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JORDYN BUCHANAN: ...or what we're calling open ccTLDs versus normal... We should come up with a different word other than normal. Country specific ccTLDs or something like that. But that actually happens relatively rarely. That's not the standard thing that we do in our calculations. We could, we just don't.

JONATHAN ZUCK: Okay.

JORDYN BUCHANAN: Kaili.

KAILI KAN: Thank you, Jordyn. I agree with both of you. However, I tend more to agree with Jonathan that is, in principle. I understand, Jordyn. I understand what you've been saying and [including] that in different situations actually the market definition will be different. However, in principle I would say that we want to be very careful about precisely, objectively, and to reflect, to tell the Board and tell the general public what is our finding exactly.

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Regardless about anything that overrates the expectation which deviates what our real finding is also especially deviates from our consensus understanding then that spells disaster for us later because then if that happens then our team loses credibility. So that is my number one concern, that is we exactly, precisely, tell what is our findings. I tend to be very careful about. Thank you.

JORDYN BUCHANAN:

Thanks, Kaili. I think we're all in agreement that in the paper, in the final report itself, we'll need to be very clear at each step along the way. Any time we use the word "market" it'll have to be clearly documented which market we're talking about, what definition of market we're talking about.

I think the question is do we spend a lot of time in the deck that we're going to be presenting this week defining those in the deck or do we just say up front we're using different definitions and then talk to it as we go through the deck. So now we have lots of people who want to talk.

I've got Dejan first, then Jamie, and then Megan, and then Stan, and then Waudu.

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DEJAN DJUKIC: Just to be clear on ccTLDs, there is extra three group of ccTLDs. First one with restrictions and it's based on nationality of registrants. Another one is that open ccTLDs but it's open and this can be mixed with ccTLDs are actually behave as gTLDs. So we should be clear on that and not to mix that up, that part.

JORDYN BUCHANAN: Thanks, Dejan. Jamie.

JAMIE HEDLUND: Thanks. My sense is that market definition is such a fundamental component of any competition analysis that you have to include some sort of introduction into it, and I think what would make sense up front is to explain that number one, that we don't use a single market definition. It's not been possible to define a single market. And that two, in various analyses we use different market definitions, but that those aren't controlling either that those are based on the data that we have available to ourselves right now. You don't have to go through each of those permutations that would appear later in the report but I do think you have to give that at least that summary overview at the beginning.

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JORDYN BUCHANAN: Right. So you're advocating essentially for what I suggested, like an overview slide and then just talk to it in each particular context. I agree if we're going to do it, that's probably the right way to do it. Megan.

MEGAN RICHARDS: I agree with what Jamie said obviously. And just another point. I think it's really important. I don't fuss about having this all written down here obviously or making long PowerPoint presentations. I think it's much better to have very simple ones. But I think it's absolutely essential to explain clearly at the beginning what we're talking about.

And with all due respect to the ICANN Board members, there are some who are not experts in this field. So I think it's really important to give them at least orally the facts, because I don't want us to be presenting one thing to one group and another thing to another and presume [at it]. Not everyone has had the dubious benefit of having participated in all the gory details of these discussions.

JORDYN BUCHANAN: Agreed. Thanks, Megan. So Stan and then Waudu.

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STAN BESEN: I actually circulated something a while back called “Very high level points” which I think is what we’re talking about here as introduction. So let me just read them quickly.

“One, it is still early innings and the full effects of the new gTLD program will not be felt for some time. Our report should be regarded as an interim report.”

“Second, our analysis has been somewhat hampered by the lack of relevant data, most prominently information about the prices charged by legacy gTLDs.”

“And third, because we did not have the information that [would put us] to define markets definitively for the purpose of analyzing competition we have considered a number of alternative market definitions.”

And I think those are the backdrop of it, and then when you talk about specifics you’re discussing them in the context of those. It’s interim, there are data limitations, and because we cannot define markets definitively we are considering a number of alternatives.

JORDYN BUCHANAN: Thanks, Stan. That you have prewritten the intro slide that we will add to the front of all of this.

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STAN BESEN: Well, if you can copy it, it was sent to the committee on 10/20 at 17:02.

JORDYN BUCHANAN: We will take that and turn that into an extra slide. Waudu.

WAUDO SIGANGA: I just tended to agree with what Jamie suggested which is also an extension of what Stan has said. It's important to have the definition very clear about what we're talking about competition right at the start.

JORDYN BUCHANAN: Thanks, Waudu. Okay, yes. Alright. I think we all roughly agree. So we'll add something like Stan's slide to the front and then we can voiceover in the individual slides to be clear what markets we're talking about. Although I will caveat this very first set of bullets actually doesn't speak to markets, it just speaks to various definitions of how you would...it just looks at [per] fraction of growth for various chunks of TLDs.

STAN BESEN: They are descriptive statistics.

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JORDYN BUCHANAN: Yes. So having said all that and maybe now we can talk about what the bullets actually say for a couple minutes.

The first bullet is a number that we've talked about quite a bit, which is that the new gTLDs represent about half of the overall growth in gTLDs since the end of 2013. So there's been registration in legacy gTLDs and there's been registrations in the new gTLDs. And if you look at the net increase in total number of gTLDs registered since the end of 2013, new gTLDs are basically half of that total in aggregate. Obviously each individual new gTLD is they tend to be quite a bit smaller than the legacy gTLDs but in aggregate, that's what the growth breakdown has been.

And then separately from that, if you also consider ccTLDs – and this is all ccTLDs, not a particular subset of them – then instead of being 50/50 it ends up being pretty close to a third, a third, a third. So overall growth in domain names since the end of 2013, about a third has been new gTLDs, a third has been legacy gTLDs, and a third has been ccTLDs. This is just growth. In reality because the legacy gTLDs and ccTLDs had a greater [installed dates] and therefore they're having deletions happening all the time. So [when] there's actually been more new registrations in the legacy gTLDs, but if you look at net growth it's about 50/50

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between legacy and new and a third, a third, a third, between legacy, new, and ccTLDs.

That's I think a very high level, interesting, finding. It's also super convenient for reasons that I don't think have any fundamentals on the market. I don't think there's a particularly compelling reason why we're going to expect that new gTLDs and ccTLDs are always going to grow roughly the same over a given three year period, but that just happens to be what's occurred over the past few years.

Kaili.

KAILI KAN:

Thank you, Jordyn. Also in relation to this growth, first that growth is indeed phenomenon. However, again just to be cautious, I understand we have a section later related to parking and so forth. So this growth is also in relation to that large scale parking. We just want to tell all sides of the story so not to give a mis-impression to the Board or the general public.

So there's phenomenon growth, but also we find there's what is also phenomenal as well and then we provide a complete story rather than... So I feel that if we [pull] this part, the growth, what is true, phenomenal, closer into that section of parking and so



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forth and then so we can provide a complete story. That's it.  
Thank you.

JORDYN BUCHANAN: Okay, I've got Waudu, I have a response to Kaili, anyone else?  
Okay, Waudu.

WAUDO SIGANGA: I'm just also adding to what Kaili is saying. I think it's important to indicate here the percentage of that growth in new gTLDs is actually attributable to the parking registrations.

JORDYN BUCHANAN: So I think that makes sense in this context only if we can also quantify it for the legacy and ccTLDs. Right? So we're going to have a standalone section on parking and say, "This parking thing is happening. Right now we can tell you this about the new gTLDs. We know that, depending on your definition, somewhere between 50% and" – actually if you look at one of the papers that Kaili sent around yesterday – "up to maybe 90% of new gTLDs are parked or not used for stand-alone content." Let's say that.

However, we also know that, depending on your definition, for legacy gTLDs somewhere between 50% and 75% of all domain

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registrations are parked or not used. What we don't have currently is a good way to on a per TLD basis do a direct comparison. And we're hoping to pay nTLDStats some money to allow them to do the exact same methodology that they do on new gTLDs with legacy gTLDs and some ccTLDs and then we could actually make a comparison. And if the numbers are substantially different between legacy and new gTLDs, then that's an important observation that I think we need to call out in the final document and then we could actually go through and recompute some of our statistics assuming that the differential in parking rate will have an effect on for example long-term renewal rates or actual usage of the TLDs.

Right now we don't have that. We'd have a lot of divide by zeros if we attempted to do it because we're missing data. We get a lot of [not a] number results today. And so I think for now we're going to call out the parking phenomenon in that standalone slide and then, Kaili, we'll get the sequence right to make sure that the story doesn't get lost. But we'll say, "Hey, parking is a substantial phenomenon in new gTLDs and in other TLDs. We know it's a big deal in new gTLDs and we can quantify it in certain ways. We can't yet do that for the legacy gTLDs and so we're waiting on that data before we do any further calculations."

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I think I have Stan wanting to jump in.

STAN BESEN:

I think you can foreshadow Kaili's point with just one or two sentences at the very beginning. Because you're going to come back and talk about it in more detail later perhaps. But it could certainly be a fourth point and it's only a sentence or two to say that, "The data I am reporting ignore parking which apparently is a quantitatively significant phenomenon." And you can do that at the beginning.

JORDYN BUCHANAN:

That makes sense. I think that's maybe good voiceover material again and say, "There's a slide about this coming up, but I just want to caveat this with the fact that there's an important phenomenon going on here which is many of these domains aren't used for some definition of used, or parked. And we'll get to that parking discussion hopefully later today." But yeah, we can speak to that in the slides and then we'll have the standalone slide further on.

Alright? Okay.

I think there's this random question from Carlos thrown into this next bullet. But the next point is this bold bullet that's next is the

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interpretive statement that I'm hoping is not controversial but if it is then we need to make sure we agree on it. But that's, "In aggregate, new gTLDs represent a significant portion of the growth in domain names since the launch of the program roughly equivalent to either legacy gTLDs or ccTLDs."

I think that matches... that is the subjective restatement of the objective statement right above. But I want to make sure everyone's comfortable with that subjective statement.

Megan, go ahead.

MEGAN RICHARDS:

Thanks. I'm comfortable with the statement, but – and I've mentioned this before – I think it's useful if you restate the obvious which as you will tell me all ICANN Board members will be aware of this and that is that it's aggregate growth. So if you have 1000 new gTLDs and only 17 legacy, and the growth is equal between the two, it's clear that per capita or per gTLD the growth has been much less. So I think you should comment on that at least. I don't insist on the wording, but I think you should make that comment.

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JORDYN BUCHANAN: Agreed. It does call out in the bullet itself, it says, “in aggregate,” and then I do think the voiceover I gave on the last point I think I actually explicitly called that out when I was reading the previous bullet. But I totally agree that that is a true statement and it should be called out in the discussion.

Kaili.

KAILI KAN: Thank you, Jordyn. Regarding the last point, “although many studies” etc. I assume that the many studies you were referring here are studies of the general economics [say] other industries or whatever. Is that correct?

JORDYN BUCHANAN: That text is me restating Stan. So Stan just said yes, so I’m going to go with yes.

KAILI KAN: Yeah, so in that case, over here I would prefer to add something, “Although many studies in other industries,” just to point out because it’s not referring to our DNS industry. That is one point. Also, later on saying that we’re missing important data, my understanding is that primarily meaning that without the price cap how it would be that data is missing?

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JORDYN BUCHANAN: We actually don't know what prices were charged at all by the legacy gTLDs most of the time.

KAILI KAN: Without price caps.

JORDYN BUCHANAN: No, we don't know what they charged... All we know is what the price cap was in most cases. We don't know what was actually charged, whether it was at the price cap or below the price cap.

KAILI KAN: So basically two pieces of data. One is we do not know the wholesale price. Secondly, maybe even more importantly, that we do not know the price at the wholesale price without price caps.

JORDYN BUCHANAN: Correct.

KAILI KAN: So both these two pieces are missing.

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JORDYN BUCHANAN: Correct.

KAILI KAN: Well, first of all I would say doing this study, even in future studies, I think we are not going to get the data without price caps because I don't think... That would be a very important step for ICANN to take to remove the price caps. But without removing it, we wouldn't really get the data anyway. So that is one piece.

JORDYN BUCHANAN: Kaili, can I stop you one second? Does staff know in the new [cat]...I don't remember...the three gTLDs that signed contracts on the new form, did they carry price caps over into the new agreements or were the price caps removed from the new form agreement?

[ELEEZA AGOPIAN]: I'm not [positive]. I need to check on that. I think in one case the cap was removed, but I need to [inaudible].

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JORDYN BUCHANAN: I guess, Kaili, it is possible that ICANN is in the process of removing the caps from at least some of the legacy gTLDs.

KAILI KAN: [It is possible] but okay so basically seeing that if we are missing the important data that means those data is something we can get during this study or in the near future. If the data is not foreseeable to be obtainable then probably I would suggest that we change the wording here.

JORDYN BUCHANAN: I think that's already somewhat [indicated]. If you look at the recommendation language which you can't see here but maybe if we scroll down. So you see the recommendation says that, "ICANN needs to gather more data relating to price in legacy gTLDs and this may be particularly interesting if price caps are removed from some legacy gTLDs."

KAILI KAN: Also later on in other sections, there's a section talking about pricing. I think we stated the findings that the average retail price of new g is across the board is somewhat higher than legacy ones. That itself is, do we want to insert that into here because that is pricing. Here we say, "missing data." Later on we



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say what we find is on average higher. That's sort of a little bit self-contradictory.

JORDYN BUCHANAN: So we do have a further section on pricing actually where we don't call out – I think actually a current summary does not include the statement that the average wholesale price is higher. Greg, is that what you guys found in your study? Is that a correct statement that the average wholesale price in the new gTLDs is higher than in legacy gTLDs and is that also true if it's volume adjusted?

GREG RAFERT: Let me check real quick.

JORDYN BUCHANAN: Okay, let's make sure that statement – if that statement is true, it should be in our summary and it's not currently in our summary. So we need to just check what Analysis Group actually found.

STAN BESEN: It's actually quantity adjusted and it's higher than the average of the price caps, not higher than the average of the prices.

JORDYN BUCHANAN: We it must be definitionally must be higher than the average of the prices.

STAN BESEN: I'm just saying if you're comparing them, it's the actual wholesale prices of a sample of new gTLDs compared to an average of the price caps, and I believe they present both weighted and unweighted averages.

JORDYN BUCHANAN: And it's higher in both cases?

STAN BESEN: I believe that's correct.

JORDYN BUCHANAN: Okay.

KAILI KAN: I think we discussed this in the previous meetings and found that sort of interesting.

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JORDYN BUCHANAN: I agree that’s an interesting and important finding that should be included and is not currently included in this document.

KAILI KAN: So I suggest that we insert that point here. How to explain that, that is another issue. But that is a very interesting fact.

JORDYN BUCHANAN: Okay. So maybe we can say, “Although many studies in other industries find a relationship between concentration and price, we’re missing importing data to draw strong conclusions regarding price. In fact, the current average wholesale price in new gTLDs is higher than the current average price cap in legacy gTLDs.”

Stan gave me a piece of paper that says, “To be revised.” Alright. Oh, here is the actual data. That’s the important part, not the human written part. So in new gTLDs, yes it was actually – I was going to say somewhat higher but it’s substantially higher in...what? No, so if you do simple average in new gTLDs, it is actually higher – so simple average is higher in legacy gTLDs, the weighted average is somewhat higher in the new gTLDs. But Greg, you don’t have promotional data, right? So for example, if XYZ, if they told you that their wholesale price is \$10 and then

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they gave away 90% of their names for \$.99, you would have computed that as \$10 times the total volume, right?

GREG RAFERT: That's right.

JORDYN BUCHANAN: Alright, so I guess this is a true statement based on the data available to the Analysis Group but may or may not actually reflect the reality on the ground.

But in any case, I think this is, with the limitations of the data we have I'm comfortable adding the sentence that the current average wholesale price of new gTLDs is higher than the current average price in the legacy gTLDs.

Waudu.

WAUDO SIGANGA: Jordyn, I heard you mentioning promotional pricing. I think in all the analysis that we're doing I think it could be useful to avoid promotional pricing. It's going to distort quite a number of things.

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JORDYN BUCHANAN: Analysis Group did not have access to promotional pricing so it is not included in any of their analysis. It probably should be. Frankly, I think a large amount of a much greater volume or fraction of the new gTLD registration volume is probably affected by promotional pricing than is the case in legacy gTLDs, but we just don't have any insight whatsoever into that so it's just a limitation of the data set that we're working with in that we are not incorporating promotional pricing into any of the analysis.

I think we need to caveat that out strongly because I think it's actually a very important caveat, but it's what we have.

So Kaili jumped us ahead to the second big bold section in the original. But I did want to call out that the statement that, "by all standard measures of market concentration" – and this is where we get into market definitions – "the new gTLD market" – and that means just if we define the market as just the set of TLDs created in the 2012 round and then we do standard measures of market concentration on that market, that market is substantially less concentrated than the alternative definition of market that we could use which is all gTLDs. So if we look at the gTLDs as a whole, that includes both legacy and new gTLDs, that market is much more concentrated than just the legacy gTLD market.

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And in fact, over time what we see is that the introduction of new gTLDs has somewhat reduced concentration in the overall gTLD market because the new gTLDs are less concentrated than the legacy gTLDs. So the trend is towards less concentration, but it's been a modest effect so far on the overall gTLD market, mostly because the overall gTLD market is very big. It's had 30 years to grow. There's a lot of registrations in it. And the growth rate in the new gTLDs just hasn't been sufficient to have a substantial effect despite the much lower concentration.

Jonathan.

JONATHAN ZUCK:

Just a quick question. At the first couple of bullets we presented factual information and then in the form of percentages and then in these next two bullets we got a little bit more subjective using words like “modest” and things like that. Does it make sense to at least include the whatever it was, the 9% or something like that that was the actual factual data from that and leave some of the value judgements for the reader?

JORDYN BUCHANAN:

The bold statements are I guess value judgement by definition. We could have included in this third bullet which is the more factual statement the actual HHI numbers. I didn't on purpose

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because I was having a fight with Jamie about whether how valuable it was to include the HHI numbers without a lot of caveats about what they meant and how to interpret them and so on. And so I think Jamie doesn't have a problem with the statement as it's written in the third bullet here but if we start to include numbers then we have to include a lot of extra text basically explaining what HHI is, what's the limitations, why, I don't know. Jamie wrote a set of words about as big as the slide you see like the words you see in front of you to try to caveat the statement and I was just like I'm just not going to include the numbers because we could still make the statement without them.

Stan, did you... Waudu then Stan.

WAUDO SIGANGA:

Yeah, about the numbers. I tend to agree with Jonathan. I think we're both reading that statement. I think the HHI number would be very important to me. If you just tell me that the HHI went down it's different from if you tell me the HHI went down from 8,000 to 2,500. I think the number could be useful if it's available.

JORDYN BUCHANAN:

Alright, Stan.

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STAN BESEN: [Inaudible] available and you could do that. That might satisfy people.

JORDYN BUCHANAN: Maybe as a compromise, Jonathan's idea is perhaps the best one. We could say that there's been a 9% reduction in the [a] standard measure of concentration.

STAN BESEN: No, is that what you said?

JONATHAN ZUCK: Something like that. I was trying to [inaudible].

STAN BESEN: Let me go back if I may just a moment. I'll come back to this in a second. The first bullet there – the 50% number – I think what's interesting about that is I think of that as having three parts – 50% of the increment is new gTLDs. The growth rate overall of registrations is about in the low 20%. And the net effect is that the new gTLDs have about 9% of all of the registrations in gTLDs.



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Those numbers, any two of them you can derive the third. But those are the three pieces that are there. I think you can solve the problem that you're dealing with here is just to say the HHI for new gTLDs is X and the overall HHI for old ones is Y and the people can judge for themselves whether they think the difference is big or small. We actually have the numbers.

JORDYN BUCHANAN: Jamie, if we just included the raw HHI numbers and didn't include any statement about how the DOJ interprets those numbers, would you be okay with that?

STAN BESEN: No, I'm sorry. We're talking here about the delta in the HHI.

JORDYN BUCHANAN: Right, so we would say the... Are we talking about the delta so the old number in the overall gTLD market was whatever – 6,400 – and the new number is 6,200 and it's dropped by 200?

STAN BESEN: That seems to me that would satisfy Waudu, correct?

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JORDYN BUCHANAN: If I was a lay person in the back of the room I would have no idea what to do with that information. I've got Lauren and then Jamie and then Kaili.

LAUREEN KAPIN: I think we can't be inside baseball about this so I'm not against including these references but if you're going to include a technical term which may be understandable to those economically savvy among us then you do need to put it in context and explain it. Otherwise, it's just gobbledygook. And if our intent is to have some information clearly communicated, we do not achieve that intent by using this term without defining it.

JORDYN BUCHANAN: Jamie.

JAMIE HEDLUND: What she said.

JORDYN BUCHANAN: Alright, Kaili.

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JONATHAN ZUCK: I misremembered what the 9% was, and that's the total percent of registrations that's represented by new gTLDs currently.

STAN BESEN: [The denominator is all registrations].

JONATHAN ZUCK: Right, so that's the number that I thought was very easy to understand and in fact significant. So that's not about HHI, so I apologize. That's the one that I was thinking about including because I don't think it's convoluted or difficult to understand that the new gTLDs now represent 9% of the total. And whether we decide to call that modest or not I think would be good to leave to the audience because that feels to me like a large change given the legacy that we're operating against.

STAN BESEN: That's different from the delta of the HHI.

JONATHAN ZUCK: I understand completely. I'm withdrawing my request to include the HHI number and I'm inserting this request to include the 9% number someplace because it just felt like an important number.

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JORDYN BUCHANAN: Kaili and then [inaudible].

KAILI KAN: Thank you, Jordyn. I completely agree with Stan and also Jonathan that we include those percentage numbers. First, they are easy to understand. Secondly, those figures that's hard data that speaks for themselves. And then provide the audience, the Board and the public, a complete picture. I think the key here is to provide a complete picture to objectively show what is our finding.

So with that data, it's hard core and it speaks for themselves. So I would suggest please include those percentage data and then I think our report would look much better. Thank you.

JORDYN BUCHANAN: What I am proposing to do then is to add – and once again, you can follow along at home in the Google doc – but to add to the first bullet under gTLD market a final sentence that says, “Overall, new gTLDs represent approximately 9% of current registrations amongst all gTLDs.” Is everyone okay with that? Jamie? “Overall, new gTLDs represent approximately 9% of current registrations amongst all gTLDs.”

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JAMIE HEDLUND: And the reason we're not including ccTLDs and that is that we don't have the data?

JORDYN BUCHANAN: And we could also say, or whatever it is it's going to be 5% or something like that of total registrations worldwide or something like that.

STAN BESEN: The Analysis Group Project One slide, if I can find it.

JORDYN BUCHANAN: so we can include both numbers – both all gTLDs and all domains registered worldwide.

