Neuman: Yes. I think those are good points and I think certainly the more clarity to other similar organizations would be good. And I think it applies even more that thought in the second level (bands) and this gets to our kind of a good segue which is, you know, here the question is their

proposal, excuse me, would be to add these names and - or these exact names and when I say exact, it's the Olympic, the Red Cross mark and the variations that are - the foreign variations that are listed specifically in the appendix.

Here would be second level reserved names. And then we have a bunch of questions of if you were to put it on the list, how would it be implemented, what type of reserved name would it be? And I think providing guidance is extremely important because, you know, there are other uses let's say of Olympics.

You have Olympic Paint. You have at least in the United States you have Olympic Paint; you have Olympic Airlines in Greece. So there are certain things that clarity would need to be provided on those.

So what I want to do is - because I don't think we have time during this call to really delve into this. I just want to go over the questions, make sure everyone on the call understands the questions because we're only slotted for an hour and then move the discussion online and maybe take a minute to talk about the next steps or next call.

So the questions I posed here is - the first question overall is should these names be reserved at the second level? We need to come to a conclusion because that's not currently in the guidebook and is not currently required of new registries.

If we decide that they should be reserved, then the questions are what type of reserved name should it be. And if you look at the exhibit in the registry contract, there is a reserved name that may never be registered by anybody. Right.

So that's like GAC - not GAC, sorry. That's like example. Like nobody can register the mark example even if there's a request. There are - and that'd be like example.new TLD.

There are other reserved names like the two letter country codes which are reserved but the registry operator can propose the release of those reservations based on implementation of measures to avoid confusion with the corresponding country code.

So the parallel here would be that these marks could be reserved but if someone wants to use them like let's say the Olympic Committee itself or the Red Cross, you can make a proposal to someone, and you would need to talk about who that proposal would go to, to have those names be used for those purposes.

So another example is let's say Olympic Paint was Olympic.art. Let's say art is a TLD. You as a registry operator could go to maybe the Olympic Committee and say guys, this is clearly - we know this is clearly the paint company. They have promised to use it only with respect to their paint company. They will not use it in a manner that is inconsistent with the way they already use it or is consistent with the way they have rights to use it.

And then the Olympic Committee can make a decision yes or now we want it to go forward. There could also be guidelines to say look, the Olympic Committee can't reject that kind of use if it's based on a legitimate right. So you could put all sorts of rules on that.

The third way is like country names where you could essentially go to the applicable government and get permission. So there are different reserved - there are different mechanisms to release names off the reserve list in the ICANN agreement already with different types of marks.

So we would need to come to some sort of conclusion as to how we would treat it. And if we treat it as a mark where you can get it released, then you need to talk about well, what is that release mechanism.

So those are the questions that I came up with and actually we came up with during the GNSO Council meeting and I think the ones that we need to discuss. These are questions that I do not believe the GAC has addressed with the one exception. The GAC did say in the Q&A that they believed that it should be reserved but if the Olympic Committee or Red Cross want to use their marks, they should be allowed to take it off their reserved name list.

So they've kind of already - at least their proposal is they've answered E1, which is that it shouldn't be a forbidden name but it should be more like the other types of names where it can come off the reserved list.

Any questions on those? Any disagree with that read out?

Joy Liddicoat: It's Joy here Jeff.

Jeff Neuman: Yeah. Sure.

Joy Liddicoat: This is more of a supplementation I suppose. Just I think it's probably clear we learn the questions around, you know, if a name - if Olympic and/or Red Cross are names are reserved at the second level, then we go to, you know, what type of reserved name would this be.

I think it's probably clear relation to a (forbidden) name what the answer is although this isn't the answer the GAC could say the want. I suppose where I think (Sydney), the names of my stakeholder group would have many questions and bear in mind there are multiple views in those stakeholder groups - the stakeholder group. The processes around which registry operators might propose release seem to become - seem to get complex the further down those options that we go.

