

SEOUL
New gTLDs Discussion with Kurt Pritz
TRANSCRIPTION
Sunday 25 October 2009 at 11:30am local

Note: The following is the output of transcribing from an audio recording of the New gTLDs Discussion with Kurt Pritz on Sunday 25 October 2009, at 11:30am local. 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/meetings/seoul2009/gnso-working-session-1-part2-25oct09-en.mp3>

Participants:

List TBC

>>CHUCK GOMES: Okay. If I could have your attention, please. We are going to start this session. We have a lot to cover in just an hour and half, maybe a little bit less now. So if everyone would stop their conversations. I want to share some logistical information. So that all of the councillors, both existing and new councillors that will be seated on Wednesday are easy for the scribes to see and easy to facilitate their role here, the seats at the table are primarily reserved for the councillors and incoming councillors. So just be aware of that.

The way we're going to do this session is that Kurt is going to just show some very brief slides focusing on the changes that were made from Module 3 -- to Module 3 from Module 2. And then we will have discussion -- opportunity for questions and answers on that. We'll have to monitor our time to make sure we can get to all six modules.

I will ask right up front. By the way, for those who don't know me, I'm Chuck Gomes. I'm the vice chair of the council. Avri is here at the moment but she will have to leave in a little bit, so that's why I'm here.

And I'm going to ask everybody that participates, if you are not at the table, please queue up at the mic behind us here and I will try to keep looking around to see when people are there. Please be brief. This is a huge document. There are lots of issues. If we can all be as concise as possible, it will help us to make a lot more progress.

With that, I'm going to turn it over to Kurt to show slides. I assume you are starting with Module 1. Is that right?

>>KURT PRITZ: Good morning, everybody. How are you? Thanks for having me here to discuss this.

So I had a brief e-mail exchange with Chuck and Avri about what

materials might be presented, and I think as in the past, we really want to get to clarification of what's going on. And that's best achieved through questions and answers about changes to the guidebook.

So that all I've really prepared is a list of what's changed since -- what's changed since last time. That doesn't mean the questions have to be confined to that. The questions can be about anything you want. And I'll do my best with Dan and -- I don't know whether other ICANN staff members are here, but you might see me whip my neck around on hard questions.

So what have we done since Sydney? You have contributed a lot of material in the way of comments, so you've commented on the last version of the guidebook, which is really a set of excerpts to guidebook version 2.

You also contributed significant commentary to the IRT report, and those comment periods closed many weeks ago. And since that time, ICANN has done what's become somewhat routine but still quite a bit of work and that is to take all the public comments and summarize them and put them into categories so that they can be balanced and some sort of proposal can be made about changes to the guidebook.

So in this version of the guidebook, there's over 50 substantive changes. Some are big and some are not so big, but nearly all of them are in response to public comment. So if we were to look -- if you look at the red-lined version of the guidebook that's posted, you would see substantial change. But if you were to look at a red-lined since the first version of the guidebook, you would just pretty much see red. And that is based on two things. Some is staff continues to work on procedures and honing, scoring and making things more clear are for the applicant. But more significantly, it has changed as a result of public comment. And so both the analysis and the -- and all the red in the book is indicative of the fact that public comment is taken very seriously.

So you see the draft guidebook in clean and red line. You see the public comment summary and analyses for comments about the guidebook, comments about the IRT report. Also, there was a comment summary on the terms of reference to the root-scaling study, which is kind of old news.

As usual, there's explanatory memoranda that explains several aspects of the guidebook. If you were to add up all the explanatory memos that were published to explain the thinking behind what's in the guidebook, I think you're probably in the 20s. So there's been considerable work there. And then there's several independent reports, and those are two of them.

So if you want, we can go to the Web site and kind of see what's -- you know, how things are organized. But, instead, since we have

minimal time, unless somebody raises their hand and says they want to do that...

Module 1 -- everybody knows that Module 1 is sort of the overall process outline overall and describes to the applicant the process through which the application will travel as it is considered and evaluated and what the duties of the applicant are in applying for a new TLD.

I don't know -- I'm sitting here looking at both screens going back and forth. I don't know why.

So what are the changes in Module 1? We provided a great deal of specificity about how long it will take to process an application, both the most straightforward applications and the more complex ones that will go through some sort of dispute resolution procedure.

We've always talked about a problem with the word "open TLD" versus "community-based" as if a community-based TLD is not open. So now that's standard, so that's not so significant.

There is a description in Module 1 and more of a description later on about certain TLDs that might want to self-identify and then validate that they are a high-security zone option. That came out of comments we received.

And then there's some clarity about fees, how much -- you know, how much they are, when deposits need to be paid for different dispute resolution processes. And I think we got rid of the 100 bucks to get into the application system.

So that's not too much, but that's what's changed in Module 1. But if anybody has any questions at all about that, I'd be happy to take them.

Do you want to run the queue, Chuck?

>>CHUCK GOMES: Sure. I will try to keep track of that. So for those behind us here -- behind me here at the table, if you do have a question, please line up at either one of the mics on the left or right side and I will try and keep track of those.

And then, of course, councillors at the table are free to identify yourself.

So do we have any questions regarding Module 1 changes? Okay, I've got Mike and Kristina. All right.

Go ahead, Mike.

>>MIKE RODENBAUGH: I noticed in the new draft that you said if

there's 400 applications, then it would take six to eight months to do initial evaluations. Just wondering what happens if there is 1,000 applications or 2,000 applications, what you're planning to do in order to scale that.

>>KURT PRITZ: Then I think it's clear there needs to be some sort of batching of the applications and a process will need to be devised that's not too difficult but to create those batches in a fair way.

The process that -- We've done quite a bit of study about this. The process doesn't scale infinitely. Once you get to about 400 or 500 applications, you've got about 70 technical evaluators. So it gets to the point where it's hard to coordinate and normalize the scoring across all those evaluators, and the process would tend to break down a little bit.

So balancing, doing all the applications in a short period of time against consistency of scoring, you know, there's a management judgment that that's about the maximum number, 4-, 500 that can be processed in parallel.

If the final number is right around that, we will make every effort to process them all in parallel; but that's the thinking behind that.

>>CHUCK GOMES: Okay, thank you. Just a second, Kristina. I just want to give some instructions. Whoever it is, even those on the council, if you would please identify yourself for the sake of the scribes. They may know a lot of the councillors, but the other people in the audience may not know you. So please remember to identify yourself, and I think those at the table -- everybody at the table is a councillor, so I don't think you have to name your affiliation. But if others would, that would be helpful.

Thank you, Kristina.

>>KRISTINA ROSETTE: Kristina Rosette. I had a question regarding the text regarding objection filing under 1.1.24. I just want to make sure I'm clear in understanding that the objection filing period is 90 days, which will extend for at least two weeks beyond when the initial evaluation period closes. Is that a correct kind of understanding of what's in here and then what's later in the dispute section?

>>KURT PRITZ: Yeah. It's intended to go just beyond the evaluation.

>>KRISTINA ROSETTE: It is a 90-day period. Because a lot of people have gotten really panic-stricken about the "two week" reference.

>>CHUCK GOMES: Okay, Richard.

>>RICHARD TINDAL: Richard Tindal from eNOM. It is just an

observation I want to make really with respect to Mike's question. I think if the number of applications goes from 500 to 1,000 or even 2,000 or even 10,000, whatever, if there is only, there will only be a finite number of back-end providers in my opinion -- this is my opinion -- generally speaking. So I don't think if there was a significantly number large of applications that the technical evaluation is going to be -- that we are going to have a scaling issue.

If we go from 500 apps to 1,000 apps, I don't think there is twice as many sort of technical back-end providers probably in my opinion. I don't think there is going to be that same sort of scaled issue you are talking about there. On the financial evaluation perhaps.

My presumption there is the back-end stuff kind of looks the same for each application which, again, in my opinion it is going to. So...

>>KURT PRITZ: I think that's right. There is two stages to this evaluation, right, Richard? There is the evaluation of the application, which is a bunch of promises by the applicant and then there is the pre-delegation testing that occurs that ensures that the applicant is living up to his promises, or her promises, to meet the criteria set -- the technical criteria set out in the guidebook.

So if there is a scarce resource for back-end providers, then that would be sort of a self-limiting or a gate on delegations because they would still have to people the performance criteria.

>>CHUCK GOMES: Adrian.

>>ADRIAN KINDERIS: I just wanted to make a comment, actually. I would like to commend ICANN staff on the inclusion of the time lines to tell you the truth the document. We've referred to weeks and months, I think that's extremely helpful to us working with applicants. So I just wanted to commend staff on the inclusion of those in this version.

>>CHUCK GOMES: Edmon.

>>EDMON CHUNG: I brought up this, I think, last time in Sydney as well, this consideration about names that might collide with IDN ccTLD fast-track names. I know there's a section in there later on, but what about refund considerations for those kind of situations where I put in the application not knowing that there's some application in the process already for IDN ccTLD fast track and it happens to collide with it? Shouldn't there be some special refund consideration for those?

>>KURT PRITZ: Yeah. Maybe. We'll take a note of that. And you should make a comment about that, too.

So it's sort of like late-breaking news, right? You've decided not to go for a refund, you've decided to pursue your application through the process and near the end there's a collision with an IDN ccTLD.

>>CHUCK GOMES: Another suggestion. Kurt just made it to Edmon, but I'm going to make it generally.

For those of you who do have comments, it will be in the transcript and will be recorded, so that's good, but it's advisable to also submit that comment in the comment forum. So please remember to do that.

