

GNSO Working Session  
Saturday 28 February 14:00 – 17:30

New gTLDs – Kurt Pritz

>>AVRI DORIA: Okay. Start finding seats. We will start momentarily in a moment.

Okay. Please take your seats. Let's start this one. I'm sure there's more content in the upcoming presentations and conversations than we will finish today.

Oh, pretty slide! Anyway, we've got Kurt, who is basically going to -- the program for the afternoon is we've got Kurt I believe for three hours, is it? Yes, for three hours. Where he's going to basically take us through the revisions, I guess, and how things were responded to, and comments and whatever, and then we have a continuation for an hour afterwards with a -- obviously with a slight break in there somewhere, just to basically talk about how we want to proceed from here, not having any idea at the moment what that means until we've seen and heard the discussions: Will we finish? Will we need more informative conversations? Do we have comments? Et cetera.

So we'll spend a time after this to figure out what's next for us, and that will be our day.

So I lost Kurt. It's bad when he's the one that's giving the presentation and I --

Oh, are you giving the presentation?

So has everybody had time to read all these massive pages that they've put out? Really made the airplane ride seem so much shorter.

Oh, thank you. It was quite an entrance.

>>KURT PRITZ: Okay. Can you hear me? Excellent.

So today I think we're going to focus on the revised applicant guidebook for the new gTLD process. Remember that the applicant guidebook is the instruction manual for those wishing to apply for a new gTLD.

So Avri, if it's all right with you, I remember our last discussion that was similar to this, and we don't want to spend a lot of time with presentation and more time with question-and-answer so I will assume that there's not going to be any iterative slides by me so all my slides I have to show are up front and then we can proceed through the modules or however you wish to proceed, but if it's all right with you, I wanted to present a few slides. One on the comment period that was made to the applicant guidebook and the associated documentation for applying for new gTLDs. Am I talking too fast?

And second, then, to briefly describe some of the major changes to the guidebook for you all to sort of kick off the discussion.

So if that's all right with everyone, I'll go ahead.

So as you know, ICANN published the applicant guidebook back in October, and there was considerable comment. Nearly 300 separate writings. We posted it all. It was over a thousand pages. There was significant comment in other fora, too.

We had two face-to-face meetings that were available by phone to discuss registrar/registry separation requirements, some other briefings, and ICANN also received some independent letters.

You know, in each comment, several of those addressed several issues, so all in all, you know, there was probably a thousand comments or so.

And so what's happened since that time is a process whereby ICANN has analyzed the comment, and I'll describe that more later, and published a description of that analysis and a revised guidebook and some additional explanatory memoranda.

So we really think -- you know, if I look at all the comment, I -- you know, those topics and subjects were largely anticipated, but, you know, the -- I think the process is working exactly the way it should have, and I said "I," but I shouldn't have, but I think -- well, that's what ICANN anticipated, I mean the big ICANN with all of us sitting here.

So if I were to take the comments -- I'm going to stop reading the slides and just talk to you. So if I were to take the comments, I'd break them into two sections. One would be the sort of comment that would be handled in a routine style, so that is, you know, ICANN looks at input to date, puts out a position in the form of -- in this case -- an applicant guidebook or some proposed implementation of a policy and says this: There's comment about it. That comment's considered and balanced along with other public comment and there's a revised position put out and there's some more comment, and that iterates down into, you know, a final -- a final position and document.

And so most of the comments, I think, were of that type, so, you know, the fee structure is wrong or, you know, the scoring of the community-based applicant and how that's handled, or a request for additional elaboration. You know, "Well, if you're going to provide -- if ICANN's going to provide refunds to the application fee at such stages, how is that going to be addressed?" So I would call that the typical manner.

But there was also a different sort of comment that addressed an overarching set of questions, a set of questions that probably wouldn't be addressed in an amendment to the guidebook but, rather, the sort of questions that need be answered before moving ahead with a process.

So that -- and that overarching -- well, I'll talk more about that in a minute but something that requires more consultation or more study, something like that.

So I'm going to talk about those two different kinds of comment that we received.

So regarding the implementation question, you know, it's exactly what I just said. And so -- so the process that approached these comments was this: You know, if 'you're looking at hundreds of comments, you got to categorize them somehow, so we created this -- ICANN created 13 categories under which to place all the comments. 13 big categories. And then within each category, we created subcategories, so at the end of the day we had 50 or so of those. And then what occurred was an analysis of each subcategory.

So all the comments in that category were analyzed. It was -- they were given an owner that was essentially an ICANN staff person, and that person would write a paper about each one of those subcategories. And so the comments were written and then the issues arising out of that set of comments was distilled down into a finite set of issues. And there was some analysis where there's some balancing: Okay, here was the position, here's these new comments. You know, how does that affect a final position?

So what we're trying -- what was trying to be done here was something really nuanced in a great big long 150-page document, which as those of you who all know the ICANN environment is just about impossible, right? So what was trying to be demonstrated was that every comment was read, every comment was considered, and then either -- either that comment and associated comments in that subcategory resulted in a change to the applicant guidebook or there was a pretty good explanation of why there wasn't a change to the applicant guidebook in that end.

So to the extent that we're all partners in this going forward in -- you know, in creating the policy and then creating the implementation plan, part of the story that we -- we want to convey is that this was the purpose of this analysis document was to try to convey this nuance that, in fact, every single comment was made and considered and with some proposed outcomes.

So here's an incredibly hard-to-read graphic from here that describes this process, but if you think about starting with the applicant guidebook on the left, that consists of six modules, and then a public comment period that lasted for 45 days, and then the next column on the right lists two of those 13 major categories under which every comment was placed. So, you know, there were a lot of comments about the registry agreement. We then created those subcategories under "Registry

Agreement" so the one that you can kind of read here that I made bigger about there were comments about whether there should be price controls in the registry agreement or not. And some issues that came out of each of those.

So then the paper that was written that was published, you know, addressed that subcategory and those set of issues that resulted then finally on the right into an amendment of the proposal as indicated in the revised version of the guidebook on the right, or some explanation.

So that kind of shows how that -- that went about.

You know, some of the tools that are in this is, you know, Steve Chan did an incredibly big matrix that listed all the comments and who said them, and their category -- you know, and invented their categorization and so on. So if you can think of, you know, the comment period essentially closing January something or other, that looks like it's a bad thing.

Who is doing -- is somebody doing this to my computer?

Okay. So anyway, that's a description of that.

So what about these overarching questions? Well, this is really important. So we took these overarching questions and we think that they're in four categories, and that are these: There's fundamental questions about trademark protection and possible user confusion. I'm just going to shift my stuff for a minute because my back's going to hurt.

Thanks.

And particularly, questions about effects at the second level and the effects of broadening the domain space at the top level and effects of second level registrations in that regard.

Another overarching question was: How can ICANN ensure that the increase in the number of top-level domains won't just increase the number of malicious acts that occur on the Internet?

And a third question went to the whole purpose of this. You know, this discussion we've had for 10 years. You know, ICANN was created -- in ICANN's founding documents, it talks about the expansion of the gTLD space, but what will the effects of the market impacts be in the demonstrated demand for new gTLDs? And finally, you know, what are the technical impacts of an expanded number of gTLDs.

So we've talked about this and there's been some opinion about the number of TLDs that could be safely added to the root zone, but especially with the coincident -- nearly coincident introduction of DNSsec, IPv6, IDNs, you know, what are the technical impacts. So we think these overarching questions require -- you know, need to be addressed safely and completely for the process to move forward.

And so we think what this -- what this slide says is that we think there needs to be additional consultation or, in certain cases, technical cases, more study undertaken, the relevant economic studies need to be published, and this is probably going to require another version of the -- draft version of the guidebook after this one. So I said that quickly but it's important.

So what's the potential impact on this? Well, we think that this second version of the guidebook is pretty cool, and it addresses many of the concerns raised, and we're continuing to work on remaining concerns.

So you -- you read the guidebook, you see a lot of red. Some of them are substantive changes and important. Some of them are stylistic changes but they're stylistic changes in response to a comment that was made where somebody said, "You know, this wasn't clear here," or, "You might emphasize this," so it might seem that Karen Lentz went through and continued to improve on the English, it really was reading a comment, getting it all in the mix, in that big mix, parsing it out, and making sure that each comment was reflected in the guidebook.

The most important point here, though, is that the third -- the third version of a guidebook would delay the program launch by months, some months, so we would target -- and we still have a plan -- you know, a go-right plan for launching in 2009 and, you know, if it takes somewhat longer, it will be the first quarter of the next year. So one of the things we probably want to talk about here is how we can work to make sure this additional set of consultations occurs in an alacritive fashion.

So with that, I think what we want to do is talk about the changes to the guidebook that we've seen.

So I've organized this by --

>>AVRI DORIA: Did you want to ask a question before we went on?

>>MARILYN CADE: I did, Kurt.

When would you then plan to take questions on when the four additional areas will be addressed, including the date that the economic analysis will be delivered (Speaker is off microphone) will that take place today or at some other point?

>>KURT PRITZ: We could talk about that right now.

So the economic analysis is essentially done, and so we're sitting here now with something that could be posted in a day, and thinking we're in the middle of an ICANN meeting. We think there's a lot of value to it being posted right now. We -- but, you know, I want to hear -- I'd like to hear, you know, what you think. You know, we could wait till after the meeting and post it or post it now. So essentially, you know, it's -- it's -- without, you know -- what's the right word? "Glib" is the wrong word. So I'm not -- I don't want to appear to be nonchalant about it, because there's been a ton of intensive, intensive work going on to take into account the latest feedback and questions and incorporate that into the economic analysis, but essentially, you know, it's in a -- it's in a form where it could be posted now, so I would -- I'd kind of put that back to you.

I'd be for posting it now, but I think if we --

>>AVRI DORIA: I'd like to ask a question. Is there anyone that wants to speak against posting it now? I'm sure I could get a bunch of hands on posting it now, but I'm curious, is there anyone here -- I mean, just to try and get to other more substantive -- is there anyone here that would like to wait for posting? Yes, Kristina.

>>KRISTINA ROSETTE: I have a clarifying question. Is it working group posted as an FYI or is it being posted as something that's open for public comment, because if it's the latter, I'm okay with having it posted now, as long as the duration of the meeting does not count within the public comment period.

>>KURT PRITZ: Right. So I think this version of the applicant guidebook is posted for 51 or 52 days, so it would -- so the time of the meeting doesn't affect the public comment period and I'm sure that would be the case with this.

>>AVRI DORIA: Okay. Mike, were you going to speak against publishing it now?

>>MIKE RODENBAUGH: No.

>>AVRI DORIA: So you just want to be on the queue?

>>MIKE RODENBAUGH: Yeah.

>>AVRI DORIA: Okay. So I think the answer, that I can fairly safely give, is that there's support for publishing it as soon as you can publish it. I hear no one willing to say, "Don't." Huh?

>> (Speaker is off microphone).

>>AVRI DORIA: How big a document is it?

>>KURT PRITZ: Well, it's 8 1/2 by 11. It's not A4.

[Laughter]

>>KURT PRITZ: But it's not terribly long.

>>(Speaker is off microphone).

>>KURT PRITZ: No.

>>AVRI DORIA: Okay. So I had Eric and Mike that wanted to ask a question on this introductory thing before we got to the modules.

>>ERIC BRUNNER-WILLIAMS: Correct. Thank you. This is Eric Brunner-Williams from CORE. Kurt, I saw there was a -- one of the delay elements that was just introduced was an RSSAC/SSAC review for root stability. Could you give me five words on why there's an issue here?

>>KURT PRITZ: Yes. We've received -- we solicited and received informal comment from SSAC and RSSAC throughout this implementation process, and in the policy development process, we requested SSAC input throughout. This study, in particular, I think, relates to this -- essentially the coincident deployment of several new developments in the DNS, DNSsec, IDN, IPv6, new gTLDs, at the same time. I don't think that's ever been undertaken. As a technically-oriented person, you might be able to forecast the outcome of that better than I, but, you know, I think it's a -- it's a very viable undertaking.

>>ERIC BRUNNER-WILLIAMS: Just for clarification, was RSSAC -- was the feedback from SSAC alone or from both SSAC and RSSAC?

>>KURT PRITZ: I'm sorry. I did not hear you.

>>ERIC BRUNNER-WILLIAMS: Was RSSAC -- was the feedback, the request for -- was that from SSAC and RSSAC or just from RSSAC?

>>KURT PRITZ: You know, I'm not sure I know. It was a board resolution to undertake this study. But, you know, I don't know the genesis of -- of the request.

>>ERIC BRUNNER-WILLIAMS: Thank you.

>>AVRI DORIA: Okay. Mike?

>>MIKE RODENBAUGH: Yeah. I just wondered, Kurt, if you'd talk for a minute about specifics of how staff is intending to deal with the overarching issues around trademark concerns and abuse. If you have any specific thoughts, that would be great to hear. I have one.

Also, just to mention for folks that we do have the registration abuse policies working group that's kicking off this week, and very well could take on some of that work, I think, if not all of it.

>>AVRI DORIA: And Steve, did I see your hand or --

>>STEVE METALITZ: No. I --

>>AVRI DORIA: No. Okay.

>>KURT PRITZ: So -- I was going to answer Michael's question but if yours is related, Steve.

>>STEVE METALITZ: Yeah, it was basically the same because you have four overarching issues and you've told us how one of them will be dealt with, which is the economic issue, but if you could be a little bit more specific and give us some time lines on how the first two issues will be dealt with, that would be great.

>>KURT PRITZ: What were the -- what were the first two issues?

>>STEVE METALITZ: Trademark and amplifier of abuse.

>>KURT PRITZ: Got it. Okay. Good.

So I think there's -- there's a multifaceted approach to trademark issues.

At the end, I think that there would be ICANN-sponsored or ICANN-formed fora or forums to discuss solutions and -- and -- I don't know if "consensus" is the right word but put up some solutions that are agreeable where amendments could be made to the guidebook to address those issues. I don't think ICANN is ready to have those next week for a couple reasons. One is people need to plan their lives, and so some notice needs to be given to those. Two is, ICANN's never had -- conducted fora like this before. It's a little bit out of our ken, and so we need to develop some working relationships and have some discussions first before those fora are held.

So what -- initially we would -- those conversations could be handled in existing fora. Exactly, I think, like the kind Mike just proposed or the kind that were attended in Washington, D.C., earlier. I don't know if INTA conferences are appropriate or not, but there's other existing conferences where discussions like this could be held where potential solutions could be discussed and developed for then further discussions at the -- at these ICANN-sponsored meetings.

So -- but I also think that we want to -- like I said, we want to manage this with some sense of urgency, so we -- it would be good to plan for these ICANN-formed conferences perhaps in April, May, and June or something like that, you know, in the -- in the second quarter and conduct those at that time for generating solutions.

So I'm probably giving this a little bit of short shrift, but I think that's the approach to that.

I think malicious conduct is handled in a slightly different manner. It would be a subject of these discussions, but also a subject for some what I would call technical experts in the space to write some papers about how expanding this space might either, you know, tend to amplify incidences of malicious behavior or perhaps, you know, done the right way or just done a different shape of the domain space might actually serve to decrease acts of malicious behavior.

>>AVRI DORIA: Thank you.

>>KURT PRITZ: Did that answer your questions, Steve?

>>STEVE METALITZ: So what would be the timetable for these experts? Or do you have a timetable for the experts to write the papers and then that would like be subject to public comment or how...

>>KURT PRITZ: Yeah. I think that -- I think so. I think -- you know, I am not the guy to be discussing this but this is a speculative subject that first -- in other words, it's almost economic, in that you know the -- the namespace could evolve in a few different ways. So I think it -- I think it is -- I think it is -- it's painting those scenarios or describing those scenarios and then describing the steps to ensure the safest path. And the timetable for that I still think is in the first half of this -- of this calendar year.

>>STEVE METALITZ: Thank you.

>>AVRI DORIA: Okay. I've got Chuck and then J. Scott.