STAN BESEN: It's about including ccTLDs, it's about 5%.

JORDYN BUCHANAN: I was right. I just did that math in my head. I'm so smart.

I'm going to leave this as we're still not going to include any actual HHI numbers in this slide. In the report there's going to be

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HHI numbers and there's going to be Jamie's caveats about how to interpret HHI numbers, and there's going to be lots of discussion about HHI numbers. But we're not going to have that long discussion as part of our limited time in front of the Board or the public here. We're just going to include this soft text.

Okay, moving on to the next section – Industry Structure. This is your last chance people to object to any of this language before it gets presented here. So Megan is taking advantage of her last chance.

MEGAN RICHARDS: Sorry to come back like a broken record, but I absolutely object once again to using the word “many” in – where is it now? We just can't say that. It's pure speculation. I don't mind if you say it may be possible for them to operate even with [little] but not many. We have no idea.

No, you said Industry Structure.

JORDYN BUCHANAN: [Inaudible].

MEGAN RICHARDS: You said we're going to Industry Structure.

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JORDYN BUCHANAN: We're about to...

MEGAN RICHARDS: Oh, we're [about to].

JORDYN BUCHANAN: Alright, now we can talk about Industry Structure.

No, we can jump straight to her point. Before we jump to Megan's point this is everyone's last chance to object to any of the language in the gTLD Market section. But as amended, because this doesn't actually reflect the edit so you should look at the Google Doc to look at what's actually going to be presented. And before the session ends today we'll get it exported and represented here just so everyone can see it.

Alright, so let's jump to Industry Structure. Megan wants to get rid of the word "many" in this final bold bullet. So it would read, "So far we have seen only one failure so the structure of the industry may make it possible for standalone gTLDs to continue to operate even with low registration volumes."

MEGAN RICHARDS: [Inaudible]

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JORDYN BUCHANAN: Megan accepts it. Kaili.

KAILI KAN: I completely agree with Megan. The word “many” is not grounded. As a matter of fact, I believe the following expression might better express our findings – say, “So the industry structure is to the advantage of standalone, small, gTLDs to continue to operate even with low registration volumes.” It’s to the advantage – that is our findings and that’s even by economic principles [as well as] to the advantage and so we do not predict the future or –

JORDYN BUCHANAN: [Inaudible].

STAN BESEN: I’m actually going to go back to it. I’m sorry. We have tentative numbers but I think we can use them. I want to make a separate point. There is a chart we haven’t talked about which is the specific number. This is back to the big and small – all gTLDs concentration HHI is 6,300, new ones is 962. I think that’s a pretty dramatic difference.



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JORDYN BUCHANAN: Are you back on the previous slide?

STAN BESEN: And we skipped over this one. I'm sorry, I was [inaudible].

JORDYN BUCHANAN: No, we will talk about that later, but we're talking about Industry Structure right now.

STAN BESEN: But the point here is I think we want to say is that it is possible because of the availability of inputs that firms can purchase in the market that a relatively small firm might be able to survive, as opposed to a case in which it would have to be completely vertically integrated. Is that okay?

JORDYN BUCHANAN: That's what the text is supposed to say now. Kaili shrugs agreement. Alright, Megan.

MEGAN RICHARDS: Did you agree then with what we have? Otherwise, I'll come back to – I don't want to say it's to the advantage because we have

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knowledge about [if] it's a question of cost, it's a question of all sorts of other things. So the fact that the way it works allows them potentially to do it, they have certain costs to do that. So let's just leave it as it is not to say to the advantage. Don't you think? I think we can't say it's advantageous to one or another. It's a commercial decision that they take whether they want to spend a lot of money to do this or not. It's not advantageous. There's nothing in the – unless Stan corrects me – there's nothing in the industry structure that advantages small, standalone, gTLDs is there?

STAN BESEN: [Inaudible] the technical point is one that Jordyn has made in the past which is the effect of the availability of these inputs has probably made the minimum viable scale smaller.

KAILI KAN: So that is what I'm referring to as to the advantage. So that is according to economic principles. But if for the sake of time, as long as the "many" is gone.

JORDYN BUCHANAN: It's gone.

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KAILI KAN: Okay.

JORDYN BUCHANAN: Gao.

GAONGALELWE MOSWEU: It's okay. I was just agreeing with Megan that I think the word "advantage" would be rather subjective.

JORDYN BUCHANAN: Okay, so I'm just going to back up a second. We dove straight into the weeds on this section. I'm just going to summarize what this section is about so everyone's on the same page and then hopefully having had that debate we're already good with the language.

The point of this section is to say that because there are registrars in order to provide domain registry operators with a retail channel and because there are backend service providers to allow them to have technical capabilities that they don't have to build out on their own that a registry operator doesn't need to build as big of a business in order to run the TLD as they would if they had to build all that stuff out themselves. If they had to build their own retail channel and if they had to build all of their

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own technical operations then you'd have to be a much bigger operation in order to run your TLD.

And so the fact that those – and the technical term here from economics – is those inputs exist makes it possible to have a smaller, as Stan said earlier, you have a smaller minimum viable scale for a registry than you would if you had to build out those functions.

Go ahead, Stan.

STAN BESEN:

They needn't be completely vertically integrated. That means they needn't be backend registry registrar.

JORDYN BUCHANAN:

Right, correct. There's a few registry operators that are vertically integrated like that but it's not necessary in order to operate the business. And in fact, most of the larger operations are not vertically integrated – for example, Donuts and XYZ have only that middle function and they don't have the retail or the backend function.

Jonathan.

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JONATHAN ZUCK:

I apologize in advance for the monkey wrench in this but the conversation yesterday highlighted the fact that not everybody has access to distribution around the world and do we need to find a place to mention the importance of that given that we're mentioning it here that in the [last] study and elsewhere that there are areas in the world where a deficiency in the distribution channel actually operates against this premise and would have a negative impact on minimum viable scale.

I don't know how to incorporate it but it's just what we talked about yesterday.

JORDYN BUCHANAN:

I think that would probably make the point – it is correct to say that if you are operating in a region or in a market where these inputs are not available, that means that you have to build them yourself in order to operate a successful business. That makes it harder. But once again, I think it probably makes sense to talk to that on this slide and then somewhere else, like somewhere in our report, we can talk about the fact that when we're talking about Global South we can say one of the reasons it's hard in the Global South is because it's a general observation we made up here doesn't really apply to registry operators in certain regions.

Stan.

STAN BESEN: I think we're trying to make the slides – you can't have all the qualifications in a PowerPoint. Some of these will give these answers in response to questions maybe with what Jordyn referred to as voiceover, but if we put everything in here this is not going to be a very nice set of slides.

JORDYN BUCHANAN: The next sub-bullet here is just to help people understand the industry structure. There's hundreds and hundreds of registrars. Those registrars, like almost every TLD, has dozens of registrars. So there's a very large number of registrars making that retail channel quite diverse. On the other hand, there's a smaller market for the backend services but there's about six big providers of backend services to the new gTLDs that provide at least one million second level domains to the gTLDs that they support for the new gTLDs. I don't think Verisign's included in that number and they provide backend services to a number of legacy gTLDs including and as well as some of the new gTLDs but I think they tend to be smaller on the new gTLD side.

What is this? Stan is showing me a [note] count of registrars to show that I'm not lying.

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STAN BESEN: [Inaudible] that for many new gTLDs they are actually served by large numbers of registrars. Not all of them, but many of them.

JORDYN BUCHANAN: 61% of new gTLDs are served by at least 75 registrars. Only 6% have fewer than 10 and most registries have a large number of registrars distributing them.

What was that, Carlton?

CARLTON SAMUELS: [Inaudible]

JORDYN BUCHANAN: Carlton says that means we have lots of channels. Yes, I think that's correct.

The second point here – so is everyone cool with that, just those general statements about how the structure works? And then the next bullet is most of the new gTLDs are quite small – 90% of them have fewer than 10,000 registrations and that's after we've already pulled out the dot-brands. So of the TLDs that are intended to be sold to the public, 90% of them have fewer than 10,000 registrations.

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And then we note that having said that, there's only been one TLD that has been delegated has then – I don't know what the word is – stopped operating. That TLD was actually a brand. It wasn't one of the – there's been no TLDs that have sold to the general public that have subsequently turned off yet. That's not saying it won't ever happen but so far it's never happened.

So now I've got questions from Waudo and Carlton.

WAUDO SIGANGA:

I think when we make a statement like 90% of new gTLDs have fewer than so many registrations we're not taking into account the time factor. These new gTLDs have been coming on board over a period of time. They are still coming on board even as we speak. So the thing is that some gTLDs have [were] delegated less than, within the last twelve months. Just a few months ago. So let's say we have a gTLD that was delegated a month ago and it has now just like 100 registrations, so when we make a blanket statement like that second bullet it doesn't give the time element really. Maybe we could have, it could have been more useful if we said something like a percentage of certain gTLDs that went live more than 12 months ago, then the figure can have some meaning in terms of the time element.



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JORDYN BUCHANAN: That's a great suggestion, Waudo. I actually had suggested and I don't think we ever backed out, for example I think this number actually includes TLDs that haven't launched yet so those would obviously have less than 10,000 registrations due to the fact that they haven't launched yet. I don't think there's that many of those in this cohort, but you're probably right. Some of these maybe have launched only three months ago or something like that, and so it's probably worth caveating.

I don't know if we're going to have time to fix this today, but we can look at the data and maybe talk with Analysis Group to see if we can pull out any time adjusted – I like your suggestion of after 12 months how these numbers look.

Megan, go ahead.

MEGAN RICHARDS: Jordyn, why don't you just say it orally? I think you can make the explanation, as Waudo said. I've made the same point before, too. You can just explain it to the Board orally. I think it's sufficient. Just for now. Later we have to put it in more detail [inaudible].

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JORDYN BUCHANAN: Does that make sense to voice though to talk to this in the presentation? Ideally speaking, it may even be possible to get some additional data here like if you look after 12 months it's 72% have less than 10,000 or something like that. It's not going to change the fact that most of them are small. It may change the magnitude of that statement but it won't change the general sentiment of the statement. But I agree 90% is a really high number so we should see how it holds over time.

Waldo and then –

WAUDO SIGANGA: [Inaudible] I think we should remove the word 'even,' just say 90% or whatever excluding brands. [Inaudible] no need of the word [again].

JORDYN BUCHANAN: Okay, Carlton.

CARLTON SAMUELS: I can recall Calvin making a point when we got to this place in the early discussions about some that were withdrawn, some new gTLDs that withdrew themselves from after delegation.

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JORDYN BUCHANAN: There's only been one after delegation. There's been a large number of TLDs that have pulled out prior to delegation but only one after delegation. Is that still true, staff? Staff agrees with me. Okay.

CARLTON SAMUELS: Just checking that.

WAUDO SIGANGA: Those numbers, how do you classify the 10 that dropped out of the –

JORDYN BUCHANAN: Those dropped out prior, between contract signing and delegation there's been – staff could tell us – but there's a number of TLDs that signed their contract and then either voluntarily or after if you don't delegate within a year after signing your agreement then ICANN tells you you're done basically. There's a contractual requirement that you have to delegate within a year of signing the contract and some registry operators failed to live up to that commitment and so they were then told to withdraw or whatever. They were – I don't know how staff wants to characterize that but they were not allowed

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to proceed to delegation because they failed to do so within a year.

Eleeza.

ELEEZA AGOPIAN: I just put in the chat the link to the Registry Agreement termination page and you can see all of the TLDs whose Agreements were terminated and which party terminated the Agreement.

JORDYN BUCHANAN: So some set of TLDs have voluntarily terminated their Agreements and some ICANN decided to terminate because they failed to adhere to their contract.

Stan.

STAN BESEN: This point is I think completely uncontroversial. I read one sentence from the [LAC] report – “The registration pattern of new gTLDs conforms to the typical long tail seen in domain names worldwide. The majority of new gTLDs offered in the region have fewer than 100 registrations each.”

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So we're not saying something that's particularly unusual here. The vast majority of the names are in a small number of relatively large new gTLDs and most of them are in this long tail.

JORDYN BUCHANAN: Thanks, Stan. I think with ccs you would expect the dynamic to be different. No, I'm saying with new gTLDs. But this is of registrations from the Latin America region into the new gTLDs, right?

STAN BESEN: And Caribbean.

JORDYN BUCHANAN: Right. And Caribbean. That is... Yeah, alright.

Any other thoughts on – so I remove the word “even” per Waudo's suggestion. I will try to get some time adjusted data but we'll at least do some voiceover here. The reason why, Waudo and Carlton, I'm not calling out the TLDs that withdrew prior to delegation is because I don't' think that's a test of how they did in the market. They never launched. They never got any registrations. So that's just they made a decision prior to launching that they weren't going to do it.

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Sure. And then we get to this statement where we've removed the word "many," which is the most – and I've removed the word "standalone" here in the final one. "Most gTLDs have only modest numbers of registrations raising the possibility that they may not have achieved the minimum viable scale. So far we've seen only one failure, so the structure of the industry may make it possible for stand-alone gTLDs to continue to operate even with low registration volumes."

And then we have a recommendation which is "Continue to measure metrics around gTLD viability" because it's very early days and we want to see whether this holds up over time.

Waudu.

WAUDO SIGANGA:

I know we will not have time to really change this much, but that last bullet point is also so much dependent on the time element. Later on maybe when we have time and we have to change it but now we don't have. It's dependent on the time element because we don't – there's some information we don't even know. We don't know for example what's the breakeven point that would make a gTLD viable. We don't know that. And then if a gTLD has operated for less than 12 months, of course we expect it to continue operating because it cannot fold up until it

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has gone over a period of time that economically it can't operate anymore.

So that last bullet point because of time we'll just leave it there but I think we need to keep it at the back of our heads that it's also a time element issue there.

JORDYN BUCHANAN:

That's definitely correct, Waudu. I think that's why the recommendation here is that we want – this is an area in particular where it makes sense for ICANN to continue to monitor quite closely because it's way too early to understand this data very well. I think what we're saying is we believe that it's possible that relatively small gTLDs may be able to continue to operate because of these inputs, because of these things that make it possible for the minimum viable scale to be small. That doesn't mean that the minimum viable scale is 10 domain registrations presumably, so it's possible that some of these gTLDs will be too small and will eventually fail. We haven't seen that happen yet and it's just something that ICANN's going to have to continue to measure and understand, and a future Review Team will probably need to take a closer look at this. Does that make sense?

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Okay. So we're past the point where we were supposed to take a break I think. So should we break here and then come back and have a fight about parking? Alright. Thanks everyone. We'll be back 10:45 we're going to talk about parking.

**[Break]**

JORDYN BUCHANAN: Okay people We're going to start in one minute.

Okay, let's start talking about parking.

Okay, let's start with the text that's in the doc right now and then we'll see how far afield we get in our conversation.

I noted yesterday that – well, actually let's just do what I said and let's go through the doc first.

By any definition, a majority of the new gTLD registrations – and this 54% is the nTLDStats number – are parked or unused. So most of the new gTLD registrations are parked or unused across all gTLDs. And then we say that there's considerable per TLD variation. There are some TLDs that according to nTLDStats where the number is as low as about 20%, and there are others where the number is as high as about 94%.



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To Kaili's general point that there is a lot of Chinese registrants in the new gTLDs and that many of those registrations are speculative, if you look at some of the TLDs targeted towards the Chinese market, you will see for example the one with 94% parking is a TLD. It's a Pinyin ASCII TLD. Let me look up what it is actually. But in general there's several Pinyin TLDs where it's ASCII text but representing Chinese words where the parking rates are very, very, high. So I think Wong is another example of a TLD that has a very high parking rate.

Hold on... parking by TLD. So .wong for example, the parking rate is 87.91%, .xin – that's the one that's up to 95% parking now, .ren is 78%, and then there's an actual IDN – xn—ses554g – but that's some Chinese characters – is 84%. So many of these Chinese oriented TLDs tend to have very, very, high parking rates. So that supports the point that Kaili has made in the past that a lot of the registrations from China may be speculative.

We also see in some of the non-Chinese TLDs like .vip that it has an 88% parking rate, but we also know that there's been a lot of registrations from the Chinese market in that TLD as well. So that supports I guess the general premise that Kaili has been arguing.

Then there's other TLDs like .tech and .click – these maybe are more have a broader range of interests, a broader registration

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base, and those have parking rates lower down in like the 50% rate. .science is 22%.

So you see quite a broad range and it may somewhat depend on who is registering in the TLDs.

Then there's this further statement – and this gets into what we mean by parking – that most of the domains that we're calling parked actually just don't resolve [our surveyors]. So it's not that you'll get to a page that has a “for sale” sign or ads or something like that. You'll type in the domain name and you'll just get an error. Either it will be a “can't look up the DNS” which is not a 404, it's a browser error, or you would get some sort of http error – 404 or 500 or something like that. So it's the majority of the parked domains, the majority of those are just errors.

So far we have those two statements. Is everyone comfortable with those general statements? Okay.

Sorry, Dejan and then maybe Kaili. So Dejan and then Kaili.

DEJAN DJUKIC:

I have some general comment and not about these statements. In the very beginning we agreed that the definition of consumer is not only registrant then it is also users who is visiting that website. In this part we should connect that definition with the

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reason why we had the definition of parking domain names because there is not like if you leave it like this it's not connected with competition and consumer choice because registrants have every right to park the domain name and it's not [to right it's] competition or this choice but it is connected with users who visited that website and there are [other no any] content on that website so we should underline that.

JORDYN BUCHANAN:

Right, so Dejan is saying – I'm going to restate your very nice comment more controversially – which is why do we care about this? And there should be some reason why. Instead of just observing that parking is happening, we should be able to say, "Oh, this has an influence of competition or this has an influence on consumer choice," or as we discussed yesterday, it has an influence on abuse or something like that. We should be able to connect this back somehow to our other topics, and I want to get there in a minute but can we park that conversation for just a minute because I want to just get through the statements of fact and then we can talk through how we think this relates elsewhere.

So I've got Kaili and then Jamie.

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JONATHAN ZUCK: How would you define parked in that conversation?

JORDYN BUCHANAN: We'll have that conversation in just a minute. Kaili, go ahead.

KAILI KAN: In response to why do we care, I think –

JORDYN BUCHANAN: Wait, that's the conversation I just parked. Let's get to that one in a few minutes. I want to get through the other statements about...I want to characterize what parking looks like first, and then we'll get to why do we care in a minute.

KAILI KAN: I wonder maybe we also would like to mention a few of the top performers of the new gTLD registries like .xyz, .top – .top is Chinese – because these are examples of how the parked domain names could distort the market. So these are...like [they could like] 90% [over] 90% for top performers and that I think is what demonstrate the importance of this phenomenon that parked, and then we talk about –

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JORDYN BUCHANAN: I'm fine. We can add to in this statement about considerable per TLD variation we can give a couple examples. That's fine.

KAILI KAN: Because by all data collected so far that at least half of them are being parked or whatever [addition] so 54 and especially with the top performers so that endangers the market just like say stock market bubble, real estate market bubble, this is definitely a domain name bubble and will harm the industry either this or that way and also mislead both the consumer and ICANN's judgment, as a matter of fact, for maybe if we think about next round. So that is I think [that's] we want to highlight this. Thank you.

JORDYN BUCHANAN: Okay, I added some text. What do you think of that?

So [that's the two] of the top 100 that's the highest percentage, the lowest percentage, and the biggest TLD.

KAILI KAN: [Inaudible]

JORDYN BUCHANAN: It's about the same as XYZ. It's 64%.

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I've got Stan trying to jump in but I've got Jamie first and then possibly Stan.

JAMIE HEDLUND:

A couple of things. The first thing I was going to say was if you're going to put in the ones with the highest percentage of parked domains, you would say that there's large variability you'd also have to include as you did some of the others like .science. That's number one.

Number two, I wasn't here for the earlier discussion on parking but there is an assumption or presumption in Kaili's view that parking is necessarily bad, that it is distortion, that it is a speculative bubble. I don't think we have any data to support any of that.

JORDYN BUCHANAN:

This is the "why do we care" so let's get to this in just a minute. I just want to characterize what we observe is happening.

JAMIE HEDLUND:

The last thing is just on the third bullet – there is prevalence of parking as we say, but I think it overstates it to say that the prevalence of parking makes it harder to understand the role of new gTLDs in the overall marketplace. I think it's safe to say it

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makes it harder to understand the role that parking has among gTLDs.

JORDYN BUCHANAN: I'm willing to accept that once we have the statement of discussion around why we care we can edit that last bullet, but let's get there first. Because if we don't care at all then we can just erase the last bullet. We can just say "By the way, here's some interesting facts around parking." But then if we decide we don't care we're just not going to have this section. I think we're going to care, and there's some reasons why we care. But let's get to that in just a minute. I just want to characterize this first and then let's have the conversation about why we care.

Waudu?

WAUDO SIGANGA: The figure for parked domains is actually 65% not 54% according to the nTLDStats.

JORDYN BUCHANAN: That's a good point. They keep changing what they do, so at any given time –

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[MEGAN RICHARDS]: This is variable by data.

JORDYN BUCHANAN: This is variable by what nTLStat's current definition of parking is.

WAUDO SIGANGA: [Third] November.

JONATHAN ZUCK: [Inaudible]

JORDYN BUCHANAN: By change in methodology. They for example, one of the things nTLStats does is they characterize certain name servers or certain sites or certain IP addresses as being parking name servers or parking IP addresses. And so if they decide that there's some name server that is a parking name service and they didn't know that yesterday, then all of the domain names pointing at those name servers suddenly become parked whereas they weren't yesterday. So yes, it does change from day to day based on how they're characterizing it.



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WAUDO SIGANGA: There's also another figure that I had seen somewhere but I can't quite find it now, but it was saying that 90% of parking is in the top four popular new gTLDs – 90% of the parked domains.

JORDYN BUCHANAN: That seems wrong.

WAUDO SIGANGA: You can leave it out. I can't remember the source.

JORDYN BUCHANAN: We'd have to do some math, but just looking at the number of parked domains that seems mathematically implausible. But we can do some separate math and see if we can work that out.

Yeah, if you have that site, we can take a look at it.

Okay, so I've updated it to 65% which is the current number.

Okay, so that's the characterization of... Stan did you want to jump in?

STAN BESEN: Learning to write more wishy-washy stuff based on the demands of the Chair actually I could be forgiven. I wrote this at 3:00 in the

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morning so if it doesn't quite hang together let me know. But I think it's sufficiently neutral that we might agree on it.

This would follow the discussion of all the calculation we've already done. It says [of] the previous calculation will be completely unaffected if parking rates did not differ among TLDs because they're all ratios. One data source reports fairly wide variations in parking rates among new gTLDs – that's the aforementioned nTLDStats – although one of the measures reported in an academic paper suggests that parking rates may not differ greatly between new and legacy gTLDs. That's the UC San Diego study that Kaili referenced yesterday. By the way, there's a series of different measures in there. So this says maybe they're pretty similar but maybe they're very different.