Okay. Next in the queue is Mike.

>>MIKE RODENBAUGH: I guess it's really two comments, although I'd love to have your reaction or thinking behind the changes I've seen.

In 1.1.2.4, you are giving only two weeks to file an objection from the date the initial evaluation results are posted. I think that that is a ridiculously short amount of time to file 5,000-word objection that has to be complete with all of your evidence, et cetera, et cetera. It's -- half the time you have to respond -- it's just a ridiculous amount of time, a short amount of time. So I'm just -- how did you come to that number?

>>KURT PRITZ: Don't know.

>>DAN HALLORAN: So I think the intent is, it's really you have months to do it, because you see the application and then you have months while the whole initial evaluation is going forward, and then it's sort of a -- you have a last-minute check to see, "Well, wait, maybe they won't pass initial evaluation."

But -- so you get a last-minute decision like do I file, do I not file. They might fail the initial evaluation and you might decide not to file your objection but you've had months to see who the applicant is, see what their plans are for the string, see if it collides with your rights or whatever the grounds for objection are.

>>MIKE RODENBAUGH: So you've just worked up a huge complaint and then it doesn't pass initial evaluation, so you've just wasted a lot of time and money and effort?

>>KURT PRITZ: Yeah, so that's a balancing, and you should comment on it. The balancing is that versus adding in another month into the evaluation process, so that's -- so what we -- what we strove for there was to make sure there was adequate time to write an objection, but requiring some work in parallel with the idea that there might be breakage.

So if you think, you know -- if you think that that balancing would

up with the wrong conclusion, that's what you -- that's what you should say.

>>MIKE RODENBAUGH: All right. I think it should be a month, at least.

Okay. 1.5.1, it's -- this also seems fairly new language, I think, but it really makes it seem like difficult applications are subsidized very heavily by easy applications to get through. And I'm wondering if there couldn't have been more effort to make -- to shift that burden, cost burden, to the parties that deserved it.

You know, I'm just thinking dot brand applicants, for example, and those could be a lot cheaper, perhaps, since typically those are going to be easy, rather than more technically difficult ones.

>>KURT PRITZ: You know, I -- I think that's right and there was a lot of effort expended and discussion about whether to parse the application fees into more of a pay-as-you-go and I think we'll evolve to that in subsequent rounds but given there's a huge amount of unknowables here and what we're trying to do is spin up, you know, some certainty for the applicant in what it's going to cost them to apply, and I think going to school on the first round will allow us to do some of the things you're talking about, Mike.

So again, a lot of these decisions are 60/40 decisions where half of us or 40% of us are sitting around the table saying exactly what you said and, you know, 40-some-odd are saying the other thing.

>>CHUCK GOMES: Okay. Stv@phane.

>>STV@PHANE VAN GELDER: Thanks, Chuck. Stv@phane Van Gelder. Just one administrative suggestion. Seeing we've got two screens that are showing the same thing and we've got scribes, for the non-English speakers in the room, it might be helpful if there was a scribe feed up there on one of the screens. I don't know if that's possible or not, but it might be useful.

>>CHUCK GOMES: Okay. I'll let the technical folks work on that while we go ahead and proceed. It's a good suggestion. I like it. But we'll just go ahead and keep going while they see if that's a possibility. Okay?

>>STV@PHANE VAN GELDER: Thanks. So on 1.4.2, Kurt, first of all, I want to join Adrian in commending staff on the work that's been done on this third version. It's very impressive. And it's also very useful, because there's a lot of detail in there that we didn't have before that makes it easier to explain what applicants will have to do in detail, so that's very good.

Just a quick question on that application form. Is it your

intention in the final version of the applicant guidebook to include the full detail of the application form? Because I -- the way I see - - the way I understand this one, it's just an overview of what's required.

Will the full application form be in the final version?

>>KURT PRITZ: Well, the content of the application form is -- we intend the annex to Module 2, where all the questions are, those are all the questions, starting from name, address, and so on.

So the content of the form, on the format of the online form, I think -- I think that would probably -- in the final version, that would be included, yeah. And with the final form, the online version will be available for viewing, too.

>>CHUCK GOMES: Okay. We have one more person in queue and then we're going to move to Module 2. So Kristina, you're the last one in Module 1.

>>KRISTINA ROSETTE: To the extent that an applicant designates in its application that it intends to seek a security verification, will the fact of that designation be published as part of the application information?

>>KURT PRITZ: I think so. I think it's always intend -- you know, it's meant to be transparent. It's not scored, but it's going to be part of the application.

>>CHUCK GOMES: Okay. Kurt, let's go to Module 2.

>>KURT PRITZ: So I understand the IDNA protocol is done. Is that true? So the algorithm now has 8 scripts. The algorithm's used to inform examiners who make the decision whether strings will likely result in string confusion.

So that algorithm that provides a numerical value of visual similarity covers eight scripts, and the algorithm compares strings among scripts as well as in scripts. So it's my secret goal someday that there's just a numerical answer to that and then that inquiry is over with, but I don't know if that will ever happen.

The IDNA protocol is -- is very near to complete. The guidebook reflects the latest thinking, the version of the IDNA protocol that went into final call.

So the string requirements, I think, are pretty close to baked.

In geographical names protections, the board called for a modification to the definition of a country or territory name away from a meaningful representation or what's in the IDN fast track to

specific lists, and so geographical names that get protections are now on specific lists and we've also heightened the document requirements so that the government giving approval has to indicate in its letter it knows exactly what it's doing and we put time limits on us, on a TLD applicant getting that government approval.

There's a registry services inquiry as part of the evaluation, and that is the same as the RCEP, the so-called funnel, and that is part of the application. The applicant identifies registry services and there's a check done to make sure that they are not -- their registry services would not be risky to DNS stability or security.

And then quite a bit is written about the selection of the evaluation panels. That's intended to be a very transparent process. There's a Web page dedicated just to that. There's extensive writing about conflicts of interest, how that's to be handled, and how that's to be avoided, and also a code of conduct for panelists that serve on the evaluation panels.

So those are -- those are essentially the changes to Module 2.

>>CHUCK GOMES: Okay. I have one person in queue already. If anybody else would like --

>>KURT PRITZ: And there's more changes to Module 2 to come and that's the evaluation criteria themselves so we're going to talk about that next.

>>CHUCK GOMES: Would you like to talk about that next?

>>KURT PRITZ: Sure. If it's all right with everybody here.

>>CHUCK GOMES: Go ahead.

>>KURT PRITZ: Yeah. So, you know, evidently we've clarified the process for proof of establishment, legal establishment, and good standing, to make it more understandable in all the different regions, although I can't spin up what that is.

There's, I think, eight changes in the guidebook, all told, to address the potential for malicious conduct and additional inquiries there.

The technical criteria, we've put some specificity around the RFC references in response to public comment.

The community -- you know, we have a community-based definition that if you're applying for a community-based TLD and we've changed the wording of that to align it with the comparative evaluation criteria, so -- so there's more of a one-to-one correspondence there.

Last time we talked about protection of a specified list of country names at the second level, and a sort of dot info procedure.

Financial -- oh, so the financial instrument, there's -- the financial instrument is intended to sustain registry operations, in the event that a registry fails, and we kind of think it's the biggest protection for registrants in this, and think it's a very important part of the application.

So we've provided a great deal -- you know, if you get one of these financial instruments, which an applicant will have to, this is how you'll qualify.

And then we just try to make it more clear what was expected in the financial statements and again, I talked about registry services definition before, but we put some clarity around that.

Anyway, so that's everything.

>>CHUCK GOMES: Okay. All right. Would anybody else want in the queue? Okay.

And again, those of you behind me here, you can line up at either mic if you want in the queue and I'll fit you into the queue as we go along.

Let's start off with Adrian.

>>ADRIAN KINDERIS: Thanks, Chuck. My question is about the reviews and the ability or potential for these reviews -- potential -- more over the financial and technical reviews to be done in isolation.

If I'm an applicant submitting multiple applications, what about the -- is there due consideration going to the fact that I might be using the same financial instrument for 30 applications, understanding that I may only get a few of those? And I -- I guess the same works for the technology as well. Here's my registry system that I am going to build and support it, but if you put five registries on that, that's going to require, you know, a different sort of infrastructure, a more robust sort of infrastructure.

So I guess my question is: Is there -- is there a consideration of - - especially when these panels may be independent of each other, that you're going to be batching up applications from the same applicant, or is there -- is there an ability for an applicant to leverage, for example, the same financial instruments or same technology within applications.

>>KURT PRITZ: So I think that's addressed in a couple ways, and I'm not a banking guy, but a great deal of attention was paid to a form of credit, say, that has to be secured and who is identified as the

beneficiary in the letter of credit, and then it gets tied to a TLD specifically, so the way that's written one is one way.

And the other way is, remember we've got this pre-delegation check before the thing goes live, and the only nontechnical aspect of that is to ensure that this financial instrument is in place. So I think it has to be tied to that TLD.

>>ADRIAN KINDERIS: But in order to get to the technical test, you have to show that you have technical capability.

>>KURT PRITZ: Right.

>>ADRIAN KINDERIS: So you'd need to do -- okay. So you're saying that the scalability of that is tested at the pre-delegation test.

>>KURT PRITZ: Right.

>>ADRIAN KINDERIS: Got it. Thanks.

>>CHUCK GOMES: St√@phane.