>>CHUCK GOMES: Just a suggestion with regard to the consultations, and I'm probably speaking to the choir here, but I think it's important that we don't just rehash what we've all heard many times, and so forth, and that we -- that it be very focused to get to solutions, maybe alternative solutions, but if it's not, then this thing will just be a repeat of what we've had.

So I would strongly encourage that it be very focused. You may have broader sessions that are -- that involve a bigger group, and then break it down into some volunteers who would really start actually formulating some very specific solutions. So just a suggestion that if we -- if it's not focused, I think we're going to not accomplish very much.

>>AVRI DORIA: Which is also good for today. J. Scott and then Tony.

>>J. SCOTT EVANS: Just one follow-up question, Kurt. Whom from ICANN's staff do you all envisage would be present at these fora?

>>KURT PRITZ: So I'll tell you how it's being managed. It's being managed by Paul Levins, Doug, John Jeffrey, myself, Karla Valente and Carole Cornell, and so we're managing it as a team. And so the -- the attendees are -- would be -- you know, would be identified by that team on a case-by-case basis. So to the extent I can tell you, you know, the top management of ICANN is focused on this as very important, and will be assigning people to make sure it's appropriately staffed, both from the legal side and the implementation side. I forgot where I started that sentence, but the end of it is: Got the attention of top management and they'll be making those decisions. Who those people are will probably be made on a case-by-case basis as we move forward.

>>AVRI DORIA: Okay. Tony and then Marilyn?

>>TONY HARRIS: I'm trying to get to the mic. Yes. About the amplification of malicious conduct, I think malicious conduct is doing very well right now with all the TLDs that are currently in operation. I feel to see how adding more TLDs will compound this problem. I think you have to solve malicious conduct. And perhaps if you look at one of the main vehicles for this, which is spam, that's one thing you could probably look at, but I really don't see how adding these -- adding a new round of TLDs will increase or severely aggravate this type of conduct.

>>AVRI DORIA: Okay. Thank you. Marilyn?

>>MARILYN CADE: I just -- I have two comments to make. One of them is, I recently organized, with the involvement of about 15 associations, a meeting in Washington, D.C., and I think it went very well, but I -- there's one lesson that I think I learned from that, and that is, I would ask you to consider, Kurt, in holding these meetings, if it is possible, to transcribe the meetings or to ensure that there's a good record of the consultations, because these are going to be major extensions to the data gathering and the consultation process. I say that as preface to my next comment.

I'd like to understand, given that there are four major areas which may result in much new learning and potentially could result, if, in fact, the finding of the simultaneously introduction of major technological changes and advancements at the same time were to create stability risk, there is a feasibility to me that says we would have to rethink the schedule or the scope.

I want to understand where that checkpoint is built in to the decisional process, because what I'm hearing is, we're going to edit the guidebook, and I'm looking at the four threshold questions and saying, "What, if any, of them are, in fact, a threshold?"

>>KURT PRITZ: So in the case of the technical impacts, the board has asked the SSAC and RSSAC to combine and deliver a study for May. I don't know if that's feasible. What we've identified is on the critical path for -- for a launching that there be an indication of the outcome of that report, you know, in the second quarter of the year, to get it off of the critical path.

Otherwise, you know, we talked about that and the release of the economic report in the very, very, very near future, so I think, you know, this first question will result in changes to the applicant guidebook. The other three are questions that are -- that need to be answered before a launching, but, you know, I think we all have a personal opinion of the risk associated with each of those and how they can best be addressed, so I certainly -- it's certainly not ICANN's position to halt or slow down the work on the rest of the guidebook in -- to see -- to -- you know, waiting on answers to these questions. I think the prudent approach is to prosecute the remaining issues with all due cautious urgency while these questions get answered. I don't know if there's really an alternative to that. You know, the alternative is to stop work on the guidebook while these questions can be answered, and certainly as

long as we have a position that we wouldn't go ahead if any of these other questions had stopped, I think we should -- you know, I think the position is that ICANN could -- should continue working on it.

>>AVRI DORIA: Okay. I have Amadeu and then Philip.

>>AMADEU ABRIL i ABRIL: My friend, the microphone.

In the same line that Chuck was pointing before, the problem with these meetings is somehow to fall. On the one side, it goes freewill: "Oh, do you have any trouble with new TLDs or trademarks in general?" It's a really poor history.

The second one is about who is there. If I understood that correctly, a very selected and competent group in the ICANN staff will select some venues and groups and institutions and discuss that with them.

I would like knowing which part with some openness and at least it will happen before those meetings a catalog of possible solutions regarding registration policies, pre-validation, post-validation, compliance, compliance of registrants, registrars, and registries, alternative and sometimes very incompatible measures that may work for dot com or dot museum or dot cat or not at all with none of them but only with some of them, and have this catalog to discuss that with these outside parties. If not, the message will only be "We are troubled" and we know that.

So perhaps the GNSO should ask for these existing practices both at the gTLD level and ccTLD level and the ideas from the community on effective measures to minimize impact on trademark abuse or, you know, malicious conduct, as Tony was pointing before, and somehow put all those catalog of measures to discussion in the meetings you will have.

>>KURT PRITZ: Thank you, Amadeu.

>>AVRI DORIA: Okay, Philip.

>>PHILIP SHEPPARD: I think it is clear we would support the idea of discussion forums as long as the time scale of those is right in terms of the guidebook. This is following on what Chuck was suggesting in terms of making them highly focused and not going over what we've already done. You look at a number of good solutions that are highly practical have been proposed already, all these solutions by ourselves and the IPC and, indeed, other during the comment period. It strikes me one where you can group your forum would be in terms of timing. That is what can be done before registration, things like sunrise, what can be done at the time of registration, things like registrant verification and notification processes; and what can be done post-registration, things like take-down processes where abuse is shown. All of those can be highly practical and focused discussions for which the board framework of what those things look like is well-known and discussed. So I think the timing of those could also be suitable for the timing we know others in the community are looking for for this process.

>>AVRI DORIA: Thank you. Zahid.

>>ZAHID JAMIL: Hi. Being sort of relatively new to the entire process -- this is my second as a counselor -- I just wanted to ask this question. My understanding is basically if you were a trademark holder and in this process somebody else applies for a TLD and it is distinctive -- it is not distinctive but it is similar to yours, you don't object and they get the allocation, there is nothing you can do afterwards. And a follow-up question after that. Am I right?

>>KURT PRITZ: Say that again.

>>ZAHID JAMIL: Say I'm Nike. Somebody applies for Nike and Nike doesn't object, and the allocation is made to this new applicant. Can Nike come afterwards post-allocation and make an objection? And then I have a follow-up on that question.

>>KURT PRITZ: Yes.

>>CHUCK GOMES: Zahid, it seems to me you were talking about top level or were you talking about second level. I think most of our discussion right now has been at second-level protection.

>>ZAHID JAMIL: I'm talking about top-level protection. I'm saying dot Nike, somebody applies for dot Nike. What happens is they go through the process and in the initial evaluation, my understanding is the trademark aspect is not discussed. The only thing that is looked at is whether there is a string confusion with an existing string TLD. What happens is nobody objects. Nike doesn't object. They are sleeping. They are not objecting to this, and the application goes through. The new TLD comes into play. They go into the root and Nike wakes up and says, "What happened?" Can they come back and say, "Hold on, this is our trademark"?

The reason I ask that question there are a lot of trademark holders in countries like where I come from like in Pakistan and India, like Ambala companies like Oskri (phonetic), things of that nature, who are very well-known brands there who absolutely would never, ever come here and file an objection. That's my question would they be able to come subsequently and file an objection?

>>AVRI DORIA: Kristina, yeah, I did want to move onto the other modules. Kristina?

>>KRISTINA ROSETTE: I was asking to be on the queue, but it is my understanding from a judicial perspective, Nike could at any time seek redress in the court system. But within the ICANN framework, no.

>>ZAHID JAMIL: I will sort of come back on that question quickly. If that is not possible, that would mean in the courts in the U.S. say, "Hold on, this is a trademark violation" and they have injunction relief that this should go out the window, everybody registered under the TLD loses their registration, I would have imagined. Isn't that a security and stability issue?

>>KURT PRITZ: Kristine, did you have a question?

>>KRISTINA ROSETTE: Yeah, if it is my spot. I guess one thing I was hoping to get a little clarification on based on some comments Chuck has made and some comments I have heard from others here is, is it the expectation within the ICANN staff and management level that it is the trademark community that should be putting its heads together to come up with proposals?

>>KURT PRITZ: Yes.

>>KRISTINA ROSETTE: Okay. Then here's the next question --

>>KURT PRITZ: Yes, comma.

[laughter]

Yeah, I think so and I think the trademark community has its set of meetings where this can be discussed and ICANN would encourage that. And then I think the ICANN fora would be for bringing those forward for sort of finalization, if I could call it that.

>>KRISTINA ROSETTE: Okay. Because the concern that I have is it is not a big surprise as to what's going on economically.

Most brand owners and brand owner council that I know have extraordinarily tight budgets. Non-essential travel is prohibited. Projects that can be pushed into the next budget year are prohibited.

I think what my community -- at least the people I am speaking to need is some kind of reassurance, that if in this time when very scarce resources need to be made to go farther in the first instance, that spending the time and money including traveling to these fora will, in fact, result in product that will be acted upon.

>>KURT PRITZ: So everybody here has been working really hard to create a policy and then implement this policy and launch the process. And the cornerstone of a lot of this work, a cornerstone of what -- I think a cornerstone of a lot of the policy recommendations are about building safety and

avoiding risk around this process and protections from registrants and all others who are involved in the process. And the public comment was -- I'm not going to overstate it but was very seriously considered and parsed into different categories.

One set of these categories was identified as what is thought to be these very important questions that need to be answered before we go forward. And so I could not overemphasize how ICANN views -- as Marilyn said, these four questions essentially are risks that need to be addressed moving forward.

So ICANN, the capital ICANN, with all of sitting around the table are very interested in resolving these issues so that the process can move forward and address these risks at the same time. The whole policy development and implementation, I think, have been about creating new opportunity and choice in a way that addresses the risks as they have been identified by the council and by this public comment.

And so the answer to your question is yes, we take it very seriously. We want to get to a solution so we can launch the darn thing and protect the interests that we always wanted to be protected.

>>AVRI DORIA: One thing we haven't been doing is all giving our names. Most of them I know the names or they are well-known. If I don't give the name, please go ahead.

>> Jonathan Robinson from Net Names. Following on this theme from the SLDs and the rights protection and so on, it is great you have a group of people, Kurt -- a handful of people that are dedicated to this and are keen to resolve it. I appreciate you want to expedite the process. That's great.

The question I have really follows on from some of the other points, about geography. How are you going to deal with the fact that the people that might want to contribute to these fora are all over the world? I think you can probably do that by not expecting people to travel and by doing some form of online forum.

The other thing is you gave a sense that it is a very closed root that you expect to involve in this. I just wonder how one gets a seat at that table.

>>KURT PRITZ: So I would never say "closed" and we would approach the geographic issue, first, by having fora at least in Europe, America and Asia, so at least in -- pretending -- Hong Kong, New York and some place in Europe, Frankfurt. And I think those four would certainly be open. If I can take Kristine's words and hopefully not mangle them, Kristine was saying in IP constituency fora, they could discuss solutions and present them which is -- what we want to generate solutions and present them for discussion and I think that's exactly the right approach and is asking at least one set of correct parties -- correctly situated parties to generate solutions. And these open fora, to the extent they can be made geographically friendly, they should. I think there is -- while economic times are difficult, there is money available to ICANN to have these conferences geographically disparate so more can participate. And certainly there should be the opportunity for a remote participation.

>> JONATHAN ROBINSON: I just understood from before that you were suggesting that by in your desire to expedite a solution, you may make them particularly closed forum. So you answered the question. Thank you.

>>AVRI DORIA: Thank you. I have three more people on the list and then I hope we can move on. I am sure I will be back here in the future. Chuck, Marilyn and J. Scott.

>>CHUCK GOMES: I want to go back to what Amadeu suggested. I think he had a very good idea there, that before we even have the first of these fora, that it would be great if solutions -- possible solutions were submitted. None of them may be perfect but they would -- it would be a great way to get people to focus and then pick good things from one, show the flaws.

I think he had a very -- what could be a very constructive suggestion there.

>>AMADEU ABRIL i ABRIL: My suggestion was that GNSO appoint one person or two people to receive these proposals and try to make the draft for that. I think you, Chuck, are a natural candidate. Thanks for accepting.

>>AVRI DORIA: Mutual admiration society. Thank you.

Marilyn?

>>MARILYN CADE: This may be a very unpopular comment to this particular room, but I'm going to make it. This is not a council issue at this point, right? We all understand that. This is at a different level, and so I actually think that the process needs to be undertaken at the level that it's at. It is in an implementation process which is receiving public comment and which is raising a huge amount of concern. So that be one point I would make.

I think that means that -- the second point I would make that is I read every one of the comments as many other people in this room did, and I know that actually suggestions for solutions have been presented. The client that I advise, AT&T, made several suggestions about solutions. In order for companies to devote the time or groups to devote the time to put more detail into written proposals, I fully support the point that Kristina was making.

I'm sure that companies would be willing to present contributions, but it is not going to be a good use of people's time or money to develop a lot of different proposals and then find that they're in the dueling proposal stage or that there is a picking and choosing and we negotiate to the lowest common denominator on solutions.

So, you know, I think if there is -- there needs to be a little bit more thought -- if there is a call for solutions, there needs to be a little more thought about how that would be addressed so that people would feel like it is worth their time to come together and maybe merge their proposals or cross-pollinate their proposals.

>>AVRI DORIA: I think we are getting awfully close to rat holing on this particular one. I have J. Scott, and then I would like to move onto the six modules that we haven't even started on it.

>>J. SCOTT EVANS: It is Kristina, not Kristine, just for the record. I just said that, Kurt, because it got picked up by Marilyn and it is Kristina. And apparently they registered her as Kristine as well. So it is spreading virally throughout the community.

Second point is I think you have got -- from the folks that call me on a regular basis because I'm seen as a person that represent trademark owners at these venues, what they are disturbed about is it took a lot of time and effort to do the public comments because companies, they have to be vetted. And some of these -- because they are governments involved and everything have to be vetted through PR. They have to be vetted through the government relations group, it takes several layers to get this out. It is a lot of time and work.

And then ICANN staff has a post on Circle ID that basically says, That's just the trademarks bitching and the governments are just parroting what they have to say and we are going to do what we want to do." Kieren McCarthy said that, and I think he is supposed to be some sort of liaison or press person for you guys. So that's disturbing.

They are thinking, Why are we going to sit down with these folks again because they have thumbed their nose at us already?

Secondly, where are the solutions? We've put our comments in. You haven't come back to us with anything. You keep coming to us and saying, "Tell us what the issues are and what needs to be done and what do you do?" You know what? We've done it.

Now you are saying fly over all the world and let's meet again and tell us what you want again. Amadeu says they are going to sit there and complain and moan. No, we have told you. Nobody has acted on it. I noticed the registry and registrar issues in the draft implementation and the moral rights

issues raised in the comments have been handled or solutions have been suggested. They haven't for trademark and brand owners.

>>AVRI DORIA: Okay. I would like to let you move on to Module 1 or did you want to respond to that one?

>>KURT PRITZ: I didn't mean to say Kristine.

[laughter]

>>AVRI DORIA: Module 1.

>>KURT PRITZ: I think if staff could have taken the material they had and proposed a solution that we thought was workable and implementable, it would have been suggested. Instead, we are willing to pause on something half the people call me about and say "Get the damn thing going, how come you are stopping again"? And I'm saying, "Because we want to get it right." And so far balancing the different alternatives that were made, we can't see a way yet to make them implementable. But we know that there is a way to do that and so I want to do that in a fashion that creates the most benefit for the least cost.

>>AVRI DORIA: Please go on.

>>KURT PRITZ: What I have organized -- what I organized? What Karen and Steve and several members of the ICANN team have organized that you won't see in any other presentation is module-by-module organization of the substantive changes. All in all, there were 50-some-odd changes to the guidebook and I haven't listed them all here.

