
JONATHAN ZUCK:

Welcome, everybody, to the CCT Review Team call number 16. This is our road to Vienna, Vienna-bound. So thanks for making the call. Is there anybody that's on the phone only and not available on the Adobe Connect, from a roll call standpoint? Okay, great. And does anybody have any changes to their Statement of Interest?

All right. The first agenda item is to approve the final set of applicant survey questions. And for that, I'll hand it over to Eleeza.

ELEEZA AGOPIAN:

Sorry, I had trouble getting off mute. Hi, everyone, and thank you, Jonathan. So I wanted to go through the applicant survey, which I shared with you via e-mail yesterday. We took all the comments and edits that you all had suggested, as well as some comments that we had received from the Subsequent Procedures PDP Working Group, and incorporated those into a revised questionnaire that we sent over to Nielsen. And Nielsen took some time looking over it, mapping it in a way that they can use it, as well as making some wordsmithing suggestions, in terms of their understanding of how people answer surveys, as well as the logical order of things. And so we came up with what you see before you.

I saw a few comments back from the list this morning, my time, from Megan, Calvin, and Waudu. Thank you very much for those. I'll work on incorporating those suggestions into a next revision.

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But I wanted to use this time to just ask if there are any further comments, or questions, or suggestions so that we may incorporate them and get this back to Nielsen, preferably by the end of the week. If we do so, we should be in good shape to get at least the survey results. I believe it'd be end of October. But independent of the in-depth of interviews, will take a little bit longer than that, just in terms of lining them up, getting them all conducted, and then actually writing the report, combining all the different answers.

So any comments so far? Jordyn, go ahead.

JORDYN BUCHANAN:

Yeah, just a really minor one to start off with. There's the question about the number of applications lodged. I think those buckets, especially the top end, are too specific, I guess. I think the 100-plus bucket only identifies two possible applicants. And I think the 50 to 100 bucket might only identify one applicant. And so I think it may be we might just want like 10 to 25, and then 25-plus or something like that. But I think you guys can probably just look at the dispersion of the number of applications per application and make sure that you're not ending up with buckets that only have one or two potential people in them. Because then the responses are going to be basically individually identifying at that point.

ELEEZA AGOPIAN:

Yeah, you're right on that. In terms of on the lower end, we did look at particularly how the applicant pool broke down. So we looked at applicant point of contact, because, in some ways, that's who we're

aiming to reach. And this seemed to be the better breakdown. But I'll take a look again and see how we might approach that.

JORDYN BUCHANAN: Yeah, I think the lower end looks fine. It's just F and G, it seemed like those buckets are potentially tiny.

ELEEZA AGOPIAN: Right, okay. Lauren? Oh, do you have your hand up? Now it disappeared. If not, Jonathan.

LAUREEN KAPIN: Yeah, I did have my hand up, and then I put it down. But I did have one other just general issue to raise. And this actually relates to all the questions I was asking yesterday about the application review process assignment. My comment/question is question number 6 about contention sets being resolved. It just strikes me that if the contention set process or reconsideration process in general is something that we want to delve more into, I'm wondering if there's any further questions we want to ask on that topic at this point, or whether that's something for later on. But it just does strike me, we're asking this general question. But if we did want to delve into issues of community applications, for example, or any of the other topics that have been somewhat more debated, that this might be a place to do it, that we might want to drill down on that question.

But I leave it to the group. We haven't delved into this topic a lot yet. But this question raised is, in my mind, whether we want to go down that path here.

ELEEZA AGOPIAN: M-hm. Jonathan?

JONATHAN ZUCK: Yes, I'm [fairly] agreeing with Laureen on that point. I wonder if we need to ask some more specific questions if people answer yes on the contention set portion of this. Or else we're going to have [to leave it] to the in-depth interviews. I guess that's the other approach.

I realize the survey gets long. We'd had a conversation on a previous call. Maybe you resolved this [in e-mail]. I'm seeing for some questions which we already know the answer, and I was wondering if there was any way to prepopulate the answers to those questions for Nielsen so they don't need to ask them and to [do on] that conversation with them. So we shorten the survey and capture the number of applications they had, and things like that, rather than having to ask them that question.

ELEEZA AGOPIAN: We did have that conversation. They didn't feel comfortable [inaudible]. I'm getting some feedback there. Thank you.

It is possible to prepopulate the survey, as you indicated. Thank you, Jonathan. So there's a few challenges involved in this. So we would be

associating that with a particular e-mail address and a link that would be going to that particular respondent. We think it should be fine to have it maintained with the link. The concern we have is that in some instances, we may be actually reaching out to now the registry point of contact and not the applicant point of contact. And that person may be forwarding it on to someone else who may not have been involved in the application process in the same way.

The reason we're going about doing this is because the applicant points of contact that we have are now four years old. Some of these e-mail addresses may no longer be relevant. For example, I've seen e-mail addresses that are, for example, appl@mycompany.com, or application@mycompany.com. So they are clearly e-mail addresses that were created for the application process and may not necessarily still be going to someone's inbox. So we're concerned about actually reaching the right population.

To that end, when we're cross-referencing these with the registry points of the contact and asking those folks to forward it on to whoever is the right person in their company, to actually fill out the survey. So the concern there might be this person might have worked on the application for their company, but if they used a consultant and the information we have is for a consultant, they may have applied for many more that had, for example, IDN in their batch or other identifying characteristics associated with them that this individual may not have had.

So we're struggling with the best way to do this and trying to capture the largest population, without muddling the back end too much, if that

makes sense. I hate to get into the weeds, but I want to give you a picture of why this is a little bit more challenging than it may appear at the surface.

JONATHAN ZUCK: I guess I kind of understand. Maybe it's the last part of your answer that I didn't quite get. Because the first part is you don't want to [keel off] the e-mail address, because the e-mail address may no longer be legit.

ELEEZA AGOPIAN: Correct.

JONATHAN ZUCK: But that e-mail could still be, internal to Nielsen, could still be the key for that survey, even if there's another field, which is "Updated e-mail address," or something like that. You can still associate... You can [do so] [inaudible]. It could be a number even, to associate the facts for Nielsen. And then they could update e-mail address separately. That seems like a solvable problem, from a data standpoint.

The other one you mentioned had to do with the fact that – sorry, go ahead.

ELEEZA AGOPIAN: It's not the e-mail address that's the problem. It's the individual it ends up with. So if the original contact was, just for example, a firm, and we don't think that's a contact that we can reach anymore, and that goes to

the registry point of contact. The registry point of contact isn't going to have the same types of statistics that the applicant point of contact, that consulting firm, may have had in representing multiple applications. See what I'm saying? It's not a one-to-one match with [person]. It's not the e-mail address I'm [inaudible] about.

JONATHAN ZUCK: Right.

ELEEZA AGOPIAN: It's who that e-mail address [crosstalk]. That's where it gets challenging.

JONATHAN ZUCK: Yeah. I guess even if you're talking to a firm, you're going to be talking to the firm about a particular applicant though.

ELEEZA AGOPIAN: Well, no, ideally –

JONATHAN ZUCK: [crosstalk] and think they're talking about number of applications by the consulting firm?

ELEEZA AGOPIAN: Yes.

JONATHAN ZUCK: I see.

ELEEZA AGOPIAN: Because we're breaking the list down by the applicant point of contact, not by, for example, the registry parent company.

JONATHAN ZUCK: Okay. Okay. Well, that was just a potential solution. I don't want to lose Lauren's point about getting into a couple more specific questions related to contention sets. I just thought it was a way to address the length of the survey and, potentially, the accuracy of the survey by repopulating some things. But if that's not possible, then we don't need to do it.

ELEEZA AGOPIAN: Okay. Megan?

MEGAN RICHARDS: Can you hear me?

ELEEZA AGOPIAN: Yes.

MEGAN RICHARDS: I just had a question about question number 5. I'm sure I missed it when I was looking at number 4. The second sentence of question 5 says that, "A contention set is a set of two or more applications that have been

deemed confusingly similar to one another. This includes applications for exact match gTLDs.”