The last one – in adjusting registrations based on parking, an implicit assumption is that parking rates are good predictors of renewal rates and thus of future market shares. This is a conversation I had with Jordyn yesterday. That's why you would do it. Because we currently do [not] have evidence that this is the case, we present calculations taking parking rates into account as an alternative to, not a substitute for the calculations that do not take parking into account. So we're going to have a separate set of calculations and we're not going to say they're

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better or worse than the others. They're just an alternative way of doing it taking parking into account.

I think that captures at least what I would want to say, and actually the next draft of the discussion of parking will actually have this language in it.

JORDYN BUCHANAN:

I'm going to get there in just a second, Stan, but hold off one second Carlos. I'm going to get to you. That's a good segue into why do we care, but I want to run through the second bullet first. Just so everyone agrees that this second statement is true as well that parking is also common in legacy gTLDs but we don't yet have complete data to compare between legacy and new gTLDs. So nTLStats has a methodology that they use that we are looking at pretty heavily to describe parking in new gTLDs, but they do currently make any attempt to measure parking in legacy gTLDs so we can't do a direct comparison.

We are trying to pay them money to do that same calculation on some legacy gTLDs and some ccTLDs I think. So far unsuccessfully. And hopefully we will succeed in getting them to perform that exact same calculation that they do for new gTLDs on some other TLDs. They're just going to do a sample but we think it's a statistically significant sample. And then we will be

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able to do some comparisons between the two. But right now all we know is that there's a specific amount of parking in new gTLDs and some amount of parking in legacy gTLDs, which is also significant. It's not like it's 50% or 60% in new gTLDs and 5% in legacy gTLDs. It's something like 30%, 40%, 50%, maybe even higher in legacy gTLDs as well. We just can't make data driven measurements right now in the legacy gTLDs.

Waudou.

WAUDO SIGANGA: I think because we don't have any data at all we should avoid the word "is common." We should just say it exists in legacy gTLDs.

JORDYN BUCHANAN: That would allow one to infer that the number might be really low in legacy gTLDs, and that's not –

WAUDO SIGANGA: If you say it's common, then we have to have some comparable.

JORDYN BUCHANAN: The one data point in that UCSD paper that Kaili sent around yesterday – if you use a definition that is roughly similar to what

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nTLStats is using, then what the UCSD paper found was about 50% parking rate in new gTLDs and about 50% parking rate in legacy gTLDs. So it'd be almost exactly the same between the two.

UCSD adds several other measures of things they might consider to be parking as well, and actually once you add in those other measures there's a difference between the two. But at least if we just use the nTLStats measure and we look at the UCSD paper, it's about the same. So we have limited data and I do think we can use the word "common" based on the limited data that we have so far.

Any other thoughts on this first or second bullet?

Now we're going to talk about why we care about parking. So Stan says – I'm going to summarize Stan's statement – Stan says we care about parking because it is possible that parked domains will be less likely to renew, and therefore we may look at the new gTLDs and say, "Oh, those numbers, they look bigger than they're likely to continue to in the future." And so therefore when we say that it's 50% of the registrations in gTLDs in total, if we look a few years out that that number may not hold up. We may see an overinflated view of what the situation may be because of the parking. That's one reason why we might care if that hypothesis was correct.

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So I've got Carlos and then Kaili wanted to talk about why we care when we got back here. But Carlos first.

CARLOS RAUL GUTIERREZ: Thank you very much. I had a question before I listened to Stan on what was the expectation on parking when we rolled out new gTLDs. I have one expectation but I want to put that in the table. But then Stan made his statement that he assumes that parking is less, the expectation of renewal is less, in the case of parking. Could you explain that? I feel exactly the opposite.

[MEGAN RICHARDS]: [He didn't say that.]

CARLOS RAUL GUTIERREZ: At least clarify that because the way he restated that – I remember what you read. I just want the logic of this expectation, not only reading it or after reading it, please give us your thoughts on that.

STAN BESEN: The thought was that some of them were purchased with the expectation of reselling, and if reselling doesn't occur you're less likely to renew. That was my hypothesis. I was quite frankly

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when I first saw the data I was shocked to discover the rate of parking. Of course, it's possible and somewhere in the report it says something like maybe parking is just they haven't got around to using them yet and they eventually will and on that basis, it might not be a very good predictor of renewal rates.

And so I said an implicit assumption is that it's a good predictor of non-renewal, and therefore if it's the case that they predict non-renewal, then if you look at current market shares, for domains that have very high parking rates the logic is that the current shares overstate their future shares. And so I want to try to get a good idea of what shares look like in the future. And if that hypothesis is correct, then we should make an adjustment but I want to be cautious about it. I want to say, "Look, we're not really sure about that so we want to do calculations with and without."

JORDYN BUCHANAN: Alright, so –

CARLOS RAUL GUTIERREZ: [Inaudible] comment on question one as well. What was your expectation of parking in new gTLDs as compared with legacy TLDs?

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STAN BESEN:

No, I didn't have any assumption about that. The point I would make is that if parking rates are the same for everybody and they're good predictors, then you can just ignore parking. All our other calculations go through. But if for whatever reason parking rates vary and they're good predictors of the future – and that's among new gTLDs or between new ones and legacy ones – then you want to take that into account. Of course, doing so will affect your market shares and all the rest of this stuff. Therefore, I would propose that we do an alternative set of calculations based on parking.

By the way, if the parking numbers had been very small in the new gTLD stuff, I wouldn't be having this conversation. They're too big to ignore, and I don't see how we can ignore them.

JORDYN BUCHANAN:

I'm going to make a quick comment here and then allow Kaili to explain why he thinks we care, and then we're actually going to have to break up this conversation a little bit because we're bad at agenda management and the folks from the new TLD PDP are here and they are probably very bored by this conversation and we're going to pivot to talk to them about things they actually



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care about and then we'll come back to the parking conversation. But I want to make sure Kaili gets a chance to talk.

Just briefly, Carlos and Stan, I had suggested yesterday that Stan's hypothesis is at least a little bit testable today. So one thing we could do is try to look at renewal rates by TLD and see if the TLDs with lots of parking have lower renewal rates than TLDs with less parking. And if they do, then there's some merit to Stan's hypothesis that makes sense. That would be a reason why we would care about parking rates. If the hypothesis doesn't hold up, then maybe we don't, then maybe that's not a good hypothesis and we don't care. We get rid of that reason as one of the things why we would care about parking. I think that would require Analysis Group to help us a little bit in order to figure out whether that's true or not.

But Kaili and then we're going to change topics at least for a little bit.

KAILI KAN:

Thank you. Why do we care, and also in response to Jamie. Just to make it clear, I never said that I think that all parking are necessarily bad. As a matter of fact, just like any industry inventory is not only natural but also often necessary. However, the key here is the ratio, the scale, of inventory or parking here.

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When we see a two third ratio of being parked, then there's got to be some problem here. First, it distorts the market when we consider the competition and consumer [trust] and this distorts the overall picture of the market and it creates, I would say, with this kind of rate especially for some of the registries having over 90%, especially those related to China because China's economy, there's plenty of bubbles in the Chinese economy.

So that is harmful. That is why I care, because of the scale, because of the very high percentage. Also related to yesterday's discussion, it is pointed out by some like [UC] studies that many or even most of the parked registrations are monetized for domain name abuse. So for both of these reasons we must care about this. Thank you.

JORDYN BUCHANAN:

Kaili has given his hypothesis about why we care. We are not going to talk about that right now. We're going to all marinate on that and come back after we talk with the new TLD PDP folks and resume that discussion.

So everyone has time now to prepare their agreement or counter-arguments or whatever to pick up on that discussion later on, and I'm going to turn the mic back to Jonathan for the moment. Thanks.

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JONATHAN ZUCK: Thanks. We have ongoing coordination with the PDP on Subsequent Procedures, and so they've graciously agreed to come by and give us an update about where they are. We're also going to after that talk a little bit about the rounds question because that's something that they've addressed in their group as well and so maybe have a little bit of an active discussion about that and then see where we are after that. So I'm going to hand the microphone over to Jeff and/or Avri.

JEFF NEUMAN: Thanks for inviting us. My name is Jeff Neuman, Avri Doria – we are the co-Chairs of the what we call just the sub-Pro or Subsequent Procedures PDP Working Group. We'll just give you a quick update and then throw some questions out at you all and feel free to ask us any questions. Obviously we're just the co-Chairs, we're not the authority on how the group's going to come out, and at this point we don't have any final outcomes or recommendations yet. So we're still very much in the thick of working on a lot of issues. And as you can see from the slides, we have at least 38 subjects for us to review in our Charter and then we've since come up with a few more issues that have arisen when we've been discussing these issues.

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We also had a list of six overarching issues and have broken down into four work tracks. I'll go specifically into what these were in the next slide.

We're working on sending out another community comment so we're working out to send a second request. We're compiling questions from a number of the individual work tracks so that we can hopefully not bombard the community with at least four different sets of questions at different times, trying to keep in mind that there's lots of other groups working on some issues as well.

We have a large working group. It's over 120 I think, overall the working group. But that said, we still welcome additional participation. So even though we have that many members, and a good number of members show up for calls, but we're trying to get people to participate more. We have a lot of new participants as well, which I actually like that notion, and trying to get them involved.

And of course there's a lot of the interconnected activities. There's the PDP on the Rights Protection Mechanisms that we have to pay attention to their outcomes. Obviously outcomes from your group can affect a number of our questions. And then there's also the Cross-Community Working Group on I forgot exactly what it stands for but basically country and territory

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names. And so we're trying to incorporate findings from each of the different groups into what we're doing, and we have liaisons to a number of the groups. We do try to coordinate as much as we can on a number of the topics, and there were a number of topics that you all had kicked over to us or said that you weren't going to address which makes things a little bit easier for us on those subjects.

Now we can go to the next slide.

The four different work tracks are Work Track 1 is on the overall process – support, outreach. We're talking about issues like registry service provider – or you all called them on your slides the backend service provider – certification. That means trying to find a process whereby backend operators could become certified so that they don't have to go through the technical evaluation hundreds of times if they support hundreds of applications, that they could just do it once. It would be a voluntary program. And then this work track is also responsible for talking about things involving applicant support and outreach which we're very much paying attention to the study that Andrew Mack's company has been doing and would love to hear a little bit from you all on that.

Work Track 2 is involving the legal and regulatory contractual issues – things like the Base Registry Agreement, the huge topic

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of reserved names so that includes things like what names are reserved at the top level, what names are reserved at the second level, but also what are the requirements for strings. Can they be numerical strings? IDNs are obviously all xn—so that’s reserved from registration. Dealing with things like are hopefully relying on the other PDP on IGOs and relying on the Red Cross and everything that’s going on with all of those issues. And a huge issue which I know I hope you all are working on which would be great to get an update is just on the whole issue of registry/registrar integration or separation, depending on which side of the equation you look at.

Work Track 3 is looking at objection, string similarity, contention resolution. That also includes community priority evaluation, so that’s where community fits in. And then Work Track 4 is more the technical and operations, looking at name collision, evaluation criteria, and IDNs.

So if you go to the next slide hopefully we’ll be... Yes, okay.

Our group did a, we call it CC1 – Community Consultation or Comment 1 which asked about these overarching issues. And we could talk a little bit about preliminarily where the group is on some of these issues. Again, there is no final recommendations or even preliminary strong recommendations at this point. We’re still working through a lot of these. I could say what the first

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topic that we needed to ask ourselves was do we even need or want additional new gTLDs in the future? This is something that I know you all are working on as well, but this was part of our consultation.

We got comments back from the Intellectual Property Constituency, the Governmental Advisory Committee, the ccNSO, registries. I don't think we've gotten comments yet from the ALAC or the Non-Commercials, but it seemed like of the comments that we have gotten, while there's certainly differences in timing as to when there should be new, additional, TLDs, there has been no comment against the notion of having additional new gTLDs. So nobody came out, whether it was Intellectual Property Constituency or others, nobody came out and said no we should stop now, that's it. So that's an interesting finding from the consultation.

Again, some groups thought – like the registries – believe that we can go on with another I'll call it an application window. I'm hesitant on using the term “rounds” in front of your group for fear of having to pay a dollar. But we will talk about that issue in a couple minutes. Some feel that it could go right away, some feel like it needs to wait for certain reviews to complete like the CCT Review, but also other reviews that are going on in the community. And then others feel like there's even additional

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things that may need to happen. Some have pointed to Work Stream 2 completing before we have additional new gTLDs.

The second subject, categorization or differentiation of TLDs. This is a topic that has a number of different viewpoints at this point. We have not yet coalesced them into one opinion. But at this point there seems to be a recognition of at least the categories that were set forth in the original Applicant Guidebook, those being geographic TLDs, IGO TLDs, there are some others – community TLDs. Thank you, Avri. So there's a recognition that at least at this point that that's probably a useful categorization for going forward and also a recognition that brands may be an additional category as they're recognized in Specification 13.

Now, the implication of those categorizations are not yet agreed upon or fully looked at at this point. So once you have categories, how do you treat them in the application process? Is there any prioritization amongst categories? That's a question we're definitely still looking at. Should they have the same or different Base Registry Agreements? That's something we're still looking at.

What we've done at this point is really parked the issue of categorization until such time that we can look at more of a micro level as to the implications of categorization on those



other subjects. So Work Track 2 is looking at the Base Registry Agreement and one of the issues they're looking at is if we did have categorization of TLDs, what would be the impact on a Base Agreement? Would we have one Base Agreement? Would we have multiple? Does it matter? Work Track 3 would look at things like prioritization if there were contention sets, and so how you would treat the categorization of different TLDs. So those issues are still all in process.

Still to be looked at are things like predictability so we obviously recognize that there is a goal of having a predictable process that is actually a policy recommendation that came out of 2007. But we also know that there may be situations like name collision came up in the 2012 round, so right now our group will focus on developing a framework for handling issues that come up midway through an application window. An example may be what kind of threshold does an issue have to rise to in order to either wait for that application window to close or address immediately. So is there a threshold that needs to be reached in order to have this new process?

Skipping down, one thing we definitely want to talk to you all – and we know this is work that you've been doing and have posed to some of us – is how do you go forward with future new gTLDs? Is it application windows? Is it first come first served? Is it

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rounds? How do you do that? So that's something else we're looking into.

I would say one thing that we've at least informally agreed upon in a group setting was that we did not see – look at the second to last bullet – limiting applications in a single round or from a single applicant. At this point there's no consensus on doing that. So it was discussed that during our meetings of whether we should let's say only have up to 1,000 new applications and then stop. There's no consensus on whether we should or should not do that. And at this point also there were discussion of whether we should limit the number of applications by a single applicant. We know that, for example, Donuts came forward with over 300 applications this last round. There's no consensus and it does not seem like the group is leaning towards having that kind of limit. But again, these are not final recommendations at all.

Do you want to step in?

AVRI DORIA:

Should we say a little [something] about the rounds – about the hybrid approach?

JEFF NEUMAN:

Yeah, that's what I was going to get to.

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So what we wanted to throw out there, we know that you're looking at the issue of whether to introduce new gTLDs on a first come first served basis or whether it should be in terms of rounds. Something that's come up from our group is what we call hybrid proposal, which recognizes the advantages of doing things in rounds but also recognizes the need to do this on a continuous basis and not to keep stopping doing review after review and then waiting years before introducing the next application window. So this hybrid approach envisions something like having an application window perhaps – I'm going to give an example of it – perhaps having one or two windows a year but having it predictable.

An example would be, let's say, quarter one – we'll just use a calendar year just for ease of understanding the proposal – so you'd have something like quarter one where you'd have applications being submitted. Quarter two would be having objections and community comments and GAC consideration and everything else that goes into looking at these applications from a community input standpoint. Then Q3 you'd start the evaluation process and that would take as long as it takes. But also in Q3 you could start the next receipt of applications and just start that process over again.

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The reasons to have this hybrid approach or to not do first come first served include things like having predictability as to when an application should be received, having predictability from a community standpoint as to when you would have to be making comments and reviewing this from an input perspective. One of the things that's come up is if it was pure first come first served, the Intellectual Property Constituency and others have said, "Look, it becomes really difficult for us to not know when applications are coming in and then always having to be gearing up to put in comments." And the same thing from governments and others. So the thought process is, if we knew all applications would be coming in January and July then we knew in February and August or February and March and August and September that we would be having to prepare an really look at this. Otherwise, it would very much be on an ad hoc basis and we'd always have to be – this is comments coming from them – we'd always have to be ready to receive new applications and it becomes very difficult from a management perspective.

Another perspective advantage would be for ICANN to know that it needed to have resources ready to do certain things in certain quarters. Those were a couple of the advantages that came out of why this would be beneficial, and they also thought on the other hand that there wouldn't be hopefully too much pent-up demand between having that predictable process of receiving

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applications in Q1 and receiving applications in Q3. It would also have the benefit of if you set the set schedule that it would have less of the impulse to stop the process and have a review period or multiple review periods which would cause that year, two year, three year, five year, ten year, whatever it is, delay.

So those were some of the benefits that came up during our discussions. I don't know if, Jordyn, if that helps you. I know you're looking at this issue.

JORDYN BUCHANAN:

I put together a doc that sort of said, "Here are the hypotheses we have as to the problems with the round based mechanism." What we didn't really have, no one in the Review Team had the counter argument as to why it was beneficial to have rounds so I think you've at least laid out here are the things that we should consider on the other side which are apparently – have you guys talked with staff for the staff preparation? Have we gotten from staff a sense of whether they prefer one model to the other or is that just the community hypothesizing about what the staff prefers?

JEFF NEUMAN:

Again, this is still early on but this is a community input as opposed to staff.

JORDYN BUCHANAN: Sure. We are trying to be as data driven as possible, so that's an easy one to get data on. We could just go talk to the staff and see if they have a preference one way or the other and include that in our analysis. Then the other is this comment like this preparation for various members of the community to be able to have predictability around when to make comments, and so that's good to have as a counterpoint to the reasons why around decontention in particular, it's problematic to use the round based model. I think we can just lay out...that allows us to have a more full discussion within our group around the pros and cons which would be helpful.

AVRI DORIA: I can add one other consideration that got talked about is – again, I don't know to the extent to which this is fact based – but the numbers that people have been discussing are of tens of thousands of possible applications. So the idea of how one would handle that in a first come first served type of operation becomes very difficult to understand. So that was another piece of the puzzle that we were figuring in. Whether indeed it is fact based that there'll be tens of thousands in pent-up demand I don't know.

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JORDYN BUCHANAN: But I guess, Avri, why is that different whether you use rounds or first come first served? It seems like if there's –

AVRI DORIA: If you know there's constant rounds coming and you'll deal with the contention or whatever that happens in those little segments, then you don't have as strong – I would assume – as strong a push that we all have to get in there to be that first one, and indeed are we back to archery in terms of how to figure out what's first, whereas given that you have these short little windows, you've got contention within those windows so you still get to deal with the contention mechanisms and you're not dealing with the same degree of how do you get there first.

JORDYN BUCHANAN: Sure, but presumably I assume there's two things that are going to happen. There's some amount of pent-up demand today, or at the moment we start allocating new TLDs, and we're going to have to deal with that somehow. That's a given, I think. Somehow we're going to have to deal with decontention in that process, and so we're going to get somewhere between zero and infinity applications in that next round. That probably has to be a round to resolve the pent-up demand. And then the question I

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think is what the steady state looks like after you deal with that pent-up demand. And I guess it's not clear to me why you would have a difference in activity regardless of whether you're using a round model or first come first served after that initial decontention process.

JEFF NEUMAN: Again, I think the major reason is just knowing the processes that this has to go through, that it's not purely mechanical and that it's just an evaluation process and that's it. There are mechanisms built in to the new gTLD process which invite the community to have input, and just trying to picture someone like the Governmental Advisory Committee having to set up a process [for doing that].

JORDYN BUCHANAN: I totally understand this argument.

JEFF NEUMAN: That's the main one.

JORDYN BUCHANAN: I'm trying to wrap my head around Avri's that it would actually affect the number of applications. That's not obvious to me.



AVRI DORIA:

I think part of where the hybrid came from is if you know that there's this one round and everybody's got to get into it because then it's going to be a mega-big round and it's going to take forever to get everything processed before there's possibly another or something or even. Whereas if you know that every six months there'll be another opportunity and that that is a regularly scheduled, ongoing, procedure, it's assumption again that that basically gives people a chance to say, I don't have to do it now. I can do it in three months." That the pent-up demand does get to channel itself out because there's a known ability to submit again.

JORDYN BUCHANAN:

I guess I just don't understand why wouldn't that be equally true if you knew after this mega-round you could just apply whenever you wanted. It seems like that would be identical in terms of people's proclivity to apply.

In any case, we've got the argument I guess. I don't know how we'll get any data around people's behavior relative to these two proposals.

Jonathan.

JONATHAN ZUCK:

I was just going to say that we've got to cap this conversation to some extent, and what we really wanted to do is get a perspective from you and some of those hypotheses to bring into the discussions that we're having because we were having a one-sided discussion prior to that. I think that we have the basis to do that, and we're going to look for whatever data we can and I think that it's going to be difficult to find it. My guess is that our recommendation around this is going to be a hybrid as well and some of this is going to kick the can down to you guys as well.

Because we're trying to do two things. One is try to go back and look at some of the problems associated with the first set of applications and look to the extent to which structuring it as a round led to those problems, and that may in fact be disconnected from a recommendation for what to do in the future. So we're trying to do that analysis as well and then try to make some recommendation going forward. In fact, the notion of a interim additional round is the first time that I've ever heard that. That may have been because of the prohibition on the use of the term in our meetings. So that's not even something about which we've had a conversation yet in terms about pent-up demand and things like that.

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I guess we're going to talk about it further, but we really wanted to get that feedback from you just on the hypotheticals and the justifications for going through a round based structure.

Are there other people that have questions about the clarity about that, because I don't think we want to necessarily just have a debate about it. We're going to deliberate on it further and we need to get back to our other conversation.

What time is it now? 11:44. Do people have other notions about rounds or questions to clarify the issues that were raised?

Kaili and then Carlos.

KAILI KAN:

Thank you. Just a question. Here at CCTRT I believe the two most outstanding issues with the new g program, one is the large scale parking and the other is defensive registrations. For both of these issues, myself and some of my colleagues feel that the brand names registered as TLD is not controversial at all because it doesn't harm anybody and so forth. I just wonder what does your working group think about brand name being registered as TLDs? I believe that in the past that's been quite a number of brand names registered as TLDs if we go for new rounds or continuing the new g program will that brand name

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registration at TLD consider a priority. What is your consideration on that? Thank you.