I'm going to briefly run through them all, I think, and then we can spend the rest of the time discussing. I think that's the best way.

>>AVRI DORIA: Please.

>>KURT PRITZ: In Module 1, there was a question that the objection filing period should extend past a little bit the independent evaluation period. So I'm going to speak in ICANN-cognoscente terms and not give a full background to each issue assuming that the people in this room understand the issues and have been following along this whole time or else this would take too long.

We clarified and wrote additional text on the role of public comment in the evaluation process. We added clarification on the distinction between community and open-based applications and particularly that "community" doesn't mean the antithesis of open. So we wanted to point that out.

And then, also, that the intent of a community-based category is that it's a narrowly based TLD with restrictive registration practices and a high nexus between the community and the label and then also clarified when and at what time the community applications would be -- or the community aspects of an application might be tested.

Also in Module 1 we updated some sections on IDN compatibilities, gave information on IDN tables and that sort of thing. We'll talk more about fees later, but in Module 1 we essentially eliminated the evaluation fee for comparative evaluation, thinking that community-based TLDs we might be less situated to pay an additional fee, so essentially eliminated that in response to public comment.

We proposed a credit for certain 2000 round applicants that met certain criteria, added a refund structure, wrapped some specificity around that and reduced annual registry fees and simplified that structure.

In the evaluation process, we tried to distinguish better when we were going to look at visual confusion and when we were going to look at visual, aural, meaning and any other kind of confusion to test that. We made some fairly simplistic improvements to the algorithm.

String requirements were refined. I think we will see a little more on that.

And we updated the RFCs, if that's up there anywhere. Maybe we did that later.

Under geographical names, we clarified that country and territory names in all languages would be considered and also clarified the documentation requirements for government approval. We gave some more specificity about what that approval would say in order to make it clear to the applicants and make it easier to meet -- clearly meet the requirements.

Under the evaluation questions and criteria -- I should just look at my computer instead of trying to read the screen far away.

You know, we described that take-down procedures and measures to reduce opportunities for phishing and pharming would get a higher score. Here is where we updated the RFC revisions where somebody pointed out to us that ICANN had referenced out-of-date RFCs, so that was good, and added additional ones and made a proposal anyway to give a point for applicants who would escrow thick data. That would be -- we expect some comment on that and to make a final proposal on that later.

We just reorganized the financial criteria to match up the criteria with the questions to make that clear, and then we more clearly marked which questions where responses would be kept confidential or responses are optional.

We revised the scoring slightly. Evaluation questions and criteria, we continue to try to make that as objective as possible so you will see some improvements here. And this is one area where you might see a revision to the guidebook interimly, in the relatively near future, without a whole new version of the guidebook, if that can be the case.

Dispute resolution procedures, in our analysis, not in the guidebook, we clarified that objectors don't waive their rights to sue ICANN if they participate in the resolution process. But we think the language is correct in the guidebook.

And we clarified that legal rights objections are for registered and unregistered trademarks. We made that clear.

Remember in the previous postings we had an explanatory memoranda that outlined proposed morality and public order objection standards and standings. The standing here is somewhat open. So we have inserted some standing language, but what that standing is is still being discussed. And we clarified standing requirements with respect to community objections.

Also in Module 3, we've published a whole new set of dispute resolution procedures. That's sort of appended to Module 3. So this is a set of procedures that all the dispute resolution providers to ICANN now set as the ICC, WIPO and the ICDR have agreed to as procedures. So I think that's good.

Standards, I just talked about that explanatory memo from last time. We've inserted into the guidebook those proposed standards for morality and public order, the same ones that were suggested in the earlier explanatory memoranda. So I'm going to make a brief commercial here.

And that is that -- you know, this whole guidebook is still being -- is for comment, right? And I think that it is better to -- rather than to put things in memoranda for discussion where people can voice opinions, we need to point up the discussion and close it. I think by putting proposals into the guidebook really, really will serve to point up that discussion. So often we have open and public discussions here at ICANN and we voice -- we voice opinions and then staff says, "Okay, we think we got it" and we put it in the guidebook and everybody goes, "That's not what we were talking about."

So what we are trying to do here is get all the detail into the guidebook for discussion so everyone that wants to participate will see how it will really appear in the guidebook. That's why you see that.

Finally -- now we are going back to our regular scheduled program -- also you see here is a proposal for the role of an independent objector, so that's described in the guidebook.

Module 4, again we've moved from the explanatory memo into the guidebook, a proposal to use auctions as a mechanism of last resort. So that is where the parties don't resolve the contention among themselves or the comparative evaluation or the follow-ups to comparative evaluation don't work. Auctions would be proposed as a mechanism of last resort. You will see quite a bit of material in the guidebook because rules and procedures have already been worked out.

We described briefly how a foundation would be employed to distribute funds occurring from an auction. I'm going to avoid going into the substance of these things in almost all cases except for this one where those that sit in this room and other rooms across this meeting, the best advice we're getting is that auctions should not occur because parties would be economically incented to settle their dispute or their contention without going into an auction because they would settle it more inexpensively by settling it amongst themselves and that the presence of an auction would actually encourage that self-settlement of resolution.

So while auction is in place, ICANN goes into it with eyes wide open understanding that they may not actually occur. That's a desired outcome actually.

And the comparative evaluation, there was a lot of comment about scoring, about increasing granularity and making it more objective and so you will see the scoring has been adjusted to do that. And then we've added comparative evaluation steps. Again, understanding the economic circumstances of the community-based applicant for in the case where more than one community-based applicant passes those criteria and comparative evaluation that there is another step subsequent to that so that these community-based applicants wouldn't be faced with auction right away.

And then in Module 5, which is largely the registry agreement, there has been a modification -- there was a lot of comment here, right? There was a modified proposal process for approval approving.

There has been a modification to the registry fee structure where the annual fee is lowered from \$75,000 to \$25,000. And the per-transaction structure which doesn't kick in until the registry has registered or has 50,000 names under its management is just on a per-transaction basis rather than the more complex percent of revenue arrangement --

We've reinstated the transparency and equivalent treatment clauses that were streamlined out of there the last time.

We've held face-to-face consultations and, you know, conducted open fora on proposed limited lifting of the separation requirements between registries and registrars, and that model is included in the agreement. Again, I'm going to go back to my earlier statement that putting things in an agreement make it appear that this is the ICANN -- this is the final version of this, but again, we think that the best way to point up the discussion, sharpen it, is to actually have the proposed model in an agreement so we can discuss with specificity aspects of it and that we can promote better universal agreement of what the final product is.

Nonetheless it's a proposed model that's generated out of significant community collaboration on this, and -- well, that's another good thing.

We've included a requirement for six-month notice on price changes. When you see the economic analysis coming out shortly, you'll see chapters on -- or a discussion of price controls. There aren't price controls in this version of the registry agreement. This six-month notice is a safeguard. And also, you'll see promoted in the registry agreement -- but I think it was there last time -- a requirement for rather long-term registration, so registrants can be protected in several ways besides the natural operation of the market that you'll see described in the economic analysis.

And then we -- the language in the agreement then points up the requirement for community-based TLDs to comply with self-imposed registration restrictions that ICANN will, through a mechanism, enforce those registration restrictions as part of the agreement. And that's it. That's not all the changes. Read your red-line and your analysis document. I just want to say -- I just want to say a couple more words.

So I want to go back to that graphic that illustrated how we went through the comment and fed that into the changes of the guidebook, because we posted the analysis, which is this 160-something-page document that attempted that balancing that I talked about earlier, and coincident -- and coincident with that, we published explanatory memoranda and the red-line version of the applicant guidebook. And so what you -- I'm sure you suspect, especially being involved with all this, but that I want you to know is that the guidebook itself, the red lines to the guidebook -- well, you know, while Karen, you know, worked till 3:00 in the morning for months on it, is somewhat straightforward once you go through the analysis.

So as we're -- as the analysis was worked through, as issues were balanced and positions were developed, then changes could be fed to the guidebook while these papers were being written and proofread and then sent to an editor and put in the right format and considered, so that the guidebook -- the changes to the guidebook were in full consideration of that analysis that took place beforehand, but didn't make sense to make some artificial separation of the publication of the analysis and the guidebook when essentially they were both ready.

So you saw them published at the same time, but, you know, it was a very measured process where the issues were balanced, the analysis was made, then guide -- you know, decisions were made on where the guidebook could be amended for your review, and then also that analysis put into some publishable format that while long, I think is still very readable. So I wanted to let you know on that.

So I don't know, Avri or Chuck, if you have a way of -- measured way of going through these comments and I can flip back and forth or we can refer to the red-line version of the guidebook or the clean version or the big analysis paper.

>>AVRI DORIA: I actually -- a couple people have been raising their hands during the conversation, so I think it would be best just to let people ask the question on the module they've got the question on, and then you can zip backwards or forwards to the correct thing, if that's okay and just let it go. So I have -- I have Adrian, Marilyn. I saw Steve. I saw Tony Harris. I saw Eric. Who I also do I have? I got Amadeu. Who else do I have? I've got Kristina. I got Mary. I've got -- yeah. Okay. Yeah. Edmon. Anyone else on this first list? I've got Jeff.

I think I've got a long enough list to start, so Adrian?

>>ADRIAN KINDERIS: Adrian Kinderis. Kurt, can I draw your attention to Module 2, 2.1.1.4, "Geographical Names"? I just had a quick question as to there's an inclusion here in the red-line version of another bullet point around city names, and this time it refers to a capital city in any country that's listed in the ISO-3166-1 list.

I wondered why there is a need for -- why that is there, when the next bullet point then just says, "An application for a city name"? Why do you make a distinction? What is the point of that particular bullet point addition? I'll give you a second to find it.

>>KURT PRITZ: Do you want to answer this? No?

>>ADRIAN KINDERIS: I may have a follow-up.

>>DONNA AUSTIN: Hi. Donna Austin. I support the GAC but I did manage to work on the geographic names stuff. When the GAC developed the principles, new gTLDs, there were a number of issues that they wanted protection around. City names was one of those. We had a teleconference with the GAC around this, and we actually identified that "city names" was too broad to really define, but I think we found a position in this last one that "capital city names" we could define, so that's why we put in the extra bullet point on capital city names that are connected back to the ISO-3166.

>>ADRIAN KINDERIS: So --

>>BRUCE TONKIN: (Speaker is off microphone).

>>DONNA AUSTIN: It -- sorry?

>>ADRIAN KINDERIS: Bruce's question was is capital, capital of a nation or capital of a state?

>>BRUCE TONKIN: (Speaker is off microphone).

>>DONNA AUSTIN: So it's the capital of the country or territory that is identified on the ISO-3166-1.

>>ADRIAN KINDERIS: So my follow-up question, therefore, is: So is that, therefore, out of preference, then, that you would give it to a capital city ahead of a noncapital city? Is that why there's the distinction?

Because if the next bullet point just says, "An application for a city name where the applicant declares the intended use," blah, blah, blah, blah, so that then opens up the door for any city, okay? So --

>>DONNA AUSTIN: But --

>>ADRIAN KINDERIS: It doesn't?

>>DONNA AUSTIN: Sorry. So what are you --

>>AMADEU ABRIL i ABRIL: I think that one of the differences is that capital names are protected, regardless of the use, and "other cities" is, if it's intended for use, refer to that city.

So you cannot use dot Berlin, which is the capital of the state and say, "Oh, no, this is for ISIS" or, I don't know, whatever, that may mean "Berlin" in any dialect in Papua-New, Guinea. No?

>>ADRIAN KINDERIS: So if I can maybe put back into -- just so I understand it, so the purpose is that for Canberra, they don't have to describe their use, if Canberra, which is the capital of Australia -- many wouldn't know that -- they can use that for whatever they like, but they've got -- if they put in for it because they're the capital city of Australia and they have -- they put forward the required supporting documentation, they get it.

Now, if I want to be "Melbourne," I have to show that I'm using "Melbourne" for the purpose of the city of Melbourne and that's why -- that's the difference?

>>KURT PRITZ: Yes. So -- so having the approval of the relevant government is only required if you say, "I'm representing the city of Melbourne." But if you say, "I want" -- I don't -- well, it's like Amadeu. If there's a generic meaning, I want dot Melbourne because it's my family name, then you don't need the approval of that relevant government.

>>AMADEU ABRIL i ABRIL: But in that case for Canberra, you still need approval even if that's your family name.

>>KURT PRITZ: Right.

>>ADRIAN KINDERIS: Okay. Got it. Thank you.

>>AVRI DORIA: Thank you. Marilyn?

>>MARILYN CADE: Thank you. I have a couple of questions for clarity purposes. Not because I am in any way representing anyone interested in this, but I want to raise some questions about the concept of what I would call the corporate brand used as a string.

So there are a number of companies who hold a trademark that could decide, whether they feel they are coerced to or they wish to, apply for a string that is identical or confusingly similar to their name, and they intend to use it. These companies, hypothetically, put a registry in place and they -- many of them might choose to serve a community of their subscribers.

Within the period of time of operating the registry, they discover it's a really bad idea from a business perspective, and they intend to -- particularly you could think of broadband service providers who

might do this. Good intentions, but they find out it's really not a good business model. They decide to close the registry. I don't see, in the guidebook, a recognition that this is a very unique circumstance and that the registry cannot be rebid by ICANN.

A registry that is associated with a trademark or -- trademark holder's name and is highly identified with their brand would put ICANN at huge legal risk if ICANN were to start rebidding those registries, so I just wanted to know if that had been thought about and if there is a proposal to try to clarify that issue.

>>KURT PRITZ: So you mean so dot company name is a top-level domain and then they decide to go out of business and somebody else wants to register the name at the top level.

>>MARILYN CADE: Let's be clear.

>>KURT PRITZ: I'm trying to.

>>MARILYN CADE: It's dot turbobroadband, hypothetically, an ISP broadband provider, and they intend to offer services only to their subscribers, and then they decide it's a bad business model and they're going to go back to their original business model and they want to close the registry.

>>KURT PRITZ: You mean take it out of the root zone?

>>MARILYN CADE: Well, I think there could be two options. One is they freeze it and don't enhance it or the other is they close it. They take it out of the root zone and discontinue that particular service to their customers. It's unlikely they would discontinue that service, but, you know, if we're talking \$75,000 a year to ICANN or some other fee, it's a small ISP, they may have no choice but to close the registry.

>>KURT PRITZ: Right.

>>MARILYN CADE: But it's their brand.

>>KURT PRITZ: Right. So your comment would be that ICANN should, in its implementation, say that a registered name at the top level should be put on a reserved names list, if it's taken down?

>>MARILYN CADE: My comment would be that this particular category of issues deserves some thought in order to prevent some misunderstanding and potential legal risk to the -- to ICANN.

>>KURT PRITZ: So it's time for another commercial. And that is that you might guess that a lot, a lot, a lot of effort went into compiling the comments and significant time was spent trying to remember what was said in this meeting in Cairo because many of us at this table didn't post our comments to the public comment forum after they were said here.

So I encourage everyone in this room to post comments, valuable ones like that, to the public comment --

>>JEFF NEUMAN: Could I help with --

>>MARILYN CADE: Just a clarification. They're in the transcript.

>>JEFF NEUMAN: Could I just say Marilyn's point but in a different way, which is, I think that she's asking that maybe the continuity plan could recognize -- the registry continuity plan should recognize that not all TLDs need to continue, and I think -- because that's part of the continuity plan is that there's a potential rebid of a registry.

>>AVRI DORIA: Okay. Patrick, did you want to say something? Not that I want to put you on the spot.

>>PATRICK JONES: I think the concern that Marilyn's raising, and Jeff has helped clarify, is covered in the current ICANN gTLD registry continuity plan, that there would be some notice to the community

of, you know, potential removal of a TLD, if there's a situation like the one you describe, and that the continuity plan recognizes that that might be an option is the removal of the TLD. So I think that's been contemplated already.

>>AVRI DORIA: Thank you. Steve -- oh, you want to comment on? Please.