And it is inevitably the case in relation to implementation and policy issues but the devil being in the detail, the further one goes into adding (wrap around) processes and with those options the stronger unlikely to hear from my constituents or stakeholder group members as a desire for some policy like process around that particularly if we're starting to (strip) those processes beyond the current sort of natural boundaries.

So for example, whether it's GAC has a role in terms of approval or other bodies and also the need for those processes to be as simple of possible for registry operators so that they're actually practicable.

And so I supposed I would say I don't necessarily disagree that those are some of the questions about - as is always the case, they inevitably raise more questions.

Jeff Neuman: And that's a great point. And if you could write down some of those questions and send that, we could add those to the list. Because I think they're important. And again, I just brainstormed just a small set of questions and...

Joy Liddicoat: Yeah.

Jeff Neuman: ...it's not meant to be comprehensive at all.

Joy Liddicoat: Certainly. I mean I would be looking to take the suggested questions back to my - so, you know, the NCUC list and ask for comments and reactions to those and look at where there might be areas of consensus or areas of, you know, gaps or others. And I think that would be a useful thing to do as a next step.

Jeff Neuman: Great. So I'm thinking as a next step is we go back to our groups and get comments. Hopefully I'm going to go back to some of the other groups that aren't on the call and try to get them to show up and make comments.

And I would like to have a follow up call. I think the rest of the year is kind of shot. So I'm hoping as close to the New Year when most of us get back to work but before the Chinese New Year to hold a - to hold a follow up call. So if I can ask - I'll get in touch with Glen to kind of send out - or Gisella to send out another doodle poll for one of the first - send some dates in the first two week of January. We could do a follow up.

Joy Liddicoat: The second week of January would be good.

Jeff Neuman: Yeah. I think most people will be back. And but I would like to make progress before that because I think the - I know the GAC is going to want some direction in Costa Rica as to where we are. And even if it's not completely final, I'd like to have a comprehensive readout of where we are and hopefully some recommendations for the Council at that point or at least for our discussions with the GAC.

Joy Liddicoat: Just a suggestion then. I wonder whether it might be useful for us to report informally to the GNSO Council, you know, that this preliminary discussion's taken place. And to - and perhaps to get Stephane to even informally make contact with the GAC to advise them that, you know, we've got some sort of process in place and give them some kind of sense of when we would be looking to respond just to keep that dialog going.

Jeff Neuman: I think that's a great idea. And so we'll bring this up - I'll ask Stephane for two minutes during tomorrow's Council call if we have it to brief the Council as to what we've done, where we are and what the path is going forward. And I'll - if I forget to bring that up, if you could bring it up during the call tomorrow or make sure someone in your stakeholder group brings it up if you're not on.

Joy Liddicoat: Yes. Yes. I'll be there.

Jeff Neuman: Great.

Alan Greenberg: Jeff.

((Crosstalk))

Alan Greenberg: Jeff, two questions. It's Alan.

Jeff Neuman: Yeah.

Alan Greenberg: Yeah. Is it clear we're talking a leap at new gTLDs and not retroactively to existing TLDs? I understand the complexity if the latter were to be true. But is it clear in our minds, which it is?

Jeff Neuman: A good question. I - and maybe it's one to be so clear in my mind that I didn't think about it. But that's - I think to me was only to new gTLDs. But if others feel differently, then we probably should take that on the list.

Alan Greenberg: The second one is an issue I brought up originally that when I first talked to people about this, there was a perception certainly in, you know, Red Cross for instance that if we banned Red Cross on the second level, we would also ban Red Cross Haiti relief. And...

Jeff Neuman: So if you look - I think it's a good question. If you look at the Q&A from the GAC, they are very specific that it's only the identical match...

Alan Greenberg: No, no. That's what I was getting to. I think we have established that they said that would be delightful but we understand that is difficult and that's not what we're asking for.

Jeff Neuman: Right.