>>ST√âPHANE VAN GELDER: Thanks, Chuck. So I'm thinking that in some cases, and I'll give you a specific example, staff may have gone too far in trying to satisfy the requirements, maybe, of the GAC or certain parties on geographical names.

A specific example might be I'm looking at the red-line version, so Page 63. There's -- towards the bottom of the page -- an addition there that says that basically you have to seek the -- at least the non-objection of any local authority that has -- that would have a similar string to yours.

So --

>>CHUCK GOMES: St√@phane, if you can give him the section reference, because he doesn't have the red-line version, okay?

>>ST√âPHANE VAN GELDER: Okay. No, it doesn't -- that doesn't correspond to -- the section reference is 2.1.1.4.1.

[Laughter]

>>ST√âPHANE VAN GELDER: You asked.

And that is towards the bottom there, but not quite. Just before 2.1.1.4.2.

And it says, "In the event that there is more than one relevant government or public authority for the applied-for gTLD string, the applicant must provide documentation of support or non-objection from

all the relevant governments or public authorities."

So that basically means if you have a city TLD, for example, that you want to apply for and you are a major city and there's lots of smaller cities in the world that have the same name, and they would never have applied, they can basically block you from applying. Isn't that going too far?

Wouldn't it be more sensible to request the applicants, such applicants to maybe include in their rules for their TLD something that would allow the other cities to participate or something that -- this clause means that -- you know, someone will -- any New York will be able to block New York, even though they have no intention of actually going for the names themselves.

>>KURT PRITZ: So I don't know exactly why this provision is here, but I know it's here for a reason. But remember that city names aren't protected. So that -- so we're really talking about country names, territory names. Capital city names have protections, but those are the only ones. So then I'm wondering if this is -- if, say, it's a capital city name, if -- if it's -- if somehow it's known that the government of Paris and the government of France both want a say-so. But I've got your question, and I'll find that specific reason why that's here because it's a good one.

>>CHUCK GOMES: Mike Rodenbaugh, but, again, be as brief as you can because we have six modules to go through.

>>MIKE RODENBAUGH: I always try to be brief, Chuck.

String similarity, one of my favorite topics. 2.1.1. Still just saying visual similarity in the initial evaluation, which I think is contrary to the council's recommendations, original recommendations. So still disappointing to see that that way after a lot of comments.

Then, when you go to the objection section, which is 2.1.1.1.3 -- 2.1.1.1.3, yeah -- where you can object based on a similar meaning, it's still pretty unclear, I think, in the guidebook. I think we need to give more clear guidance as to certain things that will or will not be deemed confusingly similar, rather than leaving it up to objection panels. Specifically, I'm thinking of scenarios that we talked about hundreds of times in the last three years, especially translations of terms. So dot empleo or dot viaje in Spanish are the equivalence of dot travel and dot jobs. Are those confusingly similar in the staff's opinion or not? Why don't we know that? Very similar things like we also have the letter, I think, from dot sport saying that dot basketball must not be allowed for various reasons. I'm not sure that's really part of confusing similarity but also ought to be addressed so that the community knows what staff is thinking there. And, you know, I could go on and on. There's no more type of equivalence -- dot music, dot tunes, et cetera, et

cetera. So how is that going to work?

>>KURT PRITZ: Two questions: so the GNSO recommendation about string confusion is addressed by the objection-based process where all types of confusing criteria -- "all" meaning visual -- are addressed. So we think that's addressed fully. And the prereview during the evaluation is meant to weed out those applications that are identical or very similar visually, which is a relatively easy -- it's an easier inquiry to undertake. So we undertake it for all applications at that stage in order to avoid situations where applications go down the path and then are objected to later. Are translations confusing? You know, I don't know. We're more -- we're focused on the answer, right? We're focused on the result is will users be confused -- is it likely that users will be confused by the delegation in the root zone? So I can think of translations that may result in confusion. And I can think of translations that I don't think will.

But it's -- it's -- this is -- this occurs throughout the guidebook. It's hard for staff or others to put examples in the guidebook when -- you know, even in the case of examples, you know, there's innovative arguments that can be made or arguments that can be made that aren't thought of by those putting the examples forward. So understanding that examples are very helpful, they can also, you know, in the end have the opposite effect. So I think that some translations would be confusing and some would not.

>>CHUCK GOMES: Thanks, Kurt. Go ahead, Dan.

>>DAN HALLORAN: Just because the phrase popped up in your question, Mike. What does staff think?

It doesn't matter what staff thinks. It matters what's in the guidebook and what standards we make. Staff isn't going to make the decisions. If we don't give examples or don't give guidance, the objection panels are going to make these decisions. And it doesn't matter what Kurt thought six months or a year ago. It matters what's in the guidebook. So, if we don't see something in the guidebook that you think should be there, we need to comment or -- if it wasn't in the policy recommendation or not in the guidebook now, it doesn't matter what any of us at the table thinks. Those decisions are going to be made by an evaluator a year or two from now.

>>MIKE RODENBAUGH: There have been a lot of comments along these lines. In fact, our original recommendations had language around these issues, particularly translations, I believe. So I just think that we're leaving it way too open, too much risk for people that are going to shell out 185 grand and not really know what's going to happen in that situation. Because, basically, any application could be challenged on the grounds of confusing similarity. Because, obviously, every word or term -- at least every English word or term

can be translated into any number of other languages.

>>CHUCK GOMES: Okay. Let's move on now. I'm going to read off the queue that I have. And I'm going to close it off there, because we need to get through the other modules. So I have Kristina, Edmon, Mike Palage, Richard Tindal, Adrian, Kurt, and Amadeu.

So we're going to close it off for module 2 there, and then move on to module 3. Kristina?

>>KRISTINA ROSETTE: All right. First one suggestion and then some questions. I think it would be helpful for those folks who don't spend as much time in ICANN land as we do to include in the next draft of the guidebook very specific links to the ISO lists that contain relevant geographic locations because those, frankly, are not easy to find, even if you know what you're looking for.

First question is that one of the IRT's recommendations was that the -- that there be created a request for reconsideration process that would apply to all applicants whose applications fail the initial examination on the grounds of string similarity. That recommendation is not in here, and I have yet to find any explanation as to why it was rejected. Can we -- is there an explanation for that?

>>KURT PRITZ: There's a brief explanation for it in the comments section to the IRT report. That's -- but I will -- that's sort of -- sort of occurred near the end of the process. And I'll work to get you a better explanation of that too.

>>KRISTINA ROSETTE: Thanks. Second, in regard to -- let me find the right section. In section 2.3.3, the code of conduct guidelines for panelists, there's a reference that panelists have to act in accordance with the new gTLD application program conflicts of interest. Is that new gTLD application program conflicts of interest, is that the context that appears at 2.3.4, or is that some other document?

>>KURT PRITZ: Is there somebody behind me that can answer that?

>>KRISTINA ROSETTE: In 2.3.3 there's a reference to a new gTLD application program conflicts of interest. The very next sentence, the very next section has kind of a relevant text but not exactly the same title. So I'm just trying to figure out if those are, in fact, the guidelines.

>>KURT PRITZ: I think it is, but I'll get a clarification for this. I'm almost sure it is. So we will -- excuse me. And we'll clarify -- we'll change the title to ensure that there's direct --

>>KRISTINA ROSETTE: Okay.

My next question/suggestion would be that the conflict of interest guidelines for panelists should also include prohibitions relating to whether or not the panelist, you know, satisfies any of these criteria with regard to an existing contracting party, I believe.

>>KURT PRITZ: Sorry. You're making a suggestion for augmentation?

>>KRISTINA ROSETTE: Yeah. That, with regard to the conflict of interest guidelines for panelists, I think, to the extent that you've got specific criteria about not being under contract for professional services for the applicant, not currently wholly being committed to give any -- da, da, da -- but I think, given that there appears likely to be such overlap between existing contracted parties and entities that might be providing back end registry services, that I think one way to take into account potential conflicts of interest there is to just, you know, have the prohibition.

>>KURT PRITZ: But, overall, it's pretty good, huh?

>>CHUCK GOMES: Edmon.

>>EDMON CHUNG: Two questions. First one is my favorite question, and the first one actually has two components. One, the three-character limitations on IDN, I understand there's a group talking about it. I wanted to know when we can get some update on that. The second component is about variance for IDN TLD strings, especially in the case of simplified and traditional Chinese. I want to raise the point that what may work for ccTLDs may not work for gTLDs because the target community is global for gTLD, whereas, in ccTLDs you might be looking at a simplified Chinese area, for example, Mainland China and the traditional Chinese area, for example, in Taiwan where traditional gTLD you have to look at both together. So variant becomes an issue. And, if you deal with it as a reserved name, it may not work. It definitely will not work, I should say, at least for us. Second question --

>>CHUCK GOMES: Sorry.

>> That was already two questions.

>>CHUCK GOMES: Let him respond to that, Edmon, and you'll still be on queue to get the question.

>>KURT PRITZ: That was one question? So in 1a, yes, that working group has been working on lifting the prohibition on three-character names in certain languages and has drafted a report that I think is going to be released during this meeting that describes a model for allowing two-character registrations in certain cases, especially, say, where it's not -- there assuredly would not be confusion with ASCII two-character names.

I would think that group would probably say that the release of single-character names probably requires more policy work. So we'd be reticent about releasing single-character names in certain scripts but would have a model for discussion about the release of two-character names. And I understand your point about variance exactly. Well, I'm not so good at variance. But simplified Chinese and traditional Chinese. The word for "China" is not, to my understanding, very similar. They're different. So there's not string confusion aspects with that. So there's a way to delegate those two strings, I think. Whereas -- not as variants but just as separate TLDs. Whereas, you know, with other Chinese words, you know, variants can be confusing. So in time for the new gTLD process, that issue will have to be worked out. But I don't think that group got to a final model on variant management yet.