>>DAN HALLORAN: This is Dan Halloran. So I think -- I was going to talk to Patrick and Marilyn's points, but they're talking to each other so we -- so I think Patrick is referring to a case where it's decided nobody else wants to run the TLD, maybe, and so you turn it off. Marilyn I think was asking first about what if the outgoing registry operator decides to shut it off, because the normal thought is, oh, dot broadband was being operated by this company, they can't run it anymore so let's find a new company to run dot broadband. You're talking about a special case where you have Turbo Broadband, a company -- a well-known company, Turbo Broadband, and when you shut down -- if Turbo Broadband, Inc. decides not to run turbobroadband anymore, it doesn't necessarily make sense to put that out for a rebid for somebody else to run that brand name.

>>MARILYN CADE: I want to be really clear.

As I understand it, from discussion with trademark lawyers and corporate lawyers, you touch the corporate -- the corporate company's brand at your peril.

>>DAN HALLORAN: So I think the tricky part -- I think you're hitting on one of, like, a lot of complicated cases where we get these brand name TLDs, and the general approach, I think, is that those are tough questions and we're -- we're building -- the analogy we use, round pegs in round holes and that's a square peg, someone's trying to plug in. Turbo Broadband, when it comes and says, "I want a TLD dot turbobroadband," they're bringing us a square peg and we're -- so that's one of the places we're trying to see how that's going to fit into our round hole and -- and I think when you got done, that we'd have to distinguish between dot turbobroadband and let's say dot broadband or dot turbo and the company name that's running it is dot turboinc. Is that a brand name? Is turbo tied to the brand name of dot turboinc, the registry company? And so you have to start pulling apart which companies get this kind of right and which ones don't but it can get complicated but a very good question.

>>AVRI DORIA: Okay. Tim, were you trying to comment on this particular issue?

>>TIM RUIZ: Yes, I was. The question, I guess, that comes to my mind is, you know, can -- you know, is it contemplated that a operator can say, "Well, I choose to no longer run it, I want it out of the root"? And I think even a better more likely example would be the community TLDs because they'll be very close -- you know, the name will be -- hopefully have a close nexus to the community. It may be a very narrow community, and they just may decide this doesn't make any sense, it didn't work out, but that's not going to go to anybody else, and they just want to shut down the TLD. So I don't know if that's been contemplated that you can just say, "Well, I'm done with this, I want to close it down."

>>PATRICK JONES: So this is an area where the applicant guidebook and -- has some language on it but the TLD registry continuity plan goes into more detail and a lot of what Marilyn's described and what you've asked about, a number of people already considered in developing that plan, so it's something that maybe can be made more clear in the next version.

>>AVRI DORIA: Did you have a further comment you wanted to make on it?

>>FRED FELMAN: Yes, I did. This is Fred Felman from MarkMonitor. I think, you know, you definitely have a round peg in square hole issue here with the guidebook and especially where it's concerned with community and open -- corporate brands as a TLD don't fit into either of those models and are truly -- I mean, if you're trying to cram it in, you might be able to, but you're going to end up with all kinds of wacky edge cases like this if it goes to implementation as stated now.

>>AVRI DORIA: Okay. Thank you. And apologies, Steve. Steve?

>>STEVE METALITZ: Thank you. Kurt, thank you. This is Steve Metalitz from the intellectual property constituency. Kurt, thank you for running through some of the changes that were made

between Version 1 and Version 2. What I would like to ask about areas where changes were not made between Version 1 and Version 2. And I'll just give two examples.

One has to do with the WHOIS obligations of the new TLD registries. Unlike all the other new TLD -- or virtually all the other new TLD registries that ICANN has recognized, these new TLDs will -- will not have to provide -- will only have to provide thin WHOIS data, and there is one sentence in the analysis of comments that says, "This is -- this was not changed because of the multitude of applicable laws in different jurisdictions."

The second example I would give is the standards for community objection, and as you know, because you read all the comments, there were some very detailed criticisms of the standards for community objections. The standards for community objections were not changed in Version 2 and I've been unable to find anything in the analysis of comments that responds to these.

So my question is: Is this conversation over about these issues, or what do you expect us to say, having said it once in the -- in the comments on Version 1 and you either having ignored them or having come back with -- I think you'll have to agree -- a rather minimal sentence here about WHOIS, or are we just supposed to say it again or should we just simply be looking elsewhere for solutions to these problems?

>>DAN HALLORAN: This is Dan Halloran. So if I could -- at least on the WHOIS, first of all, I don't think any conversation is done. The only thing I recall dealing with -- in the analysis of the comments was just a -- like a five-word question, like, "Was it intended that only registries only would have to have thin WHOIS output?" And the answer was basically yes, that was in the proposal, it would only be thin and it's -- and the idea was because we might have TLDs from hundreds of different countries. So it was not at all shutting down. It was just answering a question. It wasn't, you know, dismissing anything or --

>>STEVE METALITZ: Well, Dan that's the question you asked but if you read the comments you would see many commenters explaining why they were strongly opposed to what was in Version 1 on this question. Your only answer is: Different countries have different laws.

Have different countries passed different laws since the first round of new TLDs when this was required? Have different countries passed different laws since the second round of new TLDs since it was required? Have different countries passed different laws since January 2008 when the board approved and the -- the organization adopted a procedure, passed by this council unanimously, if I recall -- or almost unanimously -- for dealing with any instance in which it was -- was alleged that there was a disconnect between WHOIS obligations and legal obligations?

So that's -- this is no answer, and I just wanted to get your -- your reactions as to whether, if we say it again, you will take it seriously.

>>DAN HALLORAN: So I mean, this could be a case where it was a -- you know, a processing error in dealing with the hundreds of comments, but -- and I'm -- I can honestly tell you it got boiled down to what we were responding to was a question, and not -- and I'll go back personally and look at the comments and see where I can find concerns about this, because -- because if so, it wasn't adequately, I agree, addressed as an area of widespread concern. But what we were dealing with was the question: Was it intentional? And the answer was yes, but it was just a proposal at that, and in a minute I'd like to hear from -- if there are others who would have concerns if we pushed it back the other way and said all registries must have thick, who has access. We might have got comments pushing the other way, so -- but it definitely was not meant to close anything off or to avoid discussing anything. Happy to continue discussing that.

>>STEVE METALITZ: And would that be true even on issues where you didn't even have one sentence, such as on the changes -- proposed changes to the community objection procedure.

>>KURT PRITZ: So -- well, I just want to go back to WHOIS. So we did have sentences in there. We did put into the -- the evaluation that proposal that a thick WHOIS would get a higher -- higher score, and also I think that thick WHOIS isn't a requirement of existing registries now, but the thick

WHOIS was proposed by the new, you know, the sTLD registrations -- registries when they came into being, so it was their proposal, not a -- it's not been an ICANN requirement.

So the -- the proposal in the -- the guidebook was to encourage thick WHOIS by -- by saying, you know, you're more likely than not to be evaluated positively if you have a thick WHOIS.

>>AVRI DORIA: Okay.

>>KURT PRITZ: Well, I don't think we're done with Steve's second comment about community -- what?

So let me -- can we stick a pin in your community -- community question about the -- about that and come back to it later in this meeting?

>>STEVE METALITZ: Yes, that would be more attention than I think has been paid to it so far.

>>DAN HALLORAN: But I think on all these things, we -- if there was something that was missed, that's one of the things we want to get comments on. You know, if we -- you know, there's -- I don't know how many.

The comments -- there were over a thousand pages of comments. The analysis is over a hundred pages or something. I don't even remember at the end. If we missed something, it was not an intentional slight. We tried to deal with everything we got. If we missed it, by all means please point that out to us. We can look at it some more.

>>AVRI DORIA: Thank you. Tony?

>>TONY HARRIS: I may have misunderstood, but I think in the last slide that you showed, Kurt, there was some reference to the annual registry fee and that there -- there had been a change in that, but I can't find it in the document.

>>KURT PRITZ: Yeah. It's in the base agreement, so -- which is an appendix to -- appendix to Module 5. It's an attachment to Module 5, the annual registry fees.

>>TONY HARRIS: Would it be possible for you to tell us what the modification was?

>>KURT PRITZ: Yeah. Lowered the minimum floor fee from \$75,000 a year to \$25,000 a year, and changed the transaction fee which -- which kicked in at a certain level in the old agreement. I forget where. But was pegged at 5% of revenues associated with name registrations to 25 cents per transaction for all registries with more than 50,000 domain names.

>>TONY HARRIS: Thank you very much.

>>AVRI DORIA: Eric?

>>ERIC BRUNNER-WILLIAMS: Kurt, I want to ask you about what comments worked and what didn't. So there are several styles that people made in their comments. Some used sort of the IETF style of supplying the suggested language change. You know, change "and" to "but" or something. Some supplied new wording plus justification. Some supplied very open sort of think pieces.

What -- because you have -- I mean, you've invented a taxonomy of "comment." You know, 17 and I think 53 little boxes to put things in. How can you help us help you? How can we make our comments more effective? Not in terms of effective in terms of advocacy because I'm not asking for what's the secret way to make my positions win, but rather, how to make comments which are easier to process within your process?

>>KURT PRITZ: Well, so certainly, you know, criticism with solutions is -- is best. So with proposed solutions. And this isn't an answer to your question, but think about several different members of ICANN staff, you know, all writing responses, you know, given the direction, you know, on style. But it all being somewhat different, so that at the end of the day, even though the -- all the papers were

given to an editor to try to homogenize the style, that those -- you know, the results are somewhat different. Not necessarily different because the result of the comment received but, you know, different because there were many different writers and sort of a short period of time to do the exercise. I don't know if that answers your comment.

>>AVRI DORIA: Please. Go ahead. Olof.

>>OLOF NORDLING: Olof Nordling here, and me and my next-door neighbor, Philip Sheppard, we unanimously agree that --

>>OPERATOR: [inaudible] has joined.

>>OLOF NORDLING: -- having worked with the European Parliament, for example, I mean the most efficient way to propose a change, especially if the recipient wants to have an easy life, and that's what ICANN staff would like to have, is to provide change of text as you would like to see it, plus a justification. I think that's really the easiest way, and it seems to work in the European Parliament.

>>AVRI DORIA: Works in a lot of places. Yeah. Okay. I've got -- just continuing on the list, I've got Amadeu, Kristina, Mary, Edmon, Jeff, Philip and then I just saw another hand you go up. I've got Alan and then Marilyn again and then...

>>AMADEU ABRIL i ABRIL: The red one. Okay.

Now, two questions. One, with, you know, a general participant perspective; another one from the perspective of someone that's helping some parts to bring an application to the next round, if they -- if it never exists.

The first one is regarding my continued surprise to see the lack of question in the evaluation regarding the policies the TLD will apply because I think this is relevant for, you know, the public in general to know what type of TLDs -- not only what the hell are they doing with DNSsec and how many machines they have or how much money they have but, you know, how the TLD would look like. And there is TLDs general question about what services are you providing in the technical part and in passed around, you know, there were something like five different questions about what are you doing regarding, you know, IP protection or something like that, or sunrise or -- or whatever. Each time five questions. I think we went from excessive questions to absence of questions, which is -- I would advise that we don't go that radical that way.

Okay. Now the next one regarding the interest of some communities, and still all of them still believe that action at the end is the worst possible solution. In case you have two good applications for different communities for the same name, they cannot auction that. I mean, think about, once again, I mean dot cat. It's sitting behind me on both sides. Catalan University, the Academy of Language, the Union of Writers, the Union of Publishers, the Sports Federation, they simply cannot understand why they want the [inaudible]. They should, you know, make a bid for that name. It's better that you say the name is not given, both parties go to the next round and try to arrange, you know, different names for both parties because this cannot be arranged during the current process.

Let's imagine even a worse scenario in which you have a split community where, you know, part of the community wants the name and the other part wants the name and they don't want to work together. Or they cannot because the current guideline does not allow to change the conditions, the names, the participants, the structure, after submitting the application.

In that case, again, auction is the worst possible scenario. You will never do that for a ccTLD redelegation. You would say, "There is no consensus in the community. You will not re-delegate." In this case, you should not delegate it the first time. You should just send them to the next stage if it ever exists. It's much better than forcing civil wars in different communities.

>>KURT PRITZ: So in the case where the community is split and there are two applicants saying they will represent the same community, in this version of the guidebook, there is an extra step to consider that contention whereby that contention can be resolved by a second type of comparison if the larger part of the community represents one over the other.

>>AMADEU ABRIL i ABRIL: This was also somehow -- as a different step, different criteria in the first guidebook. Still, if it is 60 to 40, you will not do a redelegation in that situation, right? It is still a completely split community. Let them solve that internally and come back one day in ten years. Who cares? But let's not declare winners and losers in that split community. It is not the ICANN role.

>>KURT PRITZ: But in the case of another -- where they represent two -- applicants represent two different communities -- two different bona fide community applicants represent two bona fide communities, we are saying -- it is hard for me to see a case where we are going to say, We are not going to delegate that TLD then.

So as you can imagine -- and you and I have talked in the hallway in these meetings a lot and multiply that by 100 and ICANN always and other consultations we have about alternative ways of making that decision or whether just to take that TLD, that label off the map is preferable to that. And the place where the maximum community benefit is realized is perhaps by the one that can -- you know, gets the most benefit out of the name.

So while an auction in the very, very, very last case of two contending community applicants that both turn out to be bona fide -- so I don't know how much of an edge case this is -- that auction might not be -- like, you know, your preferred alternative. But it was hard to develop an alternative and that denying the application in all respects didn't seem preferred to that. So that's the sort of balancing that goes on.

>>AVRI DORIA: I have got two follow-ups. Now, it looks like I have got three that want to follow-up on this, if I understand correct. I have Olof that wants to follow-up. Zahid, you were shaking your pen like you were wanted to follow up. And, Eric, you were acting like. So I have three follow-ups at the moment.

>>OLOF NORDLING: To start with almost on a philosophical level, I think if you have got two serious community applicants saying they represent exactly the same community, well, first of all, could they really do that? Isn't that sort of a default by application almost? It is implicitly so that they do represent two subcommunities, and the two subcommunities cannot agree. So there is no unified community. Of course, we would like to see a unified community.

But given that there are quite a few of the cases where such things can happen and they vie for the same name or they are quite clearly two very, very different communities happening to vie for the same name, I think we need to resolve it rather than saying that, "No, no, we cannot deal with this." There will be many cases where otherwise we will be sitting in a referee situation where ICANN would have to say, "All right. But this is actually the same community and you should be able to sort this out all by yourself. So please stop. Don't apply here. Go home. Do your homework."

I think there are incentives for them, if that's the case, to do so anyway by the sheer fact that there is an auction at the end of the day. None of them would like to have that.

But agree with me that there would be a multitude of situations where you could have very, very difficult tasks for ICANN to resolve, whether this is actually dealing with one community or two or three or four.

>>AVRI DORIA: Zahid.

>>ZAHID JAMIL: Hi. I think this is a follow-up to what was being discussed. If you were to take the example of the word "cashmere" and Bengal and Punjab, these are all not in the list of the ISO so they wouldn't be excluded on the geographic names. At least that's my understanding or reading. If I'm wrong, I would just like to know.

Then they couldn't be a community because a community objection talks about an institution and they are not an institution. I'm just wondering how would that work if somebody made an application for dot cashmere?

>>KURT PRITZ: Is that not on the ISO-3166-2 list?

>>ZAHID JAMIL: No, Cashmere is not. Bengal is no there. Punjab is not there. We have two or three others which are completely literally provinces between India and Pakistan and Bangladesh and Pakistan, et cetera, et cetera.

>>KURT PRITZ: Do you have an idea for an objective preexisting list that could be used?

>>ZAHID JAMIL: You wouldn't have a list because even the U.N. cannot agree as to who actually is - represents that country. In fact, there are three parties. The Cashmeres say they represent themselves. Pakistan says it is us and India says it is us. There is no consensus and there is no document where you can actually find a resolution to that dispute right now.