And so I just wanted someone to double-check that that’s the exact and correct definition of a contention set, because I’m supposed to be looking at confusingly similar sets, plural and singular [inaudible]. I’ve been looking at the number of the cases from the panel. The cases that I’ve seen all say that a contention set is not just confusingly similar cases. It includes other contention sets. And there are some cases where a confusingly similar case is brought, and it can’t be in the same contention set over the same point. Anyway, it’s all very confusing, but I’m just a bit concerned that that second sentence is not correct.

ELEEZA AGOPIAN: So I drew that definition from our website, and I’m trying to find exactly where I found it. But I will definitely double-check that.

MEGAN RICHARDS: Yeah. The quote that I have is on page 3 of the panel decision in the .web case. And it says something quite different.

ELEEZA AGOPIAN: Okay.

MEGAN RICHARDS: Anyway, if someone could just double-check that that’s what it is. Because from what it says there, and they’re quoting also the

requirements, it says, “The contention set is broader than just a confusing similarity.”

ELEEZA AGOPIAN: Okay. I will check. Thank you for raising that.

MEGAN RICHARDS: Okay, thanks a lot. Thank you.

ELEEZA AGOPIAN: I saw another hand. Jordyn?

JORDYN BUCHANAN: Yeah, sorry, a couple of quick points. First, just following up on the conversation that you and Jonatan just had about prepopulating information and who we’re contacting, are we going to add instructions? Obviously, I think it’s obvious that we don’t want the consultants answering the survey. We want the actual applying organizations answering the survey. So if we’re forwarding the e-mail to the consultants because they’re they only contact, are we going to include instructions to the effect that, “Please make sure that someone from the entity that actually applied for the TLD is responding,” or something like that? Because otherwise, we’ll just get consultants with ten of these surveys, and they’ll answer the same for all of them, presumably.

ELEEZA AGOPIAN: Well, I'm not sure it was apparent to me that we wanted to exclude consulting firms. I thought we were interested in hearing from everyone who was involved.

JONATHAN ZUCK: So I think FairWinds applied for .fairwinds, so I assume we would want to have them respond. But if FairWinds is the point of contact for, I don't know, one of their clients, I would want them to forward it to their client, so that we got the response from their client, as opposed to the consulting firm.

Some of the questions we ask in here, like, "Did you use a consulting firm?" Consulting firms would obviously say no to that, whereas the original applicant would.

ELEEZA AGOPIAN: Well, so I was operating under the assumption that we were open to having the consulting firms or law firms answer the question. If that's not the case, then we need to do some shuffling here.

JORDYN BUCHANAN: I guess I'd like to hear from other folks. I certainly would want, wherever possible – again, no answer versus the consulting firm answer, I guess I'd take the consulting firm answer. But I would strongly prefer to have the organization that actually is the applicant responding, as opposed to the consulting firm, especially when we're going to be sending, potentially, a bunch of the surveys to the same consulting firm.

So we'll get a bad concentration of answers if we do that. But I'll wait to hear from other folks.

The other quick point I had is there's a question – where'd it go – number 6, about, "How was the contention resolved?" And it includes both private settlement and auction, which leaves the question open, what if you did a private auction? Is that number 1 or number 3? So I think either we should have a specific distinction between private auction and ICANN auction, or we should make number 3 ICANN auction if we intend for private auction to be included in number 1.

ELEEZA AGOPIAN:

That's a good point. I would be inclined to say that number 3 could be an ICANN-sponsored auction and group all of the private settlements together.

JORDYN BUCHANAN:

I think that's probably the right approach. But I just think we should be clear in the language, if that's the intent.

ELEEZA AGOPIAN:

Yeah, thanks for pointing that out. Megan, I still see your hand up. I'm not sure if that's an old hand.

So then with regard to – well, I guess there's two points we should discuss here. One is Jordyn's on whether we have anticipated consulting firms or law firms that filled out these applications to answer the survey or not, as well as what types of additional questions we may want to

add regarding reconsideration requests and the points that Megan raised.

Laureen?

LAUREEN KAPIN:

So I would say we do want to capture all the information, but I think it's important we know who we're capturing it from. So perhaps making sure that the person answering identifies themselves as to whether they're the entity that actually applied for the gTLD personally, or whether it's a consultant that was working on their behalf. Just so we know the perspective that we're getting, so to speak. And that way, if we have them identify themselves, we still have that information.

ELEEZA AGOPIAN:

Okay. So Jonathan suggests that, as a screening question. He put in that if they answer no, that they're not the actual entity that applied, we would then present them with language asking them to forward the survey to the correct party. Is that right?

LAUREEN KAPIN:

We could do that. And if they're unable to do that, we can ask them to complete it.

ELEEZA AGOPIAN:

Okay.

JONATHAN ZUCK: Eleeza, are you suggesting that the question, the one you have as 258, would be the one you are talking about using? Or a new question?

ELEEZA AGOPIAN: Well, I think we would have to redo 258, because 258 assumes that whoever says yes applied [and confirmed] that they were the applicant registry or [inaudible] representative.

JONATHAN ZUCK: [inaudible] for that purpose, yeah.

ELEEZA AGOPIAN: So we would probably break this into two questions. Okay. Any other comments on that?

JONATHAN ZUCK: And then I guess [reporting the] data that we can, what do we do with that case? Do we have language that says, "Please forward this," and then we terminate? Or do we go ahead and collect their answers and hope to get an addition to that? What exactly would we do with the screening question, I guess is my question.

ELEEZA AGOPIAN: Well, if we're screening out no's, then we'd be terminating. I think it would be difficult to go back and try to reach those people again.

JONATHAN ZUCK: Why? I guess the thing is, then forwarding the survey isn't the equivalent of the survey being filled out.

ELEEZA AGOPIAN: Exactly.

JONATHAN ZUCK: So then I guess the question – sorry?

ELEEZA AGOPIAN: Yes, that's right.

JONATHAN ZUCK: So do we want to move [on] with the knowledge that we're talking to a consult, and hope that, in addition, the person... We're [on it] with more responses than we have applicants somehow, I guess, but we want to [grab] their answers anyway. Your point about being interested in what they have to say, in addition.

I don't know what you're envisioning, Jordyn, from a screening standpoint. But do we want to exclude them – well, we seem to be in consensus, we don't want to exclude them altogether. But as Laureen said, we want to know who they are. So once they self-identify, do we keep going, but add the instruction of, "Please forward this on to the underlying applicant"?

JORDYN BUCHANAN:

I would say a totally reasonable approach would be to add the screening question, and just on that screen include some instructions to the effect of, “If possible, please forward to the organization that applied. However, if they’re unwilling or unable, we do accept responses from firms that provided assistance in the application process,” or something like that. And then if they say, “Yeah, I’m a consultancy. Continue anyways,” then we’ll know that and we can continue. Or we can just ask Nielsen for some help with this.

I think we all agree that the intent is to prefer that the organization that is the applicant, as opposed to the consulting firm, applies. But we can work with Nielsen to have them tweak the language to get that effect. I guess the other principle is we want to identify whether it is that organization or the consultancy. So a screening question seems right, and we can just include some instructions in the screen.

JONATHAN ZUCK:

I guess I’m just asking a lousy question, Jordyn. If they are consultants and we present this thing that says, “Can you forward this along to the underlying applicant?” do we still want to proceed with the consultants? Or are you going to try to have them in... They’re not going to be able to – while taking the survey, the question about whether the applicant is willing to take the survey, I don’t think. Do we proceed with the [crosstalk]?

JORDYN BUCHANAN:

I would say that the instructions should be roughly... So maybe on the very first screen, or in the e-mail that we send out or something like

that, it can say something like, “We prefer the responses come from the original organization,” or something like that, “but if that’s not possible, then we accept this.” So maybe those instructions don’t go on that screen, and they come earlier, either at the first screen or in the e-mail. And then we could put a reminder in the screening question. And then presumably, they bail out if they haven’t made that attempt already.