JEFF NEUMAN:

I think there's a few issues that we're discussing about brands in our group. One of the issues is whether brands should have any sort of priority. We haven't come to any conclusion or really started those discussions yet. The other thing about brands that comes up in our group, there was a prohibition put into the – it wasn't put into the Applicant Guidebook but it was added later on – about using a generic word or even a brand as an exclusive use top-level domain. So it's clear that brands can use a domain for themselves but if a brand also matches a generic word there was lots of disagreement as to what they could do with that. That plays into some of our discussions as well.

So there's brand priority, brand... and then into the agreements whether they should have the same type of Registry Agreement as everyone else, and the ultimate question of whether there should be a brand only – sorry I'll call it a round – or application window for only brands. Those are topics we're discussing. Avri, I don't know if you could think of other topics in the brand area.

AVRI DORIA:

I think you covered the [closed generics...]

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JEFF NEUMAN: Those are what we're discussing. We haven't come out with any conclusions, but the value of brand TLDs, that's more for your group than ours. Our group's not looking to make any subjective determinations on whether brands add value or add more value or generics or anything like that.

KAILI KAN: In your group do you have any consideration given to say the current defensive registration and sort of to lower the burden of brand name owners and also whether you have considerations about lowering the parking rates and so forth?

JEFF NEUMAN: In our group, we're not talking about defensive registrations but there is a Policy Development Process on Rights Protection Mechanisms that is a separate PDP that the topic of the burden on brands to have defensive registrations is certainly a topic that they are addressing in that PDP. We're dealing more with the process of how to introduce new gTLDs as opposed to the burdens that are put on any particular party.

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AVRI DORIA: Just to add, their work will feed in to our work. So if they come up with any prescriptions that indicate the applications need to include or the contract needs to include or the RPMs will include, then we would be fitting that in. But we're not actually the ones that are talking about those issues. We have a spot waiting for them to come in and say where they've come up with [that].

KAILI KAN: Anyway I don't want to see your group as a car with only the engine but no brakes. Thank you.

JONATHAN ZUCK: Carlos?

CARLOS RAUL GUTIERREZ: A very similar question to the one we just discussed, the relationship between categories of TLDs and the process, the rounds, but in this case related to the problem that Andy Mack developed yesterday. Very interesting, by the way. If there is some feedback would you also analyze the possible preferential treatment or not of some type of TLDs that might relate to underserved areas or where would that feedback come from? Where would you expect it to come from? Thank you.

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AVRI DORIA:

Thanks. We got to see a copy of that and it is very interesting. One of the problems we've had when we were talking about priority for one type or another was indeed once you start talking about what are the reasons for giving a certain category a priority, the underserved communities becomes very much a contender in that. And so therefore we have not discussed going ahead in terms of priorities, and as you probably know being also a member of the group what we've done is basically backed off having the conversation of priority for whom.

Once we get to the track work that is dealing with communities, I think the analysis becomes very much part because people are questioning do we need communities, do we not need communities? There's not total consensus on communities, as you probably well know, and just like various other features. And I think one of the things that I don't know if you mentioned at the beginning but the presumption that we've got all the way through here is that if we don't change the policy, if we don't change the Application Guidebook, what we've got is what we've got.

Therefore we have a fixed base and we can change that base, but we need to do it intentionally. I just basically wanted to give that piece as that is our base work that anything we don't change remains as it was unless something else comes along to

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change it. So very much looking into that community work but we have not really gotten to that part but it will be in Track 3, correct?

JEFF NEUMAN:

[Inaudible] for prioritization, yes.

At this point, the only thing communities are used for is in determining priority. So at this point, the way the 2012 round was conducted, the only implication that by designating yourself as a community was that you would get priority if anyone else applied. If no one else applied for that string, they didn't even look at your community or they didn't evaluate your community status although it did go into your contract.

So that's another thing that's going to be discussed is, is the only value of having communities in this process prioritization or is there something else that having a community designation would get you or requires or restricts.

JONATHAN ZUCK:

Jordyn?



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JORDYN BUCHANAN: Two observations – one on this current conversation and another on something Jeff had said previously. I think this conversation actually does a really good job of highlighting two things. Number one is that when we're talking about underserved regions, the community conversation might be part of that but it's really not the important part. It's also definitely not a question of priority because we're having problems getting people to apply in the first place, not making sure that they win the TLD when there's contention for it. I guess my question here is do you guys think it's in the Charter of the PDP to deal with that question of – Avri, are you pointing at a specific section?

AVRI DORIA: I'm pointing to Work Track 1 [with] the applicant support because that is tied to the purpose of applicant support is –

JORDYN BUCHANAN: Perfect. Okay, great. So you guys do think that you'll be taking a look at are there ways that we can better encourage a broader base of participation if that's a goal.

JEFF NEUMAN: Yeah, thanks. I did want to just point back to Andrew Macks's survey because I thought it was pretty interesting in that what

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we hope to get from you all are a set of recommendations that we can then incorporate. For example, I thought it was very interesting that ICANN sees itself as an organization that doesn't feel like it should be in a position to promote awareness of gTLDs, but in the survey results it almost seemed like – and I hope I'm interpreting this right – but it seemed like the community wants us to engage in that role because it's only after engaging in that awareness role that you can get the Global South and others to actually submit applications because they can become aware of it.

I think those types of recommendations are very useful. I would like to see also I thought the recommendations on time periods required for notice and others that came out of that survey, while it wasn't a huge sample base – it was 30-something – I did think that some of those results I was surprised because I didn't think that the survey was actually something that was able to be done. I'm glad it was and so we'd love to see those recommendations come out of your group.

JORDYN BUCHANAN:

Thanks, Jeff. I did note that if it's a goal to encourage participation from the Global South, and I think we had a long conversation yesterday about whether that ought to be a goal or not, but then that's actually much more a question for the policy

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process. If that's a goal, it seems like it's almost like ICANN has to do some awareness-raising in order to achieve that goal based on the results of the survey at least.

My other question for you, though, was about this question of vertical integration or separation. You said you hope that we are looking into that. We are not. I guess I would be curious to...if you guys are expecting or depending on input from the CCT on that, then I think that's something that we could take a look at but we've intentionally deprioritized. So it would be good to get a sense of what you'd be looking for from the CCT on that topic.

JEFF NEUMAN:

Yeah, I think the whole crux of vertical integration or separation is competition, right? Are we creating competition at the registry level? And a lot of the restrictions and rules that were put into place were put in because of a competition factor and there was competition analysis. We were hoping that that's something that you all would look into as to say, to look at those original studies that came out from competition experts that say did this achieve what it was supposed to achieve or did this not achieve what it was supposed to achieve? I have some personal opinions on it and a lot of us in the groups have personal opinions on it. But yeah, this is something that we were looking towards because this was for us the crux was a competition analysis.

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JORDYN BUCHANAN: So you guys would like to know do the rules around vertical integration promote competition based on our ability to observe, is that right – the current rules.

JEFF NEUMAN: Right, and is there a competition reason to put in some – I'll give you an example. I remember back through those debates in 2009 and 2010 was the notion of there are certain efficiencies that you can achieve through vertical integration, through integration of the wholesale and retail sectors. But I believe, or I have a hypothesis, that some of the restrictions that ICANN may have put in may have hindered the efficiencies that one could theoretically enjoy with vertical integration. So would love to have someone or group – and I thought your group would look into it – did the restrictions that ICANN put into place, the code of conduct and others, limit the efficiencies that otherwise should be realized by integration.

For example, does the use of or only requiring the use of ICANN accredited registrars, and does the requirement of non-discrimination amongst registrars go against the whole notion of the efficiencies that one could achieve when you have vertical integration? I think those are at opposites. I think requiring non-

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discrimination amongst ICANN accredited registrars in a non-monopolistic market goes against the whole notion of having efficiencies at the integrated market. Does that make sense?

JORDYN BUCHANAN: Sure.

JEFF NEUMAN: That was the positions that were put forth by ICANN when they decided to tear down the wall, if you will.

JORDYN BUCHANAN: I'd make a couple observations. Number one is to a certain extent we actually find that the opposite in our initial findings and that one of the things that we're finding is that the fact that the registrar channel exists is one of the things that makes it possible for registry operators to exist at the small scale that many of the TLDs do today. Because you don't have to build out your own distribution channel, that makes it easier to operate as a small TLD.

The second point I'd make, though, is I think something that we could take a look at and the data that we've seen so far from Analysis Group I think shows that there's not in places where you see sort of a dominant registrar for a particular TLD, that doesn't

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seem to correlate to higher pricing. In fact the opposite might be true, that you get lower prices when you have more concentration amongst registrars within a particular TLD. And so that at least would support the notion that you don't necessarily need these restrictions in place in order to achieve good effects for consumers. But there's probably some data points that we could look at in order to at least try to give you some base for further discussion.

JEFF NEUMAN:

Yeah, and I don't know if you've done questions like...this would be a good question to ask a bunch of the existing or the new registries who are now all existing because they're delegated. To some extent, and I know I've had conversations with some registries, that some feel like because of the non-discrimination requirement they may not have been able to achieve the efficiencies that they otherwise would be able to achieve by not having these restrictions in place. And on the other hand, to what extent one thing that needs to be looked at is to what extent are the registries actually following the restrictions that are put into place, which we don't have any reports on or data gathered on.

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CARLOS RAUL GUTIERREZ: I had a similar hypothesis at the beginning, Jeff, but I must say that in our discussions we have found other elements that seem to be more relevant – price caps, the change in the industry structure that we are seeing, are things that we are looking at. And I must say that this hypothesis goes a little bit to the back because we are changing and we have these very small TLDs that have only a trademark and we have these huge portfolios of tens of TLDs and we have the effect of the Registrar Agreement on the underserved areas and so on. So I think we have an incredible dynamic in front of us that this hypothesis of the vertical integration is really marginal and based on the previous structure. So I don't see that we are going to produce something in this report unless we sit down really and have a deep discussion how the different people see these changes. Thank you.

JONATHAN ZUCK: I think we can agree to take this question on and we're going to look at some of the data that we do have, and at the very least report that data out in a way that could hopefully be useful to your deliberations.

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JEFF NEUMAN: Or at least tell us definitively what you are going to address and what you are not going to address so that if you're not, then we need to address it in some way. And so if it's only on the price caps, that's fine. It's your choice as to what you're going to look at. But then we need to somehow fill that void in another way.

JONATHAN ZUCK: Understood. At this point, as you probably haven't seen yet but the Applicant Survey has been fielded. It's very underparticipated at this point. Of the 512 unique applicants, something like 45 have responded. But those particular questions about vertical integration were not a part of the survey.

I do have one question for David from Nielsen about the question about a willingness to talk further. Was that all with the caveat that it was anonymous and that it be you or does that list persist of people that are willing to have additional conversations, would that extend to other folks that wanted to reach out to them?

DAVID DICKENSON: That was specifically in the context of a follow-up interview from us. People were given the option of whether or not they wanted to remain anonymous, so that could be a gating factor but over



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80% said that they wanted to remain anonymous. And I think all of the nine that I've spoken to so far wanted to be anonymous.

JONATHAN ZUCK: Waudo.

WAUDO SIGANGA: Thank you. I think one question that I would like to see how it moves ahead is with regards to these restrictions that ICANN places on the vertical chain. The requirement that registrars must sign agreements with every registry, I think what's happening is that with the advent of the new gTLDs now there are so many gTLDs, and with every gTLD there has to be an agreement between the registrar and the registrant and there is a cost element associated with this. This just worries me what Avri has just said that we anticipate now tens of thousands of new gTLDs in the coming future. For each TLD, if the registrar has to sign an agreement and there's a cost involved I think that's going to be a big, big, issue in that vertical chain.

JEFF NEUMAN: I think when you have a requirement that you have to use only ICANN accredited registrars and you may not discriminate amongst registrars, you have to have agreements. Each registry

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is trying to achieve something different, with the exception of some of the portfolio players that just throw out a bunch of different strings. If you look at the most innovative models, each registry is going to have its own rules, restrictions, requirements, and having the different characteristics of each string necessitates having an agreement between the two different entities on how to carry forth those restrictions, the criteria.

So I understand the fact that it's costly and it's expensive for registrars, but as long as there's a requirement that you have to act in a non-discriminatory manner and that you have to only use ICANN accredited registrars, I don't think there's any way to do away with that requirement.

AVRI DORIA:

I wanted to add one point. There's no obligation that all registrars need to set up a contract with all registries. It's only if they wish to stock that one on their shelves. So the scales, the numbers of thousands of possible products that there are for a registrar to sell does not determine their behavior, I wouldn't think. I'm not sure how the scale there necessarily affects what a registrar is required to do. I don't understand that connection.

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WAUDO SIGANGA: What I mean is, the more registries that come into the market – that’s the more gTLDs – the more agreements a registrar has to sign.

CARLTON SAMUELS: Yes, you may have a portfolio. That’s the point – there’s some portfolio management.

WAUDO SIGANGA: That’s what we were talking about. The new registries or registries use the registrars as channels for selling, so I think it’s still an issue. If it was in the old days when we only had the legacy gTLDs, then if I’m a registrar I just sign maybe four or three or so agreements. But now if there are more gTLDs and I want to participate in that market, I have to sign the extra agreements and it’s costly. That’s the point I was trying to make.

JEFF NEUMAN: Right, and I think that’s just a natural result of the whole notion that we came up with in 1998 of a separation between registry and registrar functions. In theory one could go forward and say there’s no need to have a separation between registries and registrars. They could just be one entity that does everything. But as a result of the constraint that we put in there that you

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have to distribute, not even sell because some don't sell, but you have to distribute domains through a registrar which is a separate legal entity, has to be under the rules you're going to have...it's an artificial construct we came up with.

One of the questions is do we still need – this is controversial – but do we still need that artificial construct of having a separation in between the registry functions and the registrar functions? At this point, ICANN says yes. But no one's done an analysis now that we have new gTLDs as to whether that same construct needs to be going forward for every single TLD. It may work for .com, but it may not work for newer ones.

WAUDO SIGANGA:

Just to add also that for the record that one of the high costs involved with those kind of agreements is that a requirement for insurance.

JONATHAN ZUCK:

Alright, I think we need to wrap this conversation up and we probably need to go back to parking. We need to unpark the discussion on parking. But thanks for coming in and joining us. I'll join you guys at about 2:00 and we can go back into some more of these conversations.

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JEFF NEUMAN: Thanks for letting us come.

JORDYN BUCHANAN: So Jonathan, we're actually at the agenda marker for lunch at 12:00. Do we want to break for lunch and then come back to parking?

Alright, most of you can go to lunch. If your name is Laureen, Jordyn, or you want Drew and David, then you have to stay here for a few minutes at least to talk about slides. And we're going to come back at 12:45, so you have 35 minutes for lunch. Eat fast.

JONATHAN ZUCK: Take a half hour for lunch. Why don't we just bring our lunch back here to have the conversation?

JORDYN BUCHANAN: Okay, we're going to come back at 12:45, which is in 35 minutes, correct.

GAONGALELWE MOSWEU: For the benefit of Drew who wasn't in the room when the announcement was made, Drew, you're not going for lunch.

**[Break]**

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[JAMIE HEDLUND]: I think it's the same as was said before. All we know is that there's a lot of them. I don't think we have any data on who's buying them I'm aware of. There is data in the WHOIS.

UNIDENTIFIED MALE: Yes. [Inaudible] to make sure that the gTLD operator himself doesn't [buy].

[JAMIE HEDLUND]: So in terms of safeguard, I don't know that there are any safeguards. I don't think there are any safeguards against parking because it hasn't been demonstrated to be harmful. That's maybe something that can be picked up in the next round if there is a demonstration beyond just mere conjecture that it's harmful.

JORDYN BUCHANAN: Alright, so Kaili and then Carlton.

KAILI KAN: Thank you, Jordyn. First about whether parking is harmful. There's papers that have been circulated within the team that a lot of parked domain names are being monetized and becoming DNS abuse. And I suppose there was yesterday.

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JONATHAN ZUCK: [Inaudible].

KAILI KAN: Yeah. So that is one thing. So in that sense it is harmful parked, okay. Talking about large scale parking, now our Review Team is in preparation of supposedly maybe next round or whatever to come next, this large scale parking especially is over about two thirds average for some of the registries new gTLDs [about] over 90%. Does ICANN truly want that to happen? Anyway, what is the goal of this New gTLD Program for ICANN? I do not believe it is for speculation or for parking, especially not at this scale.

ICANN, we are to provide to facilitate the Internet usage – real good applications and also to prevent the bad. First of all, I’m, not against the free market principle. We want the free market to open this up, no question about that. However, even for the U.S. we have seen stock market bubbles. We have seen real estate bubbles. And especially now China plays a very important role in this because over half of the new registrations over the last [two] years have occurred in China.

I think everybody agrees – even the Chinese President agrees – that there’s large scale bubbles in China – stock market, real estate – and it squeezes the collapse of China’s stock market



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and the real estate market which is extremely high right now. It squeezes a lot of capital into the domain name market. And that is why we see the large scale parking which is supposed to be speculative to come from China.

So I believe, let's ask ourself what is the purpose? What is the goal of the New gTLD Program? I agree with you, speculation to a certain extent is good. Maybe even a way to open up the new market. However, at this large scale I think it's very dangerous. And also it is, as we said, for DNS abuse could be very harmful as well and also for ICANN's sake ICANN needs to be conscious about that especially if we go for the next round or whatever. Thank you.

JORDYN BUCHANAN: Alright, I've got Carlton and then back to Jamie. Actually Carlton, back to Jamie, then I've got a couple points [inaudible].

CARLTON SAMUELS: Okay, the issue is let us assume that we accept that parking is a feature and not a bug in the marketplace. There is downstream effect from parking to end users and consumers that is of interest to us. The people who follow this, and this is a Spamhaus the [PWG] people and several others including on the record academic researchers have shown in no uncertain terms

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that parked domains are used to initiate predations on consumers and end users. Some estimate – the FBI for example – give the estimates in billions of dollars. I believe it is in our interest with respect to the public interest to see what we can do to reduce that. That’s why it’s [harmful] for a consumer impact and from an end user impact there is harm and that harm is connected directly to parked domains. How we treat that is we can have an argument about how we would respond to that, but there is no question that it is harmful to end user interest.

The other issue for parked domains – and this has been an issue that has been around as long as I have been caucusing with the At-Large – the argument is that parked domains remove names from the pool and so reduces the ability of end user to registrants, however you want to configure them, access to those names. And so it is a deliberate impact on the market in that sense.

Those are two issues that I would say that it would be of interest to us, especially from the safeguard side.

KAILI KAN:

Just to add to that. In short, this large scale parking reduces the availability of domain names because every single domain name is unique, so it reduces the almost infinite number of domain

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names, the availability, reduces it significantly. We see two thirds of that. So that creates artificial scarcity and then that is the foundation of speculation, and raises the price for domain names and then it passes on that cost to registrants as well and [ultimately] to Internet end users.

In that sense, it's pure economics that it is harmful for this kind of large scale. It's because it creates artificial scarcity and raises the price.

UNIDENTIFIED MALE: Just to clarify, I don't think it reduces the availability of domain names. The domain names are still available but at a higher price.

KAILI KAN: Okay, yeah.

JORDYN BUCHANAN: Jonathan's in the queue now but I need to get to Jamie first. [Inaudible] sort of capture s, I think Carlton's introduced two potential "Why we cares." One of them is that the parked sites could be used as direct abuse vectors essentially, that a user would navigate to the parked site and they would actually end up with malware or something like that. Drew, will the DNS

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Abuse study capture if there is the prevalence of malware distribution sites per TLD? Because it seems like if the premise is that the new TLDs have a lot of parking sites and some of the parking sites host malware then we could just instead of using parking as the metric we should just look at how much malware is being hosted on the new TLDs and that would be a more direct metric.

DREW BAGLEY:

Yes, so based on the methodology we came up with, and then Brian would be able to chime in more about what's going on with the vendors specifically as to how they're interpreting that, we would have that's definitely the whole purpose is to get the breakdown by TLD of various types of abuse so then we could at least draw a correlation between pinpointing TLDs that have a large number of parked domain names and a large number of malware. With that said, I don't know of anything being done with the DNS Abuse study that is going to determine whether or not... that's going to categorize parked domain names or figure out the time to going bad.

Ideally I would love that and [they are] utilizing zone files as well as the WHOIS data so there could potentially be some data there where we could figure out what may have started out as a parked domain that didn't resolve that [inaudible].

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JORDYN BUCHANAN: But I guess in this case I think Carlton's premise is – and I don't like this parking censors paper – says that in some cases the parking page itself is used to distribute malware. But presumably that would be captured already by that study. So if we're saying that the parking pages are actually abuse vectors, I don't think we need to worry about parking per se there because the DNS Abuse study will already capture whether or not that's more prevalent in the new gTLDs versus the legacy gTLDs.

I do [know] even in the parking censor study this is a pretty small portion of parking. I think they say 7% of domains redirect, and of those it looks like maybe a third of those redirects result in malware distribution. So we're talking about like 2% or something like that of the parking pages are used as malware vectors at least. I think that's a relative minority of the effect of parking and it seems like we'll capture that through the DNS Abuse study.

CARLTON SAMUELS: [Inaudible] as a bug but as a feature.

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JORDYN BUCHANAN: And then the other hypothesis here is that parking reduces the options available to registrants to directly register in the primary market. I guess that makes some sense. We're saying that as like with real estate speculation or something like that, someone would go in and buy up all the land before other people get to it and therefore you would have to buy from the speculator as opposed to from whoever owned the land in the first place. I think I'll turn it back to Jamie. I suspect he's going to say yeah that happens in normal markets and it's not necessarily an anti-feature.

JAMIE HEDLUND: Sort of an over-arching point was that when the GNSO policy recommendations were adopted or under the development of those there was a decision that ICANN the staff should not impose economic restrictions or [act] or pricing constraints on new gTLDs, and that remains the case. Which means what? Which means that if you want to combat the kind of speculation you're talking about, ICANN would have to end up regulating the secondary market. And I don't think that's within ICANN's remit. Let me finish please.

Secondly, Carlton, you mentioned the issue of parked sites being used to launch attacks and as I said earlier, [I] agree that that is an issue that should be looked at. The way you said it though

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suggested that all parked sites are used for the launching of attacks or of other bad behavior or abuse. Again, I don't think the data supports that.

Finally, on the issue of scarcity, I don't know that we have data that shows that the prices are going up because of a vibrant secondary market. It's an interesting thesis. It could happen in theory. There are 1400 new gTLDs. It's going to be really hard for this group based on the data available for us to say with any authority or credibility that speculation is creating a harmful market for consumers. There is a lot of that that exists in the legacy market. And as Jonathan was alluding to earlier, speculation plays a healthy role in the development of markets.

JORDYN BUCHANAN:

I'm going to make the comment I was going to, then Jonathan, and then back to Kaili. And then at some point we're going to need to figure out how to land this conversation.