As far as Punjab, there is Indian Punjab and they will say it's ours and that's fine. It's theirs. And then there is Pakistani Punjab and it is absolutely theirs also.

>>AVRI DORIA: And then I have a follow-up to a followup and then you have to get back in the main line.

>>ADRIAN KINDERIS: I think Zahid makes a great point. But from my point of view and wanting to see this process move forward, I think we can get bogged down in the peripheral here. What are the chances these guys are going to want their TLD? If they do, you know what? It will get locked up in legal activity and let them do that. It can get locked up in the courts as long as they need to. Don't let that stop all the other TLDs that want to go forward because we are trying to solve something the U.N. hasn't been able to solve for many, many years. So let them fight that battle. Let it happen post-application.

I think we are getting caught up in worrying about such minutia here that -- oh, I'm sorry. I think I'm done that. Good job. Sorry, transcribers.

>>AVRI DORIA: Eric and then we'll go back to Kristina.

>>ERIC BRUNNER-WILLIAMS: Thank you, Kurt. Turning to the point between you and Amadeu, Amadeu was making a point that if you wouldn't delegate, then you shouldn't -- I mean, if you wouldn't re-delegate then you shouldn't delegate, the principle that Amadeu offered.

Sitting behind me is someone from Morocco and the E.H. problem has been around for a long time.

Applying your principles, what you have just said, how would you resolve E.H. or would you decline to resolve it because it is a cc?

>>KURT PRITZ: How would I resolve E.H.?

>>ERIC BRUNNER-WILLIAMS: Yes, you just said you have got a resolution for two communities. Would you auction it? Are we going to have an auction between the Polasario Front and the Kingdom of Morocco?

>>KURT PRITZ: When somebody applies for dot E.H.? Not as a gTLD, right?

>>ERIC BRUNNER-WILLIAMS: Are you going to say you are spared having to answer this question because it is a cc but the same question when posed for g's you have an answer for?

>>KURT PRITZ: I'm spared from having answer it because you are saying it is a two-letter name. Do you want to make -- are you saying --

>>ERIC BRUNNER-WILLIAMS: It is a real case.

>>KURT PRITZ: Right. So what would the application be for, for dot what?

>>ERIC BRUNNER-WILLIAMS: There are two parties that are contending for this codepoint, which is the example that Amadeu also gave. And Amadeu's suggestion was that if you would not re-delegate,

that is if there was not unanimity about what the redelegation should be, then you should not delegate in the first place. And your response was "You can delegate because" and then there is a rationale for what you can -- you said 60/40 at one point.

So using that principle that -- in the absence of unanimity, you can still go ahead with the delegation and what the final mechanism is you arrive at, whether it is auction or a coin toss, I don't know or care.

But if you can resolve that for the g's, try applying that to this specific example to see if it is a reasonable solution.

>>KURT PRITZ: So, yeah, so this isn't the right forum for that discussion. But there is a lot of procedural safeguards in the g process as there are in the ccTLD delegation process. So there is a community-based objection process. There is a required government approval of the relevant government in deciding what that is. That process -- so how that would play out in this particular case, you know, I don't know want to be the evaluator or the evaluation panel, but I think that issue gets resolved before it gets to contention between two parties.

>>ERIC BRUNNER-WILLIAMS: IANA has chosen not to delegate the codepoint. It has taken the proposal suggested by Amadeu, where there was not unanimity, don't do the delegation in the first place.

And your -- the suggestion is that when the same fact pattern arises in gTLD applications that you follow the same practice rather than a different one.

>>KURT PRITZ: So I'm not -- but I'm not so sure that wouldn't get addressed elsewhere in the new gTLD process. The process that IANA went through -- not IANA but ICANN and the ICANN board went through in the case of the gTLD process, there is a required government approval of the relevant government. And there is also the opportunity for objection that would both essentially occur in the ccTLD process, I think. So it is not that there is contending applications.

>>AVRI DORIA: Okay. Yes, Kristina.

>>KRISTINA ROSETTE: I have three questions. The first one, Section 2.8 in the revised draft of the registry agreement states that affiliates of registry operator may be ICANN accredited registrars authorized to register names in the TLD, et cetera, et cetera. For purposes of that sentence, what does "affiliates" mean? I didn't see a definition anywhere.

>>AVRI DORIA: Could you give the paragraph number again?

>>KRISTINA ROSETTE: Section 2.8 of the current -- the new draft of the proposed registry agreement.

>>DAN HALLORAN: I think it is a good question and we'll look into it. I think the first-place look is what we have done with the registrars. We went into a lot of detail about measures of control of ownership, and I can't remember off the top of my head what language we used but it is a similar idea.

So this is the first draft in that direction. But the idea is to pick up subsidiaries, sister companies, cross-managed companies. It is hard to -- without having pages of detail about all kinds of relationships you want, this is sort of short end.

>>AVRI DORIA: You are saying there would be a definition?

>>KRISTINA ROSETTE: I do think it is important that it be defined somewhere.

>>DAN HALLORAN: We will look at it. Thanks for flagging it, and we'll look at it. I think we want to walk the fine line of not having three pages of detail where you can find one loophole in versus making it too broad and vague where just "affiliates" is overbroad. We don't want that either.

>>KRISTINA ROSETTE: I will wait. I have other questions.

>>AVRI DORIA: I have a follow-up on that one. I guess, there is two follow-ups on that one. And then I will come back to you on questions 2 and 3. I had an Adrian follow-up and a Jeff follow-up.

>>ADRIAN KINDERIS: Thank you for bringing it up, Kristina. I think there needs to be some clarification around the terminology with respect to the word "registry" and "registry operator." They seem to be interchangeable throughout this document, in fact, the entire guidebook. I think there is some danger there because there are often third-party providers which are usually termed "registry operators," especially in a ccTLD space.

So I think ICANN potentially should maybe review that terminology and be clear because it has implications, for example, when you are talking about a registry operator being a back-end provider being able to be a registrar in the TLD that they are providing back-end services for. Does that make sense? I don't know if I explained it very well.

>>DAN HALLORAN: So the term "registry operator" is a defined term. It is the entity that ICANN is entering a contract with. But that might not be the registry operator that you are talking about which might be some other company running the back end which might be an accredited registrar.

>>ADRIAN KINDERIS: Right. Especially if it is the registry agreement, not the registry operator agreement. Maybe it is worth cleaning up that terminology.

>>AVRI DORIA: Okay, Jeff. You had a direct follow-up?

>>JEFF NEUMAN: Actually, it -- Kristina took one of my two questions which is good, so my follow-up relates to this. Dan, you were going on about how it's kind of complicated in the relationships. I did a little research following up on Olof's advice.

The S.E.C. in the United States has an incredibly good definition of "affiliates." It is less than -- it is about 50 to 75 words. It is pretty easy. It is measured in terms of control, but it is important -- and I will send that definition to you from the Securities Act. It is important to understand that control is not just ownership but -- and the S.E.C. defines control as direct or indirect. It is the power to direct or cause the direction of the management and policies of a person -- and in that case "person" also means corporation, that's defined -- whether through the ownership of voting securities by contract or otherwise.

So it is a very clear definition. It has got tons of case law, at least in the United States. So this is not a unique problem. It is really not that complex. It has been solved in the securities world for criminal matters and lot of things that are probably 100 times more complicated than this. So I would urge you to use that definition or put that out for comment anyway. It is really easily workable.

>>AVRI DORIA: Okay, thank you. Kristina, back to question 2.

>>KRISTINA ROSETTE: I noticed in the public comments, a couple of -- I think it was a couple, individuals or organizations submitted comments recommending that ICANN include in the application a question that essentially went to whether the applicant or any of its officers or directors had essentially been found to have committed fraud, blah, blah, blah, blah, blah, blah.

I didn't see anything in the new draft of the guidebook but what I think I saw in the public comment analysis was a statement to the effect that the evaluators would have the ability to do due diligence in that area.

With all due respect, it seems to be a pretty no-brainer question. You want to know if the people you are going to entrust with a registry have been previously found to have committed under the appropriate judicial processes fraud. And I don't really understand why there can't be a "sure, we'll put it in"?

>>AVRI DORIA: Any comment?

>>KURT PRITZ: Can I write that down, Kristine, because I know we talked about this at length -- Kristina, shoot.

>>AMADEU ABRIL i ABRIL: The public forum is efficient, you see?

>>KRISTINA ROSETTE: And then the third thing -- this is really kind of two parts. Another issue that I saw that came up in the public comment that didn't really seem to get any discussion -- and if I missed it, please point it out -- concerns about the possibility of secondary markets and mechanisms that ICANN could consider to try and at least initially curb those. I was just wondering if I did, in fact, miss them, why they didn't get discussed in the public comment analysis.

And then more broadly, there are, in fact, a number of areas where there were, for example, things saying, you know, here are issues that were raised or here were the questions that were raised. When you get to the proposed position, there is no match for that particular issue or question.

So what's the best way to bring that to your attention? I'm assuming it was inadvertent. What's the most efficient way for everyone?

>>KURT PRITZ: Well, if you want to talk about the secondary market specifically, we can talk about that issue. I think with all due respect to what Steve Metalitz just said here and in the subsequent public comment period, certainly we are going to take comment out of here and go back to the analysis and see where some of the holes that have been raised here are and see if they can be addressed and amended.

The secondary market issue attempted to be addressed by requiring the registry that signs the agreement to start operations within a certain period of time not to warehouse the name but rather that they must start operations within a period of time and also through change of control provisions. So those are the two mechanisms by which that sought to be addressed.

If there is other methods for going about that that are enforceable and implementable, the goal of this is to encourage new business, not to encourage a secondary names market.

>>AVRI DORIA: Okay, thank you, Mary.

>>MARY WONG: Hi, this is Mary from NCUC. I have three requests. Probably no surprise, they are about morality and public order and dispute resolution service providers. Let me get onto the first comment.

The first really is to reiterate the NCUC's request to have made available not just to us but to the council and to the community at-large all the experts' reports and research that were relied upon to come up with the morality and public order grounds for objection. We think that this is particularly important because even in the second version of the guidebook nothing much has changed in that regard. And so we do believe that that will be an important document for all of us to look at.

On my second comment, that's related to the first, it will be an important document so that it might actually help to reconcile many of the communities to not just the grounds for the objection but also to the appointment of experts and so forth.

On the grounds for objection, I just wanted to raise a point of clarification. In the explanatory memo was that posted with regard to the morality and public order grounds, the experts seemed -- or at least my read of it, the experts seemed to say, "We would prefer to have a broad-based palette with which to base decisions on what is against morality and public order."

The first version of the guidebook had three grounds. The second version retains the three grounds and adds a fourth residual category, which is somewhat awkwardly worded. I won't read it out. Basically, it captures all so my second comment is the clarification as to why the three grounds were retained with the addition of a residual category.

And my third comment then refers to the DRSPs and the change to the morality and public order DRSP side of things is that with respect to the ICC, it is now clarified as the International Center for Expertise, I believe, of the ICC. Again, this is a point of clarification.

My understanding, and I'm happy to be corrected, is for the experts appointed by that center, they don't act as arbitrators. In some ways, it is very much unlike a WIPO proceeding. They require a report that is not binding on the parties unless the parties agree, and it is not meant to take the place of arbitration or any sort of trial or judicial determination.

My question there is how does that relate to this general notion and structure of decision-making under Module 3 particularly as the current draft now says the decisions will be published -- it refers to decisions -- and the expert's report will be accepted by the board, which seems to me to be a little unclear.

>>KURT PRITZ: Okay, thanks for those questions. I will do the best I can to answer them and maybe Avri could allow a follow-up if I leave some holes in the answer.

I'm just going to briefly take your comment on publishing the expert reports and take that back.

So the process that -- or the research process that ICANN -- the big ICANN here went through in developing standards for morality and public order was to do a survey of the restrictions in jurisdictions in all of the regions. So we went to -- we commissioned a study of restrictions, I think, in nine different jurisdictions in the five regions of the world and developed at least a commonality of those three items across all jurisdictions. They seem to be universal, i.e., in a sense an internationally recognized limitation on what could be expressed perhaps in a domain name string.

But the entity -- the outside council that performed that research recommended that those making these decisions, these sort of arbitral decisions, also be referred to the treaties that were called out in the GNSO policy recommendations as a basis for that. That's why you see in the explanatory memo a lot of language about those treaties and the restrictions in those treaties.

And so ICANN consulted with the ICC but also other dispute resolution providers that are well-known nationally in discussing providing dispute resolution services. They, too, recommended that the dispute resolution providers be given some degree of discretion in deciding these disputes so long as those decision makers were of significant experience and repute that they could judiciously exercise that discretion and that exercise of discretion would be recognized by the receivers of those decisions, so by governments making objections or others making those objections.

So the discretion is awarded with the caveat that only very senior retired jurists or those that practice in international courts be a decision maker.

So faced with nice, neat, bright-lined criteria, which are nice to have, are risks to the process in that the standards become too rigid, put the process at risk.

We wanted to get more expertise so we went to internationally known jurists that have practiced in the past that are still practicing and asked their opinion. We asked the opinion of those that practiced in front of those courts and universally got the opinion if ICANN is trying to make these determinations in order to provide safeguards to the process, some discretion would be presented to the dispute resolution providers.

Some recommended a really broad discretion and a really open standard. We elected to make that more narrow.

The wording we adopted is actually the wording in the GNSO policy recommendation. We tried to reinvent but really it couldn't be recaptured in any better way that we think creates a high -- sort of a high bar for determining whether something, in fact, reaches this internationally recognized standard of being offensive to morality or public order standards.

So that's sort of the process, and that's why the wording was developed that way. The ICC then would be commissioned to go -- to find these and has -- in discussions with ICANN has indicated that they can retain the services of dispute resolution providers that are of this caliber to make these decisions. We've avoided saying the word "arbitration" in our documentation because at the end of the day, all things are approved by the ICANN board so we envision the ICANN board approving recommendations to delegate new top-level domains just as they are now and concurring with the

findings of dispute resolution panels. But certainly these findings will be accorded every -- you know, every bit of respect up to being a final decision because the ICANN board passes a final decision on them.

>> MARY WONG: Just a brief follow-up. I certainly didn't mean to come across as doubting that the research process or the qualifications of the experts or, indeed, of the ICC.

I think in terms of the grounds of objection and particularly if broad discretion is going to be given to the experts to be found that I really do think it would be a great help to the community to have those documents, the research, the reports. If necessary, if the names have to be redacted, at least we can see what some of these international, possibly universal standards are. I think that was the main point.

>>KURT PRITZ: Yeah. And I didn't take your comments in that way in any way. So I apologize if I came across that way.

Certainly the standards you see is that cross-section, but I take your comment about publishing the report and I will take that back.

>>AVRI DORIA: Okay, thank you. Just to go through the list of names of people now. I have got Edmon, and then I've got Jeff, Phil, Alan, Marilyn, Zahid. And Terry Davis on the phone just e-mailed me. I said Phil. I didn't say Philip. I apologize if I got the name wrong.

Edmon.

>>EDMON CHUNG: Actually, I have four questions. One on IDN, one on evaluation fee, one on the dispute resolution dispute fee and one on comparative studies.

The first one on IDN, I think I -- I'm quite surprised about the length requirements still in place and quite -- a little bit disappointed, I would say.

The second version is still saying that for IDN gTLDs it has to be three characters or longer and I think the justification which was presented is really -- has really little ground. And to explain it a little bit more, right now it says that the reason why two characters or less is not feasible or good is that they could be confused with ccTLDs, I guess. ISO-3166 list. The -- I guess the argument is based on that there are, I guess, 250 or so ccTLDs that are two characters longer and there may be more, and that perhaps like Cyrillic or Greek characters would be easily confused, but doesn't the string confusion test for the gTLDs already address that issue? That's one thing.

The other thing is that after the first round, we are expecting like probably hundreds of new gTLDs, and we may have more three- or four-character ASCII TLDs than we have two-character ASCII TLDs. Does that -- you know, if I take that argument further, does that mean the second round, we'll have to have four characters or more in -- for IDN TLDs? I mean --

>>KURT PRITZ: Okay. So can I answer that question first.