JONATHAN ZUCK:

I guess I’m just concerned that that could lead to a bunch of no answers, because if they forward it under the belief that the applicant will [throw it out] and then they don’t, and then they’ve bailed out of the survey, then that becomes a no answer. Am I missing something?

ELEEZA AGOPIAN:

I think you’re right, Jonathan. I think [inaudible] non-answers. I’m also concerned about allowing a firm to answer and also allowing them to forward the e-mail on and having someone else answer the same link. Nielsen will be connecting, I think, ultimately the link with all of our backend information. So it could start muddling who’s actually answering, and we could be getting multiple responses to the same survey, from ostensibly the same party.

JORDYN BUCHANAN:

Presumably, because of the screening question, you’ll be able to tell the difference between those two.

ELEEZA AGOPIAN: [crosstalk] be able to tell if –

JONATHAN ZUCK: That’s the theory [crosstalk].

ELEEZA AGOPIAN: Go ahead.

JONATHAN ZUCK: Yeah, I’m sorry. I guess I don’t understand the implications of what you’re saying, in terms of... It feels like I’d just as soon get two responses related to the same application, rather than zero. I guess that’s why –

ELEEZA AGOPIAN: Okay, if you don’t have a problem, that would be [optimal].

JORDYN BUCHANAN: Certainly, I agree we shouldn’t kick people out of the survey at the screening question, as we want to allow them through. I just think we should provide instructions somewhere, saying, “If you’re getting this and you’re not the actual applicant, we prefer you forward it on to them.”

JONATHAN ZUCK: That's in the e-mail, Jordyn. So that means they don't fill it out then, and we don't know whether or not the applicant will fill it out. I guess that's my only concern.

JORDYN BUCHANAN: Sure, but the alternative is that we just get the consultancies filling out essentially all of the responses.

JONATHAN ZUCK: Yes. I guess we ask them to pretend to be the applicants. I feel like it's a better problem to have, to have two parties fill out the same application, than to have no parties fill it out. But maybe I'm wrong about that.

JORDYN BUCHANAN: I agree with that. I guess I'm just struggling. So you think what is likely to happen, if we don't include the instruction I'm suggesting, is that the consultancy will get it, forward it to the applicant, and also fill it out themselves? I don't understand why they would do both of those things.

JONATHAN ZUCK: I guess the instruction I'm suggesting is one that suggests that they do both, as opposed to saying, "Hey, if you're not the underlying applicant, forward this along and forget you ever got the e-mail." Is it possible for that instruction to say, "If you forward this to the applicant, as well as filling it out," or something like that? That's what I was getting at. And

then later one, when we screen based on the screening question about whether or not they're a consultant or the underlying applicant. It just seemed like the instruction you were putting out there, Jordyn, just leads somebody to forward an e-mail and forget about it. And then we may not get any response. That's all.

JORDYN BUCHANAN: So maybe the best approach, there's a relatively small number of consultancies that cover a relatively large number of applicants. So maybe an approach is just to talk to them in advance or while we're sending out the survey, so they are aware of what we're after, as opposed to just relying on the instructions.

JONATHAN ZUCK: That sounds very smart.

JORDYN BUCHANAN: So we're talking about [inaudible] a couple of law firms [inaudible] percent of the [inaudible].

ELEEZA AGOPIAN: If I can just add, [inaudible] for the TLDs that are now delegated. So we have 1,200 or plus that are delegated. What we're actually hoping to do is use our registry point of contact as the first person we'd like to reach out to, and ask them to forward it within their organization to who the best person is. I think in that instance, the bulk of the applications will be covered because we have a contact that we know to be recent and

valid, not four years old, and we know will get to someone within the organization.

We're also planning on reaching out to all the registries beforehand to let them know that this is coming and that we're planning on fielding this survey, that this is for this review and it's an important piece of research to shed light on application process. So I think to the extent that there were withdrawn applications that came from consulting services or law firms, I think that's where we might have a little bit more challenge in reaching someone, if that's the only contact we have with those applications. But it may be a smaller pool than we're thinking.

JONATHAN ZUCK:

Yeah, that makes sense. Send it to the registry contact wherever we can, and try to get them to find the person that was involved in the application process. And then if the only address we have is for the consultant, we can ask them to forward it. And maybe to Jordyn's point, give a head's up to the consultants and say that we'd like to get to the underlying applicant if we can. Otherwise, it's okay for them to fill that out.

ELEEZA AGOPIAN:

Okay.

JONATHAN ZUCK:

Any other questions or comments on the survey?

ELEEZA AGOPIAN: Sorry, before we move on, Jonathan, I also want to address the issue of additional questions on contention and reconsideration requests. Perhaps Megan, or you, or others can send me some questions. Our timeline is tight, so if possible, I'd like to receive them by tomorrow, Thursday.

JONATHAN ZUCK: Okay. I'll give it some thought. And, Laureen, if you will as well. Let's try to get some questions to Eleeza that [inaudible] questions [inaudible].

MEGAN RICHARDS: Can I [inaudible] then?

JONATHAN ZUCK: Yes.

ELEEZA AGOPIAN: Yes.

MEGAN RICHARDS: Can we just exchange amongst the three of us or four of us, or whatever the number we are, the proposed questions? Because we may all say the same things. Instead of bombarding poor Eleeza with 20 times with what's the same [inaudible].

JONATHAN ZUCK: I just think the time is tight enough that Eleeza can filter the duplicates, rather than waiting for a two-phase approach. That's all.

LAUREEN KAPIN: Just for clarification –

JONATHAN ZUCK: Laureen?

LAUREEN KAPIN: Yeah. I think that my question was a little broader than just contention sets, which are the confusingly similar. To me, the broader issue is the process to resolve disappointed applicants. I'll put it that way. Because it's not just contention sets. We could presumably also use this to delve into issues regarding reconsideration or community applications, those types of issues. Basically, where applicants are asking for another look about their application, which is broader than just contention sets.

JONATHAN ZUCK: That makes sense, Laureen. Is there a question that we can hook onto, to ask those questions? Or do we need a screening question to get that notion, other than just [inaudible]?

LAUREEN KAPIN: I'm thinking maybe we need a screening question about, "Did you seek reconsideration of your application?" Something to that effect, because that would allow us to drill down to issues surrounding any

reconsideration process, whether that involved an independent review panel or reconsideration at the ICANN level. I know there are several tiers.

JONATHAN ZUCK:

Okay. So then that's a... So do we change 5 to be a reference to reconsideration, and then make a new 6 that says, "What type of reconsideration?" And then another question about how it was resolved? I guess the resolution question might not apply to all the different things though.

Go ahead, Megan.

MEGAN RICHARDS:

Sorry to [butt] in, but I was going to say leave it an open-ended question. Say, "How was it resolved?" So they give you the exact answer, because there may be different cases. We may have had a whole series of [inaudible]. The contention set is a slightly different [issue]. They may have had a whole series of [recourse] against [inaudible]. So those could be [crosstalk] –

JONATHAN ZUCK:

Should we leave these two questions alone and just have another pair of questions about reconsideration?

MEGAN RICHARDS: Let's do that. I think that's much better. Instead of redoing all of these [crosstalk] –

JONATHAN ZUCK: So we don't lose the coding on these.

MEGAN RICHARDS: In number 5, that sentence has to be slightly [inaudible].

JONATHAN ZUCK: Yeah, Megan, we're [inaudible] on you to come up with that language that you said you found and get that to Eleeza, right?

MEGAN RICHARDS: Yeah.

JONATHAN ZUCK: Okay.

MEGAN RICHARDS: I put something in the chat. But I'll send it by e-mail [inaudible] ready.

JONATHAN ZUCK: So then what we're taking about doing here is just inserting two more questions right in this spot, which is whether or not you had requested

a reconsideration on the outcome of your application, yes or no. And if yes, then an open-ended question about, “How was it resolved?”

LAUREEN KAPIN: And then perhaps that would allow us at least better interview those folks, if we’re interested in particular challenges regarding the reconsideration process.