My comment is just to note that the combination of factors that we're discussing here, the fact that parking may result in lower renewal rates, the fact that the secondary... that if names are bought by speculators and then resold that that increases the cost to we'll call them bona fide registrants for the moment. Those two facts add up to the fact that registries I think actually

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have incentives to not prefer parking themselves. A registry would prefer to have a registrant register a name who is likely to renew. So if I as a registry could sell a name to a parker or I could sell it to someone who's going to build a website and sell stuff on it, I'd probably prefer to sell it to the person who is going to sell stuff on it. And similarly, if I could figure out what price the parker was going to turn around and charge people in the future as a speculator, I would rather capture that actual end price myself. If a speculator can turn around and sell a name for \$100, then I'm going to sell to him for \$10, I don't want to sell it to the speculator for \$10, I want to sell it myself for \$100. This is very similar to the scalper market when it comes to buying tickets. The end user increasingly trying to figure out how to sell directly by having premium prices or options or various other mechanisms so that they capture that value instead.

You see registries trying to do this with various pricing mechanisms and so on. So I think we ought not to conclude that registries are helpless, or registries that prefer to have this parking take place, and if market mechanisms that the registries can deploy would help obviate the negative effects of the problem, then it's not necessarily, for all the reasons Jamie pointed to, it's not obvious to me that we need to worry that much about things when registries are already incented to solve



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this problem themselves and they'll be much more nimble at doing it than anything ICANN['s ever going to get to.

Jonathan and then Kaili. And Calvin has his hand up in the room so we'll get to him after Kaili.

JONATHAN ZUCK:

I guess I was going to say – and a lot's been thrown out – that we need to make sure that we keep aspects of the discussion separate from each other and not always conflate them. I think that we have one of our obligations is to do a competition analysis. In other words, did the New gTLD Program enhance competition? And so the premise that Stan put out earlier is the possibility that speculation leads to lower renewal rates and therefore it's creating false positives from the standpoint of a competition analysis, and that's something that we need to study and decide whether the data supports that hypothesis or not from a straight-up competitive analysis.

I think the analysis of whether or not the new gTLDs as Jordyn has said have led to greater DNS abuse again is something we can simply study and are studying directly. In other words, we don't need to insert parking and try to vilify it. We can simply study the abuse directly and make the case that it either did or did not lead to increased DNS abuse. So I think that absent

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evidence, we can't just put out the supposition that parking leads to abuse or we're going to be able to see was there more abuse, and that'll be the answer to that question.

And so I think the [way] reason for which things were parked are going to be a mystery to us in most instances and so we need to take a step back from trying to decide whether it's good or bad and instead look at whether or not the amount of parking is distorting our competition analysis. And separately we're looking at whether or not there's an increase in DNS abuse.

Those are really the things we need to study. I don't think we need to come up with a characterization of parking as either good or bad to accomplish either of those two things. And those are really the only two questions in front of us.

JORDYN BUCHANAN: Kaili and then Calvin.

KAILI KAN: Thank you, Jordyn. First, I agree with Jonathan. We do not need to characterize whether it's good or bad but it occurs at a very large scale. That is one thing. So anyway, because it's large scale and that it could affect many aspects so we do care. We want to point that out. Instead of hiding that large scale effect and then

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just try to paint a rosy picture which might be misleading so that both the Board and the general public. I think that is what our team should be sure to do it right. That's the overall. But Jordyn –

JONATHAN ZUCK:

I'm sorry I really don't want to interrupt but then you asked the question earlier that's probably worth answering which is what is the objective of the New gTLD Program and is there a right or a wrong type of sale, and I think we're not in that business necessarily. We had a meeting with Bruce Tonkin very early on that the objective was the freedom to let the DNS grow absent downside consequences to it, and so we need to evaluate those downside consequences and we're looking at whether or not there's an increase in competition and choice. But again I don't think we need to put a value judgement on whether or not the right kind of people are buying domains. That's a dangerous road to go down.

KAILI KAN:

I am not raising that question. I am just saying that we do not need to make that judgement. So just getting back to Jordyn, your comment that registrar or registry could use or try to evaluate how much the parker or speculator would gain from

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grabbing a domain name. And then how they would do it themselves. However, that registry or registrar could do the same for a genuine registrant who wants to use that domain name for its own business.

So that [is very equal]. No matter [is] for parking or not for parking, but behind that it's the same logic. So that shows that the registry or the registrar they don't care. Because whether it is parked or not, they can use the same treatment. So they don't care. Anyway, money is money. They just get the money and whether it's parked or not, at least what I see in China they don't care because basically for China because first in China the registration is extremely... the volume is extremely large.

Secondly, in China especially over the last two or three years, to really put an Internet domain name in use it's extremely difficult. It goes through all the scrutiny. So this and also it's already seen that [hundreds] of speculators, real speculators, they do make [hundreds] of times of money out of the speculation. So at least in some markets, say the Chinese market, it's already well seen.

So I would say that first we do not say it's good or bad, even including speculation we do not say it's good or bad. However, there are a few [captures] or effects that need to be recognized. One is it does decrease the availability because it takes away the available domain names. Secondly, and also I would not say it is

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in line with ICANN’s objective of the New gTLD Program. Just...  
Is it?

JORDYN BUCHANAN: I think we would have to have a specific objective that is articulated in our charter to say that –

LAUREEN KAPIN: Just on the ICANN website [about] the program it says the New gTLD Program, the program’s goals include enhancing competition and consumer choice and enabling the benefits of innovation via the introduction of new gTLDs.

The ICANN Board has indicated what the goals of the New gTLD Program were, which is enhancing competition and consumer choice, and enabling the benefits of innovation via the introduction of new gTLDs. So it’s not as if we have to guess about what the goals were. That’s at least something that the Board has indicated the goals of the program are.

JORDYN BUCHANAN: Sure, and fortunately the first two of those we’re directly measuring already.

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LAUREEN KAPIN: Exactly.

JORDYN BUCHANAN: Therefore, to the extent we can determine – this goes back to Jonathan’s point – to the extent we can determine that parking somehow is affecting the competitive analysis, we should include that. And to the extent that it’s not, then it’s the fact it’s happening I guess. I think fundamentally Stan is right. It is too big a phenomenon to just ignore, but I think we don’t need to try to speculate as to whether or not it’s consistent with objectives other than the ones that we’re already studying which are competition and consumer choice. [Inaudible].

JONATHAN ZUCK: And I think [critical] to our analysis is whether or not there’s big differences between legacy and new gTLDs.

JORDYN BUCHANAN: That is an important piece of information.

JONATHAN ZUCK: If the proportion of parked domains is comparable, then we also can make the case that the New gTLD Program somehow altered the chemistry of the gTLD marketplace around parking. If they’re

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comparable. If they're dramatically different I think we're revisiting this conversation.

KAILI KAN:

I do not completely agree with that because we are trying to find out the pros and cons, especially lessons learned so far. If we decide this is a lesson to be learned, we do not want to restrict limit our goal to new g only because new g and then there's the new, new g and new, new, new, new g so as a matter of fact, as I understand, our job is to look back into all the TLDs especially those who are introduced by the New gTLD Program and also about parking. As I've said before, there's – including in China – there's large scale parking and speculation started from the legacy gTLD and there overflowed into the New g Program.

JONATHAN ZUCK:

But our job here is to analyze the impacts of the New gTLD Program.

KAILI KAN:

So put it this way –

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JONATHAN ZUCK:

So the fact that it predates it suggests that the impact of the New gTLD Program is less than we might think. We should look at that and try to see if there's a difference between the two but absent that difference, the New gTLD Program hasn't brought about a change in the characteristic of the gTLD marketplace. So it may still be something worth the ICANN community addressing. There's no question, if we think that rampant speculation undermines choice overall then it may be something worth looking at. There's no question. Then in fact we might even make a recommendation that it should for further study on this particular issue just as we may make a recommendation to look at the actual impact of alternatives to the DNS like social media and things like that have on competition. We're just not going to get to that, especially if we can't identify some unique contribution to that problem that was caused by the New gTLD Program. Just to emphasize what I'm saying.

We have to state boundaries for what we're doing. We can't look at every problem faced. We have to look at the New gTLD Program and the impact of that program.

KAILI KAN:

I assume that about all of our [positive find] from the New gTLD Program, we can trace the source to original design of the DNS structure. But, anyway, I think we all recognize that the New



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gTLD Program does amplify that parking issue. There's no question about that because before there was—

JONATHAN ZUCK: And nobody's hiding it. We're going to present some data about parking. The question is, we're not going to make a value judgment about it absent evidence. But that's —

KAILI KAN: That is easily agreed.

JONATHAN ZUCK: So we're not going to make a value judgment about that absent evidence to support that value judgment. So the two places that we've discussed is a distortion of about analysis of competition and an increase in DNS abuse. And we have committed to looking at both of those effects.

KAILI KAN: Absolutely.

JONATHAN ZUCK: And determining if we can find evidence for them and if we do we will report on that.

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KAILI KAN: I am not asking for anything more than that.

JONATHAN ZUCK: Then we're all on the same page.

KAILI KAN: Yeah, so. Yeah. The same glass of water, half full, half empty.  
Okay.

JORDYN BUCHANAN: Okay. I've been knowing Calvin for a long time so, Calvin, go ahead.

CALVIN BROWNE: Hi guys, can you hear me?

JORDYN BUCHANAN: Yes.

CALVIN BROWNE: [Inaudible]. We have hopefully a speculative market in the [inaudible] and I often get people phoning up and complaining about the effect that somebody else has got the domain name

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sitting on it, squatting on it, or parking on it or speculating on it and I always point out that invariably what happens is these people think that they need a certain domain name for their business. And I normally end up pointing out to them that if their business plan depends on the domain name it's going to fail. Okay. So that's one thing that a lot of people misunderstand. If your business plan depends on a domain name it's going to fail.

What parking speculation might do is it might drive up the price and that price might be both monetary and that you have to pay more for a domain name or in creativity in that you have to think of a different domain name. And it certainly has been my personal experience in essence in the new round of gTLDs where we've launched a couple of different products and so forth. That the new round of gTLDs has actually made it a lot easier to find available domain names and has reduced the cost in terms of having to be more creative than if we just had to go straight for [inaudible].

Then, I'd also like to look at the absolute numbers. If we have over a hundred million domain names in .com and we have 90% of the new gTLDs with basically 10,000 names, I'm going to have a hard time being convinced that there rampant speculation and/or parking in these new gTLDs. You're going to have to work

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a little bit harder to convince me personally of that fact. And that's it for now.

JORDYN BUCHANAN: I think, yeah, Carlton briefly and then I'm going to try to synthesize this conversation and move on.

CARLTON SAMUELS: Just to point out to you that one of the arguments having more gTLDs is that you have more of the names that people want. So it kind of defeats your argument that it's an important thing for people to get the name they want. And that is one of the bigger arguments of having new gTLDs because you have more opportunities to get the name you want. So that is very important to point out.

JORDYN BUCHANAN: So it's just worth noting just for comparison purposes that if we accept this premise that 9% of the total gTLD registrations are in the new gTLDs, it is definitely obviously the case, so there is much more name space available across the new gTLDs than in the legacy gTLDs because they are much less full and they're many more of them in the average number of registrations per a new gTLDs is much lower than it is in the legacy gTLDs. So even

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though parking may have some mitigating effect on that, there's still obviously much name space available on the new gTLDs than the legacy gTLDs.

So to try to synthesize it, so it sounds like there's general agreement. I heard Kaili agree to Jonathan's statement, that we're really looking at two possible factors. Actually, the question is, why do we care about parking?

There's two possible reasons. Number one, is it could affect the competition analysis. Instead, I think it's provided a particular hypothesis there which is that it may affect the renewal rates or long-term... We may be looking at sort of inflated numbers now relative to what we expect the long-term numbers to be in the new gTLDs.

And so we're going to see if we can ask and have Analysis Group give us a little bit of help to figure out whether that hypothesis holds. And, if not, as Stan suggested, we may just present two sets of numbers and say if parking was going to have an effect this is how we might model it. This assumes, of course, that there is a differential in the parking between legacy and new gTLDs, because if it's the same that multiplying those percentages across is going to have the exact same effect on both legacy and new gTLDs.

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The second vector that we wanted to take a look at was this abuse vector and whether parking is used to launch text. And I think we all agree that the DNS Abuse study will capture whether those affects are actually taking place or not.

LAUREEN KAPIN: It'll capture some correlations. The way you phrased it I think is much more causational and precise in what the DNS Abuse study would actually capture. I think you might be able to get a correlation between the prevalence of DNS abuse in certain domains and then correlate that to see, well, did these domains have a lot of parked—

JORDYN BUCHANAN: But we don't care.

JONATHAN ZUCK: We don't care about that. He's not making that claim. What we're going to study is whether or not the New gTLDs Programs—

JORDYN BUCHANAN: So to restate, I think, if we went in the DNS Abuse study and looked and said, "Oh, my God, there's way more malware

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distribution and the new gTLDs than the legacy gTLDs a good follow-up question is, "Why, and how is that happening?" And if we looked and said, "Oh, it's because all these parking pages in the new gTLDs are distributing malware," that would be bad and we would say, "Okay, well, how do we get rid of these malware distributing parking pages? That's something that we should probably take a look at." But if we looked and saw, in fact, that there was no more DNS abuse in the new gTLDs and the legacy gTLDs, that we sort of wouldn't care regardless of whether or not there's more parking pages, they're not being used in a malicious way. And so, we don't care, right? Right. As Carlton says, "Feature, not a bug."

Okay. So, given that we're moving that second question to the DNS Abuse study largely, we're back to this competition analysis is the premise for thinking about parking as a standalone issue. And so, Jamie, I think, had taken some issue with this third bullet here which is that the prevalence of parking the new gTLDs and the lack of ability to compare the legacy gTLDs makes it harder to understand the role of new gTLDs in the marketplace. And this is predicated roughly on the premise that this is somehow distorting the competition analysis.

UNIDENTIFIED MALE: [Inaudible].

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JORDYN BUCHANAN: Impact — makes it hard to understand the impact of new gTLDs in the marketplace. Jamie still doesn't like that—

JAMIE HEDLUND: But, my issue with it is that it takes one aspect, which is parking, and says that it is because of parking we can't understand new gTLDs. We can't make any findings about new gTLDs. We can't understand it. It makes it harder to understand the impact or role of new gTLDs in the marketplace.

JORDYN BUCHANAN: Correct. It makes it harder. We're missing data.

JAMIE HEDLUND: Right.

JORDYN BUCHANAN: And so it is harder to understand—

JAMIE HEDLUND: And so it's harder to understand what the impact of parking and the new gTLD parking space... the new gTLD market. But I don't know that it makes it harder to understand the impact... I mean,



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you're saying that because of the parking you can't understand what the New gTLD Program's impact is on the overall market for TLDs.

JORDYN BUCHANAN: Let me give you a... Go ahead, Jonathan.

JONATHAN ZUCK: I think the way to parse that is that Jamie looks at that and says that it presupposes that there's a anti-competitive effect already. In other words, there's two different questions. One is whether or not there's more parking in new gTLDs than there is in legacy gTLDs. That's one question and even that question does not innately say that that we distortive of our competitive analysis.

JORDYN BUCHANAN: Right, so—

JONATHAN ZUCK: That's a separate question we need to ask ourselves. And so just the mere fact that those ratios are not yet known is not the same as saying that we... because it's a separate question from

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whether or not the presence of parking distorts competitive analysis.

JORDYN BUCHANAN: Right. So—

JONATHAN ZUCK: It's two different steps, right?

JORDYN BUCHANAN: Two things need to be true in order for parking to be distorting our competition analysis. Number one is the rate of parking needs to be different between the gTLDs. So this gets at that. And, number two, the fact that things are parked has to have some effect on the competitive dynamic, on the space, right?

So, it is correct to say this only gets to the first of those two questions and, I guess, to some extent presupposes the second. However, I don't want to rewrite this sentence in a way that tries to encapsulate both hypotheses because it will be a really gross sentence.

So if Jamie or Jonathan have suggestions to rewrite the sentence to try to capture both of those, I'm open to it. But I

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think, once again, we are operating at the level of PowerPoint bullets here. This is not the actual report.

JONATHAN ZUCK: So it just makes it harder to understand the impact. All you're actually able to conclude on the ratios—

JORDYN BUCHANAN: I agree. That is a true statement. Having said that, therefore, that's not the end of our thought process. There's a second sentence therefore that you would need which would say, "And also we don't know the effect of parking on competition." Which we could write, but I just don't think... I don't think that makes the sentence... I think it make the point of this less helpful, not more helpful.

[JAMIE HEDLUND]: That sentence basically reads that we can't say anything about competition as a result of the New gTLD Program because—

JORDYN BUCHANAN: It is harder to pick up a 50 lb. bag then a 20 lb. bag. That does not mean it's impossible to pick up a 50 lb. bag. This is a

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statement purely about relative difficulty not about what possibility.

[JAMIE HEDLUND]: And I think it grossly overstates the role of parking in the New gTLD Program.

[WAUDO SIGNANGA]: I understand what Jamie's concern is. If [you] just read that statement it's like it's giving too much weight to parking, I guess is a factor. So we need to really indicate there that parking is just one of the factors that influence the understanding of new gTLDs in the marketplace. We need to change that a little bit, maybe—

JORDYN BUCHANAN: I agree with that, I just don't... What word do you want to use instead of parking—

[WAUDO SIGNANGA]: The problems the new gTLDs and lack of ability to compare to legacy details is one of the factors that makes it hard to understand the role of gTLDs in the marketplace.

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JORDYN BUCHANAN: Sure. Does that make you happier?

JONATHAN ZUCK: [Inaudible] this conversation in 11 minutes.

JORDYN BUCHANAN: Well, I just thought it was like two minutes. I'm just trying to fix this sentence. So Waudio has proposed instead of "makes it harder," that we say, "Is one of the factors that makes it hard." I think that's exactly the same thing, but sure. Hold on. Jamie, would that satisfy you? So let me show the edit.

[MEGAN RICHARDS]: My only concern... Sorry for cutting you off.

JORDYN BUCHANAN: I'm going to say, impact. I actually like—

UNIDENTIFIED MALE: I like Carlton's suggestion there.

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[MEGAN RICHARDS]: This impact or something, this impact. Because if you're talking about the whole role of gTLDs in the marketplace, we've got a whole series of other things. We're just limiting this—

JORDYN BUCHANAN: That is Waudo's point. It's just one of the factors.

[MEGAN RICHARDS]: It's just one of the factors. Exactly. The point is the way in which the sentence is construed. If you're not paying careful attention you might think it means something beyond –

JORDYN BUCHANAN: People can read whatever words don't exist in the sentence that they want, I guess. But, it says what it says. Like, I'm open to other edits. But I don't think we should also just say, "Oh, this is a thing." We're trying to capture both of the two thoughts that Jonathan was saying with making this so wordy that impossible to parse the sentence. David, go ahead.

DAVID TAYLOR: So, this may be semantics, but are you actually trying to figure out the impact of the New gTLD Program on parking or of parking on the New gTLDs Program?

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JORDYN BUCHANAN: We are trying to say that we're missing information that currently makes it hard for us to understand the full competitive impact of gTLDs on the marketplace.

DAVID TAYLOR: Yeah. So the reason why my semantics would make a difference here is you can easily say that you don't know the effect of parking on either the New gTLD Program or competition.

JORDYN BUCHANAN: So we could say is one of the factors that makes it hard to understand the impact of new gTLDs on competition? I'm fine with that, too. I also don't think that changes the meaning of the sentence in a meaningful way. I love drafting in big rooms. Okay. On competition, everyone like that sentence. Sorry. Let me rephrase that. I hate that sentence. Is everyone comfortable, including that sentence in the presentation?

JONATHAN ZUCK: And we're going to eliminate sentences in the presentation?

JORDYN BUCHANAN: Yeah.

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UNIDENTIFIED MALE: Market is way [inaudible]. I think it's better market, because we also incorporate things like choice, you know, market. Competition is too narrow.

JORDYN BUCHANAN: Dejan?

DEJAN DJUKIC: If you had somewhere that reduced choice of end users. It's only fact that it's [inaudible] we are 100% sure.

JONATHAN ZUCK: The problem is that the statement about parking in general is something ICANN can study separately. But it's not anything that has to do with the impact of the New gTLD Program. We don't know yet whether the New gTLD Program had an impact on parking. And, in addition to that, we don't know if parking distorts our sales figures. But, are we getting false positives about this 50% of these sales, etc. And so those are the two things that we need to look at. And the hypotheses that they're false positives is that they might not renew. I don't even know if that's necessarily the truth.



JORDYN BUCHANAN: We going to study that.

JONATHAN ZUCK: [Inaudible] stuff for a long time.

JORDYN BUCHANAN: So two points. Number one is, I think, the problem I have with that statement, Dejan, is that it privileges certain registrants over others. Because we've defined the registrant class of consumer as a registrants, right? And a person who parks the domain is a registrant just as much as a person who uses it for a website. So we could further try to create a taxonomy of registrants and say, "Oh, there's a kind of registrant who parks and there's a kind of registrant who does other stuff with domains." And the parking reduces choice for that other kind of registrant. But that's a value judgment, I guess, that one kind of registrant is more worthy than the other kind.

DEJAN DJUKIC: My point was to reduce the choices of users who actually expect us to find something on this website, not the registrant. The registrants are [equal].

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JORDYN BUCHANAN: Right. That's what I'm saying. Oh, so you're saying it reduces choice to end users?

DEJAN DJUKIC: Yeah, end users who are visiting websites, so –

JORDYN BUCHANAN: So in order for that hypothesis to be true we would have to somehow prove that someone else would have registered the name instead of the parker and then built a website on it.

DEJAN DJUKIC: Or we have to prove that end users expect us to find something or—

JORDYN BUCHANAN: Yeah, but, if no one else was going to buy the domain anyway it wouldn't matter. It would just be, if you're either going to get an error because the domain wasn't registered or an error because someone bought the name and then didn't build anything on it. That's the same to the end user. So somehow we would have to show that someone else would have built a website instead of parking it.

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What was that Carlton?

CARLTON SAMUELS: I don't think you can [inaudible] if you have a website that has malware on it or one that the cost to the end user is different.

JORDYN BUCHANAN: [Inaudible].

CARLTON SAMUELS: Yeah, the whole servicing area is different around that.

JORDYN BUCHANAN: But, remember the most common modality of parking is the DNS error. And so if you get a DNS error because someone bought the name and didn't set up DNS or you get a DNS error because no one bought the name in the first place. That was an identical experience for the end user. It's just their browser says, error. And so I agree that if there's abuse on it which we're going to study, that would be bad. But in the general case, if you just don't get a result it doesn't matter... You have to prove that someone else would have built a website there instead of the parker parking it.