>>EDMON CHUNG: Okay. Good. My second question is on the geographic names. I see that in this version there's a change in terms of -- originally, you were saying that situations like dot Asia for region, that substantial amount of support from the governments. And now I see a specific percentage, which is 69%, if I remember correctly. Where did that particular percentage come from, and what's the rationale behind it?

>>KURT PRITZ: It came from analysis and having people look at the number of governments in every region, which varies widely, and what seemed to be a reasonable percentage of support so that, you know, there's -- comment and other people make cases that you should get complete support. And others think maybe 50% or even less. And this was a balancing -- this was a balancing of those comments. So before you -- before you react to it, I would go back, look at the number of governments or territories or countries in each region and see how many you would need the support of in each region and say does that make sense or does that make sense? And then, if you want to suggest a different model, go about it --

>>EDMON CHUNG: And of course I did. Especially for the case for Asia, it definitely wouldn't work for us. And, if you look at the case for dot Asia, I would venture to say that I think a lot of people in the community thinks that we've done a good job and we've, you know, included a lot of people and including governments in our discussions. And, for us, there are actually 73. And 69% would be a huge number. And, as you have mentioned, that the situation is different for different regions, I would, you know, sort of think that a sort of balanced approach would be that on a case-by-case basis rather than a particular percentage across the board. So, if you ask me, you know, that's really what I think is more of a balanced approach rather than having a particular percentage.

The other part -- sorry. Just quickly. The other part is that you might want to think about whether it -- how -- if you must put a percentage, how -- you know, that percentage, you know, what does it

mean? Does it mean, for example, the Internet user population, how does that reflect on the representation that you're representing in terms of the region? That, you know, might be a good indicator as well. So --

>>KURT PRITZ: And the balancing is, you know, 69% of 73 is a big number. But 31% of 73 is 21 or 22 countries that don't -- you know, that, essentially, don't voice support for the TLD. So that's a huge number, too. So, as we continue our discussion, we'll have to talk about that.

>>EDMON CHUNG: I mean, if I may just point out one thing, is that, you know, if you look at ICANN's own GAC members, does it represent 69% of all the countries in the world?

>>CHUCK GOMES: Okay. Let's go on. Thank you. Thank you, Edmon.

I want to deal with a logistical -- a logistical issue here. It's becoming very clear that we're not going to make it through all six modules. I can still cut off the queue and -- like I already cut this one off with Amadeu. Or we can just go as far as we can get and allow all comments.

Just by a show of hands, how many would rather deal with as much as we can and not cut off the queue for each module? If you're in favor of that -- and I'm not seeing many hands. So you'd rather we cut off the queue and move forward. Is that correct?

>>MICHAEL PALAGE: Is it possible for ICANN staff to provide a follow-up session so we can ask the questions?

>>CHUCK GOMES: By the way, I have the following people in queue still: Mike Palage, Richard Tindal, Adrian, Kurt, and Amadeu. What I'm seeing is we'll cut off the queue. Obviously, the schedule is really challenging, I know.

>>MIKE RODENBAUGH: Are you having another session on Monday, Chuck?

>>CHUCK GOMES: What's that?

>>MIKE RODENBAUGH: Are you presenting this material, Kurt, on Monday and to the public?

>>KURT PRITZ: Yeah. It's -- it's a different sort of presentation.

>>CHUCK GOMES: I doubt if there's nearly as much time for Q&A as the issue. So let's -- let's regroup on that.

You know, we can think through alternatives in terms of dealing with this. Because I think this is very good. I'm not critical of what's happening here. I think it's very, very constructive. But we'll

have to deal with that. I have the sense that most people would rather cut off the queue. So there are five people left on queue here. Mike Palage, you're next.

>>MICHAEL PALAGE: Thank you. Mike Palage. My question, Kurt, deals with the questions in the appendix to Number 2 regarding malicious conducts, the questions asked of applicants regarding financial misactivities, cybersquatting, et cetera. Compliment staff. I think that's a positive set of questions to be asking.

My question or concern is, the way I read the question right now, it only deals with an ownership interest of 15%. So that is a situation where ICANN may deny an application.

My question is, should ICANN also be looking at a situation where the people running the TLD may have similar violations? Because right now you could have people that have had violations running it but as long as they don't have an ownership interest, ICANN does not have the ability to deny that application. So I think that's --

>>KURT PRITZ: So you are kind of going, like, after the delegation? I think before the delegation, there is just kind of owners and not much else, right?

>>MICHAEL PALAGE: Well, I would disagree because part of what an applicant has to do is he has to list who the key personnel are going to be.

>>KURT PRITZ: You think it should be expanded to that?

>>MICHAEL PALAGE: I think it would be helpful. I don't think it would look good for ICANN to be allocating TLDs and to have the senior management have, if you will, a negative track record. I think restricting to just ownership was a positive step, but you potentially might want to look at a broader application to do so.

>>CHUCK GOMES: Thanks, Mike. Richard? Okay. Adrian?

>>ADRIAN KINDERIS: To follow up on Mike's point earlier, with respect to trying to give as much information to a potential applicant prior to submitting an application, I noticed under the objection, you can object under "means the same as an existing TLD."

Would it be possible -- well, yeah, would it be possible for existing TLD registries to provide a definition of what their TLD means?

>>KURT PRITZ: I guess they would in answer to the objection, right?

>>ADRIAN KINDERIS: But that means I've submitted my application already and I've paid my money. I would like to be able to go back

to my clients, for example, and say, "Well, you know what? You realize you will be conflicting with "--

>>KURT PRITZ: This goes back to Mike Rodenbaugh's question earlier about somebody's laying out \$185,000 and they want some certainty about what the test is going to be. So I understand that concern, and I don't know quite what to do with it. But we'll certainly consider how to address that issue.

>>ADRIAN KINDERIS: Is it unreasonable, you think, to ask registries to do that?

>>DAN HALLORAN: Yeah, I just don't know to what extent you'd get participation or how well -- why it would necessarily be determinative what the registry says. I think we could probably all debate, and I have seen debates for hours, on what is dot org for? Is "org" for organizations or organizations of individuals or is it assorted, miscellaneous? So I think it's an interesting question. I just don't know how far we'd get with it.

>>CHUCK GOMES: Okay, thank you.

Dirk?

>>DIRK KRISCHENOWSKI: Okay. Following Stéphane and, quote, on the protection of capital names, if you read the guidebook carefully, you see that the capital names are not specially protected. So no one can save dot Paris or dot BERLIN or dot London. Maybe there's a Paris in Texas applying with approval of the government of United States, and they are in competition to Paris in France. And they would go to auction maybe at the end of the day.

So there might be some clarity on the special protection of capital names in the guidebook. That's not foreseen in that guidebook at the moment.

>>KURT PRITZ: So I don't quite get your question, Dirk. So in the guidebook, it says capital cities require the approval of the relevant government.

>>DIRK KRISCHENOWSKI: But capitals are not more protected than any other city. It is a city name. So there might be a Paris in Texas, as I said, applying for that.

>>KURT PRITZ: So in the guidebook, Paris is protected because it is a capital city name.

>>DIRK KRISCHENOWSKI: It doesn't seem -- if you read the guidebook carefully, it isn't really protected to prevent other cities with the same name to apply with the support of the relevant government then. So there might be a special protection area for those capital names.

>> RICHARD TINDAL: I think you meant "preference."

>>KURT PRITZ: So I think Paris, Texas, would need the support of the Paris, France government that capital, in the limited case of capital cities, it was thought that -- or it was recommended that governments have a special interest in their capital city. And so those capital city names are sought -- requires the approval of that government, the government where the capital is.

>>DIRK KRISCHENOWSKI: Okay. Thanks for the clarification.

>>KURT PRITZ: So that needs to be clarified.

>>DIRK KRISCHENOWSKI: Yeah, okay. Thanks.

>>STAPHANE VAN GELDER: Chuck, can I ask a follow-up on that?

>>CHUCK GOMES: Yes. Go ahead.

>>STAPHANE VAN GELDER: Just to make sure to understand what you said, Kurt, do you mean in that ranking order a capital city like Paris would go before -- if you get Paris, Texas, and Paris, France, Paris, France automatically goes through?

>>KURT PRITZ: Whichever one has the approval of the government -- of the French government.

>>CHUCK GOMES: Just one more clarification. Does the capital cities, is that just of national governments? Yes, thank you. Amadeu.

>>AMADEU ABRIL i ABRIL: Thanks a lot. First a clarification for Chuck. It is not capital of national stage or wherever. It is just capitals of the territories that are in this famous list, not all of them being countries. But anyway...

I have a follow-up comment on the question if you remember 2.1.1.4, at the end, I read you the sentence: "In the event that there is more than one relevant government or public authority for the applied-for gTLD string" -- and then in this case all the letters have to be there, you said you knew there was a good reason. And the good reason I submitted to you in writing when I asked you this question through e-mail was probably you were thinking about the vertical thing. That is, City of Brussels plus the metropolitan area is now called Region of Brussels. But there is also the capital Brussels of a different region, which is Flanders, is the capital of a different public authority and territorial base which is the French-speaking community in Belgium and the Kingdom of Belgium, but not official capital of the European Union. So their agreement should not be on the file.