JONATHAN ZUCK: Okay. Any other questions or comments? Okay. Eleeza, I will try to get you those two questions. Let’s move on to the research updates. Eleeza, go ahead.

ELEEZA AGOPIAN: Thank you. That’s all I said.

JONATHAN ZUCK: Okay. Let’s move on to the research updates, please.

ELEEZA AGOPIAN: Sure, thank you. So the economic study draft report is nearly done. We’ll be sending that along to you before you all depart for Vienna. And Gregory, from Analysis Group, will be with us both days in Vienna to go through those [five things], as well as some of the additional work that they did at the request of the Competition subteam. You’ll also be receiving, before you leave for Vienna, the registrant survey results. Those should be forthcoming probably by early next week.

On the research that AM Global is conducting for us on the developing country cohorts, I know they're well underway with their interviews in various regions. So I think they are on track to provide you with the report by the end of September, I believe. And that piece, of course, is the applicant survey, which we just discussed.

On the DNS abuse RFP that we put out, I'll defer to Brian to give you a quick update there.

BRIAN AITCHISON:

Thanks, Eleeza. We've had submissions of interest from three groups. One we know well, one we kind of know, and one we don't know at all. So it'll be interesting to hear what their proposals look like. And this week, I am in the process of answering our questions on the RFP, sort of clarification questions. That will be finalized by Friday. And we have a deadline to have the RFP proposals in by the 25th. So everything is moving along on that. So I'm happy to answer any questions, but that's all I have in the way of update. Thanks.

ELEEZA AGOPIAN:

I think that covers all the topics. Thank you.

JONATHAN ZUCK:

Are there any questions? I'm very curious about the results of all of them, so thanks for the update.

Okay. On the road to Vienna, Safeguards & Trust roadmap. We hand that over to Laureen.

LAUREEN KAPIN:

Thanks, Jonathan. So we had a very good phone call yesterday, which made me feel that our map is emerging. Basically, we have divided our set of issues into several discussion papers that map some of the sub-issues that we are tackling. Right now, the papers number 11. And they deal with the broad issues of impact of DNS abuse, impact of safeguards in public interest commitments, consumer end user behavior, and effectiveness of procedures to enforce the safeguards. And then there are several papers within those categories. We have teams of three working on each paper. Those teams have been conferring and collaborating. And we have drafts due for those papers to be circulated on the 22nd.

Other than that, for Vienna is to get those drafts circulated on the 22nd and provide one another with feedback so that we can circulate these 11 draft discussion papers to the entire Review Team by the 26th, before Vienna, so that optimally, folks will have an opportunity to look at these papers. In Vienna, we will plan on having each paper get presented by a subteam member, a brief presentation, because the premise will be that folks have already read them. And these aren't going to be really long discussion papers. In fact, I think most of them will be two or three pages. But they will set out a high-level question with additional subquestions that would need to be answered to get at the high-level question. They will contain findings that map to the data that we've been collecting. Some of it will include the data that's already been generated, such as the Nielsen surveys, other maybe data that we've come across in our readings. But it will contain specific findings that relate to our subquestions, some analysis of potential causes that

related to answers to the questions, and then some draft recommendations and suggestions for how one might review the topic in subsequent reviews.

The aim in this approach and this template is basically to really get us thinking about what the specific findings and data are that relate to our bigger questions, and then allow the group to get into a discussion of those findings and recommendations. So we are the first step in a long road of developing recommendations on these topics.

So that's the basic roadmap. And all of our discussion paper topics are on the wiki. For folks that are interested in what is coming up, they can see all of the discussion paper topics listed. There are 11 of them thus far. And I think the other thing to keep in mind is that we see this as an evolving process. So there may be more discussion papers in future. And these recommendations are basically our first thoughts on issues. They're not going to be our last thoughts. And we're hoping that Vienna offers an opportunity for us to get the entire subteam thinking about these issues and providing their perspective.

I'm happy to take questions or provide more details, if folks are curious about more specific sub-issues, and/or process questions.

JONATHAN ZUCK:

I guess this is an open question. Do you envision these reports back just to be to the subteam or to the greater Review Team? I guess we need to think about what our rollout process is, in terms of everyone seeing the findings. And maybe these discussion papers are going to be too preliminary for the group as a whole to begin to comment on them. I

don't know. Do you need a mechanism to report out the work of the subteam to the general team and the presentation of these findings? It feels like Vienna is a good place to do that, but maybe it needs to happen after the subteam has had a chance to digest things.

LAUREEN KAPIN:

Jonathan, you raise a good point. I need to give that some thought. Honestly, my first inclination was thinking that Vienna might be an opportunity for the entire subteam to comment on this. But really, that leaves an insufficient amount of time for the subteam to be able to coalesce on its own about these issues.

And I guess that gets to the broader question of the agenda for Vienna and how much time we have together as a Review Team as a whole, devoted to a particular subteam issue, so to speak. I know we have time together as a subteam, but I'm not sure how much time there is together as the Review Team to devote to consumer trust issues, so to speak, which to me is what your question gets at.

JONATHAN ZUCK:

It does, indeed. And one of the things that we need to finalize, I think today if we can, is what the agenda for Vienna should be. So I'm interested in people's feedback about whether or not the circulation of these discussion papers is sufficient, or do Adobe Connect PowerPoint presentations about findings for the group as a whole, and do it as one of our calls in September. I'm interested in people's feedback on how we roll out to the greater Review Team the work of the subteams. If everyone is in consensus that we should just focus on subteam work

primarily in Vienna, we can do that. We just need a mechanism then to [inaudible] afterwards. So I'd be interested in hearing people's feedback on that issue.

Nobody has an opinion? I believe the agenda, as it now stands, does not leave enough time for [rollout] presentations by the subteams. Just very high level summaries, but actually delving into findings and getting Q&A from the group is not going to happen on the current agenda. Is everybody okay with at?

Jordyn, go ahead.

JORDYN BUCHANAN:

What is our timeline after Vienna? I'm okay with either, I guess depending on what we expect to happen between Vienna and when we publish the draft report.

JONATHAN ZUCK:

Well, [inaudible] it's circulated, because the answer to that question is somewhat dependent on what we do in Vienna. Presumably, the next phase would be to begin to draft these discussion papers into preliminary findings so that we can [inaudible] at the very least some preliminary findings for public comment. So we can delve into that process very quickly after Vienna, if we want to, in September, to say that we would devote part of our plenary calls to the presentations of high-level questions, or something like that, by teams within the subteams. [inaudible] that people throw together three or four PowerPoints and just share the findings and underlying data.

We will obviously circulate all of these things for people to read, but the question is really if that interaction might still be desirable. So we can just make a decision that the very first thing we do after Vienna is the presentation of these discussions within the broader group.

Laureen, is that a new hand

LAUREEN KAPIN:

No, I think it's an old hand. But I think that that approach makes sense, and I see some discussion in the chat that folks would like to focus on the subteam work in Vienna, especially if time is short. And that makes sense to me. Perhaps I was a little too aspirational to think that we would have time to approach it within the big group. Eventually, it has to percolate to the big group so we all can weigh in, but I'm comfortable with keeping the subteam focus in Vienna and keeping it as a high-level report to the group as a whole, with the intent that we follow up in September to percolate this information to the review team as a whole so we can get that discussion going.

JONATHAN ZUCK:

So, Alice, I guess let's just revisit the work plan and make sure that the call schedule [inaudible] and make sure that the first thing that we do in September is have these individual teams actually present their findings to the Review Team via Adobe Connect. Little micro [inaudible]. Thank you.

Any other questions for Laureen? Oh, one thing I guess I wanted to ask myself, Laureen, is some people know, but others may not, that [first I]

had a couple of conversations with Laureen about what I meant in the worksheet. There was some confusion around that. Laureen has reconstructed the worksheet, and Jamie's concerns about hypotheses having embedded bias and things like that, Laureen has reconstituted the worksheets to be more question based. And so it looks like it [inaudible]. So I just wanted to... Maybe I will even ask Laureen to walk us through the structure of this and see if people have questions or comments on it, because I think [inaudible] [standardize] on this version of the worksheet than the other one that I did, if it makes more sense to folks.