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DAVID TAYLOR: And from the research people go to websites because they have an intent. You'd have to prove that there was some intent to go to that specific domain.

JORDYN BUCHANAN: Right, that's a great point, too, David. So for now, Dejan, I think we're not going to include that. So this is going to take us 11 minutes to write one sentence, which is great. So it changes the competition because Megan liked that. This side of the room liked marketplace better. Megan, we're going to finally get to vote.

MEGAN RICHARDS: Good.

JORDYN BUCHANAN: Who likes competition better... so, here's Version 1. All right. So here's the Competition Version, Version 1 and Version 2 is "In the Marketplace". Who likes the Competition Version, raise your hand? You're making my sentence more complicated. Potentially, not necessarily. I think all of those numbers, it would... Okay.

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KAILI KAN: [Inaudible].

JORDYN BUCHANAN: That's not true. We also have the gross registration. For example, one thing you might look at is that place where you said it's 50% of the growth, if we said some of that growth on the gTLD side isn't real, then you would change those numbers, too, I presume, right?

UNIDENTIFIED MALE: Yeah.

JORDYN BUCHANAN: I think [there's a way] to affect the number of our computations. In fact, Stan, in your original [inaudible] parking, you said, "Here's five projects." And I would want to calculate all the numbers for all of these projects with and without parking, right? So that's why I think it's a broader statement than concentration.

All right. Two versions, "In the Marketplace" or "On Competition". Who likes "On Competition"? Maureen, Megan, people that work for governments like that one. All right. Who likes the "In the Marketplace" definition? You guys lose.

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CARLTON SAMUELS: Jordyn, I don't think there's a loser because competition is a subset of market. So—

GAONLALEWE MOSWEU: Not necessarily. The economist would not agree to that.

JORDYN BUCHANAN: Okay. Gao is going to make her plan, then we have to be done. Gao, Stan and then, hopefully, we're going to be done with the sentence.

GAONLALEWE MOSWEU: Thank you. The problems of parking the new gTLDs and lack of ability to compare to legacy gTLDs is one of the factors that makes it hard to understand the impact of new gTLDs on competition in the DNS marketplace.

JORDYN BUCHANAN: That's a lot of words. It's already the case that our slides have too many words on them and we need to take words out. So the first thing I would do when I edit it was to remove that redundancy. All right, Stan.

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STAN BESEN: Yeah. That's a half hour of my life I'll never get back. I want to correct the error in the last sentence here it beckons. It should be –

JORDYN BUCHANAN: [inaudible]

STAN BESEN: I'm sorry. It may never get there. We're not talking about parking.

JORDYN BUCHANAN: We're going to [inaudible].

STAN BESEN: This will be easy to fix. It should say “unconcentrated”.

JORDYN BUCHANAN: Okay. Thank you. All right. Does anyone object to the sentence about parking? Okay. Is anyone going to be very unhappy that we include the sentence about parking?

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UNIDENTIFIED FEMALE: What about “harder” instead “hard”? It's a comparative.

JORDYN BUCHANAN: Okay. Harder. That's what I used to have. Jamie didn't like that.  
We edited some more.

UNIDENTIFIED FEMALE: Why? I would think Jamie would prefer “harder”.

JORDYN BUCHANAN: Okay. We're going with harder.

UNIDENTIFIED FEMALE: As opposed to hard.

JORDYN BUCHANAN: Okay, people, we now have... I'm glad you realize wordsmithing on that particular sentence. Because now you've got 13 minutes to talk about all the other remaining sections. So you're really going to like all those other ones apparently.

UNIDENTIFIED FEMALE: [inaudible] mic please and introduce yourselves.



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JORDYN BUCHANAN: All right. So we're going to talk about backends. So this unconcentrated.

That's because you're not looking at the Google Doc version. The only version that you're live updating is the Google Doc version. At the end of the discussion today, there will be an export back to the wiki page. Otherwise, we don't want to stop like every 30 seconds doing a new export. Stan?

STAN BESEN: I think we should take out the [inaudible]. The DOJ looks at the HHI and so if we're using their—

JORDYN BUCHANAN: All right. So we're saying that backends just like with the actual gTLD registrations backend market is also now very concentrated, especially compared to the legacy gTLD market which is pretty concentrated. And the process of rolling out the new gTLDs is having the effect of decreasing the concentration in the overall market. Megan?

MEGAN RICHARDS: A highly intellectual proposal and that is to remove the parentheses on that first, because it looks a bit silly with the

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parentheses. If you just take that out the two sentences go nicely.

JORDYN BUCHANAN: You mean the four new gTLDs?

MEGAN RICHARDS: Yeah.

JORDYN BUCHANAN: That is clarifying which market we're talking about for the—

MEGAN RICHARDS: Then it sounds a bit funny, because it says, "This represents significant lower concentration in the backend markets for all gTLDs." If you read the two together—

JORDYN BUCHANAN: There are two different markets. One market is the new gTLD market and, one market—

MEGAN RICHARDS: But why can't you take the parentheses out?

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JORDYN BUCHANAN: Oh, I understand. So you're going to not get rid of the parentheticals, get rid of the parentheses?

MEGAN RICHARDS: No, the parentheses, not the parenthesis. The punctuation. Remove those funny round things.

JORDYN BUCHANAN: Okay. Is everyone happy with this backend stuff? Okay. Registrars. We'll fix that or erase it. Don't worry. It's going to be the actual number of percent.

UNIDENTIFIED MALE: [Inaudible].

JORDYN BUCHANAN: No. I'm either going to take it out or put a number there. The number will be the correct number if it's there. All right. Registrars. Basically, registrars are the same as they used to be.

The one important point is this last one. It's not important, it's odd that even though there's a lot of competition amongst registrars. Pricing is really variable. No one knows why. And in fact, sometimes we see an anti-correlation between concentration and price, which is really weird. So price and

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registrars is a weird thing that deserves further study, but not by us. Everyone okay with this?

Trademarks. Okay, so with trademarks, we're saying that, as with previous expansions, some trademark holders defensively register. The Analysis Group study showed that 54% of trademarks registered in .com were also registered in at least one of the new gTLDs, so about half of trademark holders that bothered to register in .com also bothered to register in the new gTLDs.

On average, those people register about three gTLDs per mark, but there's a small number of trademarks that are registered in very many of the new gTLDs. 4% of the trademarks that were registered in .com were registered [inaudible] and one of the legacy gTLDs were registered in at least 100 new gTLDs, and one trademark was registered in 406 new gTLDs.

STAN BESEN: Don't say average, because it's median.

JORDYN BUCHANAN: It's a kind of average.

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STAN BESEN: Most people will think that's the mean.

JORDYN BUCHANAN: Greg, do you know what the mean was on that?

GREG RAFERT: I'll double check.

JORDYN BUCHANAN: [inaudible] I think the mean is like seven or something like that. Okay, the median of three. That's a kind of average. Okay, Kaili?

KAILI KAN: Here, the third bullet, although a small number of trademarks are registered in many of the gTLDs, and then you go for 4% of them, and when was the trademark – and so forth. In that case, why don't you just take away "a small number of," and just [although] 4% speaks for itself. That's one thing.

In the fourth bullet, you say the [inaudible] relatively low. Low means how low? One cent? \$1? \$10? Please give us some [inaudible] at least get a feeling of it when it says relatively low, and then a small fraction of significant – a small section, how small?

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JORDYN BUCHANAN: 4%

KAILI KAN: Then please do refer do refer to [about] 4% and so forth. And also, when we talk about cost, that is a monetary issue, how much money is involved here.

JORDYN BUCHANAN: Correct.

KAILI KAN: Can you give some kind of a [inaudible] figure to get the feeling about them – whoever, either the [Board] or public, to get the feeling about what we're talking about?

JORDYN BUCHANAN: Greg, did the TMCH study look at expected costs for the [inaudible] registrations?

GREG RAFERT: We did not, but to your earlier question, the mean is eight if you want to include it.

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JORDYN BUCHANAN: Stan.

STAN BESEN: Actually, this isn't quite right for a couple of reasons. One is that some entities apparently incur legal costs to challenge [inaudible] is number one, and the other is that some – we don't know how many, but some may have purchased a blocking service, which cost them something. So this only focuses on the defensive registration costs.

KAILI KAN: Yes. [inaudible] here so we can provide a complete picture.

JORDYN BUCHANAN: Okay. So, there was in this sentence the matter to this discussion. For example, the words will say, "Related to direct registrations in defensive registrations." So this says that it's only talking about the cost of defensive registrations.

KAILI KAN: [inaudible]. Please, in addition, add – say that – what Stan talks about. Like legal cost and blocking service, and those. And we just mention that here.

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JORDYN BUCHANAN: We don't actually have any data to support that, but [we finally have] data that shows the opposite.

KAILI KAN: We already had the data showing that these [two] exist.

JORDYN BUCHANAN: We do not have data that shows that there's any increased legal cost. In fact, David's initial study shows that the number of disputes have decreased after the introduction of new gTLDs. So it is not the case that we have any evidence whatsoever indicating that anyone's spending more money on average as a result of the introduction of the New gTLD Program. Megan, do you want to jump in?

MEGAN RICHARDS: No, I've become David to Jonathan. I'm just wondering if we switch the wording slightly, it will be more clear. So to say, "For most trademark holders, the cost to protecting their trademarks in the New gTLD Program and blah, blah has been relatively low." That would cover all the issues that you're talking about.



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JORDYN BUCHANAN: Actually, let me have a slightly different edit, which is – so here, we’re not even attempting – so the one thing I will say that is definitely missing is blocking cost, which I'm not sure we’re ever going to be able... The INTA survey may give us some indication of what that looks like. And the INTA survey may also tell us more than we know from David’s initial UDRP URS analysis.

So we are waiting on the INTA survey to better understand the cost. What we do know is on the direct registration front, that the costs have been relatively low for most registrants, and there's a few of them that are spending quite a bit of money registering a bunch of different gTLDs.

MEGAN RICHARDS: [inaudible]

JORDYN BUCHANAN: Alright. David.

DAVID TAYLOR: Thanks, Jordyn. Yes, I’d just go on with that, just with the preface that the cost of New gTLD Program for most trademark holders related to direct registrations and defensive – I just wanted something in there in defensive registrations alone, because remember, we had this discussion on the last call,

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because I think the statement by itself is misleading, and we just want to make sure it's clear that this is defensive registrations alone and not [inaudible] a block [inaudible].

JORDYN BUCHANAN: Should we just make the – I'm [inaudible] saying, “further study on other potential costs is ongoing,” or something like that. Jamie?

JAMIE HEDLUND: Just a question. Do we know, in fact, that these are defensive registrations, and that they would not have been made other than to defend their trademarks? Because there are lots of reasons that people have multiple registrations [of certain] names.

JORDYN BUCHANAN: We do know from the registrant survey that about – I think – half of the registrations were defensive.

UNIDENTIFIED MALE: I think it was 60-some percent, but I'll look it up for you.

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JORDYN BUCHANAN: Yes, so we do have some data indicating that the registrants are registering –

UNIDENTIFIED MALE: But we were very specific that it's 4% and that those are defensive.

JORDYN BUCHANAN: No. This sentence includes words that has its own conclusion. They're not the same as in the previous sentences. The 4% is just how often the trademark was being registered. It's not saying whether it's defensive or not. Here, the bold statement is trying to synthesize various things we know into a more conclusory statement. Go ahead, David.

DAVID DAYLOR: I'm looking at the conclusion and where we're getting to from this, and even the fact of when we say most trademarks were only registered in a small number of gTLDs, median of three, is that the new gTLDs?

JORDYN BUCHANAN: Correct.

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DAVID TAYLOR: So then you have to compare what most trademarks registered in legacy, because to me, if they've only got the .com for instance, and the .co.uk, to have then registered in three new gTLDs has just doubled their portfolio. So the cost of that trademark owner is double, which is a big difference. So I'm just wondering whether – it just seems very strange conclusion from what we're looking at, that's all.

UNIDENTIFIED MALE: But it's right, from what – the figures.

JORDYN BUCHANAN: So doubling – alright, Greg, do you know? Do we know from the CMTH study what the average, the median number of registrations in legacy gTLDs was?

GREG RAFERT: I don't recall off the top of my head, but I can go look.

JORDYN BUCHANAN: Alright, we'll see if we can answer that question, David.

GREG RAFERT: It was six in ten, which was twice the next highest reason.

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JORDYN BUCHANAN:            Alright, so most registrations in the new gTLDs are defensive, to your question, Jamie. Alright, now we're at time.

Let's just look at the choice and pricing things. So, choice says, in the 18% of cases, users could have registered in that new gTLD even when they could have registered that exact same SLD in .com.

So I registered jordyn.ninja, and I could have registered Jordyn.com instead. 18% of the time. The flipside is that 82% of the time, it was already taken in .com. In IDN TLDs in particular, many of the registrations are unique in the gTLD.

On the other hand, almost all the time – 92% of the time – I could have registered the combination of the SLD and the TLD together in .com, so Jonathan got bigshots.photography. He could have instead registered bigshots.photography.com.

Almost always, that combination was available in .com, if they would have wanted to combine the SLD and the TLD. Carlos, did you have a –

UNIDENTIFIED MALE:            [inaudible]

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JORDYN BUCHANAN: Yes. And often this is the case, as our data said earlier, often the new gTLDs are more expensive, so sometimes, people are paying a premium to register a combined string that they could have gotten in .com.

I think that's a pretty good non-price competition signal, is that people are sort of registering these names without sensitivity to the cost when they're getting these names that would have been available in .com.

And I would like to add something from the registrant survey here about why people are choosing to register in .com. So maybe David, we could just figure out what the most relevant bullets to [pull over here] would be.

UNIDENTIFIED MALE: [inaudible] registered in .com?

JORDYN BUCHANAN: No, why they're choosing to register in the new gTLDs.

UNIDENTIFIED MALE: In the new gTLDs.

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JORDYN BUCHANAN: Yes, okay. Anything controversial about this? I think Carlos wanted some bold here to try to summarize it, and I don't yet have a good summary. It's just like they're interesting facts that I'm not quite sure how to synthesize. Kaili?

KAILI KAN: Thank you, Jordyn. You say in some cases, 18% users prefer [inaudible] so forth. Do you mean that in the other 82%, the users do otherwise? That means they just register in .com instead of new gTLDs?

JORDYN BUCHANAN: No. We're actually waiting for some analysis from ICANN to show – what we don't know is – let's say, I could have registered –

KAILI KAN: In both.

JORDYN BUCHANAN: In both.

KAILI KAN: So in .com or –

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JORDYN BUCHANAN: Right, so we don't know – what we're trying to look at is what the registration behavior is in .com and compare it back to the new gTLDs. Right now, we only know what happens in the new gTLDs, and not in .com.

KAILI KAN: But I just don't quite get it. What [inaudible].

JORDYN BUCHANAN: In 82% of cases, it was impossible to register in .com the exact string they got. So let's say you went and bought kaili. –

KAILI KAN: That is – just read what you've written. Here, basically you're saying that both are available, and then 18% prefer new gTLD.

JORDYN BUCHANAN: No. I'm saying in 18% of cases where people did register in the new gTLD, they could have gotten the .com instead. That's what I'm saying.

UNIDENTIFIED MALE: They had a choice.



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JORDYN BUCHANAN: They had a choice, and they chose the new gTLD.

UNIDENTIFIED MALE: That's what he's saying.

JORDYN BUCHANAN: In 82% of the cases, the –

UNIDENTIFIED MALE: [inaudible]

UNIDENTIFIED MALE: There was no .com

JORDYN BUCHANAN: No, they could not have registered .com, and so –

KAILI KAN: So what you're saying is the entire amount, all the new gTLD registrations, 18% could have registered in .com, but they did not.

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JORDYN BUCHANAN: Correct.

KAILI KAN: And this – I don't know if it is my English or what, but that is not  
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JORDYN BUCHANAN: Well, okay. If we're happy with the concept and just want to work on wordsmithing, we can do that during the break, and we have to move on to the next section.

KAILI KAN: [inaudible] I don't quite get it.

JORDYN BUCHANAN: Okay, pricing, this basically says we have nothing useful to say about pricing. Kaili.

KAILI KAN: I just wonder if we want to add one bullet here, such as before, because for running a business, the cost or the price of a domain name is a very small or maybe even negligible anyway. So the registrant may not be even sensitive to the price.

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Whether it's a few dollars more or less, it doesn't really matter. So that also helps to explain the new gTLDs, the good thing about the new gTLDs are they're very specific and very meaningful, and there, the registrants are willing to pay a few dollars more.

So I just want to – I would like to add another bullet here saying that because of the domain name price is very insignificant, so registrants might not be even sensitive to the pricing here.

JORDYN BUCHANAN: Okay. That would be a really cool statement to make if we had any data to support it. David, does the registrant survey tell us about how much people care about prices of registrations?

DAVID DICKINSON: There's some data in there. Price of the new gTLDs being attractive was listed as a factor for about one in three, and I'll have to look, there is some other data. I'll look it up.

JORDYN BUCHANAN: Okay, we'll see, Kaili, if there's any data we can present on this point.

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KAILI KAN: What I heard is – what David was saying is one in three feel that is a factor to be considered, or otherwise – other way around that is that two thirds of the people surveyed feel that’s not a factor.

JORDYN BUCHANAN: Right. I am fine including a statement that says the majority of registrants don’t consider price a factor, and so this may – this may also explain why registrars have wide variation in price.

KAILI KAN: Yes. [inaudible].

JORDYN BUCHANAN: It is plausible that registrants are just not very price sensitive, but I’d like to get some data that supports that [inaudible].

KAILI KAN: Yes, and I think David just mentioned some data, one third, two third, which supports it, and that saves us so much trouble. And we do need to [inaudible] anyway.

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DAVID DICKINSON: I would be careful of saying that price is not a factor. It may not be a strongly differentiating factor for legacy versus new. When we do look at why they are using alternative IDs like a Facebook account or that sort of thing, the number one reason there is that it's cheaper.

JORDYN BUCHANAN: So we'll see. David and I will talk a little bit during the break, and we'll figure out if there's –

UNIDENTIFIED MALE: [inaudible]

JORDYN BUCHANAN: Yes. Okay, so other than that, Kaili's suggestion, we're okay with saying we have nothing useful to say about pricing? Okay. Policies. I'll just note, we're cutting into break time, so the faster we resolve this, the longer you get a break for.

UNIDENTIFIED FEMALE: [inaudible] incentive.

JORDYN BUCHANAN: Here are some statements about policies.

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UNIDENTIFIED MALE: [inaudible]

JORDYN BUCHANAN: We don't know where this belongs, just some interesting facts that we found. It could be non-price competition if people cared about it and it influenced their registration behavior. It could be they're safeguards, but not really safeguards, because no one actually has – I mean, like a privacy policy is a form of a safeguard.

UNIDENTIFIED FEMALE: A safeguard would be a – there is a safeguard that's [speaks] to protecting sensitive information, so there's an existing safeguard.

UNIDENTIFIED FEMALE: There is an existing safeguard for certain domains in regulated markets that mandates appropriate measures be taken to protect sensitive information.

UNIDENTIFIED MALE: Talk in the mic. [inaudible] David.

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UNIDENTIFIED MALE: Oh, sorry.

JORDYN BUCHANAN: I'll jump to Dejan in a second, but just say – yes, my point is some of these are kind of safeguard-ish, and some that are competition-ish, but the work is here, we have the information, it's probably still informative to people, so we'll probably include it in the report, but it doesn't squarely belong in either one, probably. But Dejan, go ahead, and then Kaili, and then we're going to take a break.

DEJAN DJUKIC: [We'll] include voluntary fix in this analysis, and [realizing that] it could be part of non-price competition, so we'll find out how it'll look like after we include it.

KAILI KAN: Thank you, Jordyn. Just to continue on Dejan's – well, we just talked about price, and of course, there's another side of so-called non-price competition. My general impression is that we do not have a good metric or a measurement of non-price competition, and for typical non-price competition, what I feel would be – before we discussed about like free service freebies

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given away. For example, mailbox services and so forth. So what we have here, part of this could cover both non-price competition, as well as safeguards provided. But for non-price competition alone, so far, I don't see that much.

UNIDENTIFIED MALE: [inaudible]

JORDYN BUCHANAN: This is so much harder than I thought. I was checking [about the] break. We have 45 more minutes. We'll see what happens, but Stan, go ahead.

STAN BESEN: Yes, actually, I don't agree with that. I think the main form of non-price competition is the variety of names. The way you compete is having .beer or .bar.

KAILI KAN: That is a no-brainer.

STAN BESEN: I'm sorry, it may be a no-brainer, but saying it's not non-price competition is wrong.



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KAILI KAN: [inaudible] price associated to a name, okay? Otherwise it's not – that's [inaudible]

STAN BESEN: But that's non-price competition.

KAILI KAN: Okay, well, [inaudible]. No contest.

JORDYN BUCHANAN: Okay. Dejan.

DEJAN DJUKIC: But we are dealing with the domain name industry here, and registries are offering only domain names, and policies are part of that, what they're offering. They're not offering mailboxes, hosting, and then – that can be part of their general business, but it's not something we are dealing with.

KAILI KAN: That's why I said this industry is selling names, so we cannot say name itself is... Okay, well, anyway –

JORDYN BUCHANAN: Okay. Jamie?

JAMIE HEDLUND: Yes, just quickly. The names are different from each other. They carry with it identity. Those are qualities that are not price, so of course, that is non-price competition. Otherwise, they would all be just fungible and have the same name, effectively.

KAILI KAN: And also, a good measure of the value of that non-price [priced] would be the money involved, or the retail price of that name.

JORDYN BUCHANAN: Oh.

KAILI KAN: [inaudible] There has to be a measurement to the comparison, and I believe in the typical practical economic studies, non-price competition, those factors are sort of priced in order to do the calculation, the comparison. Otherwise, you cannot compare oranges versus apples. Okay. The price tag will be put on in order to do the comparison, but anyway, that's about it.

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JORDYN BUCHANAN: Megan.

MEGAN RICHARDS: [inaudible] and perhaps Laureen already mentioned it. Just on the no restrictions on who can register, except for .nyc – and I think Laureen mentioned this, but I was doing something else in parallel – we have a series of restrictions in highly restricted sectors. Are you saying I mentioned that?

JORDYN BUCHANAN: This is just the top 30 by volume TLDs, none of which are in the highly restricted category.

MEGAN RICHARDS: Okay, very good. So, could you at least say that when you make this presentation? Thanks.

JORDYN BUCHANAN: Yes, sure, we can. It's sort of hinted at at the top, but we can make it clear that this is an overarching – the top 30 – we could say –

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UNIDENTIFIED FEMALE: [inaudible]

JORDYN BUCHANAN: Sure.

UNIDENTIFIED FEMALE: [inaudible]

JORDYN BUCHANAN: Better?