>>EDMON CHUNG: Okay. Sure.

>>KURT PRITZ: So -- no. So the argument is -- it's not an argument. It's that there is a principle of care and conservatism going into the first round, and understanding the argument for single or two-character names in certain scripts that are idiographic -- but idiographic is the wrong term because that encompasses other scripts -- where there might not be one- or two-letter characters. So I think this is a very important discussion to have, how we could go about releasing one- or two-character labels in certain scripts in a way that -- where there's a bright-line rule and it's clear and the interests that are to be protected by this, you know, prohibition in the first place are maintained.

So in the -- think about in the, you know, six weeks since the public comment period closed that we, you know, organized the comments and sorted them into buckets and tried to respond to them all and, as Christine pointed out, there are some places where it's not coherent. This -- you know, we talked quite a bit about, you know, just saying this is a really good idea, there shouldn't be this prohibition.

When you tried to write it on paper, it became very difficult. So I think creating a forum right now for having this discussion and coming to some solution is what we want to do, so I think what the analysis and the guidebook intended to say is, we need to talk about this so it can be done in the right way, and that we -- that the right way couldn't be developed in time for this version of the guidebook.

>>EDMON CHUNG: Okay. I'd like to point back to the IDN working group as well as the reserved names working group and I think we -- we've had this discussion, and I find it surprising that we're going back and, you know, some of these issues have been discussed during the work groups, and I don't understand why we are sort of undoing what the work groups have done.

>>KURT PRITZ: So you and Chuck can -- can correct my error here, but that discussion was in the reserved name working group with a recognition of this issue that an accommodation should be made, but writing that down in stark black and white-and-white in a way that will stand up is more --

So I understand the policy issue and I think, you know, the ICANN staff agrees with it, so how to do it so it's implementable and clear is the issue that needs -- so it's an implementation issue that needs to be discussed. I think the policy direction is pretty clear.

>>CHUCK GOMES: Okay. Edmon, before you go on, Kurt, I think it would be good if we -- if you can suggest how that additional work can be accomplished, and when. What's your -- do you have a suggestion in that regard?

>>KURT PRITZ: Well, my -- not sitting here, but...

>>CHUCK GOMES: I mean, there's so many things going on that I think it's helpful if we initiate something. Not necessarily right now, but commit to do that right away. Can a request for volunteers on that be sent to the -- I think even the GNSO list is okay at this time, so that those who want to work with that can -- can do so? Maybe even online? Is that all right? I just -- I just hate these kind of things, "Oh, yeah, let's do it" but there's so many things to do, let's make sure it happens. Okay. Edmon, go ahead.

>>EDMON CHUNG: Yeah. Just one quick comment on this and then I'll move on to the second question is that I -- the difficulty in that part is that I fail to see anything that is not addressed in the other parts of the new gTLD program already, and the -- you know, just specifically responding to the issues addressed by the response to comments by the draft, you know, there were two -- two main points. One was the confusing -- confused with the ccTLDs essentially. The other part was that this particular point is not addressed by other parts in the new gTLD process, but I sort of fail to see that. Anyway...

The second point was on evaluation fee. I see that interestingly, there was a discount now given to the 2,000 applicants, given certain requirements. There were comments on -- on also reduced fees for like IDN versions of TLDs or, more importantly, for example, variants of IDN TLDs. Has there been any thought and why wasn't -- is it also a time issue that it wasn't included in this version or what's the...

>>KURT PRITZ: So the really, really short answer is: Too hard for the first round.

So when we think of discounts for different sorts of applicants, I can think of ways to create an organization that would make it -- itself available to that set of discounts.

In the case of IDNs, if you're talking about cost recovery, you know, you can make a clear case that IDNs really cost more than non-TLDs because of developmental costs to launch the IDN program and the technical issues there, and probably some increased costs for evaluations.

So it's hard to make a case for discounts, and I think it's good that in that case, the playing field is even, but I think that when we get some of the risk and uncertainty in how to manage this program, you know, we'll -- the idea of discounts or different fee structures for different entities would be entertained.

>>CHUCK GOMES: I have a -- as chair, I guess I can just jump in and do a follow-up on that.

I must admit I don't understand why it would be too hard in the first round. I -- in some cases, it might be, but let's look at your initial evaluation process. There are some very discrete, well-defined elements, technical evaluation, operational evaluation, the financial requirements. I have to believe that you've already done very careful analysis and estimate of what those costs are, and so it would be trivial to provide discounts for when those particular elements are not needed again. And I'll leave it at that because we have a lot of people in the queue. Edmon, go ahead with your next question.

>>EDMON CHUNG: Okay. Actually, I'm still on no. 2, and just quickly, there's a refund now -- refund schedule that is proposed. I would like to suggest that, because IDN ccTLD fast track is coming along and the string itself is not disclosed until a much later date. In the cases where it -- you know -- it either confuses or is similar or whatever and an applicant withdraws, at that point they should have full refund because they didn't even know that there was a possible IDN ccTLD fast track coming along the way.

So, you know, that's, I guess, a suggestion.

>>KURT PRITZ: That's a good suggestion.

>>EDMON CHUNG: Okay. Now, the third question is on dispute resolution. I'm just curious why -- right now, it seems that the dispute adjudication fee is somewhat refundable, in the sense that the prevailing party gets a refund of the fee.

Why is the resolution filing fee not done the same way? Why is the filing fee, you know, not also refundable to the prevailing party? Or did I read it wrong?

>>KURT PRITZ: No, it's not. So there's two answers to that, and I only know the first one.

So one is, we're relying on practices of existing dispute resolution providers and have asked for their -- you know, the process you see and the procedure you see that are published are essentially industry -- you know, industry-standard processes. I'm having some trouble thinking, but I'm remembering that, you know, if you -- if you -- if you give a full refund, including a filing fee, you're incenting one kind of behavior. If you're causing some small fee to be paid up front as part of a filing fee, that creates another kind. So I'm not doing a good job here and I -- you know, Amy's not here to help me out, but there's quite a -- you know, there's quite a close discussion on that one way or the other about which way to go. It's a really close issue about whether the filing fee should be refunded too. I'll try to get you a better answer.

>>EDMON CHUNG: Okay. So you mean it's close discussion. It's already decided and --

>>KURT PRITZ: Close as in nip-and-tuck.

>>EDMON CHUNG: Okay.

>>KURT PRITZ: You know, it wasn't clear that one was right and one was wrong.

>>EDMON CHUNG: I see. Well, in that case, my -- I would suggest that, you know, consider the filing fee to be also refundable to the prevailing party, you know, and that's given that they prevail, so...

Okay. The fourth question is on comparative study. Right now there's quite a lot that was changed in that section, but there is also -- there is still one area that I feel is not quite addressed. It is the issue of whether a TLD would be actually better served as an open TLD versus a community TLD.

You talk a lot about, you know, how to qualify, but in the original sense that I -- when I was first thinking about comparative study, you should at least compare back with the open applicant as well, and how that could be done is not quite addressed at this point. Why I say that is that there may be situations where even though an applicant for -- listed as community is fully qualified all the way, it might actually be better -- the TLD might be better served as an open TLD for the larger community or, you know, whatever reason, and also the open TLD applicant should be given a chance to make their

case in saying that, "Wait a minute. We actually think that based on these criteria, it's better that we run this string as an open TLD for the, you know, community at large."

>>KURT PRITZ: So again, one of those really close, but not closed, issues that we have all talked about a long time. I remember standing at the whiteboard in L.A. asking for your opinions about, you know -- we decided in our policy discussion that preference would be given to a community applicant and how to do that, and in implementation discussions, there were models for, you know, balancing the -- you know, a large open TLD with a small community based and trying to measure -- having somebody measure the amount of community benefit of large and stable or a community -- or a benefit to a lot of commercial people. You know, anyway, you can -- you know.

So --

>>EDMON CHUNG: But I guess my point is, at least there's some consideration of that.

>>KURT PRITZ: Right. So then where the guidebook is now is saying, "Well, you know, if this label, Mr. Community, if this label is your label" --

>>OPERATOR: Excuse me. Terry Davis just joined your call.

>>KURT PRITZ: Thank you.

-- "if this label is your label, there's a tight nexus between the two and you are supported by the community and some other things, if you've demonstrated all these things, that this is your label and if you don't get this label you're kind of out, well, then you get that preference." And so that seemed -- there seemed -- there's a more objective way about going -- about making that determination rather than trying to balance two things that are so disparate in purpose that it would be very difficult for an independent evaluator to measure.

So -- and in the discussions we had with the GNSO Council when we were standing at the whiteboard, we -- you know, we talked about, "Well, what's a way to measure this?" And we -- and the thing I remember, standing there, was that the amount of community support is there's strong community support for this TLD.

So in that -- in the very, you know, Knipp and tuck discussion implementation discussion that we've had that we've had for a few meetings now, we're still at, you know, "If you can demonstrate this is -- you know, Mr. Community, that this is yours, and if you don't get this one, you're kind of out of luck without it," that seemed to be the best way to meet that policy recommendation that a preference be given to community applicants. And, you know, we can talk about this over -- over coffee afterwards for a long time because we already have.

>>CHUCK GOMES: Okay. I think it's important that we get moving on this. Edmon, you have one --

>>EDMON CHUNG: Just very quickly. I understand all the discussions that we had, and I just think there should be at least, you know, a little bit of consideration for, you know, balancing between the two, and it's -- it's completely, you know, not there at this point.

>>KURT PRITZ: Right, right, right. So I'm an open TLD, and let's just say I discover the cure for cancer [inaudible] by combining these interests and I represent a small community of 60 people, so, you know, we -- that's -- your point is very well taken.

>>CHUCK GOMES: Okay. I'm not on? Sorry about that. Let me quickly go over the list of the people in the queue. I've got Jeff, Phil, Alan, Marilyn, Zahid and Terry, who is on the phone. And we are running --

>>AVRI DORIA: We've got 35 minutes left.

>>CHUCK GOMES: So let's go with Jeff.

>>JEFF NEUMAN: Okay. I have three questions but the first one is incredibly quick.

Kurt, you've been talking about, for a while, a study on price caps for registries. Or for pricing. Is that going to come out anytime? Do you have an estimated date for that?

>>KURT PRITZ: Day after tomorrow.

>>JEFF NEUMAN: So that's with the economic justification? Okay. Good.

The second two are kind of a theme, and it's both with respect to the agreement, with the proposed registry agreement. The theme is basically: Why does ICANN keep trying to put registrar -- or keep trying to get registries to enforce the registrar accreditation agreements.

The first one is, and it's the same comment I made months ago, which I thought was addressed but it wasn't addressed in the analysis and it wasn't changed, and that's with regard to provision 2.9 in the agreement. There's still a requirement for the -- for some unknown reason for the registry to ensure that the registrar has a link up to the ICANN policies page, and I thought we had discussed that and I thought you guys had answered that that was going to be taken out. So was that deliberate? Was that missed?

>>KURT PRITZ: I understand. I don't know. I mean, I see it -- I'm looking at it. I see it there. I don't -- I don't recall the issue and I can't -- so I can't answer you, but I'll find out.

>>JEFF NEUMAN: Okay. And it's in writing, too. It's in NeuStar's letter that we submitted, so it's in there, but it wasn't reflected as a comment that you received. Kind of like Steve had pointed out earlier, it just wasn't addressed, so I'm hoping it was just missed.

The second one is kind of a -- another thing that I -- that's new and I'm a little disturbed that there's something new in a draft that, you know, wasn't the result of some comments and wasn't the result of an open issue, but it just newly introduced and that's a sentence in -- sorry. Let me find the exact -- okay. It's in 6.2. Sorry. 6.4. And it's in the variable pricing and there's one sentence that you added that was addressed, which talks about capping it as to the budget. But the immediately preceding sentence talks about not only going to the registries for the variable fee within that TLD, so a registrar has registered X number of reasons through that registrar you can collect it through the registry, but you've added a couple of words that says, "The per registrar fee," and I'm hoping I read that wrong but the way I read it or could interpret it would mean that ICANN can go to any registry and if a registrar hasn't paid their yearly accreditation fee which is \$4,000, it could then collect it through the registry, as opposed to doing an enforcement action against the registrar.

So please tell me I've read that wrong or explain to me why that is -- why you've added it.

>>KURT PRITZ: You've read that wrong. So the annual accreditation fee -- well, what you're reading is the variable fee that has to be approved by the registrars, so that is the pass-through provision where the registrars don't approve their fees, so it's collected through the registries. There's two components to that voted on variable registrar fee. There is the transaction fee and there is the per-registrar variable component to that fee.

So that would be the pass-through of the registrar fees. The annual accreditation fee, the 4,000 bucks, is still for ICANN to collect and is not for the registries to collect. So it's only that portion that the registrars vote on.

>>JEFF NEUMAN: Okay. But that is new in adding the per-registrar fee. That's not in any other agreement.

>>KURT PRITZ: Right. It's meant to -- it's meant to ensure that registrars pay fees that are approved by the board, whether they choose to pay them through their registries or through -- you know, directly to ICANN. It's a relatively small part of the total fees registrars pay. Probably, you know, what's 4 divided by 25? 18% or something like that.

So most of it is the transaction fee.

>>JEFF NEUMAN: But you need to recognize that ICANN -- because ICANN -- you also need to think that if ICANN's having a difficult time recovering it from a registrar, that the registry may have a difficult time as well, especially if it's a considerable fee for a smaller registry.

So, you know, maybe VeriSign has large debit accounts for each registrar, but most other registries, the debit accounts and the amounts deposited in there are fairly small. So the registry would have just as much problem, but now you've kind of added a breach of contract action against the registry because it can't collect from a registrar.

>>DAN HALLORAN: So can I -- so I think that this is the kind of question I think it's a lot easier to deal with in writing. If we could see the exact sentence you're talking about and look at the biz agreement and look at this agreement and look at the old agreement and compare it but I think we can say, you know, that there was no intent to add anything new, and what we did -- the only thing we were trying to change there was putting in the caps that the registrars and maybe others were concerned about, that there weren't caps, so we tried to put the caps in.

The -- and among the biz agreement right now, the current biz agreement has both a transactional agreement of the registrar pass-through fee and the variable per-registrar component of the pass-through. Both of which we could click through biz, so I -- I don't think we were intending to make a change but we'll definitely go back and look at it. But it would be really helpful if we could get like the scythe to the exact sentence and have it in writing if you --

>>JEFF NEUMAN: It's easy. It's in 6.4. If you look at the red-line, it's only two sentences. The second sentence, the very last sentence of the paragraph is on the budget, and the sentence before is the one I'm talking about.

>>DAN HALLORAN: So then let me go back and look at, you know, 7.2(c) of the current biz agreement and -- where it talks about both kinds of fees, the transactional component and the per-registrar component.

>>AVRI DORIA: Edmon, you had a direct follow-up also?

>>DAN HALLORAN: I think it's -- the intent was that it be the same. If it's not, we'll look at it. Or if it is, we'll look at it. Either way. But thanks for pointing it out.

>>EDMON CHUNG: Yeah, just quickly. It's good to know that the intent is to be the same because the variable fee does not pertain to a particular registry. I think it's overall. So, you know, it's impossible to -- it seems like -- it seems to me it's impossible to enforce on a registry. Is that variable fee is across registrars for all -- you know, sort of all registries, independent of a registry fee, unlike the transaction fee.

>>CHUCK GOMES: While they're looking at that, let me remind everybody that's making comments today that it is very important to put these in writing in the public comment forum, and so I strongly encourage everybody to do that.

>>AVRI DORIA: Especially the very complex ones. Jeff, had we gotten through all of yours? Okay. Thank you.

Phil?

>>PHIL CORWIN: Phil Corwin for the Internet Commerce Association. I have three questions which I hope -- I'll try and make them very simple and to least simple yes or no answers, though, staff may elaborate to the extent they wish to.