So, Laureen, if you would, why don't you just walk through this briefly and talk about how you filled it in? And we'll generate feedback, because I think if everybody uses [inaudible] have a consistent presentation of information.

LAUREEN KAPIN:

Sure, happy to do that. So basically, this is a slight reworking of the template that Jonathan had put together. And what generated this is that some of us were struggling with the notion of a hypothesis, which is typically an affirmative statement. And as these were getting formulated, there was some concern expressed that the statements were, rather than being objective, susceptible to a yes or no answer, were, as we say in the attorney parlance, leading questions, suggesting an answer or a point of view, when really, our job is to ask questions and see what the data provides with an answer.

So basically, I just tweaked things a little bit so that wit would be a template for us to ask questions in an objective manner and to be mindful of that. And also, to make sure that our template labels the high-level question that we're concerned about, just for clarification purposes. But that's our start.

So if we look at this sample worksheet, this is one of our big, high-level questions in our Consumer Safeguards Subteam: Do consumers trust new gTLDs? That's one of our big, high-level questions. So the next part, of course, identifies whose discussion paper this is. That's important, so we can have follow-up and ownership identified.

And then there are a set of subquestions. And the thought behind that is if you are going to answer the question of, "Do consumers trust the new gTLDs?" or to what extent consumers trust new gTLDs, what do you need to get at to answer that question? And the important highlight here is you may not realize what you need to get at until you actually look at a particular data source. And that's something I've emphasized with my subteam. So it's important to review the data as you are formulating the subquestions. Certain subquestions may be intuitive, and you can come up with them right off the bat. But the data is also going to inform your subquestions.

So you'll see, one of my first questions is: Why do consumers visit TLDs? That's not necessarily an intuitive question. But it turned out, in reviewing the Nielsen data, that one of the big factors for trusting a gTLD was familiarity with the gTLD. So that's why that subquestion was formed. And I just use this as an example, to show that sometimes the data is going to generate a subquestion.

And then there's a list of other subquestions that feed into this bigger issue. For example, do consumers trust new gTLDs as much as legacy gTLDs? Then some behavior questions. Do consumers provide sensitive information? Do consumers trust new gTLDs that offer domains to – and then there's a list of precautionary measures. And then a subquestion, do restrictions on who can purchase domain names contribute to consumer trust? So all of these questions lead up to that big question of, do consumers trust new gTLDs?

From this point on, the template is actually similar, if not identical, to what Jonathan had originally proposed, listing findings. And I have mapped these findings to the questions so that finding 1 relates to question 1. I think that's important, because you don't want to have a problem figuring out what your finding relates to. And you'll see, I've also identified the source and the particular pages, because we all may be wading through a lot of data. And you do want to keep note of where your data is found, because that'll be very helpful for the final report, when we, I'm sure, will have extensive footnotes and references.

After findings, there is a list of causes. These are, I think, the analysis that is going to come from the particular findings in question. This is probably going to be a topic that is going to be the subject of a lot of discussion, because I don't think, in general, that there's going to be one specific cause, or agreement on one specific cause. So these are preliminary thoughts and analysis on what the data shows.

Priority to address, we have that because we had spoken about our preliminary findings and what's going to be most important. And when we make recommendations, that it's going to be important to address

how prioritized these should be, what should future entities really address first.

And then the recommendations themselves. And you'll note that these should be identified as to who the recommendations are directed to. So this is going to be directed to the staff, the Board, the subsequent procedure PDP which is going on. The nature of the recommendation, implementation details, exceptional costs, etc. Again, for now, I think these are going to be fairly preliminary.

And then how you can review these recommendations, that's the last part. So much of this is Jonathan's original template. And basically, I really tweaked the beginning part, to make sure that we're asking these questions in an objective manner, and also that we're thinking of them in terms of, what is our high-level question and what do we need to answer to get at that high-level question?

I'm happy to take questions or comments.

JONATHAN ZUCK:

More specifically, does everyone think that this format will work for them?

Silence is consent, [along with] actual consent. Any other questions about this? All right, Laureen, thanks for the work on this. And let's try to use this template for our discussion papers and our discussions. And we will [work] this as necessary. But let's make this the template the discussion papers will follow.

Thanks, Laureen. And next on the agenda is Jordyn talking about the Competition & Choice roadmap.

JORDYN BUCHANAN:

Sure. I will be relatively brief, because I know we've still got quite a bit of other stuff to talk about. The Competition & Consumer Choice team got a bunch of new data over the past couple of weeks from Analysis Group on several of the projects that we've assigned them, and have also made some progress, I think, in trying to get parked data. So we're now at the phase where, instead of focusing on what data we need, we're starting to receive data and being able to chew through it. And I'm hoping that in Vienna, we'll really be able to have discussions focused on interpreting that data.

We have about five of our projects with data received from Analysis Group now. And I expect a couple more by the time we get to Vienna. So I'm in the process, and a little bit behind, on mapping that to individual questions and trying to assign it out to team members, as Laureen's team has been doing, so that people can take a look at it and report back to the group in Vienna. Hoping to have some updates on that later today. And we'll be having our call next week to discuss, where we should be able to have a bit more discussion around the individual projects and how we're proceeding to Vienna.

I think that's probably all, in terms of an update. We also need to... The other thing that we've been talking about is that Stan has put together a couple of write-ups of translating some of the research projects into prose, which takes it to the next step beyond the templates that

Jonathan has put together and Laureen has amended. I think that that's probably worth some discussion in the future, as well. But probably what we want to do is get to the point we're pretty happy with one of the templates, and then try to turn that into a little bit of a chapter or something like that, using Stan's approach to translate that into prose.

So I'm hoping that actually we'll have time to do that with at least one of these projects before Vienna as well. And then one of the discussion topics that we could have, either in Vienna or shortly thereafter, is what our approach is going to be as we start to digest completed findings, and how we're going to write about the data and what the findings are. Fortunately, Stan's done some great work there that will help inform that, I think.

JONATHAN ZUCK:

Thanks, Jordyn. Any questions for Jordyn on that?

All right, then let's move to Alice, talking us through our agenda.

ALICE JANSEN:

Hi, Jonathan. Thank you. As you will see in the Adobe Connect copy right now, and there's a copy in your inbox as well, we have assembled a draft agenda for your consideration. For this meeting, meeting observers will be invited to join in person, as well. And there will be a [inaudible] at the end of the day for those exchange events, an hour.

So night before, you'll be invited to a welcome cocktail on Sunday. And observers are also welcome to join for that cocktail. And we ask them to RSVP for this event.

So day 1 will be focused on receiving updates from Nielsen on the registrant survey and a Q&A. There will be a brief overview from the economic study, and then regarding to application and evaluation process discussion. After lunch, you will be spending part of the afternoon in a break-out session. The Competition & Choice and Safeguards & Trust have two hours in the afternoon to go through their findings and papers. And then [inaudible] again with the application and evaluation discussion, and then end the day with the meeting observers discussion.

Day 2, you'll start with another breakout session again that will run to the coffee break midmorning, and then will start again, resume again, until lunchtime. And in the afternoon, there is [slot] here for both subteams to relays their findings to the whole group. That probably needs to be revised, based on what you've just discussed. And we'll end the day with a review of the draft report structure and framework that Jonathan and I are working on. And of course, the meeting will conclude with the establishment of the work plan, next steps, and a recap of all the action items.

So this is just a draft and open to any comments or input you have. I'll give it back to you, Jonathan.

JONATHAN ZUCK: [inaudible]

ALICE JANSEN: I'm not sure if there are any questions or immediate feedback on this.

LAUREEN KAPIN: Alice, I have a question. Do we know how many in-person observers are expected?