UNIDENTIFIED FEMALE: [inaudible]

JORDYN BUCHANAN: Oh, okay. Orderly is probably better. I'll do orderly. Alright, any other comments or questions about the policies section?

Okay, anyone think that there are important elements to our findings on competition and consumer choice that are not included in any of these sections? Because these are the topics that we'll be presenting to the Board and to the engagement session tomorrow.

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UNIDENTIFIED FEMALE: [inaudible]

JORDYN BUCHANAN: Not if Kaili is in the audience.

UNIDENTIFIED MALE: [inaudible]

JORDYN BUCHANAN: I'll have to be very efficient in my delivery.

UNIDENTIFIED FEMALE: Don't read the slides.

JORDYN BUCHANAN: I will not read the – well, we'll see how they're delivered. In any case, everyone's happy with this? This also roughly resembles the findings that are going to be included in our initial report on competition and consumer choice, right? Okay. This is like actual progress, I hope everyone realizes.

We are actually sort of deciding what we're going to actually include in our report, and what the substance of the Competition and Consumer Choice statements are going to be.

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So I think we should all acknowledge that that is an important, significant milestone.

UNIDENTIFIED MALE: Yes.

JORDYN BUCHANAN: Do we have to wait before there's going to be stuff to break for? Is that a correct statement?

UNIDENTIFIED FEMALE: [inaudible]

JORDYN BUCHANAN: Okay, we're going to check and see whether we can have an early break, and then power through a lot of time on – we're going to give Laureen extra time to work through our findings on the – or no, we're going to move to recommendations.

UNIDENTIFIED FEMALE: Well, actually, you're supposed to be doing recommendations now.

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JORDYN BUCHANAN: Oh, actually, I'm supposed to do recommendations. So why don't we do this for a couple of minutes.

UNIDENTIFIED FEMALE: [inaudible]

JORDYN BUCHANAN: So I guess the question here is, are there important recommendations we should be making, that are not – right now, our recommendations basically boil down to there are a couple of areas where ICANN should do more study, or we need better data.

Are there any recommendations that people feel like, based on these findings, that we should be making, that substantively would affect a new round, or whether there should be a new round? Or [inaudible] around. I have to buy \$2 worth of [inaudible].

JONATHAN ZUCK: Right.

JORDYN BUCHANAN: Whether there should be new gTLDs, or how new gTLDs should be rolled out.

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JONATHAN ZUCK: I think Jamie wants ICANN to do more price regulation. Right. Yeah.

UNIDENTIFIED MALE: [Inaudible]

JORDYN BUCHANAN: I've got Drew and then Kaili.

DREW BAGLEY: This goes back to what Stan who's walking out of the room has been saying this whole time is that I think one of the recommendations should be that ICANN needs to begin collecting more pricing data. I think that's one of the most important things because if there's going to be any future studies and competition that can go further than what this study is doing and that's going to be a prerequisite.

JORDYN BUCHANAN: That is an extraordinarily good idea that I already wrote down. That is our very first recommendation, in fact, is that ICANN needs to gather more data really just to price in legacy gTLDs in particular. I guess it is also possible that we should try to get



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more prices from registrars, from legacy gTLDs. Let's make that a second recommendation. Recommendation: ICANN needs to gather more data relating to prices charged by registrars.

DREW BAGLEY: And when you explain it, make sure you explain it was talking about retail price data as well as wholesale.

JORDYN BUCHANAN: The retail prices?

DREW BAGLEY: Yeah.

JORDYN BUCHANAN: Okay. Kaili.

KAILI KAN: I have two recommendations that I'm sure that many would be against. Regarding the two major costs for the New g Program of [inaudible], one is defensive registration. I think for bad names, especially if they are forced to defensively register, I believe they should be given some kind of leeway or preferred treatment, for

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example lowering the price pack for them to register for a new g of our TLD.

And also once it's a TLD, for example, BMW or Mercedes, if it becomes a TLD that sets up some rules that these strings are not supposed to be used for second-level, domain names, and so forth, to ICANN to set up some kind of protection mechanism to help with brand name owners.

I believe this will help to [comfort] the business constituencies or brand name owners and help with the New g Program to carry on in the future if it does. So this is one suggested that I hope that ICANN could consider. The second thing—

JORDYN BUCHANAN:

Let's do one at time. Kaili's suggestion is that brands that have to register defensively should either—or somebody who has an access with that brand, if you have to register brands defensively you get a free or [cheap] dot brands, it's not... Let me [inaudible] on that one first.

We had Analysis Group take a look at the behavior defensive registration around dot brands and whether the trademarks that were represented by dot brand, how often those trademarks were registered as second-level domains in the new gTLDs.

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The hypothesis here was that if you had your dot brand, maybe you don't need to go and register in all of the new gTLDs. In fact, what we found is it's much more common to register a trademark in the new gTLDs if you also have the dot brands, then vice versa. I think the average is like over 100, is that right? If you had a dot brand, you're on average registering your trademark in 100+ gTLDs.

KAILI KAN:

I believe here the observation is for the new gs, as what David has mentioned, the mass majority is for defensive purposes. Therefore, for the legacy ones, for example .com, they would for the purpose to increase exposure to the public. So I just feel that maybe for the new gs and the legacy ones, there's a [inaudible].

JORDYN BUCHANAN:

I guess my point is that it doesn't seem very helpful to have a dot brand to someone who is registering defensively because they just end up—my hypothesis would be if you're going to register a dot brand, it's because it's a really famous mark and therefore you're also going to be really much more cautious about registering it defensively as well.

And so it's not very helpful to give someone a dot brand because they're going to have to go and register defensively anyway.

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KAILI KAN: My personal feeling is that data has showed otherwise, or maybe I misunderstood, but anyway, that is one suggestion.

JORDYN BUCHANAN: The second half of your suggestion was if you have a dot brand that we bought off that string as a second-level domain in all of the other—

KAILI KAN: Unless by the brand name owner.

JORDYN BUCHANAN: Sure. So according to your theory, .apple exists and so if there was a .farm, no one can register apple.farm, is that right?

KAILI KAN: It seems like that.

JORDYN BUCHANAN: There has been discussion in the community prior to this round about creating a—what was it called, David? It was not DPML, it was a famous names list basic—protecting marks list, yeah. That did not proceed. I guess the question is do we have data from

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our review that tells us that that was a mistake to not have the protected marks list.

WAUDO SIGNANGA: I think you just mentioned some data. You said that in general the dot brands were registering around a hundred domains in the new gTLD.

JONATHAN ZUCK: Average.

WAUDO SIGNANGA: Average, so that's quite high.

JORDYN BUCHANAN: It doesn't [inaudible] that most of the cost is concentrated on a relatively small number of brands. I think that's probably fair.

UNIDENTIFIED MALE: A big brand.

JORDYN BUCHANAN: It's a fair statement. David, you wanted to jump in?

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DAVID TAYLOR:

I think this is a really interesting discussion and I think actually hits on a variety of subjects which we probably won't go into now. But clearly for brand supply for TLD and is still then protecting their brand in the other TLDs, I would be surprised if any of those brands today would say that they consider that registration in the other TLDs as a good use of their money so that is wasted money.

I think we're looking to future rounds where we will likely not have 3,600 brands but we will likely have several thousand if not tens of thousands brands registering as they're certainly trusted TLD. I think most people will agree we trust TLD if we go to a .samsung or whatever.

I think those are really interesting data points which we do need to fish around, but also back to the original point there which you said about if you go to TLD, should that be a block in the other ones. That used to be the case because the registry agreements—I'm pretty sure it was because at one point once you had many legacy TLDs, I stand to be corrected on this but if you registered .mobi, mobi was then blocked at the second level in all TLDs.

So I may be wrong but that's as I recall it because I recall that same situation with .cat, obviously being caterpillar, and in the legacy TLDs it couldn't be registered but that Registry

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Agreement term was changed for the new gTLDs and it's no longer the case.

Now again this is stuff I was doing six seven years ago so I'm a little bit hazy on it and unprepared but I'm pretty sure that's the case.

KAILI KAN:

I thought that was the case but I think Eleeza posted a remark saying that is not the case. I think somebody—

JORDYN BUCHANAN:

You will see in .com, I am fairly certain every single TLD is now registered and most of them like net.com have been registered forever and ever and ever. So we can do some more spelunking. I'm not aware that that's ever been the case, that there's been.

Some people think this is true because two letter registrations have been intermittently blocked in various of the gTLDs and so ccTLDs were effectively blocked off. But I don't think it's ever been the case for gTLDs to have been blocked.

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DAVID TAYLOR: I think it was specific to the Registry Agreements as to previous Registry Agreements. But if you at it around the time of .cat then that's where I think we'll find it.

JORDYN BUCHANAN: So you're saying [inaudible] 2006 Registry Agreement. Okay, we can look and see but I'm pretty sure that's not true. But in any case, regardless of whether it used to happen, the question is whether it should happen now. Jaime wants to say something.

JAMIE HEDLUND: Two quick things. I guess I'm a little confused as I thought about what we said that the defensive registration costs were low. If we're going to say that they're low but we need to do all this other stuff as well or we should recommend these other stuff, that seems contradictory.

JORDYN BUCHANAN: What we actually said is that by model, right? That for the vast majority of brands they're low and there's a small number of brands.



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JAMIE HEDLUND:

Okay. The second issue, what the discussion before the launch on the GPML brought out was that WIFO has been discussing the creation of a globally protected marks list for 25 years and it's been unable to come up with that list. There's not been agreement on it.

You were talking about Apple. There's obviously Apple computer and then Apple Records and then there are apples and so I would think if you're an apple grower and saying you can't register apple.farm because apple.computer exists or there is a .apple rather, I think that's inequitable and that does point out the problem with overlaying trademark law on protections on the DNS.

DNS has to be unique. There are 50,000 registrations with the same trademark in some instances in lots of jurisdictions and products. There is a whole lot of history to this debate and unless we can show that there's just an exorbitant cost imposed that is distorting the market or creating consumer harms, I don't know that this group is going to be able to come to a recommendation on additional breaks or protections for trademark owners.

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JORDYN BUCHANAN: I will not that prior to the implementation of this round, there were groups with significantly more concentration of IP expertise that looked at this very question and ultimately decided this wasn't part—or did the IRT say that they wanted to do a marks list then it got dropped later or?

DAVID TAYLOR: I can speak to that since I was on the IRT. As it was termed, the globally protected marks list, which I think was a mistake, the outset issue should have been the globally protected abuse list and there might have been a little bit more buy-in because everyone thought everyone would be walking on Louis Vuitton bags and protecting those sort of marks.

But that aside, that globally protected marks list was the most requested mechanism by all of the comments on the IP side, so to the Applicant Guidebook of all of the replies to the IRT report, the graphic reports, etc.

So it was the most requested and it was the one which has dropped exactly as you said to Jaime because no one could agree on the cutoff point of how many trademarks you have to have to be on that list because everyone could agree that they want to be on that list and as soon as they went on that list then they weren't in agreement. So in effect, you've got every

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trademark owner in the world wants to be on that list, so where you draw that line? And that was the impossibility.

JORDYN BUCHANAN: Thanks. Kaili suggested as roughly if you pay \$185,000, you're on that list because you've got your own .brand. I will say to Kaili the obvious problem, like Jaime pointed out, like Apple Records, Apple [inaudible], we have a really obvious example that in the gTLD business, I think Delta airlines applied for .delta. There's also .plumbing and there's a company called Delta Faucets. I'm sure they would really like to have delta.plumbing. There's also Delta Dental. There's a .dentist. I'm sure they'd really like to have delta.dentist or delta.insurance. And so your suggestion would mean those other companies couldn't get their trademarks in relevant TLDs because they'd be blocked by an airline.

Go ahead, Jonathan.

JONATHAN ZUCK: I guess I'd love to take a step back and make sure that whatever recommendations we make fall from our findings. Because we can all spitball things that we would love to see change generally but I think we need to really tie things back to our findings.

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The reason I suggest this is that part of our commitment to the community with our recommendations is that we're providing some measure of the success of those recommendations and so part of what we're trying to do that's new is to say, "Here's the data that suggests that there's an issue. Here's the recommendation for addressing this issue and so you can go back and look at that data we pointed to to identify the problem, to see if the recommendation worked."

In the absence of that connection, we're just free styling like every other Review Team and saying, "Hey, let's try reply to comments," right? I think we want to avoid that type of recommendation and instead make sure that wherever possible we're tying into specific findings so that the next Review Team can go back and say, "Did this work in changing this particular data finding that we found to be negative."

JORDYN BUCHANAN:

That's all good. You're saying something similar to what Jaime said a minute ago when you were out of the room, I think, which is, "Why are we talking about this."

I think the answer is that we have a bimodal distribution in the trademark protection space where you get for most trademark holders this is either not a big deal or doubling depending on

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how you do it. But there's a relatively small registration cost and then there's a small number of trademark holders that are registering a lot and the question is could we fix that somehow.

Kaili made a specific suggestion to somehow create a blocking mechanism. Kaili suggested in particular that if you have .brand, you get blocked in all the other TLDs.

KAILI KAN: Either blocking or some preferential treatments in terms of the application fees or whatever, yeah.

JORDYN BUCHANAN: Drew and then Waudou.

DREW BAGLEY: There are some voluntary [peaks]—I have to look back at the chart to do just that for some of the registries. Or basically when the new registrar goes and registers a domain name, if the name that they choose matches a trademark name that's on a list run mainly by that registry, then either that registration is flagged or perhaps blocked depending on the registry. That might be something you would want to point to in the recommendation as a model if you want to go down that road.

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JORDYN BUCHANAN: Thanks, Waudo?

WAUDO SIGBANGA: I'm just wondering about this idea of blocking a certain trademarks or brands in second level. What kind of impact it will have given the fact that there would be a loophole in terms of the ccTLDs.

I think the ccTLDs don't really fall under the jurisdiction of ICANN. They're a bit independent. And I know there are a lot of ccTLDs that use other TLDs as second level, including even .com. – com, .nl. And so maybe it would be a bit difficult to effect given the fact that that kind of loophole exists.

JORDYN BUCHANAN: Yes, that's right. Yes, that is problematic. Okay, any other thoughts on this potential recommendation? I think what David said sounded interesting. Jaime and I raised some concerns but didn't really—that's as far as we got to resolving it.

What I would suggest maybe is we have a separate—maybe Kaili and David should talk a little bit more and see if there's a way to structure a recommendation we could bring back to the group for more discussion.

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Recognizing some of the problems: I think you guys would need to take on the feedback that Jaime raised as to why. Jaime and I have given you reasons why it would be hard to do this so the recommendation should encompass that. Go ahead, Jaime.

JAMIE HEDLUND: On the specific recommendation that if you buy a TLD you get blocked, I don't think ICANN would withstand the criticism that we would get if we said, "Hey, come by TLD and we'll block you on all the other ones." That's just not going to fly.

JORDYN BUCHANAN: That's a good point as well. Kaili, if you want to coordinate with David and try to come up with a follow-up recommendation. Yes, David. All right, Kaili you had another suggested recommendation?

KAILI KAN: Yes, and I bet this is going to be even more controversial. However, I fully agree with Jonathan. It's regarding the parking, okay? Without discussing parking is good or bad but in order to prevent or to lower the cost of parking space, which is long term parking space.

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That reminds me of building space in China is highly speculative and the government in order to cut down on speculation, they just have a rule if you successfully pay for a piece of land and then however if within two years you do not develop on this land, that piece of land is taken away and is again publicly available. That helps at least to eliminate much of the long-term speculation and helps the real estate market, the health of the real estate market.

I just wonder whether some kind of similar term could be used in our case but first of all whether it should be used as we have even discussions or arguments about whether parking is good or not. However, overall I truly fully believe in market, force of the market, believing it. However, it is the government to help. Governments should all or ICANN should all in order to maintain the health and competitiveness of the market so the market force can fully place [inaudible]. That's where I'm coming from. Thank you.

JORDYN BUCHANAN: Kaili, what's exactly the recommendation?

KAILI KAN: You get a domain name or TLDs or even if you register for a second level domain name or whatever, then if that domain



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name is not being used and remains to be parked for maybe two years and is still being parked, it'll be made publicly available again.

JORDYN BUCHANAN: Okay, so the registration will be cancelled if after a certain period of time [inaudible] being used. So Kaili's made a recommendation, I have Megan and Jamie, Drew, and then I'll jump into you. Okay, Megan.

MEGAN RICHARDS: I just want to clarify what we're doing here. So far as I understand, these are the potential recommendations and these are the recommendations only for this afternoon for the Board. So these are the whole business, okay.

I understood it was still just on just what was being presented to the Board so it's broader but then we really need to have more time to discuss things like this so I'm a bit reluctant to start going into discussions now. Again, I thought it was for the final. We can identify already certain recommendations where we have clear basis in fact, clear basis in evidence.

KAILI KAN: Fully agree with Megan.

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MEGAN RICHARDS: Oh, thank you. Anything that's more effective? It's not that I don't think there are all sorts of ideas around, but I think those need to be developed more and this is not the time to do it if we have only a limited time.

JORDYN BUCHANAN: If not now, when? Here's the process for discussion. We need to have in about six weeks a document that is a draft version of our report that includes recommendations.

Next week we're all going to be still meeting and flying around so really we've got about five constructive weeks and we—a small group of us, I think, are planning to start drafting 3<sup>rd</sup> of December. We need to know what we're writing and so we need to at least start having a discussion about what the recommendations are.

Just like on our last discussion about trademark protection, I don't expect where someone—unless it's a really non-controversial or obviously a no-brainer idea, I don't expect someone's going to be like, "I recommend this," and we're just going to be like, "Yes." That's the CCTs like force of law right there but at least we need to start to percolate these things up

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so we can start the discussions about them, and then we'll separate people off in to smaller teams to refine the ideas.

Or maybe we'll somehow suggest something and everyone else will be like, "That's the stupidest thing we've ever heard so we're definitely not going to do that," or, "That's a great idea. Let's just go refine it." But at least let's try to surface the potential recommendations because otherwise we're going to run out of time.

MEGAN RICHARDS: No problem, but that's a different conversation for another day.

JORDYN BUCHANAN: Sure, okay. All right, Jamie and then Drew.

JAMIE HEDLUND: Again, I think we're cut trying to come up with a solution to a problem that we don't know whether or not it exists. Threatening to confiscate a TLD or a second-level domain name because it's being used in a way that you think is speculative is a pretty drastic remedy, especially since we have zero evidence that it's causing actual harm.

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So I think what you can do, what this group can do is come up with data that shows that parking is a problem and is actually causing harm and then it goes to the Policy Group to figure out what to do with it. But to come up with this kind of drastic remedy, I don't think the data is anywhere near there to suggest it.

JORDYN BUCHANAN: All right, I've got Drew and then if Carlton wants to jump in, he can. Drew.

DREW BAGLEY: Jamie pretty much said my point is that we don't have the evidence yet to come up with such a recommendation. There are plenty of reasons, as we've all discussed, such as defensive registration as to why a domain name may be registered and then not pointing to a name server or being used. And that is one tactic that actually is used to fight abuse by brand holders is to register certain domain names that they know could be used because of their type of scouting potential or whatever other phishing potential or because it's a homograph or something.

So I don't think we could jump there yet and to Jamie's point, yeah, I think as a team the best we could do is as we stated earlier today is to with the two kinds of methodologies we're

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using look at part domain names and see whether or not that is something that is harmful, something that is correlating to abuse in the new gTLDs and whatnot.

JORDYN BUCHANAN: That's true. I have a sort of more practical—even if we decided that parking was a problem and we wanted to try to solve it, I don't think this mechanism would work because it's trivially defeatable, right? If you wanted to park, you just put up a site that said—like it could say registered, whatever awesome.build.

I would just put up a site that said this site is about awesome buildings and put up a picture and then it would be not parked any more. And once ICANN's going to get into the business of trying to make qualitative decisions about how good a sight is, this is like obviously speculators will very, very simply overcome these problems.

I think Carlton was first then Waudon then Kaili.

CARLTON SAMUELS: Two things. First of all, the DNS is used exactly the same way for the bad actors and not bad actors, exact same way. So if the bad actors that you want, you're looking at impact, and I'm speaking from the end of consumer impact – consumer, user, registrant

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impact, where I quite agree that you can't just say, "Parking is bad," because there are legitimate, total, non-abusive ways to park.

But what I would wish to say and what I think is reasonable and [incumbent] in us to point out is that there are practices that have negative impacts on registrants and consumers. To the extent that they create an impact that creates a problem for them, then we need to look at in detail for how we need to address it somehow in policy or practice.

JORDYN BUCHANAN:

So I think, Carlton, my take is, if we get to the DNS Abuse study and we find that the new gTLDs are a significant vector in abuse, then I do think that we need to come up with recommendations to mitigate that abuse. But we should wait and see whether – we don't know what problem we're trying to address until we see the DNS Abuse study.

CARLTON SAMUELS:

Absolutely. Let me just follow up on this. If you look at the staff report, it lists all of the DNS abuse – a whole section of them. Here's the thing. They're all included in Spec 11. All of those are included in Spec 11. So there needs to be closure. If you don't

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think they belong in Spec 11 and they're of no consequence, remove them.

And let's not give Compliance a headache to start counting them, because that's the other thing. If you say that they are impactful and you have them in Spec 11 for a reason and purpose, count them. If you don't need to, remove them.

LAUREEN KAPIN: I want to make sure I understand your point, Carlton. When you say "them" and "they're in Spec 11," are you talking about the safeguards? I just want to make sure what your comment is because I didn't quite get it.

CARTLON SAMUELS: If you look at the DNS abuse, there's a whole section that lists all the types – squatting and all the various categories.

LAUREEN KAPIN: Are you talking about Brian's DNS Abuse report?

CARTLON SAMUELS: The staff report in markets, 2016. So you have a whole list of them. Those are connected to these Spec 11 categories. They're directly in Spec 11. That gives ICANN Compliance oversight of

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them. As far as I know, that's why they have it in Spec 11. I'm saying, if we think they're important, include them in the contract. Then we should begin to close the close the circle on them.

LAUREEN KAPIN: And when you say "close the circle," what do you mean?

CARLTON SAMUELS: What impacts they're having on registrants and consumers and what we intend to do about them.

JORDYN BUCHANAN: But that's all encompassed in the DNS Abuse study, right? So we're probably looking at that. That's an area where we don't have the data yet.

UNIDENTIFIED SPEAKER: [inaudible]

UNIDENTIFIED MALE: Pardon? What do you mean that it's all-encompassing? So, data-wise, we're going to be able to get all the correlations and



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determine whether or not there is a problem with the new gTLDs. But we're not going to have causation.