Alan Greenberg: I just wanted to make sure that that - that is, okay. I forgot it was in the Q&A. But you're right, it was. So that's off the table. Thank you.

Jeff Neuman: At least for now. Okay. Great. And then so for the next call I'm also going to make it clear that if observers want to join that they can although I'll just ask them to RSVP by - I don't know Glen, we kind of need to know how many ports to set up. So it'd be good to know, you know, a few days before the call who's going to join and how many people we're going to have.

Joy Liddicoat: Yeah.

Glen DeSaintgery: Jeff, this is Glen. Do you - do you like the call at the same day at the same time in the New Year, say the 11th of January?

Jeff Neuman: Let's - I don't know how fair that is to some. Joy, what time is it for you?

Joy Liddicoat: I'm good. It's 9 o'clock in the morning.

Jeff Neuman: Oh. Okay.

Joy Liddicoat: So I'd go for that. Thank you Glen.

Jeff Neuman: Yeah. If that works - if that works for everyone, let's propose that. Let's propose January 11 at this time.

Glen DeSaintgery: Okay, good. Then that means we can get the notice out early.

Jeff Neuman: Yes. And then ask if anyone wants to join as an observer to let us know by the - I don't know. Glen, when do you think you need to know, by the 6th?

Glen DeSaintgery: Oh yes. Well it's all right by the 9th will be fine.

Jeff Neuman: Why don't we ay the 6th and then...

Glen DeSaintgery: Okay.

Jeff Neuman: ...someone please and you got a little bit of cover.

Glen DeSaintgery: Okay. And do you want to add people to the mailing list Jeff?

Jeff Neuman: As far as I'm concerned, this is an open mailing list and it's not really a formal group. So I'm okay with that unless anyone objects.

Alan Greenberg: No. It's archived anyway. Why make it difficult for people to find us.

Jeff Neuman: So I'm okay with adding additional people to the mailing list.

Glen DeSaintgery: Okay. I'll ask the people on the call if they would like to be.

Joy Liddicoat: And as I say, just keep in mind that it is, you know, for the purposes of helping GNSO Council with discussions with the GAC. So I think if we've got, you know, additional input that's good and again it's under that umbrella of, you know, what we're working towards.

Jeff Neuman: Well I think it's a little bit different Joy. It's to help the GNSO Councilors in giving advice to the Board and in working with the GAC, right. Because it's...

Joy Liddicoat: Sure. Sure. Yeah.

Jeff Neuman: Right.

Joy Liddicoat: Yeah.

Jeff Neuman: Because the Board asks separately but it'd be great if we can work together with the GAC.

Joy Liddicoat: Yeah.

Alan Greenberg: Jeff, it's Alan. We have a long established principle that has recently been reinforced by policy effectively that we are open to contributions from other parts of ICANN.

Joy Liddicoat: Absolutely I agree. I just wanted to be focused on the task that we've got and not to be distracted into other tasks given all the bandwidth we, you know, that we've got for the various things that we're on.

Alan Greenberg: Given the Chair we have, I have no worry.

Jeff Neuman: But I will worry about that. Thank you everyone and - the way I approach - I mean Alan's been on some committees that I've chaired. The way I approach a chair is to try to be as neutral as possible. I will always say whether I'm speaking my personal capacity or on behalf of a registry or on behalf of someone else if I am talking on behalf of someone else.

And if you ever feel like I'm being unfair or bias towards one side whatever reason, I am welcome - I welcome those comments. I listen to them. And, you know, I take this role very seriously. So the last thing I want to do is abuse the position of chairing this group. So please let me know.

Alan Greenberg: Thank you Jeff.

Joy Liddicoat: Thanks.

Man: Thanks Jeff.

((Crosstalk))

Jeff Neuman: Thank you.

((Crosstalk))

Woman: ...you Glen.

Woman: Thanks. Bye.

Man: Thanks. Bye bye.

END