First question: In the analysis of public comments, in regard to rights protection, it says, "ICANN is considering additional procedures, including some to apply post-delegation," and then it goes in the next sentence to say, "The UDRP proceedings will remain in effect, comma, as well, comma, for post-delegation issues that arise in connection with second-level domain disputes."

My question is: Is ICANN considering additional procedures applicable to these new GLTs for second-level disputes which will either be supplementary or alternative to the existing UDRP?

>>KURT PRITZ: So I think that's what this overarching discussion is about, and different mechanisms whether -- we discussed earlier whether they're prelaunch or during sunrise or postlaunch whether those protections would take place, but an important part of the issue was -- of protections is at the discussions at the second level.

>>PHIL CORWIN: I have to comment on that. While the folks I represent are fully supportive of the new TLD process giving rights holders protection of their existing rights at the first level, we don't see any qualitative change in the nature of disputes at the second level. There's only a quantitative change, and that there may be a great many more TLDs -- and we think it's fundamentally unfair and unbalanced to change the rules for second-level disputes in the context of a proposal for expanding at the first level because the way to probably address that is for a separate comprehensive review of the existing UDRP which would allow registrants, who are the subject of UDRPs and who have a long list of concerns about the UDRP process just as long as the rights holders object to its concerns to look at comprehensive UDRP reform on its own, rather than as kind of a tail on this new gTLD dog where only one side's complaints are being really taken into account at this stage, but I guess we'll have to raise a lot more concerns about the UDRP overall if that's going to be the case.

My second question --

>>KURT PRITZ: So -- so wait. So Phil, your point is that in looking at protections at the second level, they should be limited to -- in the case of new gTLDs, limited to, you know, prelaunch and then sunrise, and not post-sunrise, absent a relook at protections across all gTLDs?

>>PHILIP CORWIN: Well, we believe that if you're going to have a uniform dispute resolution policy for second level postlaunch disputes, it ought to be uniform across all TLDs and that should be the rules. It shouldn't be -- there shouldn't be some separate or alternative process that applies to new gTLDs. Particularly since -- which leads into my second question, which is about pricing but is just as relevant to second-level disputes. If -- if the new con- -- if the final guidebook has no price controls, will that permit the operator -- the registry operators of dominant, incumbent, top-level domains, to make a case that they, too, should be freed from price controls and either raised -- have the ability to raise prices either uniformly or perhaps differentially at those incumbent TLDs. Because again, this document seems to straddle that. It says -- it seems to say, "Well, not necessarily, but they could engage in bilateral talks," which raises the possibility that incumbent operators could engage in bilateral talks with ICANN that were not disclosed to the overall community until those talks were concluded, and then the conclusion of those talks could simply be announced as a fait accompli.

So I guess the big question is: Whatever the new contract rules are for new TLDs, will incumbent operators be allowed to approach ICANN and say, "We want the same rules for pricing, dispute resolution, whatever," and if they do so, will those discussions be revealed to the community or will simply the results of those discussions be revealed to the community?

>>KURT PRITZ: I think the -- those contracts are individually negotiated, and subject to public comment and then review by the board, and so when those contracts come up for review, the terms of that -- that discussion will be made, that the results of that would be furnished in a public document as a proposal for public comment that the board -- where the board would take that into account.

>>PHILIP CORWIN: And my last question: Putting aside the fact that I don't think -- I haven't read every word of these new documents, but I have not yet seen a -- in my initial review, an explanation of why staff -- and this was an issue raised by the board at the Cairo meeting on the issue of geo domains -- ignored the GNSO recommendation and went with the GAC recommendation, and really has granted a broad new power to the public sector over geo names, certainly at the first level, and within an organization that's supposed to be led by private entrepreneurial interests, but putting that aside, the question is: At purely nonspecific generic -- new generic top-level domains, let's give a hypothetical, dot islands, if someone applies and is granted dot islands and if someone wants to register barbados.islands or tahiti.islands or any specific name of an island at this new TLD, does that applicant need to get the endorsement or at least the non-objection of that government authority, or is that endorsement or non-objection requirement only apply at the top level and not to the second level

of new TLDs which -- where the -- the name of the TLD is not any specific country, region, or whatever that's covered by the overall geo rules?

>>KURT PRITZ: So I've read every word that we published but I learned today I didn't read a lot of the words that we didn't publish. Come on, that was good.

[laughter]

>>PHILIP CORWIN: I read none of the words you didn't publish.

>>KURT PRITZ: So currently if it's a -- and, Donna, can you correct me if I screw this up or if I make a mistake?

Currently, if you apply for a country level name that's on the ISO-3166-1 list, you have to get the approval or non-objection of that country. So in that very specific case that protection for those ISO-3166-1 names would continue. Is that right, Donna? Yeah. But not for other classifications of geographic name.

And I just wanted to take the opportunity to, again, make the point that I think that the position on geographic names marries the intent of the GNSO policy recommendation which created the community-based objection in order to protect certain geographical names and that was explicitly stated in the discussion, marries that intent to provide a protection with the GAC advice that countries won't necessarily participate in the objection process. So part of the application criteria is that part of the community representation, justification is provided with the application rather than be provided later so that I can make an argument that they differ but I wouldn't say that one -- one implementation model is to the exclusion of the policy intent of the other in fact, seeks to capture the interests and the intent of those policy intents through a lot of policy discussion.

>>PHILIP CORWIN: Just a quick follow-up. If I was applying for, say, the TLD dot beaches and was awarded it, if a registrant wanted to register the domain name rio.beaches or la.beaches, would they need the endorsement or non-objection of those municipal governments?

>>KURT PRITZ: Yeah, I don't know but I don't think so. I think if you think of dot family and so there is families with geographic names, right, but it is not targeted to that geographic place name. The guidebook just addresses top-level domains. And discussions were held with the GAC that said that protections of that sort at the second level are very, very difficult and seem to be unimplementable.

And I would refer you to Paul Twomey's letter to the GAC about this that was -- I don't know -- eight months ago or a year ago.

>>AVRI DORIA: We've got 20 minutes. We've got four more people. If I was on the list, I would argue with a statement you made about the equivalence between what you have done and our stuff but I'm not on the list. Alan?

>>ALAN GREENBERG: Just one question, non-contentious, when can we get a copy of Kurt's presentation?

>>KURT PRITZ: I sent it to Glen. I'm sure she will post it.

>>AVRI DORIA: That was the easiest one in the while. Marilyn.

>>MARILYN CADE: My question has to do with addressing the additional fees that have to do with someone getting involved in the objection process or is going to be reliant on what are intended to be external processes.

So, first of all, I will say that in my role in advising AT&T that this is an issue of concern to them and the lack of clarity about the uncertainty and predictability about how these fees will be determined and potentially the lack of accountability by the provider back to ICANN is sort of -- there is a lot of ambiguity that needs to be addressed.

Let me also say in the UDRP process that is in place today, although the provider of the UDRP is an external resource, still the agreed process was determined externally and then brought back into ICANN and agreed. And the fee basis was also agreed. So there is some certainty and predictability there.

As we looked at the idea that ICANN is going to outsource this and they are going to outsource that and then they are going to outsource this and then they are going to outsource that, here is something that occurred to me. We can't sue ICANN should the third-party fail. Our recourse as an entity for anyone who is using those third parties seems somewhat unclear to me.

So I'm going to say that I think it's not only the fee but it is also ultimately ICANN's accountability that's going to need to be clarified.

>>KURT PRITZ: And ICANN be sued for UDRP decisions?

>>MARILYN CADE: That's my point, Kurt.

>>KURT PRITZ: I'm trying to --

>>MARILYN CADE: I think actually since the UDRP is based on an existing policy that is established and was established at the time that ICANN was established, I think there probably is some recourse back to ICANN, not about an individual UDRP decision but if an UDRP provider went rogue, for instance, there could be some recourse back to ICANN.

>>KURT PRITZ: So, you know, I think the most important part I got was about accountability which I was nodding up and down about and how are these providers measured and confirmed as providers and can continue on and how do we set parameters so we know they are complying with what the policy was.

Essentially, there is policy for this. There shouldn't be infringement of rights. So that's the policy upon which it's based. So I got that. And we are continuing to work with these -- with the dispute resolution providers to provide more certainty about -- around fees as we get to the next version.

>>MARILYN CADE: I will just clarify that there is also concern about the fact that -- let's realize that there may be strings that are proposed that are confusingly similar to trademark names. The burden is going to be transferred on to the trademark holder to protect themselves. And one of the suggestions that AT&T made in its comments was to propose at least some progress toward addressing defined group of global names that would have to meet certain criteria.

>>AVRI DORIA: Thank you. I wasn't -- okay. Had you a direct follow-up, Paul, when you raised your hand, was that a direct follow-up or was that you wanted to get on the list to talk about something? Okay. Then I won't -- I will put you on the next list.

Zahid? No, you're off. Okay. Terry, are you still on the phone?

>>TERRY DAVIS: Yes, I'm on the phone.

>>AVRI DORIA: Thanks for sticking in there.

>>TERRY DAVIS: I would encourage the ICANN staff -- it is a little late -- but to play some real close attention to the trademark issues because the enterprises are getting very concerned with that. And I don't think have you got an adequate resolution process in place for them.

The other thing, be aware that there are coming some considerations of TLDs for groups that you may not be thinking of yet. I work with the International Civil Aviation Organization. We are considering a top-level domain for the next generation air traffic management systems, not decided but just put that in the queue and see if your application process would fit something like that. It doesn't look like it does.

So I will leave those two as my comments there.

>>KURT PRITZ: Terry, so where do you think the application process fails?

>>TERRY DAVIS: Well, if you read some of the fine detail, ICANN is in the process of applying for IPv6 space but technically we don't quite -- they don't quite qualify because they are a very strange entity. They are an unit organization. But we have resolved that with IANA and ARIN and we are going forward. Just think about that in terms of entities like that and how they are going to fit. I think you are going to see other international and large organizational issues -- organizational institutions, umbrella institutions look at top-level domains also.

>>AVRI DORIA: Okay. Thank you. Paul.

>>PAUL STAHURA: Regarding the dispute providers, for example, not dispute providers but the external consultants that are going to judge some of these issues like immunity, whether certain community application scores the requisite number of points or not, I'm wondering, are there going to be instructions given to those providers or some kind of examples? Is there going to be any kind of documentation that they get to help them figure out who scores what points and how many besides what's in the RFP?

>>KURT PRITZ: For which disputes?

>>PAUL STAHURA: Let's say to judge a community.

>>KURT PRITZ: They would be given what's in a guidebook.

>> PAUL STAHURA: They are given a copy of the guidebook?

>>KURT PRITZ: All the evaluators -- Let me spin that question back up. We are going to provide onboarding documentation for each of the panelists that describe the gTLD process, their role in it, how they fit, what the policy considerations are behind each of the evaluations they're performing.

So for a technical evaluation, what was the policy implementation advice given by the GNSO that, you know, ICANN is not in the role of venture capitalists here. We are trying to encourage innovation but still provide some assurance that the registry can be an ongoing entity.

Same thing for technical considerations, we want to understand that the registry operator understands what's -- the application itself is a bunch of promises, right? What we're looking for in the technical description, that there is not points given for how many gold-plated services there are but rather that it's a matching of what the business goal is and what the technical requirements are.

For the community-based TLDs, what are the policy considerations behind giving a nod or a preference to a community-based TLD, how it should be for those that are truly community-based applicants based on these criteria and so on.

So I don't know if I'm hitting on your question at all.

>>PAUL STAHURA: That's exactly it. My follow-up would be just publish those so all the applicants can see what those guys are going to see before they apply so they can better judge how many points they might get or whether they are going to win the dispute or whatever.

>>KURT PRITZ: Okay.

>>AVRI DORIA: I think I just stuck myself in the queue since the queue was empty. I basically have - I have a couple questions. One is -- and perhaps at some point it might be longer than now -- I would really enjoy hearing, which I'm sure is a very sophisticated argument, of how treating something as a list, requiring government permissions for various things is in keeping with the letter of -- or even the spirit of it being an objection process and there being any number of ways to have that objection.

And certainly I think in what the GNSO did there was certainly many ways where the objection could be raised or by whom it could be raised on behalf of someone.

So I think that's certainly one question I would really like to understand that argument. As I say, I'm sure it is a very sophisticated argument.

One thing that did occur to me, you strengthened when the government gives the letters, not only do they have to give the permission but they have to somehow explain to ICANN that they understand what they're doing. I mean, when I first read it, it actually seemed very patronizing in a sense not only are you giving permission but please convince us that you know what kind of permission you are giving.

So was I reading it wrong in seeing it that way? Those were two issues that certainly stood out. I actually had about 30 others but I should probably write things down. Those were two that really stuck out with me.

>>KURT PRITZ: So taking the second first, it is meant to provide a clearer roadmap to applicants about what the approval letter or non-objection letter should say, that if the letter says this, then the applicant can feel more certain. It is supposed to be more of a bright line for the applicant to be able to meet the criteria that are laid out.

>>AVRI DORIA: I don't understand.

>>KURT PRITZ: Donna, do you want to --

>>DONNA AUSTIN: Is that better? So the second part, the strengthening and the augmentation of the documentation was actually in response to the comments that we got from the ccNSO and part of their comment was that they were concerned that governments wouldn't understand the difference between the requirements we have for ccTLDs in that there are similarity and you set your policy locally.

So we wanted to make -- in response to the ccNSO concerns, we've augmented that documentation so that the government does actually understand this is an application under the gTLD process, that it's not a ccTLD application. So that's why the additional augmentation stuff.

>>AVRI DORIA: Okay. So all it is is explaining that this is a gTLD and not a ccTLD?

>>DONNA AUSTIN: Yes, so that the government clearly understands they will have to -- the applicant will have to abide by consensus policies and things like that. So it is to take away from that concern the ccNSO raised.

>>AVRI DORIA: Is this because you think it might be the government or some agency of the government making that application?

>>DONNA AUSTIN: I'm not sure how others are thinking of this. But having been a bureaucrat for a few years myself, my thinking on this is that the registry would actually be an authority of some kind -- not necessarily an authority but an organization that is not directly related to the government but has sought the government's approval to have a country name.

So there may be instances where it will be a government, but my thinking on this is that it will be an organization that wants a country name. The government may not understand that there is such a thing as a ccTLD. So to make sure, we still have that clarity issue around what's a c, what's a g. So the augmentation in the documentation is to try to make -- to be really sure that the government does understand what it's doing.

>>AVRI DORIA: Thank you. I hadn't understood that.

>>PHILIP SHEPPARD: I would just like to say having worked with governments for the last 15 years of my life, I would like to emphasize exactly that clarification and how sensible it is, you should never underestimate the capacity of government to be stupid and never underestimate the capacity of governments not to talk to each other.

>>AVRI DORIA: Well-experienced. Thank you.

Eric?

>>ERIC BRUNNER-WILLIAMS: Thank you. Kurt, earlier today in the morning with the session before you came in we talked about when we had domain names that were larger than four characters and how we encountered some broken software in the ISP space when dot museum and others were introduced but we merely plowed ahead and kept on.

We could have worked around this bug by limiting ourselves to three-character names and just assigning everybody garbage three-character strings and there wouldn't be these long strings and the world would be kind of different. We would be arguing about CSX versus COM or something like that.

I want to know what is the issue that staff identified with numeric labels because the comment that was submitted on how to do numeric labels correctly was answered with "yes, but" and then cited some undefined brokenness in software somewhere. So what are we talking about?

>>KURT PRITZ: Purely numeric labels? My expert is not in the house.

>>ERIC BRUNNER-WILLIAMS: I can take it offline.

>>KURT PRITZ: All right. That would be good.

>>AVRI DORIA: Okay. We are at time, unless it is a really quick one that can be answered in a minute.

>>WERNER STAUB: It is a short one, it is just a repetition. You're confused because we have had much delays and we are now focused on the next round. We are making a big mistake. We are making a big bang after which there will be a pause and people will not take that pause lightly. They will think that the commitment of one year is not going to be met as the track record has shown, so everybody is trying to go into the big bang. You should think about the solution to that.

>>AVRI DORIA: Great point to end on.