So with these five letters, it would be okay because in vertical they have all of them. This is very sensible, and I support that.

The second question is I would say collateral -- I mean, the lateral, horizontal continuous situation. Tyrol, indeed, is a province state in Austria but it is also a region in Italy. So you would have both of them because it applies to that territory.

What does not make any sense is that you apply that to completely discontinuous horizontal situations, that is dot Paris and Paris for all the Paris in Idaho, Illinois, Ontario, Kuravas (phonetic), wherever. So if I apply for dot Paris for Paris Hilton or dot Paris because Paris (different pronunciation) written the same way in French is "bets," gambling, I don't need the permission of any of them. But if I apply for Paris, the city in Paris, I need the permission. I'm sure you are not intending to say that.

My contribution is that if that was the case, I'm completely sure you were thinking about the vertical case, although for that territory you change TLD string for territory in that definition because this is what you meant, not as a string but that territory.

>>KURT PRITZ: Amadeu is correct.

>>CHUCK GOMES: We are going to move now to Module 3. You got the gist of that? Okay, thank you.

Go ahead and do Module 3.

>>KURT PRITZ: So Module 3, there's more material about the independent objector and how that would be created. As part of the comment about morality and public order objections, we've instituted a quick-look procedure in order to weed out objections that might be frivolous.

In this version of the guidebook, it's posted that a running list of objection be published as soon as the objection's made and not wait until the end of the objection period. So those others who might be thinking about objecting can see support for their objection or make a decision on whether or not to object.

There is a great deal of information about the selection process for providers and making sure that's posted. There's clarity provided about the community objector -- objection standard. And then, finally, there's -- and the defenses to community objection, it is specified that -- there has always been a complete defense to a community objection, but -- and that complete defense has been satisfying the standing requirements. But it's been clarified that only a community-based applicant can assert this complete defense and he has to affirmatively approve it.

So those are really general descriptions of items that need to be read in order to understand them fully. I didn't do a great job of explaining the detail behind each one there.

>>CHUCK GOMES: All right. Are there any questions or comments on Module 3? I saw Stéphane, Mike. Okay.

Stéphane, go ahead.

>>STÉPHANE VAN GELDER: Thank you. Two short questions. Start with in 3.1.3, sorry, the dispute resolution service providers, I see no change there from -- no change from the version -- the DAG V2 on the - - who those service providers would be. The text is still they've agreed in principle. Do you expect those service providers to actually change, or are you fairly confident now that the people listed will be the service providers? And I have another question after that.

>>KURT PRITZ: I'm fairly confident that those will be the service providers. We have letters of engagement with them.

>>STÉPHANE VAN GELDER: Okay. And just another short question on the quick-look procedure for the morality and public order objection. Can you just explain briefly if that would be a set procedure, the quick-look thing, how does it work? Does the evaluator get some sort of guideline to do that quick look, or is it just totally up to him?

>>KURT PRITZ: I think -- isn't there a procedure? I don't know. Let me consult with Dan for a second.

So I'm going to have to -- it makes a reference to it. I don't know if the procedure is published or not.

>>CHUCK GOMES: Mike.

>>MIKE RODENBAUGH: Just a very brief question, clarification really, I think. In 3.1.2, I think I saw also in 2.3.1, you say, "String confusion objection ground, who may object?" Existing TLD operator or gTLD applicant in current round. It's almost certain to be the case in future rounds that there will be still pending applications that are neither existing TLDs or pending in the then-current round. I assume those that those would still be the basis for objection, right?

>>KURT PRITZ: Yeah, so we will check to make sure the language covers that.

>>CHUCK GOMES: Is that all you had, Mike?

>>MIKE RODENBAUGH: Yes.

>>CHUCK GOMES: Thank you. Antony.

>> ANTONY VAN COUVERING: With regard to the independent objectors, I heard a lot of language about conflict of interest before. Is there any conflict of interest policy with regard to the independent objector? And if not, why not?

>>KURT PRITZ: There certainly has to be, and I don't know if it's the same conflict of interest criteria that are written for the evaluators or would need to be changed or heightened. And so the definition of that role, while it's been elaborated on in this guidebook, you know, we're not to the point where we could start to look for candidates for independent evaluator.

And before we do that, the sort of thing you are talking about would have to be fleshed out. I think it's -- we'll either have to say it is the same or it is separate and define what it is.

>> ANTONY VAN COUVERING: Thank you.

>>CHUCK GOMES: Werner?

>>WERNER STAUB: Yes, Werner Staub. I'm making the comment about the complete defense item which I already sent comments to the public forum before. It seems to me that it is still a dangerous thing to say that somebody will enjoy complete defense simply because one has standing to object.

There could be cases that communities have more than one established institution. That happens very often, that there is no central, worldwide, absolute established institution but there are many regional or by other differences separate established institution.

Take dot bank for instance. It could be a bank association in a certain country that could certainly be an established institution. And one of them could go and actually enjoy complete defense simply because they are one.

And there could, however, be a majority of the members of those communities who would be objecting against that specific proposal. And their objection would, thus, be defeated.

>>KURT PRITZ: So I think you're right. And I think, but I'm not sure, but I think that the defense is that you don't have to represent or be a member of the community that the objector belongs to but you can be -- use that standing requirement as a complete defense as it pertains to the community to which you belong or represent.

>>WERNER STAUB: I'm sorry. I didn't understand.

>>KURT PRITZ: I don't understand it either.

[Laughter]

>>WERNER STAUB: If the Swiss Bank Association said, We want to create dot bank and the other bank association in other countries are against it, would they be able to object or not?

>>KURT PRITZ: Well, yes, they would be able to object because they satisfy the standing requirements to object. But the Swiss bank may be able to assert a defense by demonstrating it's a bona fide representative of the community which it purports to represent, which is different than the objector's community.

>>WERNER STAUB: So the Swiss Bank Association could then say, Look, your objection is going to lead nowhere because we applied, you didn't, that's why we get it.

>>KURT PRITZ: That could be the outcome.

>>WERNER STAUB: I'm sorry?

>>KURT PRITZ: Yeah, I don't think they would respond in quite that language.

>>WERNER STAUB: I think that would be dangerous to have. What you just said also has an additional danger, I believe. A "representative" is a non-clear word. And I think it should be clarified that it is to mean that it is an organization that has authority to speak and act on behalf of the community and not just to be a member of the community because if they are a member, any bank could go and say, We want dot bank.

>>KURT PRITZ: So you are exactly right. And I'm speaking in shorthand up here, and what's in the guidebook is meant to provide a lot more clarity about it.

But if you think that still -- You know, it's a very hard concept to write down. And if you think still that additional clarity needs to be provided and, even better, if you have suggestions for it, that would be great because, you know, a lot of people stare at those words and try to make them better and it is hard to make them better.

>>DAN HALLORAN: So I think, Werner, it goes to the reason why there is this community objection which I think the original point of the council was for communities to kick out sort of -- people who are trying to appropriate the string who don't belong to that community. And the community should be able to say, You don't represent us. You are the wrong applicant for that string.

What we had to wrestle with is what happens if there is competing

ones, if you have French bankers and the Swiss bankers. I don't think the original point of the objection process was to get rid of one or the other. I think we have a contention resolution process where we try to pick among competing community applicants.

We didn't intend the community objection process to kick out applicants if they do legitimately represent a community, even though it might not be the same one as the objector.

So I think you are reading it right and it is still tough. So we invite you just to submit comments on it.

But I hope that's a little bit clearer. I wanted to ask Kurt to give his -- just after listening to Kurt's last answer, to give his standard disclaimer he has given at a few of these meetings about don't listen to what Kurt's saying here. We're doing our best to answer the questions, but please rely on what's in the guidebook.

I don't want somebody to come back two years later and say, "Even though the guidebook says this, Kurt said at this meeting in Seoul at 11:00 a.m. on some Saturday that this is the rule." In fact, all applicants will have to rely on what's in the guidebook and what's there now is draft and subject to change.

So please rely on the written word that's authoritative and official. We are trying to be helpful and answer questions and clarify things, but that's not the final binding text.

>>CHUCK GOMES: Okay. This will be the last person on Mod 3. Edmon.

>>EDMON CHUNG: I think I raised this in Mexico as well. I'm not sure whether it fits into Module 3 or Module 1. But this issue about a confusingly similar string, a gTLD string, there is an understanding that you cannot apply for a confusingly similar string.

However, as an existing registry, when I apply for a confusingly similar string to my own TLD, there's no explicit writing in the applicant guidebook for that.

For example, dot Asia, I would say dot Asia (different pronunciation) in Korean, for example, we would consider that confusingly similar but we would like to apply for it. Right now it doesn't have specific verbiage about that. It was talked about being an oversight which maybe should be added back into it. But I haven't seen that being added back.

>>DAN HALLORAN: So I think on that example, it wouldn't be visually similar, so it would not be kicked out in the sort of staff quick look, because "Asia" in Korean and "Asia" in English don't look anything alike, so it would go into the objection process, and if I'm correct, only the existing operator can object, so as long as you

don't object to your own application, I think you --

>>EDMON CHUNG: I'll give another example. For example, you know, let's say asie -- a-s-i-e -- is Asia, and how would I apply for that?

>>DAN HALLORAN: Right. So that, I don't know if we've picked up, because there is -- and I don't even know if the -- if you go back and look at the GNSO policy recommendation -- is that where we got this idea in the first place? There shouldn't be visually confusing strings. I don't know if there was an exception back then and I don't know if we've built one yet for, there should be visually -- you know, should there be -- should it be okay to have visually confusing strings in the root as long as they're run by the same guy? Does that -- is that going to confuse consumers anyway or is that okay or...