ALICE JANSEN: So we released the [blog post] announcement yesterday. And we started collecting – I think there are two RSVPs to date for the cocktail. It's local stakeholders for the region signed up. I know George Sadowsky from the ICANN Board will be attending the meeting, as well. And that's about it. So we'll keep a list of people who sign up for the event, and we'll share that with you as it becomes available.

LAUREEN KAPIN: So that's helpful. I'm just wondering about the time devoted to the discussion with the observers, if there are very few observers, if an hour is the right amount of time, whether it should be perhaps shorter if there are fewer observers. But I leave it to the group.

ALICE JANSEN: Thank you, Laureen. So that time slot is currently at the end of the day, so I'm sure we can end the meeting earlier or go back to another topic if we need to cut it short. But I will leave Jonathan and others to...

LAUREEN KAPIN: And the only other question I had – and this is probably for Jonathan – is for the application and evaluation process, at least speaking for myself.

Those issues haven't been at the forefront of my focus, and I know I am in desperate need of a reminder about what the to-dos are and expectations are. So I'm thinking that I might not be alone and that we would all benefit from a little more information about how to best prepare for that.

JONATHAN ZUCK:

Thanks, Laureen. I'm working on dividing some things up and making more explicit the sections that I hope to get out in the next day or so here. That should clarify. A lot of those are going to be presentations of outside findings that are going to, without the actual data [inaudible] and if we have the data already for the discussion papers. But I am going to try put that together in one document here in the next day and a half, basically.

LAUREEN KAPIN:

Thanks, Jonathan.

JONATHAN ZUCK:

And the other question about the open session, obviously there was some interest by a couple of the observers to have a way to participate. And so at some level, that is probably by buttonholing team members during breaks and things like that. But we decided to come up with a dedicated session so as to make clear that the entire session wasn't open to participation by observers. And I guess I partly agree with Alice that we'll probably be running late anyway, and can end early. And I

don't think there's a need to necessarily shorten the time for this right now in the agenda. But I welcome other people's feedback.

MEGAN RICHARDS: [inaudible] how long it takes, and how many show up.

JONATHAN ZUCK: Thanks, Megan. That's what [I say], as well. Is there anybody else that has an opinion on this? Hopefully my objectives are clear. Okay. Any other questions with that agenda?

All right, then let's move on to some of the conversations that we've had [where] there is some underlying... We started a little bit to discuss the meeting that [she's] been doing lately that's related to GAC advice and [intervention]. And I [inaudible] don't know what we meant by this first, letter A, here. So perhaps I will [start] by what report we want to make from the working group. Oh, the correspondence between the two of them. The work was in Megan's hands, as well.

So, I don't know, Megan, can you give us a little overview of your findings?

MEGAN RICHARDS: Yeah, happy to. So in terms of the correspondence between the GAC and the new gTLD –

JONATHAN ZUCK: You have to speak into the microphone.

MEGAN RICHARDS: I am speaking [inaudible].

JONATHAN ZUCK: You were fading out as you were speaking.

MEGAN RICHARDS: Sorry. Let me try [inaudible]. So there's been exchange between the GAC and the new gTLD Subsequent Procedures PDP. Quite frankly, it's not [inaudible] it's a kind of dance back and forth. "Don't do anything until we've finished our review. Make sure you take into consideration GAC advice in anything that you do." Etc., etc. So both sides are saying, "Don't worry, we're not going to do anything until everything is all clear." So I'm not too worried about letter A there, the final A. I think it's quite clear the existing applicant guide hasn't been proposed yet for the change, although we know that there are some aspects that probably need tweaking and adjustment. And I think there, it's just a question of the GAC working group clarifying how they're going to work and what's going to happen. So that's on little A. I think that's quite a minor [inaudible].

On B and D, which are the two others that I've been looking at, I sent a little note about GAC advice, which is early warning advice primarily, on new gTLD applications. And the problem is that the numbers look quite deflated. Because if you take the cases of GAC early warning, let's say in the case of .gmbh, which is one of those that I identified in my little note here, there were six GAC [early warnings], but there were also six

applications. And they're all for the same string. So of course, five of those were withdrawn, because they came to an agreement amongst themselves, and one went forward.

So you can't say that the GAC early warning advice was the cause of withdrawal. It was the contention that caused the withdrawal. On the other hand, the GAC advice did mean that there was a [inaudible] associated with the final [version]. So what we were looking at [inaudible] initially was, did GAC early warning advice lead to withdrawal? And you can't say that there is clear [inaudible]. What it did do, in this particular case, was make sure that the PIC was included. The PIC was the public interest [inaudible]. And in that case, it was to make sure that any registrants who used .gmbh really were registered legally, reliable organizations that have the .gmbh accreditation, which is like being a limited corporation in US law and other legal jurisdictions. It has a particular meaning. It's a kind of limited liability company.

So that's what happened there. So I went through them all, but it's really very, very difficult to say, with a couple of exceptional cases – and those cases are still on hold – where GAC early warning advice really did make a change. So I wrote about the case of .swiss, which was a geographic name. The Swiss Confederation contested that. Swiss Airlines wanted to apply for it, and so did the Swiss Confederation. So that was GAC early warning advice from the Swiss Confederation saying, "Sorry, you can't use it." So Swiss Airlines was sued [inaudible].

And then in the case of .islam and .halal, those are on hold because of the comments that were made by the Government of India, which said – this is an interesting little fact. It wasn't in the GAC early warning. But

India has more Muslims than Pakistan, in terms of sheer numbers. Well, there are also political issues going on in India as well, as you know. But their [inaudible] was that using .islam or .halal would have regional or territorial considerations. And so the whole thing is on hold.

And then there were a number of cases, as I said, also on geographic cases. So I think it would be very hard to draw a conclusion that GAC early warning led to the withdrawal specifically of many cases, except where there was either a geographic name, and possibly some religious or other contentions, like .islam and .halal cases. And again, they're on hold. So they've not been withdrawn.

So that's where we are on that PIC. Do you want me to continue on to string confusion? It's even more confusing than GAC advice. Or do you want to ask questions?

JONATHAN ZUCK:

Well, let's open it up for questions. I guess one of my early comments, Megan, is that I'd love for you to take a shot at filling in the template that Laureen has created with respect to this question of the effectiveness of GAC participation, and look at some of these things as subquestions and try filling in that input, just so that we're all reading things in the same way, and the references are there, and things like that. I'd really appreciate that. But also, I'm happy to – it'd be good to open this up for any questions people have about these findings.

MEGAN RICHARDS: Okay. I'm happy to fill out the template if someone sends it to me. Because I've got so many templates, I'm not [crosstalk].

JONATHAN ZUCK: I understand. So I will make a note to make sure that Megan has this modified template from Laureen. I guess we should make sure [inaudible]. Any questions for Megan?

Megan, what about things like .wine? As examples, were those again things where there was multiple entries and it makes it tough to control the variables? Some of these were pretty [inaudible].

MEGAN RICHARDS: Yeah, .wine and .bar is a separate case. And that, there was of course the GAC early warning advice. And David knows this intimately, because he and I worked in a lot of detail. But it didn't result in withdrawal. The argument that we made was, did GAC early warning result in withdrawal? It did result in a kind of public interest commitment. Let's call it a PIC. It's even more complicated than PIC. And special provisions written in. It went also to a private auction. It went to a private auction. And the GAC early warning advice did have an influence on the final PIC – let's call it a PIC – that was developed and the way in which .wine and .bar were ultimately settled.

And of course, from ICANN's perspective, I don't think this made any difference in the delegation, in the [contact]. It just slowed the whole procedure down. We did have – oh, now I've forgotten what this acronym is called – an RIP or a PRI, or community contention. I've

forgotten exactly which. I'd have to look it up in my files. But we went through a whole series of different procedures. And that certainly delayed the process. Rightly so, because it had to be settled. But there was no withdrawal as a result of that. And that was the question we were asked to look at.

There was certainly a whole series of – let's call them public interest commitments that were entered into, and a whole series of special provisions that were added to the delegation of those. And that was directly related to the GAC advice, no question about it.

JONATHAN ZUCK: Which is one of our questions, as well. So I guess you captured both. The withdrawal isn't the only issue. It's just...