Thank you for the presentation, the three hours, the answers, the questions. And I'm sure we will be talking to you more about it. Thank you.

Let's take, like, 15 minutes before we come back and just talk about how the GNSO Council wants to proceed on this but definitely 15 minutes.

(Break)

>>AVRI DORIA: Okay. If people would come back so we can do this last bit for today.

Okay. Let's start. This one might be quick, and I was asked to tell everyone that at the end of this meeting, there is a bar, so, you know, there is all those things that you do when you're having fun. Except for those that really enjoy sitting in a meeting.

We did well the U.N. today. We actually sat in a meeting for a full three hours. We're getting really rather bad. Without a break. Three hours without a break.

So anyhow, the purpose of this session was to basically, after having gone through the implementation Version 2, or Release 2, and having gotten the questions answered of course when I set this one, I wasn't sure whether we would have gotten through all of our questions in one meeting, and I have a feeling that while of course some of us could come up with questions for a long time, essentially we got through them.

So the point was to try and figure out what, if anything, the GNSO should be doing in relation to implementation of Release 2. Implementation plan, Release 2.

Now, Adrian couldn't stay for the meeting, but he asked me to give his point of view, which was: Nothing. We should all go away, write up our comments, say what we have to say in writing, but really there's nothing more that the council should be doing. But of course I -- and that's just relaying Adrian's view. So what do other people think? Yes, Mike.

>>MIKE RODENBAUGH: I guess I'd just reiterate my idea that we encourage the existing working group that we've already commissioned on registration abuse policies to take, as part of its mandate, these two -- two of the overarching issues that I actually think could very easily be solved by that working group: The trade issue and the, you know, expanded abuse issue.

>>AVRI DORIA: Okay. Is this basically something where you would basically suggest that they try to produce some piece of commentary within the 50-some-odd-day comment period?

>>MIKE RODENBAUGH: No. I'm suggesting that they just work on a solution to the problems that have been addressed, and that then essentially we'll take care of those two overarching issues. I mean I may be a little more OSC than I usually am around ICANN but I think it's really doable, given the current mandate and composition of that group.

>>AVRI DORIA: Would we need to expand their charters at all to do it? I don't remember the charters off -- off list, but it occurs to me that we might have to come into council and play with those charters some.

>>MIKE RODENBAUGH: There might need to be some modifications to it but, I mean, we've got some also things, some initial meetings we should have probably first to talk about what that should look like. Obviously we've got the public workshop on Tuesday. We should take that input. But, I mean, that's the first issue right off the bat for the workshop, and for the working group is defining what is abuse that's within ICANN's remit. And it's a big issue. If we solve it the right way, it can resolve these overarching issues altogether.

>>AVRI DORIA: So one way to proceed would be for the working group themselves to recommend to the council a modification to their charter to do this, if they want to take the task on. As opposed to the charter sort of -- as opposed to the council sort of saying, "We think you should add this," if this is something that these groups want to do and feel comfortable doing, for them to recommend to the council a charter amendment and then we could just deal with it that way.

>>MIKE RODENBAUGH: Yeah, I think we should discuss it in the group and then decide how the group wants to proceed.

>>AVRI DORIA: Okay. Yeah. That would be the first step. Okay. Any comments on that before I go to Marilyn? Okay. Marilyn?

>>MARILYN CADE: (Speaker is off microphone).

>>AVRI DORIA: I can't hear you.

>>MARILYN CADE: I'm just moving. I don't support -- I don't support a council group that has been established for general purpose to become involved and intervene in trying to address developing solutions which need to be done on a fast track to deal with the new gTLD process. I understand in the longer run that developing consensus policy is needed in looking more broadly on those issues within ICANN, but I would just say I've raised a very strong concern -- I am not a member of the council, let me be clear, but I'm a member of the business community and I've raised a very strong concern about the fact that there are four threshold issues, and if those threshold issues are not addressed, I will echo -- I don't know if Terry is still on the phone, but I will echo Terry's point that the corporates are getting very strongly concerned. And if there is going to be any peaceful resolution of the different positions, the corporates are going to have to be involved, not just through trademark attorneys but the corporate representatives themselves are going to have to be involved in participating in the development of solutions that they're going to have to pay for. I don't see that as happening in a working group that has a -- of the council which is going to have limited ability to have broad and diverse participation.

>>AVRI DORIA: Actually, the working groups are open to all those corporates so I mean they are, I would assume, welcome to participate in those groups, and one thing that would occur to me that also came up in this discussion was perhaps sometimes a notion of consistency in policies between, you know, current gTLDs and new gTLDs.

So -- but thank you. Chuck?

>>CHUCK GOMES: On the issue of coming up with solutions, Marilyn, I heard you say earlier -- and J. Scott did too -- that you -- I think I understood -- if I understood you correctly, that solutions have already been proposed. I would differ with that a little bit. I think first steps of solutions and some good ideas have been proposed, but I think for this process to really work, they need to be vetted further.

I'm fully supportive of what you're saying, that the stakeholders, the corporate -- corporates that you're talking about need to be involved in doing that vetting, but if this thing -- if we're really going to come up with a good solution, those people as well as other stakeholders in this particular issue need to take it a step or two further, so that it's -- it's a little bit closer to what we really know what we're doing. That's the only thing I would say.

>>AVRI DORIA: Yes, Kristina, and then Edmon. Anyone else want to be in the queue? Yeah. Kristina.

>>KRISTINA ROSETTE: And I would just note -- I don't know how to say this any more directly -- resources are tight. People are not going to allocate internal resources to developing programs for ICANN where, in their view, ICANN is willing to drop thousands of dollars on consultants over pretty much anything else unless these folks have some guarantee that the time and effort that they've put in will have work product that will get serious, significant consideration. And I still haven't gotten a straight answer to that. And I think if you all really expect the folks here who represent the trademark community to go back to the large brand holders and say, "You know, here's our chance. Let's put our heads together and come up with something," I have to have something a little bit more clear and concrete than what I've gotten so far.

>>CHUCK GOMES: Kristina, can you really honestly expect ICANN -- and I'm not a spokesman for ICANN as you know -- to give you a guarantee that they're going to accept the solutions that come out? Is that what you're asking for?

>>KRISTINA ROSETTE: I am not saying -- I am not asking for a guarantee. I am asking for serious and significant consideration, which is far more than the comments that have been submitted by brand holders have gotten thus far in the process.

>>AVRI DORIA: But when we're talking about the working groups, we're talking about stuff that's within the processes that we're doing that certainly, I think, do get consideration and do have lots of volunteer time and labor put in.

>>KRISTINA ROSETTE: Right. And you have to understand that from corporate perspective, you know, the message that they keep getting -- and let me just use an analogy that I think everybody will get here -- we're talking Charlie Brown and Lucy and the football, and the trademark community is getting real tired of trying to come up with ideas and to participate in the process only to feel continuously that they are being ignored. And I just don't think it's reasonable at this point to expect these folks to join working groups.

>>AVRI DORIA: Okay. Thanks. Charlie Brown never did give up. Edmon?

>>EDMON CHUNG: I sort of want to bring up the IDN issue again. The length issue on the TLD. I'm not quite sure -- Chuck, I don't know whether you really got what Kurt was trying to suggest. Like what exactly are we supposed to do in order to, you know, go about this issue? I think we've made it pretty clear -- at least my view is that through the work groups, have made it pretty clear what the policy recommendations are. Staff seems to be saying that it's not implementable. I kind of disagree, but where can we go from here?

>>AVRI DORIA: I assume it's in direct connection?

>>BRUCE TONKIN: I think, Edmon -- can you hear me? Yeah. I think the thing is also to understand the context that let's trust that there should be multiple rounds and ICANN said that the second round, the target is -- that would be 12 months after the first round. You know, it could -- give and take, maybe it's 9 months, maybe it's 8 months, but a target of 12 months, and to understand that you can't solve everything at once, so I think we've got to be careful that some of these things are -- it's not like we've got a hundred people wanting to register a two-character, you know, IDN name. You know, there may be one or two, and my kind of advice would be, if the staff are saying they're not certain or there's some ambiguity around that, especially at the same time they're trying to sort out IDN ccTLDs, I think it's perfectly okay for ICANN to be conservative on some of these things. And the conservative approach would be to say, "Well, let's not do this in the first round. In the second round we can look at it."

So just -- that would be kind of my advice. It's not as though this is the end for all time. It's saying this is an iterative process. In some parts of the first iteration, a conservative approach might say, "We're not certain about this yet, so we're not going to allow it, but based on further evidence and based on developments in the IDN ccTLD process, in the second round that restriction could be relaxed."

>>CHUCK GOMES: Edmon, just to respond to your comment there, I think we ought to be like Charlie Brown and not give up yet on this one, okay? Even though you think that it's been well-communicated, I think you and other interested parties should sit down with two or three people from ICANN staff who have grappled with this and see if you can't come to something that both sides are comfortable with in that regard.

Now, whether that works or not, I don't know, but it's -- I think it's worth the exercise.

>>EDMON CHUNG: But I guess that's a good point. And what I sort of get from that is that there really -- the council doesn't really need to do anything further, it seems, and I think we agree on that, and that's...

>>AVRI DORIA: Okay. David, yes, you were next.

>>DAVID MAHER: Oh, I'd like to speak in support of Kristina's position. ICANN is not dealing fairly with the trademark owners. Now, I am now a registry person, but I think a lot of people know that I got into this as a trademark lawyer for major corporations and I've been through this now for 12 years and I remember the battles we had to get the UDRP adopted.

The trademark owners, the brand owners, have legitimate interests, and my view, from my experience of seeing this is that ICANN still is not dealing fairly with the very serious problems they're raising. Now, I -- the question of budgets available is a -- that's a different issue, I think. Obviously the trademark and brand owners with their billions of dollars worth of trademarks have to face up to the fact that they're going to have to spend some money on this, but given that they probably will spend money, ICANN should take more account of their very serious concerns.

>>AVRI DORIA: Thank you. I had Zahid and then I have -- I have J. Scott. Okay. I could only see the arm, I couldn't see the face and I didn't remember which shirt you were wearing today. But Zahid.

>>ZAHID JAMIL: I'd just like to echo the last two points David made, and also Kristina.

I mean, if you look at the analysis here of the comments -- and it deals with the trademark protection section -- it says, "ICANN understands trademark protection is of serious concern to trademark rights holders and is requesting additional mechanisms," and says -- it talks about them as trademark rights holders, not as necessarily the community.

My understanding is that every person who registers a domain name effectively mostly has some sort of a right, legitimate right, to that domain name. And we're not just talking about people who register trademarks, who have registered trademarks; we're talking about those registrants -- right? -- also supposing they register a domain name in one of the second-level domains and suddenly you have a TLD with the same name, there may be issues.

So I think it's broader than just saying, "Okay, these guys are just one group, a constituency or stakeholder group," and trademark protection. This is a much larger issue. You basically are dealing with consumers.

And when we're talking about whether they're being heard or not, if you look at the analysis, solutions have been raised. The commentary shows that there are various lists of solutions that were given in the comments by several commentators. But if you look at the analysis, there's no analysis of what they think they should do about it. All there is is, "Okay, we've looked at this and we'll think about it more." And that's my concern.

There hasn't been an analysis. Under the heading of analysis, there effectively is no analysis, in my understanding, at least.

>>AVRI DORIA: Okay. I understand that, and that's a comment that a lot of people made before to Kurt, but on the scale of is that something the GNSO should -- council should be doing something about, I don't understand you to be saying we should be doing something like, say, oh, but you should listen to them.

>>ZAHID JAMIL: I agree with you. I think -- I know you are looking at your mandate, but one of the points made about Kristina's response to Kristina's comment was, well, what is it that you want them to do, and she's saying we need to go back to our interested stakeholders and give them something concrete. Just a GNSO Council saying we might look at it might not be sufficient, is my point, and we may need ICANN to actually say something concrete before we can go to them and say, okay, if you want to be part of this process, and like for instance when ICANN says we will -- we will work with WIPO, there's no mention of actually getting those trademark rights holders on board with that process. That's not been defined, it's not sort of been given any structure, there's no deadline, there's no time table, there's nothing. So it's just sort of a thing we will do something about it. So that becomes an issue. And I know Avri because you're trying to keep it within the mandate of the GNSO.

>>AVRI DORIA: Or what it is that we do. Anyhow, J. Scott.

>>J. SCOTT EVANS: You know, just one point. I -- everyone keeps talking about trademark owners and let's all remember we're talking about consumers. That's -- trademark law is put into place to protect consumers. And I see a lot at ICANN of people saying, "Oh, it's just big brand owners," and everyone -- everyone's mind changes when it's their grandmother or their child who is taken advantage of online because I have a complaints department at Yahoo that deals with hundreds of thousands of complaints like this a year because our mark is used to bilk money, to cheat people, to put child pornography on the Web, and we have very upset consumers who believe that their lives have been affected because they have been tricked or confused.

So it really isn't about protecting. Yes, brand owners' interests and their financial concerns are somewhat involved, but they're out there policing the marketplace because the law says we're going to make you protect your consumers. You have to be the police for your consumers. You have to be their voice.

>>AVRI DORIA: Okay. Thank you.

Anyone else?

So I'm basically not hearing anything that we as a council -- I mean, I think all of us should go either take our notes from reading or finish our reading and actually write up our -- our issues, our letters, our whatever. It seems like the working groups will look at, you know, is there something they can do to help suggest solutions. Whether they get them in time or not is another issue. Whether they, you know -- and such. But I'm not getting the impression that there's anything that we should put on the GNSO schedule of work that would be something we had to do really right now within the response time. Is that a correct impression? Does anyone think that's the wrong impression to take away from this? That we continue paying attention, we continue asking questions, but we're not giving ourselves any work items over the gTLD implementation, Release 2. Yes, Marilyn.

>>MARILYN CADE: Avri, there is this thing in the United States Senate called a "sense of the Senate recommendation" or a "sense of the Senate resolution." The one thing that I would say that I would urge the councillors to think about is supporting the idea that ICANN put budget support behind the work that is going to be needed, you know, I could -- I have heard the ICANN staff say, "Well, we're going to convene a meeting in Hong Kong," or, "We're going to convene a meeting in Frankfurt," or "We're going to convene a meeting in North America."

Developing solutions to this problem are probably not going to happen in Hong Kong, but -- but the development of taking the idea of solutions that had been put forward already and trying to put them into more concrete form could take place at meetings that ICANN and the corporates co-convene and work on.

I think if that happens, that that is probably going to take budget and attention from ICANN, and ICANN has certainly put that budget into other kinds of activities, including advertisements, et cetera. So in terms of thinking about what the council might do, it might be just to be supportive of ICANN needing to put that additional attention and support into making those next steps happen.

>>AVRI DORIA: Okay. Thank you. Two things immediately occurred to me, as soon as you said "sense of the Senate." Everybody is telling us we have to move away from our legislative model, so I want to be careful about not getting into that too much. But I think if someone obviously put together a motion that gains, you know, the support of the people in the council, even though there are, you know, different perspectives on this -- and I don't see any reason why such a motion would not be an acceptable thing to go through.

>>MIKE RODENBAUGH: I just want to differ with what Marilyn is saying and suggesting. You know, as the elected representative of the business constituency, which is 47 corporates, at last count, although some are small like myself and Marilyn's company, but in any event, you know, we do have a process and I think it's actually the last thing that our membership wants are more ICANN meetings to travel to to talk about this stuff. I think they will laugh at it, actually. They don't even come to the regular meetings very often, for the most part, because they're so expensive.

So the best thing in my mind is use what we already got. We got a working group kicked off that's perfectly capable of dealing with these issues. We're -- it would be great to have more corporate representatives, more representatives of all stripes. Let's get it going and get it done, rather than waste more time with travel and workshops and -- it's just never ending.

>>AVRI DORIA: Okay. Thank you. So at this point, if there's anyone else -- anything else someone wants to say about the gTLD process or what we should be doing -- I see no one. I say that our day was over. Well, except for the good stuff like dinner and drinking and stuff, but thank you.

[Applause]