So I don't know. I think there's bigger questions. I don't know if it's just a simple, like, oversight. I think it's something we have to wrestle with.

>>CHUCK GOMES: It does seem like there's something that should be looked at here. I also, Edmon, was surprised when I saw that that still wasn't dealt with.

Maybe, Dan, to deal with the concern you just expressed, maybe there needs to be some broader possibilities for an exception to be evaluated there, because I think that may be a very common problem in IDN applications in particular. Philip?

>>PHILIP SHEPPARD: Just as a follow-up on that, I mean I think we need to think outside of the sole interest of an applicant here. The point about the visually confusing test is all about users. Yeah?

Now, the fact that might suit an applicant because they happen to like a translation as being confusing is all very well for the applicant, but it doesn't meet the public interest test. So let's be clear, again, about some of the priorities of our tests and the reason some of those guidelines are in there, so we're very well to hear --

I mean, what I find slightly frustrating about the conversation in this group sometimes is we get very specific examples about very specific people with very specific problems, but we're looking at a general global public interest objective primarily.

>>CHUCK GOMES: Okay. Mod 4 now.

>>KURT PRITZ: So we have Module 4, Module 5 changes, and also registry agreement changes.

So I'll just fly through those and I think that's the end.

So in the community priority, which is also comparative evaluation, the annotations have been added to the criteria to try to aid applicants to provide clarity about how the scoring is going to occur.

So again, there's a continual honing of this area based on discussions and testing.

There's an option to postpone the auction if one of the parties is a community-based applicant and the parties agree to postpone the auction so that they can settle the dispute.

Pre-delegation tests have been honed quite a bit so it's really specific now and I think ready for prime time, but I'm interested to see what everybody here thinks.

And then in response to public comment, there's a new section outlining the general obligations of a registry operator in summary form, kind of going to what Philip said, focusing on the user and the registrant.

And then in the agreement, which is attached to Module 5, we've included their requirement for the continuity instrument.

So specifically, you know, I think there's two choices for how that can be -- that obligation can be met and that's in there. We've updated the data escrow specification and Dan can tell us what the heck we did there.

And the -- wow. I should just turn this over to Dan.

In registry/registrar separation, we've taken out a very specific proposal in response to public comment and provided a range of options intended to capture the -- intended to capture, you know, a range of different proposals that have been made, indicating, again, that this question is open and a more defined or specific proposal needs to be put into the guidebook.

Price controls. The six-month period for noticing price controls were -- was reduced for new registrations only, recognizing that business models might need to make changes more quickly than in six months, but still requiring the renewal -- their renewals, the notice period for renewals, and also adding a requirement that there be a uniform price for renewals across the board in order to provide some further protection for registrants.

And that we've specified a post-delegation dispute process for community-based TLDs, so it was intended all along that a community-based top-level domain had to live up to its obligations and the restrictions that were included in the agreement as a result of it becoming a community-based TLD.

This is how that restriction is enforced, and we've modified the renewal provisions somewhat in the agreement.

So those are the -- oh, wait. Is there more? There's more. Hang onto your hats, everybody.

So there's more agreement changes. I'll just touch on some of them. We've tried to provide some clarity around the purpose and timing of the payment of a variable fee and added a fee adjustment for inflation.

The process for amending the registry agreement has been changed, and now amendments can only be made to certain sections of the agreement, and the requirement for -- for a thick WHOIS goes back to a change made on the second version of the guidebook.

The specific mechanism for reserving certain -- for reserving specific country names at the second level and the reference to an info-like procedure for releasing them is in the agreement. There's a discussion that still has to be had about whether centralized zone file access service would serve to help the issue of potential for malicious conduct as has been suggested.

And there's a trademark post-delegation dispute resolution procedure. We talked about that some in a meeting yesterday.

And so that is intended to preserve trademark rights after delegation, as opposed to before.

So three -- three slides with tons of changes to get through to the end.

>>CHUCK GOMES: Okay. I have three people in the queue right now. Let me know if you -- hands are going up. Okay.

All right. Adrian. You're first.

>>ADRIAN KINDERIS: Thanks, Chuck. Just in respect to objections, it says here that previous objections to the application -- this is in 4.2.3 -- let me go back to where it is. 4.2.3, the very last -- just before 4.3, where it says "Auction." The last paragraph. It says, "Previous objections to the application during the same application round will be taken into account when scoring."

I assume you mean by objections that they -- well, how do you define objection? How far did that get? How far did that objection get through the process before you --

>>KURT PRITZ: I think that means that if there was a previous objection and there was opposition -- you know, there was opposition voiced, that that would count for other objections too.

>>ADRIAN KINDERIS: Right. But when is an objection an objection? I'm sorry, if it's just a frivolous one that goes -- that doesn't count as an objection, so it would be one that you would have had to won in an objection evaluation?

>>KURT PRITZ: No, I don't think so. I think an objection is made by someone with standing who's paid a fee.

>>ADRIAN KINDERIS: Right.

>>KURT PRITZ: So once you've crossed that rubicon, then --

>>ADRIAN KINDERIS: Perfect. That clears that up. Thank you. Yeah, I think it -- it could probably do worth having that maybe elaborated upon in the -- just to define what -- 4.2 but it's just before the 4.3. It's the last paragraph in 4.2.

>>CHUCK GOMES: Okay. Ray?

>>RAY FASSETT: Thanks. Ray Fassett. I have a --

>>DAN HALLORAN: So I just want to -- I'm not sure that that is intended to mean formal objections filed through the objection process. It could mean -- so it needs to be clarified -- I agree it needs to be clarified but that could mean, you know, a letter from the relevant community writing in to somebody saying that we object to this even though they don't file. I'm not sure. Whatever it is, it should be clarified. I agree with you.

>>ADRIAN KINDERIS: Given that there's not a lot of points on offer here, you know, I would like to see that clarified because otherwise, you know, one objection or, you know -- could be detrimental to a community.

>>CHUCK GOMES: Okay. Ray?

>>RAY FASSETT: Great. Thanks, Chuck. Ray Fassett. So I'm having difficulty on a concept that has to do with the community criteria. You know, there's 16 points possible, you need to get 14 and I suppose if you look at it this way, you take the 185,000 and divide it by 14, each point's worth, what, 12,000 or \$15,000, so these points are very valuable, right?

So I'm trying to get my hands around the idea that the comparative evaluation is to resolve string contention, which inherently means more than one.

But then there's this point inside the criteria that has to do with uniqueness, which means "one."

So I don't -- why -- I mean, as you sat through and came up with this one point for uniqueness, why did you reason that an applicant that could qualify for uniqueness would even file as a community app because they don't need to worry about contention.

So there's a precious point out of those 16 to me that appears frivolous and probably will never be used. so I'm just trying to reconcile that:

>>KURT PRITZ: Yes. I'm not so sure. So pretend that Microsoft isn't a trademark but it's a very unique name. That anybody could apply for "Microsoft" even though -- you know, just like they could any string -- any string of letters so I'm trying to think of something that's a unique name like "Navajo" is very unique, right? But others could apply for Navajo. So I must be missing your point. Right? The point is that "Navajo" has a nexus, that label has a nexus, a high nexus or a close nexus with that community.

>>RAY FASSETT: Yeah.

>>KURT PRITZ: And so to reward the fact that there's closeness and also reward the fact that it's really not used anywhere else and so that is that community's label and nobody else's, so it gets -- it gets the extra point.

>>RAY FASSETT: That -- okay. That's not -- okay. Then that's not what I understand the criteria of uniqueness to mean. I thought the criteria of uniqueness meant there is no other meaning whatsoever to that word.

In order to score that one point, it cannot have another meaning.

>>KURT PRITZ: Right.

>>RAY FASSETT: Well, then "Navajo" would not qualify.

>>KURT PRITZ: Why not?

>>RAY FASSETT: Because it has other meanings.

>>DAN HALLORAN: Right. So you only get the point if it is unique. That's intentional.

>>RAY FASSETT: Right. Yeah, I understand, but if it's so unique, why would the applicant file as a community app? There would be no reason to because there would be no contention.

>>DAN HALLORAN: So, yeah, anyway could apply for any string and anyone can apply and say they're a community, so we have to apply these points to weed out the ones who aren't really what they say

they are. I mean, that's -- this is the hardest part of the whole -- or in my book, one of the hardest parts of the whole process but, you know, we want to avoid awarding strings to people who don't really deserve them as a community, we don't want to not give strings to legitimate communities, so it's a tough balancing, so we'll take your comment but, I mean, that one I think is intentional. We want to reward people who have unique strings, where they have a string that uniquely refers to their community.

>>RAY FASSETT: My recommendation is to wrap up would be to take that one point and put it into the other section which is, you know, one would be worth 4, 3, 2 -- instead of 3 and 2 on the matches and identifying, take that point up there and make it 4, 3. It's right now -- to me, it's just too difficult to get the 14 out of 16.

>>CHUCK GOMES: Bret?

>>BRET FAUSETT: Yeah. I appreciate all the changes that went into the community priority standard in the latest version of the guidebook. You can still go out in the hallway and have vigorous debates with people about what constitutes community priority, though. And the fact that you're able to have those debates suggests to me that we're not yet there, as to what -- the degree of clarity. And especially mindful of something Dan mentioned earlier that doesn't matter what ICANN staff thinks, ultimately all this is going to be implemented by people who probably aren't in this room and haven't followed it to the degree that we all have.