MEGAN RICHARDS: It's not the only issue, but it was the [crosstalk] –

JONATHAN ZUCK: It's just part of the...

MEGAN RICHARDS: [inaudible]

JONATHAN ZUCK: Sorry, your voice faded out again, Megan.

MEGAN RICHARDS: It was the primary question that we were asking with that: Did GAC advice lead to withdrawals? That was the primary question you were asking about. But of course, GAC advice did lead, as I said, to introduction of PICs, to [inaudible] on hold. As I said, the geographic basis, and wine and that whole series of [legal] [inaudible] that took place to protect [inaudible]. So there's certainly [inaudible] and some quantities of [inaudible] specifically to withdrawal, except for the geographic.

JONATHAN ZUCK: Okay. I guess this is part of why the template will prove useful, Megan. Because obviously, the high-level question is just about effectiveness of the process for GAC advice. And these are some of the subquestions underneath it. So if you can take a shot at the filling out of that template, then that will help to contextualize this question among the others that you're asking.

MEGAN RICHARDS: Then the three little questions – they're not little. The three big questions that Eleeza asked, I gave some high-level answers. But I will put it into that template, and that will probably help.

JONATHAN ZUCK: That'll help us to figure out where the holes are. Thank you. Any other questions for Megan on this issue?

All right, thank you. Do you want to go ahead on to string confusion?

MEGAN RICHARDS: Yeah, I'll do string confusion as well. And this is [inaudible]. I just can't believe the results. I looked at [inaudible] items from the panel on string confusion, string similarity and string confusion [inaudible]. And they [come] right down the line, approximately. Now, I'm exaggerating a bit on this point. About half of them say there is no confusion, and about half say there is confusion. So about half found in favor of the applicant, and about half found in favor of the objector. And in the vast majority of cases, they were [inaudible] the ones I'm looking at.

Now, how you can find confusability in the plural in one [inaudible] and not in another is quite interesting. So I don't know if it's the process that didn't work. I find it very hard to believe that one plural is not confusing and another plural is confusing. That just doesn't make any sense to me.

JONATHAN ZUCK: I think you're not alone in that.

MEGAN RICHARDS: So it will be interesting to try to fill this in [inaudible]. But I think string confusability is one of the most confusing issues that we have to deal with. It's not all clear. And I can understand why some of the applicants are quite grumpy about it.

JONATHAN ZUCK: And are the answers simply binary, Megan, or is there any [expository] text around why they were found...

MEGAN RICHARDS: Yeah, there's lots of text. Each one of the string confusion panels have published their results. And sometimes, they are up to [some] pages long. Sometimes they're only three or four pages. It just depends. Each case is different. But the logic is not simplistic. Let me put it that way. And I think it seems to have depended on who the panel member was and what the panel member said. That really seems to be the case, which isn't a very good observation on [inaudible], quite frankly.

JONATHAN ZUCK: So how do we get to the next step of that? I'm just trying to think. It just feels logical that it should be confusing on one case and not another. I'm just trying to wonder if there's any way to delve further into that.

MEGAN RICHARDS: But I think that's where we could – and here, I need David's help on this, because David was supposed to [inaudible] but he's been away on holiday, and he has a much better feel for some of these cases, I'm sure. I think where we could do some [little] work here on string confusion is to make some clear recommendations for the future on confusability, on prior [rights]. In other words, something that already exists in the root that's already been delegated can't be applied for [inaudible], etc. So I think the question is to establish now some clear rules on this. And that will avoid... Already, there is a lot of water under the bridge. But by establishing some new rules, or clear rules at least, that will perhaps help to clarify things in the future, in future delegations, because I'm not supposed to say, "rounds."

JONATHAN ZUCK: Okay. Laureen, go ahead.

LAUREEN KAPIN: Megan’s discussion about the lack of consistency, I think, raises the big issues and related issue about the reconsideration process in general, which, as you know, I’m still trying to get my brain around what our task is and what data we’re looking. But I do know that there were several e-mails exchanged, I think starting with Drew, but then there was a lot of interest. And it’s certainly a topic I think deserves some attention for all our radar screens about the reconsideration process in general and issues of consistency.

And I think we see that played out, perhaps most publicly in the community application process. And I just want to make sure that the community application process, and independent review panels, and reconsideration processes related to that are something that we’re going to devote some more focused attention and consideration to, because I know that it’s a topic of community interest, and it’s something we should be looking at, as well.

JONATHAN ZUCK: Thanks, Laureen. [inaudible] we sort of deprioritized at looking at the different types of applicants and kind of kick that can down the road to the PDP. So it’s not entirely clear to me that a deep dive into the community application process is something that we all agreed was part of our remit. And I think we’ll get into a hint of that, but that would

have to be a pretty affirmative decision, to go forward [inaudible] and dive deeply into that particular issue.

LAUREEN KAPIN:

I'm sorry, Jonathan. I probably misremembered that then.

MEGAN RICHARDS:

But just on that point, I have to jump in on this one. I think it's [inaudible] factor in reconsideration requests, because [inaudible] the applications are certainly a fact [to take into] consideration. And [inaudible] that's certainly a factor that's been raised a few times. And so I don't think we can ignore it entirely. On the other hand, I believe we shouldn't delve into it in too, too much detail. But it certainly has [inaudible] and certainly should be addressed in some way.

I think we can't do, as it were, the full analysis because the Ombudsman has already done a full analysis of the process. But I think there are cases [inaudible] within that context and should [be] identified.

CARLTON SAMUELS:

Maybe I can jump in here. I have to tell you that [inaudible] –

JONATHAN ZUCK:

Your voice has faded out.

CARLTON SAMUELS:

I hope you hear me better now, because I want to jump in about the community application process. Because certainly from the At-Large perspective, there is an umbilical connection between the reconsideration and the community application process. From our community, especially, has been great concern that the way community was defined – and I have specific examples here from my side of the world – it's standard to disallow several actors who are thinking of participating and see themselves as community. Albeit, not one as defined in the application process.

So I think there is a connection between that, and there are considerations if you look at reconsideration applications. They are connected to those who think they are slighted because they are community-type applications. Definitely those are the ones that have been loudest, if not in the majority. But they've certainly been loudest. And I don't see how we could not have a look at this. So [I will stop] there.

JONATHAN ZUCK:

Thanks, Carlton. We [inaudible] and we probably don't have time in this call, but very shortly about how we're going to go about looking at that question, if we wanted to look at it.

But, Jordyn, you've got your hand up.

JONATHAN ZUCK:

Yeah, I was just going to say I agree with both Megan and Carlton that it's impossible to look at the reconsideration process, the pain points

felt by applicants, as expressed through the reconsideration process, without grappling at least somewhat with the community question, in that there's a lot of reconsideration requests that revolve around the community decision-making.

At the same time, Jonathan, I totally agree with you that we made a conscious decision to mostly move this discussion about different types of applicants to the PDP. And I think that is one of the topics that the PDP is actively engaging in. So my guess is we probably just want to provide some information, sort of the form of our findings, which will probably [reflect] roughly what Carlton says, which is there's a lot of confusion and, perhaps, incorrect definition around communities that led to a lot of pain. But I think the recommendation side of that is probably a lot more likely to come from the PDP process.

JONATHAN ZUCK:

Thanks, Jordyn. So we're looking [inaudible] at the reconsideration process and trying to make some general findings, I guess. And then the recommendations, if any, are going to be about clarification and probably get kicked to the PDP. So we just need to set some boundaries on that discussion about community and keep it in the context of the reconsideration process [inaudible]. Carlton, I'll talk with you offline about how to proceed on that particular question.

Those look like old hands, so I'm going to hand the mic over to Jordyn to talk a little bit about rounds.

JORDYN BUCHANAN:

Sure. So I sent out an e-mail to everyone yesterday with rough thoughts. And just a caveat up front, somewhat one-sided thoughts. I think we agreed previously that I was going to put together the bullet points that explain why rounds don't work. We don't have the defensive of rounds included here. So maybe someone who better understands that set of arguments... I could probably try to do a strawman of the defense, but I don't think it would be very good, because so far I haven't found those arguments very persuasive. So I'm not sure I would do a very good job of recreating them.