So I would love to see some examples in the -- the final book that says, you know -- walks it through, you know, "Here are some examples of communities, these meet the criteria, these don't." Something so that this debate over what's community is just dead by the time it goes to the evaluators. I mean there should be no room for guesswork on what constitutes "community" and I don't particularly care what the standards are. Just that they are bright-line clear. And I'd be happy to, you know, help draft some examples and you can run it through the mill and you can tell me what the answer is, but, you know, I'd love to see that kind of thing.

>>KURT PRITZ: Yeah. I don't want you to draft examples. I want you to help -- help us with the clarity. It's -- as Dan said, it's very difficult, and so -- but -- and so I want to work with you and others to try to improve it. Because we have that same goal. I mean...

>>ADRIAN KINDERIS: (Speaker is off microphone) is that an internal rule that ICANN does not want to use examples within the draft application guidebook? Is.

>>KURT PRITZ: Well, it's not a rule. It's fraught with peril.

So I think that examples can be used in cases where there might already be a TLD or, you know, something that's already resolved, so...

>>CHUCK GOMES: Okay. Going on to Stv@phane.

>>STVAPHANE VAN GELDER: Thanks, Chuck. We're talking about Module 4 and Module 5, right? So Module 5 addresses -- links to the base agreement. I just wanted to ask you a question about the changes to the -- and I'm reading from the summary changes to the base agreement document, just --

So before, we had this clause that up to 100,000 names, you could -- you could use the same registry and registrar, and over that, you couldn't, and now you've changed that and you've included four possibilities and you're explaining that due to the controversy between -- you know, with the registry/registrar separation thing, that's what you've done.

Just I wanted to ask about where you expect corporate applicants to go in there.

If -- I mean, I remember you talking about this at a previous meeting, but I'm not -- still not exactly sure what ICANN's position is on this.

Do you expect them to -- I mean, is it -- are you just looking at this and saying, "This is a registry/registrar separation issue and we don't care what type of applicant goes into this. Everyone has to go into the same thing"? Or are you trying to accommodate certain types of applicants and say, "Those corporates that would logically, I suppose, want to run their own -- I mean, if they just want five names in their registry, then they don't want to farm those names out to the full registrar base"? How are you -- you know, are you looking at that yet or are you just waiting on the community to determine that?

>>KURT PRITZ: Well, right now what's in the guidebook is there's two kinds of TLDs. There's a community-based TLD and a standard TLD, so there's not a brand TLD.

There's also a requirement, in accordance with the consensus policy that -- or the policy recommendation that registries use ICANN-accredited registrars, so that is what's in the guidebook too.

There's not a -- there hasn't been a policy about different categories of TLDs, although we encourage, you know, categorization of -- self-categorization of TLDs as a way to differentiate TLDs to differentiate themselves in the marketplace.

And frankly, there is difficulty in creating categories of TLDs, so if there's a brand TLD, for example, what are the rules around that,

and do those rules entitle an exemption from the requirement for use of ICANN-accredited registrars?

So does a brand TLD just include its employees or its employees and agents or employees, agents, and vendors? What is the bright line and then what are the compliance -- you know, contractual compliance implications for monitoring that behavior so that registrars can be assured that, you know, a brand TLD that has this exemption is complying with whatever the restrictions are. So there's -- there's the creation of a brand TLD or other categories of TLDs that lead to exemptions from the policy recommendations are somewhat problematic, because they create a host of compliance issues and gray-line issues.

>>STAPHANE VAN GELDER: I understand the problems that it creates and the situation, but I guess my question is: Will you be looking to actually take into account those specifics? I mean, if you -- this is -- this will be a problem, and it's a problem both ways. I mean, it's a problem for corporate applicants. They have to consider, you know, can they keep control of their application. And it's a problem for the community because there's a -- you know, an expectation that you have to use the ICANN-accredited registrars.

So are we sticking to our guns here and we're saying, "This is the rules and, you know, just fit in there," knowing that some people won't be able to or do you think there's still room -- I guess that's my question -- for negotiation?

>>KURT PRITZ: Well, certainly there's -- you know, this is all a proposal that's posted for public comment, and so comments are welcome, and to the extent that you or somebody listening has a recommendation for a categorization of TLD that results in an exemption from a policy recommendation that -- that proposal be accompanied by some implementation advice how it can be done effectively and cleanly and not, you know, multiply the ICANN compliance staff by 10, you know, for essentially non-valuated services.

I want to finish with -- you know, I want to repeat something Philip said because I wish I said it first.

But really, the new TLD program is all about benefit to users and registrants, and so, you know, the program is really focused on that. And at least initially right now, you know, there's nothing stopping brand holders or corporations from acquiring TLDs and using them the way they see fit. There is an issue with -- you know, that it might cost more money, absent some relief from the policy recommendations that were made, and so that's a -- that's another one of the balancings that need to be done.

>>CHUCK GOMES: We're at a point where we're past -- we're over time and there is another meeting that's scheduled to start five minutes

ago. Are you okay for another five minutes, Kurt?

>>KURT PRITZ: Yes.

>>CHUCK GOMES: Okay. What I'm going to do, though, we have eight more people in queue, and what I'm going to do is change the order a little bit so that those who have not had an opportunity to ask a question, I'll deal -- we'll go as far as we can and deal with those who have not had an opportunity to answer a question first and I'll start with Ron.

>>RON ANDRUFF: Thank you, Chuck. Ron Andruff. I'm looking at the numbering and the valuation criteria and in speaking with staff -- right here, Kurt.

Speaking with staff, I had understood that zero actually had a point value, so zero to 4 would be zero, 1, 2, 3, 4, and in that case, you would end up with 16 of 20, which would remove a lot of the subjectivity and a lot of the concerns that a lot of the community has.

14 of 16, recognizing that these are very subjective questions and a human being is going to make that determination, is a parameter that's very tight and as has been noted in other public comments, all during this process, it appears that ICANN's trying to drive everything to auction.

So when I look, for example, at the -- at the various numbers here, you'll see zero actually has a value. Zero for insufficient proof of support is one. Zero, strong and relevant opposition. So that actually has a value, and staff had explained that to me that zero really was a point value even though it's zero to 4. So I think it's really important that we make this distinction and try to make sure that we remove the subjectivity to allow those that are community-based applicants to have a fair shot at it, as opposed to it being so narrow that every community-based applicant may well miss, on one or another point, and find themselves in an auction when, in fact, there is a strong community behind it.

Can you please clarify that?

>>KURT PRITZ: Yes. Well, I think zero means zero, but I think if you would --

[Laughter]

>>KURT PRITZ: You know --

>>RON ANDRUFF: That's not how staff explained it to me.

>>KURT PRITZ: Yeah. It was Bret. Bret was talking about examples before, but if you could provide examples and scenarios where you

think a bona fide community applicant would not -- would not get the priority that it requests because of this scoring, you could write that out in a comment and sort of make a case for that this criteria is too tight because these applications that I think everybody agrees should qualify as a community priority doesn't -- doesn't win.

So you could help clarify the model. So a second -- you know, ICANN's not trying to drive everybody to auction. In fact, we think auctions won't occur. We think parties in contention, if it's not settled through this community priority, will be driven to settle because that is, by far, a more economical way to settle the contention than going to auction.

And -- and as different from like public utility auctions or bandwidth auctions, ICANN encourages the parties to meet and confer and try to settle the dispute before it gets to auction.

So I just -- I don't want to take that out of it but Dan's going to qualify what I'm saying.

>>DAN HALLORAN: I just want to add onto that and qualify and repeat that, I mean, again, don't rely on what a staff member told you here or in the hallway. Only rely on what's in the final applicant guidebook and even don't rely on what's in this draft guidebook because it's subject to change and just -- if it says zero points that's zero points, that's not 1.00, and so we can try and clarify that if there's some confusion about zero means or to clarify that it's not -- you don't get one point for having a zero or whatever. But don't rely on -- the bottom line is don't rely on what a staff member told you in the hall.

>>RON ANDRUFF: Understood. I'm just saying in the constant dialogue that we've had over the last couple of years -- but I think it's really important and I think the community supports this very strongly -- let's open that up so that it's not such a tight parameter because again, it's a human failing and even the documents that we sent out to invite the evaluators to evaluate, it says in there this is highly subjective. We're trying to get rid of subjectivity here. As Bret well said, whatever it takes, let's take subjectivity is out of this thing and it's absolutely criteria based and let's review that again and make sure the numbers are right. 12 of 16 I think is fair. It's 75%.

>>CHUCK GOMES: Okay. To get a few more in, we're going to have very quick, so Zahid.

>>ZAHID JAMIL: Thank you. 5.4.1, and it's on the subsequent page from where it starts, you've recommended implement rights protection mechanisms and in reading from it, it says, "The registry operator is required to comply with and implement a trademark post-delegation dispute resolution policy."

Now, when I try to search for that, here's what happens and this is a comment. If you go to the Web site and you go into new gTLDs, you end up going to the applicant guidebook, you don't find any reference to right protection mechanisms with -- in connection to the DAG.

I would recommend if you could -- you could give sort of a link to that, so people don't know that that probably forms part of it.

But if you go into proposal -- or public comments, you find a mention of proposed rights protection mechanisms. You click on that, you end up getting only two, the URS and the IP clearinghouse. The post-delegation doesn't appear in that. So one comment, could we have that there so the people can, you know, look at it and probably comment on that? I mean, I'm just presuming if it not up for public comment? So that's one.

Second, from seeing the comparison of the post-delegation mechanism to the IRT one, it seems that the -- a breach of the registry agreement has been excluded as a grounds for a party -- maybe a trademark holder or somebody else -- to basically launch an application.

So -- and also I think it's important to highlight the words "affirmative conduct" has been placed in as the grounds for starting a post-delegation infringement. Now, if that's the case, what happens say for a community or a trademark owner who didn't object earlier and then finds subsequently -- because there were representations in the application and they're in the registry agreement -- what happens if subsequently the nature of use of that gTLD changes? I'm not talking about a trademark infringement per se. I'm talking about nature of use. The way it's been used. Now, he cannot -- or that community cannot object because that's not a straightforward trademark infringement, but it's a breach of the contract.

So what post-delegation mechanism is available for that?

>>DAN HALLORAN: Do you want to talk about that?

>>KURT PRITZ: So I think that's a breach of the registry agreement and that ICANN's contractual compliance department is -- is tasked with following up on complaints or auditing to ensure that the agreement is -- that the operator is in compliance with the agreement, and so it's not a complaint to an independent dispute resolution provider -- right? -- it's a complaint to ICANN, who is obligated to pursue that violation of the agreement and enforce the agreement.

>>ZAHID JAMIL: Can I suggest some communities might see that as something they won't be able to do, so a proposal is to put that into

the rights protection mechanisms, saying that if, supposing, there is a breach of the agreement, possibly those communities should also be able to take -- make use of that post-delegation. Just a comment.

>>DAN HALLORAN: So one thing we did try to change is if there's a breach of the agreement, that's a matter between ICANN and the registry operator. It's a bilateral contract. There are no third-party beneficiaries and they want that to come to our compliance department and we want to take action on that as a contract violation. We've gotten feedback there maybe needs to be ways with to track that or to have SLAs or to make sure we get back to the person who complains about that, so there's -- they have some way to make sure they get some response. But we tried to clarify that, and make it so that disputes, you know, directly between a trademark holder and a registry operator are handled through this dispute resolution processed. Disputes about the registry agreement, breaches of the registry agreement, are handled between ICANN and the registry operator as a compliance matter.

>>CHUCK GOMES: Okay. What I'm going to do for the remainder of the queue is allow you a minute to make your point or ask your question. It will be in the transcription, and unless it's -- you guys deem it to be urgent to respond, I will -- we can defer the response either via e-mail, the council list or whatever. Is that all right? We -- we have to get to another agenda.

>>DAN HALLORAN: Yeah. I mean I actually strongly prefer on all these things --

>>CHUCK GOMES: I'm sorry. You prefer what?

>>DAN HALLORAN: On all these things -- I mean, I think this is fine. And Kurt does this especially happily but it's more helpful for staff to get the written comment that we can go back and look at the written comments and then we can go back and look at the guidebook and provide a summary of the comments and the analysis --

>>CHUCK GOMES: And I'll repeat what I said earlier. Everyone who has asked a question or who has not for that matter and made a comment, make sure you put those into the public comment forum, okay?

Let's go to Jeff, and keep it to a minute, please.

>>JEFF NEUMAN: Okay. This is Jeff Neuman. I'm not going to ask about what you think I would ask about because those are subject of other discussions and this meeting is really a council meeting, so we're supposed to all be asking questions related to the council policies as opposed to individual.

One of the council policies that was passed was to ensure that there's predictability and reliability, and I want to thank you,

first, for adding all the information on the technical requirements. That is a vast improvement and I think that's really going to help users in the end.

The one issue I have is almost every section is followed by the words "which ICANN may amend from time to time as its own reasonable discretion." I think that goes against the whole council recommendation about predictability. I understand why things may need to change, but the comment I have is that you really need to nail down the requirements and since we are bilateral parties. You're not a regulator. You're not a government, you. Got to have certainty in those contracts between private entities. So, thank you for adding those technical requirements, and I would just make the comment to take out that discretion.

>>CHUCK GOMES: Thank you, Jeff. Alan?

>>ALAN GREENBERG: Kurt's last answer to Stéphane covered it, so no.

>>CHUCK GOMES: Thank you. Okay. Kristina.

>>KRISTINA ROSETTE: Yeah. Section 4.5 of the registry agreement relating to transition of registry upon termination of agreement. I think the new language is a significant improvement over what was there, but I've kind of mapped out the scenarios and frankly I can't come up with a scenario in which ICANN would really want to transition operation of a dot brand registry to another operator. Because no matter how I play it, either you're going to find somebody who's going to be willing to do it only subject to significant indemnification that ICANN isn't going to want to do, or -- I mean, either way, it's just a scenario that I can't see that ICANN realistically is going to want to find itself in, and I think, you know, if I'm thinking this through correctly, if there is no real scenario in which a dot brand that is operated consistent -- you know, by the brand owner for the purpose of forwarding the -- you know, developing the brand, et cetera, I think it probably makes sense to go ahead and just say that.

>>CHUCK GOMES: Thank you, Kristina.

>>KURT PRITZ: Yeah. I think there's more than dot brand where that's -- you know, we've been in discussions with the UPU right now so, that's another example where that's problematic.

>>CHUCK GOMES: Okay. Werner.

>>WERNER STAUB: Okay. I'll make a very short comment about the auctions.

I was reluctant to make comments about that, because, you know, I don't think it should go to auction so quickly. But now that we're

getting closer to the possibility of auctions happening, I think we should make sure that we get the right design, and the design that we currently have for an auction is a revenue maximization auction, and it should not be. It should be an auction that is strictly for contention resolution, and that means it shouldn't happen so quickly.

The auction should not be, you know, a round announced in 45 minutes, and here you go, and you have specialists who have skills that probably very few people have, in terms of finance, who can arrange the right kind of financing and so on.

It should be an auction where people can go back to their communities or to their supporters or whatever, negotiate between the contenders, to avoid having to go into the next round, so rather than having 45 minutes to the next round, it should be at least a week.

>>CHUCK GOMES: Thank you, Werner. Antony?

>>ANTONY VAN COUVERING: Yes. I'm -- thank you, Chuck. I'm hoping I'm misreading this, but in the post-delegation dispute resolution provisions, it appears that upon complaint, it might go to a single panelist who might shut down a registry, and ICANN has nothing to do with it, and -- although there's an appeal. Obviously there's a big business disruption.

Am I misreading that? And if not, why is that there?

>>DAN HALLORAN: So I think it's a thing that definitely needs clarification, and, you know, the idea is if somebody -- if a panelist issues a finding that's not going to like automatically self-execute itself. It's going to come back -- you know, ICANN ultimately is going to have -- be in the driver's seat and we have a contract with the registry operator still so we have to clarify what is going to happen and under what circumstances would a -- would ICANN not exactly follow that remedy or would it modify it or work out a settlement or -- so we need to work on that some more, I think.

>>ANTONY VAN COUVERING: I'm just -- again, let me just reiterate: I'm concerned that even a three-person panel is a problem, but a single person shutting down an entire business with potential disruption not only to the registry but to the registrants seem to me extremely problematic. Thank you.

>>DAN HALLORAN: Thanks.

>>CHUCK GOMES: Thank you. Mike. and this is the last comment/question.

>>MIKE RODENBAUGH: Oh, cool. I think it's a doozy. So I -- if I'm a registry operator, how do I keep my -- how do I keep valuable domain names, all of them, from getting sucked up by cybersquatters

or domainers -- either one -- in the first five minutes of land rush?

>>ANDREI KOLESNIKOV: Five seconds.

>>MIKE RODENBAUGH: Five seconds. Better. Thanks, Andrei.

I mean, why can't a registry operator register as many of its own domains on its own behalf and develop them however they see fit, since obviously that is going to be to a better benefit of the community and that TLD -- of the users in that TLD, because the registry operator has a vested interest in developing those sites and the real interesting, unique content, rather than pay per click landing pages?

>>DAN HALLORAN: So I don't -- I'm not sure what you're seeing in the contract right now you think that would -- would prevent that.

>>MIKE RODENBAUGH: It's in 2.6, I think. Well, it's the conjunction of the requirement that you use -- ICANN-accredited registrars and you give them equal access to the names and it says that if -- yeah, it says if you want to register names on your own behalf, you have to use accredited registrars. Well, if I do that and I give them equal access, well then their cybersquatter/domainer customers are going to get the good names before I can even do it.

>>DAN HALLORAN: So I think -- I mean, it requires more looking at. And thanks for raising that. It's a tricky subject to get your hands on and right now we have just kind of a patchwork of rules and it's kind of murky how it might apply. But there's other things to take into account. You know, there's a provision for registry operators to make reserve lists. There's nothing in there right now about prices. Right now some registry operators hold names back, some names as premium names, and they allocate them differently, so there's no -- not that I'm seeing, and I want to, you know, talk more about it, but there's nothing in black and white that says you have to absolutely dump every single name out all at once at the same price. That's not in there.

>>MIKE RODENBAUGH: No. But it says if you want to register them -- if you want to use them on our own account, then you have to use ICANN-accredited registrars and you have to give them equal access. So that means by definition, there's no way you're going to be able to do that, so we have to fix that. It's critical.

>>CHUCK GOMES: Okay. I'm going to have to wrap it up here because we have some planning to do in a lunch meeting that follows for the GNSO Council. And I thank Kurt and Dan and everyone else who contributed to -- contributed to this session.