But in short, I think most of the bullet points that I put together revolve around the decontention process. And community is actually one example of that. But the core of the problem seems – in my mind, at least – that if you have a process that works with rounds, then you allow more than one applicant for the same TLD to apply during that round. And then you have to decide which of the worthy applicants get it.

There's an easy process by which, if they fail the evaluation process, then that's an easy way to break ties. But in reality, very, very few, I think – something approaching none – of the TLD applicants actually fail the evaluation process. A few were filtered out through the objection process. And so in the vast majority of cases, if multiple applicants apply for the same TLD, eventually we'll have to decide who gets it.

And the ICANN process gives priority to communities. That's the only sort of tiebreaker that's included. And we've just hinted at the problems related to the community process. But there were a lot of disputes, obviously, around that process. It creates quite a lot of [anger aimed] at ICANN.

And then I think you saw probably what people would consider relatively good faith communities getting denied. And then you also saw people trying to game the system by trying to stretch the definition of “community” so that they would have priority. So both of those resulted in, I think nonoptimal outcomes because of the way that community was defined or the way that people tried to jump into it.

And then if you have... The sort of last-resort process, if you do have more than one applicant, to fall back to is the ICANN auction. And ICANN auctions create their own set of both headaches and opportunities, I guess. But ICANN gets a lot of money. In a case of .web, they just got \$135 million. And then we have to decide what to do with that money. And ICANN’s not really designed to be an organization that disburses hundreds of millions of dollars of proceeds. So in some ways, it’s a good problem to have. In other ways, it stretches the mission of ICANN and it’s something of a distraction from its core competencies.

And then the second point I raised, other than the problems with the decontention process, are that the rounds really decrease the predictability of the process. So for example, if you – and this is true for both applicants. There are sort of obvious reasons for applicants. If you’re an applicant and you apply, you don’t know whether you’re actually going to get the TLD or not. It’s hard to make business plans around it.

Similarly, because of the contention process above, almost all of the TLDs that still aren’t delegated at this point aren’t delegated as a result of tie-ups in the contention process. So that slows things down. But from the flipside, if you’re someone who’s concerned about a particular

application, you might have to waste a lot of resources, maybe objecting to it or tracking it or something like that, even though, in the example of .gmbh that Megan raised earlier, it might be that a government or something has concerns about an approach that a particular applicant or set of applicants is taking. But they might be fine with what other applicants are doing. But because the government doesn't know which of those applications will be successful, they have to take action against the ones, or related to the ones, that they have problems with, even though those might eventually be unsuccessful, in any case.

And so there's a lack of predictability for those that have either public interest, or commercial interests, or other types of interests related to applicants as third parties that makes things more complicated as well. Whereas if an application was lodged, and you knew that that would be the applicant that would get the TLD if it was successful, then you would be able to be more predictable about whether you needed to take action or not.

And then the third point I raised is around might encourage speculative applications. Some people, I think, have said that they only applied because they thought they wouldn't be able to apply again for a long time. And that's obviously... I think some of the analysis we're seeing from the Competition & Consumer Choice team, there's a large number of TLDs that either haven't been delegated or have very few registrations in them. It may be that some of those are speculative in nature and weren't really intended to do anything useful. And that seems like a high cost to the program.

So those are the downsides I identified for rounds. I think each of these, we could probably add some data around if... So for example, in point number 1, we could probably, around the community and decontention process, we could probably look at the reconsideration requests to point out that these were... Between communities and just general decontention process, I think that was the majority of the reconsideration requests that were filed. On the predictability side, we could probably look at timelines. We could probably look at objections that were filed against applicants that weren't successful anyway. And then in in the third case, we might just have to get that from some of the applicant surveys.

But people have identified the right high-level bullet points. I think the next thing to do would actually be to say, "How do we take this hypothesis and say this isn't just Jordyn's speculation, but substantiated by data?"

JONATHAN ZUCK:

That's definitely the next step. And I guess the question is, is that there's also this notion about whether there's a direct link between a round and contentions. In other words, if it's a... I just am betting this is the assumption, that the fact that we had multiple applications for the same string was a function of rounds. And what you're suggesting as an alternative is "first come, first serve" approach instead. Am I reading that correctly?

JORDYN BUCHANAN: Yes. You're reading this right. I think [inaudible] if we don't have rounds, I don't think there's any mechanism other than first come, first served. I guess you could say if someone applies, that starts a timer where there's a period of time in which someone else can jump in and apply instead. That would be... I don't know of any parallel processes that work like that. That would be unusual, I guess. We do have, on the flipside, objection processes. So if someone applies and you don't like it for some reason – a violation of rights, or there's public interest concerns – there's ways to express that through an objection process.

But, yes, I would imagine that if you didn't have rounds, first come, first serve would be the allocation mechanism.

JONATHAN ZUCK: Yeah, I guess it's just important to capture that notion that if the real issue is contentions like that, then you can't end up with a non-round-based process that still gets you to those contentions. Their issue is the simultaneous nature of the applications, I suppose, more so than the fact that it's a round.

JORDYN BUCHANAN: Yeah. And I think if you didn't have rounds and allowed for simultaneous application somehow, for one thing, I don't understand that mechanism. It still might resolve my third bullet about speculative applications.

JONATHAN ZUCK: Right.

JORDYN BUCHANAN: But most of the other two bullets will still apply, I think.

JONATHAN ZUCK: Okay. So let's give some thought on how we go about putting some meat on the bones of this, in terms of evidence. I may try to follow up with you directly on that, Jordyn.

Eleeza, before we get going though, I feel like there's a question on the survey – and I'm just trying to remember – that deals with question 3. Obviously, we don't want to call it speculative. But did you feel pressure to apply before you were ready because of the deadline? Is there any question like that?

ELEEZA AGOPIAN: Sorry, I was muted. So there are questions related to why you applied, but I don't think it quite gets at that topic.

JONATHAN ZUCK: Well, maybe we can try to take a shot, since we're just about to field a survey that deals directly with applicants, to see if the notion of not knowing when you'd be able to apply next was a high motivation. Okay?

ELEEZA AGOPIAN: Okay.

JONATHAN ZUCK: And we can try to come up with what wording for that might look like [crosstalk].

ELEEZA AGOPIAN: [crosstalk] there is a few questions that ask about whether you received sufficient guidance from ICANN during the application process. Were there challenges you faced? So maybe we can build something into that section. And there is also a question that has to do with whether or not you think rounds are the appropriate mechanism. And there's an open text box there on why you do or you don't. So there's that. And I'd welcome anyone to take a look at those questions again. And if you have suggestions for an added question or refining those questions on that topic, we can make some changes.

JONATHAN ZUCK: Great.

JORDYN BUCHANAN: Eleeza [crosstalk].

ELEEZA AGOPIAN: I'm sorry, I didn't catch that.

JONATHAN ZUCK: Thanks, guys. I wonder if this is an issue of coordination with the PDP folks. Because I know that [Jeff] in particular has some view about rounds. I'm just worried about it being open ended. But I wonder if we

should... Because we don't have anybody that's a fan of rounds on our Review Team, if we should get help with that strawman.

JORDYN BUCHANAN: Yeah, I think at the very least, it would be good to understand the hypothesis in favor of rounds so we could try to collect data on that, as well.

JONATHAN ZUCK: Right. Well, listen, let's make an action item to reach out to [Jeff] on that question. Okay. Any other questions for Jordyn?

All right, folks. Thank you. We've got a lot of work to do, and let's get on it. And, Alice, I'll probably follow back up with you to probably put together my to-do list from the last two calls and make sure that nothing falls between the cracks.

ALICE JANSEN: Sounds great. Thank you.

JONATHAN ZUCK: All right. Thanks. Thanks, everyone.

[END OF TRANSCRIPTION]