JORDYN BUCHANAN:

Sure. I guess my point is that second-level may be working awesome right now and we'll go and look and say, "Oh, all the things that are listed in Spec 11 are way later in the new gTLDs than in the legacy ones, so keep that. Good job, ICANN." Or it could be that we see that some of them aren't being addressed adequately, and then we would come up with recommendations to do that.

[DREW BAGLEY]:

Yeah. As everyone here knows, it's a convoluted, Venn diagram world of responsibilities. You can put a bunch of obligations on a registry, but that doesn't mean there aren't only registrars but bad resellers that are allowing repeat offenders to register domain names, even if the registry itself is trying to keep its zone clean and whatnot. You could still have phishing sites that are live for three days, where there's many of them, but that the registries are eventually catching on because they're keeping a zone clean.

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JORDYN BUCHANAN: All right. Waudu?

WAUDO SIGANGA: I would suggest that we recommend that ICANN actually should do some kind of study to better understand this phenomenon of parking. Like them, I don't really understand what's happening and what's important in this parking. All I know is that parking is not good for the DNS market.

If you ask me, "Who are the owners of these domains that have been parked?" I don't have a good idea. You gave an example of a domain owner that goes out to make some kind of proxy website or some kind of simple website just to hold onto the parked domain, but I don't think that will be the case in the kind of situation we're having, where we have millions of domain names that are parked. Nobody would really go and put websites on all those.

So I think a study would be good so that we understand, really: are these domain names owned by millions of registrants? Or is it one large a few large registrants?

As in my earlier question, maybe there could even be some registry owners that actually are generating these domain names for their own purposes.

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The other question I asked – maybe the answer could come out from such a study – is, “What is the actual cost of a domain name?” It’s almost zero. So even the situation that Stan was mentioning, where we can measure things by the renewal rates, maybe it can’t really be applicable because the actual cost of a domain name could be almost zero and a renewal cost is also almost zero.

So my suggestion is we come up with a recommendation that a study be done to better understand the phenomena of parking. Just by the fact that parking existed before, but let’s understand it better a bit better.

JORDYN BUCHANAN:

Okay. So Waudu has a counterproposal to Kaili’s “cancel the registrations after two years,” which is to just do a study. You must have worked in government and know how to make sure you kill an issue for all time. So that’s another possibility we could. We could advocate for a study, and that might make sense if we think that parking is a phenomenon that’s not just in the new gTLDs because that’s the limits of our remit.

Brian wants to jump in.

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**BRIAN AITCHISON:** Yeah. There are, as we know, data sets out there on parking that are quite comprehensive, especially from the UCSD researchers that we've been looking at. I've reached out to them to see if they can make those data sets available. This was just yesterday, so I haven't heard back.

Once we have a methodology and data sets established within the DNS Abuse study, adding a set of parking data as additional explanatory variables to those data sets is theoretically possible and I think would be quite an interesting study.

It's probably not something that's going to get done on this Review Team. It's probably for future Review Teams, unless we want to keep on going with this for another year, which I don't think we do. But I think it's an interesting idea. Actually, Drew and I had a little back and forth on doing that.

So once we have this data set established and the methodology established with our vendor, we can start adding extra data to it and extra explanatory variables. So just that FYI.

**JORDYN BUCHANAN:** All right. So some of this may already be ready to happen. Any other thoughts about this? We have two minutes left.

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Kaili, do you accept Waudu's alternative recommendation of studying this, of more data, or do you want to keep advocating for more forceful parking mitigation mechanisms?

KAILI KAN: First we need more studies. I think Jamie wants that as well. So first for our team, we need more studies.

JORDYN BUCHANAN: It's probably –

KAILI KAN: Whether that becomes our team's recommendation, we need, after that study, further discussion. So –

JORDYN BUCHANAN: But I think, as Brian said, it's not going to be in time for this team. So it'd be a next time.

KAILI KAN: Well, at least we have raised this. Of course, we're not going to do everything in this team.

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JORDYN BUCHANAN: Okay. So I'll add to the parking section a recommendation that – Waudu, we can talk about figuring out exactly what that looks like as a draft.

KAILI KAN: As a matter of fact, if you, for today, don't add in that, it's okay, because, as a whole team, we don't want to present something immature and without full consensus. That's my understanding about, Megan, your suggestion. So I feel very strongly about that.

JORDYN BUCHANAN: If someone has a suggestion or recommendation and everyone agrees, then I think it's fine to add to this document. So I guess the question would be: is anyone supposed to doing the study? Jamie might be. I'll [roll it] by hand before we do it.

JONATHAN ZUCK: [inaudible]

JORDYN BUCHANAN: Well, he might say, "We don't have any reason to believe that it's a problem, so why are we –"

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KAILI KAN: He has shown himself to be an absentee.

JORDYN BUCHANAN: Absentee objector? Is anyone currently in the room opposed to the idea of recommending further study on the parking phenomenon?

UNIDENTIFIED FEMALE: Quite frankly, I think [inaudible] you suggested in your [inaudible] marketplace [inaudible] by definition. You have to look into more detail [inaudible].

JORDYN BUCHANAN: Yeah, that's fair. So we will add a recommendation. Waudu and I will work on some words to include more studies.

We have no minutes left. If you have other ideas for recommendations, find me at the break.

JONATHAN ZUCK: I think that we just need to be cautious because, at a very high level, the notion of a cost-benefit analysis about whether to rush to some new application windows, as Jeff put it, for example, is somewhat a function of whether or not it appears as though the advantages outweigh the disadvantages.

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We have done a great deal in the last day-and-a-half to call into question the advantages, and we are putting off until spring an understanding of the disadvantages in large measure. Some small subset of them they looked at.

So I don't know. I'm just putting this out as a bookmark: we need to find a way to achieve some nuance when it comes to recommendations so that people understand that there could be something much more dramatic coming from this team if we get some sort of surprising results out of these two additional studies.

The recommendations that we have now are based on the fact that we kind of have okay results on competition and choice and kind of not surprising and not such bad results on downside consequences. But we're not done. That's my only –

JORDYN BUCHANAN: Yeah, I guess I was –

JONATHAN ZUCK: And leave room for the possibility that we're going to say, "Hey these four things need to be addressed before there's any further new gTLDs." That's going to be a much more dramatic type of recommendation than the ones that –



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JORDYN BUCHANAN: I guess that it is theoretically possible that that could happen. If the DNS Abuse study or the INTA studies showed dramatically higher costs than we're currently observing, then that would be important information in the cost-benefit analysis.

But I would say, right now, on the competition and consumer choice side, we see generally positive results. I think even on the safeguards side we see generally positive results.

So right now, absent some surprising negative finding, we would say this, on balance, seems good. And it's totally possible that there's going to be some negative things that outweighs the good things that we're observing right now because they're not super-strong good results. But you would have to see something totally new introduced in order for that to happen.

JONATHAN ZUCK: [inaudible] Sorry. Maybe that caveat is all that we need to do. Those are two potential sources of significant results, even though they may not be. They may not return anything more significant than what we've seen thus far.

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JORDYN BUCHANAN: Sure. I think that’s probably a good way to end the presentation – or maybe when we get to that thing that has the milestones, say, “Hey. These are two important studies, and they have the potential to influence our outcome. These aren’t going to necessarily be draft recommendations until we see the results of these two other things.”

Carlos?

CARLOS GUTIERREZ: I just hope, when we spell out these recommendations, that we develop some kind of rationale. The big issue we have to mention is that we have to make a lot of studies.

Now, I think we should say why we think it might be good, why we think it might be bad – not the full specification of this study, but I would expect, in this coming round that you mentioned over the next weeks, when we go into these studies, that we put some hypotheses to be tested or something. We have to spell out why we want it, not just, “It’s big and you should study that.”

And I fully agree that we recommendation –

JORDYN BUCHANAN: Do I hear that you are volunteering to work with Waudo to help develop that recommendation?

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CARLOS GUTIERREZ: No. I think we should collect all the opinions that we have here and spell them a little bit out. I must say we should be different from Brian's study, that the corporation decides to study in depth these kinds of issues. Well, that's good. The corporation has money and they can study whatever they want, but if we recommend, as part of the CCT review, I would expect a very specific rationale that takes into account some opposite opinions without naming who said what and write a –

JORDYN BUCHANAN: I understand what you're suggesting. I'm asking whether you're volunteering to help Waudo figure it out.

CARLOS GUTIERREZ: I will help out [and also] recommendations. I don't know if specifically I'm particularly interested in the parking one. It was a conceptual recommendation.

JORDYN BUCHANAN: Okay. Thanks.

LAUREEN KAPIN: Are we ready, Pam? Let me know.

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Okay. We're going to pivot now to discussing some proposed recommendations. These are a product of our subteam's discussion papers. The approach I'm going to use with the limited time we have is to actually jump to the proposed recommendations sections of various discussion papers and put those up for consideration.

We're going to start... Yes, scroll down a tiny bit. I'm sorry. I always have this directional issue for me. Yes, that's the spot.

Calvin, can you just give us a brief summary of the context of what generated your recommendations? Then I thought we could just discuss them.

Oh, he's asking if he can send the latest one. Yes, you can send the latest one. I don't know if you've done that already, Calvin.

CALVIN BROWNE: Okay. [inaudible]

LAUREEN KAPIN: I'm having a little trouble hearing you, Calvin. Can you maybe get closer to the mic?

CALVIN BROWNE: Okay. [inaudible].

LAUREEN KAPIN: That's better.

CALVIN BROWNE: Okay.

LAUREEN KAPIN: Does your latest version have different or differently-worded recommendations?

CALVIN BROWNE: No. Actually you have [inaudible].

LAUREEN KAPIN: Okay. Do you want to just give us a brief context for these recommendations? To remind everyone, these are on the technical safeguards that we discussed yesterday. So these involve technical vetting of registry operators, DNSSEC, preventing wildcarding, managing Orphan Glue records, Thick WHOIS, centralized access to zone file data, expedited registry security requests, and then a voluntary framework for high security zones.

Calvin, I'll let you take it away, just to introduce these.

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CALVIN BROWNE: Okay. Great. This was actually on the [inaudible] was the second [lower plenary] goal when we went over this. Basically, the three recommendations that I came with were really to consider the effectiveness of monitoring the safeguards in this to see whether the actual monitoring has been effective and achieved the goals of the safeguards, and also to consider the cost-benefit relationship of safeguards. In other words, if there was actually a commensurate – what’s the word? – income, basically expense or benefit compared to the actual cost of the safeguards.

Then there was another thing: to check out whether the WHOIS accuracy reporting system might point to the effectiveness of the Thick WHOIS requirement.

So those were the three recommendations that I came up with.

LAUREEN KAPIN: Mic isn’t on. Calvin, can you talk a little bit more of what you mean by “consider the effectiveness of the monitoring of the safeguards”?

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CALVIN BROWNE: Sure. Basically, all these safeguards are meant to be monitored by – well, not all of them, but the ones that are in the RAA – ICANN Compliance.

Basically, as the registry operators – sorry. Let me just read this here. Sorry, could you just repeat your question again?

LAUREEN KAPIN: Sure. What my question is, when you say “consider the effectiveness of the monitoring,” can you speak a little more about that, particularly on what you mean by effectiveness? What would effectiveness look like in your best-case scenario?

CALVIN BROWNE: Okay. Depending on the actual requirements, effectiveness would be, probably: have any of these safeguards been transgressed, and, if so, what happened to them? And whether the transgression was perhaps resolved. So that’s one aspect of it.

I guess, from another aspect, a total lack of compliance might be construed as that problem having been effectively remedied by the safeguard itself.

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LAUREEN KAPIN: You mean a lack of complaints?

CALVIN BROWNE: Correct.

LAUREEN KAPIN: Okay. Jamie, you had your hand up, and then Jordyn.

JAMIE HEDLUND: Yeah. Thanks, Calvin. This is Jamie. I was wondering if you could explain the link between the WHOIS ARS and Thick WHOIS.

CALVIN BROWNE: Yeah. Okay. Basically, there's a requirement of Thick WHOIS, which [has done] one thing, and that is put all the WHOIS in one place, rather than split it across two separate databases, as in the Thin WHOIS.

But that doesn't indicate whether or not the WHOIS has become more accurate as a result. The ARS would potentially point to whether that has become more accurate.

JAMIE HEDLUND: I'm sorry, Calvin. I still don't understand. As I understand it, the Thick WHOIS requirement applies to all TLDs, except for some of



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the legacy ones, there's ongoing implementation for Thick WHOIS to apply to .com and some others, and the WHOIS ARS pulls from the registries for new gTLDs as well as registrars for the legacy.

So I'm not sure how the WHOIS ARS is going to indicate whether or not the Thick WHOIS is effective, or comparatively more effective than Thin WHOIS or some other regime.

CALVIN BROWNE:

Okay. Well, I guess what I was thinking there is that we would have to actually see the results. If the results indicate that accuracy is more effective or accuracy is higher on a Thick WHOIS compared to the Thin WHOIS, then one might be able to [draw conclusion that] the Thick WHOIS is more effective or has more accurate information.

LAUREEN KAPIN:

Just to amplify that a little bit – because I was looking at the ARS reports myself, Jamie, and wondering if there were any conclusion we could draw about the 2013 requirements for new gTLDs versus the prior requirements. But I must confess that, when I actually looked at the reports, they had so many categories of prior agreements, including grandfathered agreements for their gTLDs in 2009 and all these different

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buckets, that I could not conclude whether the data could be used to draw a comparison between new gTLDs and legacy gTLDs.

But what I hear Calvin saying is that he has the same thought process: “Is there a way to use the data that’s been generated by ICANN’s ARS studies and reports to make some sort of comparison to the RAA in effect for the new gTLDs, which has these more robust Thick WHOIS requirements, in terms of making an accuracy comparison?” That’s what I understood it to be.

Margie, did you want to speak to that?

MARGIE MILAM:

I think we’re publishing another version pretty soon. We can also invite the staff that actually developed the analysis to walk you through the differences and how it might be interpreted to help it apply to what you all are looking at. That would be helpful.

LAUREEN KAPIN:

That would be helpful because it was very challenging for me to be able to assess whether you could draw out that comparative information. So, actually, that would be very helpful.

Jordyn?

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JORDYN BUCHANAN: I look at these recommendations, and I guess I don't understand why these aren't things that we're doing as opposed to these are recommendations for the future. These all seem like things that we could do ourselves. It's just that we're running out of time, in which case, we're recommending further study or we don't have data, or what? That's not very clear from the recommendations.

If we would make recommendations, we're implying that some future group ought to spend time on them. We've made prioritization decisions. In some cases, we've made prioritization decisions and said this is actually really important topic, we're just not going to be able to get to it. In other case, we'd just say, "This is not important a topic."

What I would hate to see is for us to say, "This is not important for us but we're going to force some future Review Teams to deal with it because we're going to give it the weight of a recommendation from our Review Team."

LAUREEN KAPIN: Right. I think that's a fair point about prioritization. Go ahead, Calvin.

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CALVIN BROWNE: This points up to a mistake in my thinking in that I was thinking that this is recommendations for us to consider, not recommendations that I would make going forward. I've missed that that's put there.

LAUREEN KAPIN: Okay. That's fair enough although I would say that the cost benefit relationship of the safeguards is something will probably have some information from the DNS Abuse study about correlations between the new gTLDs which might give us information about effectiveness of safeguards.

I'm not sure we would have information at this point about actual business costs of how much it actually is a proportion of expenditure. For example, for registries and registrars to comply with certain safeguards, that might very well be something a future Review Team might want to engage in evidence gathering on, data gathering on.

Even though you misunderstood it, it still seems to me you've identified a pertinent issue regarding the cost benefit relationship. We'll have some information now that I think certainly that is an important topic indeed. Some might say it's THE topic. That would definitely be, I think, worthy of future Review Teams gathering some information on about what these

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costs actually are. Your thought process was naught for naught, Calvin. In terms of the WHOIS Accuracy Reporting Systems, that just now generated an action item for us so we'll see what can be done within this time period.

Effectiveness of monitoring the safeguards, I think, again, we will perhaps get some information on what levels of abuse may be going on within the new gTLDs. Then we might be able to look at what's happening in the compliance realm. We may be able to do some of that now and then decide what – based on that information – what we might want to recommend in the future. I'd say that one needs a little further development from us depending on what we see going on in the DNS Abuse study.

Other thoughts or comments on these recommendations thus far? Jonathan.

JONATHAN ZUCK:

Thanks, Lauren. I would really love to see the recommendations be a little more concretely worded. In other words, we found X and there was insufficient data to perform an analysis that we think should be performed in the future. Worded a little bit like the projects that we put together for the Competition Team that said, “Look at this, this and this and

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compare it to this” so that it's a function of what specifically we think ought to be done, this notion of consider the effectiveness.

I feel like that it's really throwing somebody over the [trench]. I think the idea would be to tie it back to what our findings were or weren't because of something was missing or unavailable to us and it should be a collective type of data and perform these types of analysis on a data. I guess a greater level of specificity, I think, would be critical to these being useful to those [inaudible] recommendations.

LAUREEN KAPIN:

I think that's an excellent point for us as part of our subteam to take back as we go through these review papers again for their next iteration which is going to be really immediately after this meeting ends because we want to start drafting. I would have us an action item for my Review Team to take Jonathan's guidance in mind when we're going through our next versions of these discussion papers to tie our recommendations to findings and to have the requisite level of specificity. It's a useful recommendation that a future Review Team can follow because it has specific information.

I think what Jonathan had said as an example is to tie to a finding, we found X. For example, in this cost benefit relationship

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of the safeguards, it might be, I'm speculating, let's say we found rampant abuse in the new gTLDs far exceeding legacy gTLDs. I'd be surprised if we found it but maybe we'll find it. Let's just say we did. Then I'd say that would be something to state as a finding. Say we have this finding, we would also recommend further review of the costs that the entities involved in asking on the safeguards, registries, registrars, registrants in certain cases. We also recommend gathering data on those costs.

JONATHAN ZUCK: Is that a survey?

LAUREEN KAPIN: I think it would be a survey.

JONATHAN ZUCK: That's what I mean by it being that specific. I think another aspect is who this recommendation is to. Remember we have these categories of recommendations, the Board, the staff and the PDP processes too in terms who we're trying to hand this recommendation over to but something using your example, conduct a survey of registries that have implemented the safeguards and identify the areas of cost so that the cost benefit analysis can be made against the benefits of that.

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LAUREEN KAPIN: I think in some cases, our team may need some guidance about where that recommendation should live. I'm not so worried about that because I think we can actually ask that as long as we have sufficient specificity about the recommendation, then we can get guidance about who should handle that within that ICANN ecosystem.

JONATHAN ZUCK: He already put low priority to address. I think we should always read those as well because that was another thing that was a strong request from previous experience. The previous reviews is we'll extend this particular recommendation the critical path on subsequent procedures, for example, or somebody doing parallel.

CALVIN BROWNE: I just have a question. There's a new technical subsequent to the 2012 round of gTLD. You're taking for development whereby one can limit the response rates of operator of DNS service. This is what we recognized as being a good way to limit the damage done in distributed denial-of-service attacks. This has come out subsequent to the round. I was wondering if it's pertinent to actually mention that in this paper at all. It's something that is



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new that maybe should be looked at that isn't in the existing [circles]. In other words, almost recommending new [circle].

LAUREEN KAPIN:

I think you'd have to identify the data first. Then I guess the bigger issue is an issue of mandate. It seems to me – and I'm just thinking this through as you're mentioning it – that part of our mandate involves risks associated with the expansion of the gTLD system.

If the issue that you're identifying regarding DDoS attacks is related to the expansion, then it sounds to me like that could be something we could tackle. You'd have to introduce it in the first instance and present the data so you have findings and then make a recommendation that's tied to it. That's my off-the-cuff thought process on that issue.

CALVIN BROWNE:

[Inaudible]. Maybe it's something that's not fully [inaudible].

LAUREEN KAPIN:

We can talk about it offline further and give it some more thought. Other questions or comments about these recommendations which I think are good illustration for refinements for us? Are there questions or thoughts? Okay.

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Let's move to my description of safeguards applicable to all gTLDs and implementation paper, version six. Scroll down to the first recommendation. These are all embedded. There's not one separate recommendation section. I think the first one is in the WHOIS section, WHOIS Verification and Documentation Checks.

Okay. This, for context, is about the WHOIS safeguards. This is the safeguard that's applicable to all new gTLDs. I had raised the issue of the fact that we have some very specific language in the RAAs about WHOIS requirements.

I think this is in the paper. WHOIS actually comprises one of the largest complaint categories that Compliance receives complaints on. There's a lot of concern in many communities about the accuracy of WHOIS information. ICANN itself implemented the WHOIS Accuracy Reporting System. You'll see that my recommendation here, at least the first one, mirrors what we just discussed with Calvin which is to see whether we can... I'm going to refine it now since Margie had made her kind offer to see whether these existing accuracy reporting system studies on WHOIS could help us determine whether WHOIS accuracy has increased under the 2013 RAA.

I think depending on what we find out, that could be either an action item we can do now or it could be something for future Review Teams. Because WHOIS is currently on the table for

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discussions in more than one group because it's a continuing source of discussion among many different communities, law enforcement community, registrars, IP and probably others I'm not mentioning, it seems to me this would be a high priority.

That's my first recommendation here. I'm going to take these one by one because I think it's more orderly. Again, we discussed this a little bit in the context of Calvin's paper. Jordyn.

JORDYN BUCHANAN:

Given that there is one of the endless WHOIS PDPs going on right now, this one's not a WHOIS, post WHOIS PDPs going on right now, that study seems really useful to me because one of the things that could happen is there could be a consensus policy applying that requirement to all gTLDs. I guess we're about to age out. By the end of 2018, there won't be anyone left on the previous accreditation agreements. We will be forcing everyone into that. It won't probably take that long to get a new policy in any case.

Certainly, looking at that and deciding whether there's consensus policy changes that should be made ought to be part of any potential WHOIS work going on. I wonder if this ought to be just a recommendation we make through our liaison, to that PDP if there is something or somehow to the GNSO or something

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that this doesn't need to be a formal recommendation from us so much as [what they should] just doing now. They shouldn't have to wait for our court to come out in order to do the study.

UNIDENTIFIED FEMALE: In addition to the PDP, there's also the new Review Team kicking off on that. There's a lot, multiple layers of WHOIS activities going on right now.

LAUREEN KAPIN: In that case, it could be a formal recommendation but it would be aimed at Review Teams. Instead of aiming it to the Board or ICANN staff, it would be aimed there. I don't think it's something that we shouldn't make a recommendation on formally. I think it's more a matter of who we make the recommendation to. That's how I'm interpreting your comment. I don't know why we would avoid making a formal recommendation.

JORDYN BUCHANAN: I'm saying this seems a lot more actionable, a lot faster. This should be happening now. This is my point.

LAUREEN KAPIN: If it can happen now, I think it should happen now.

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JORDYN BUCHANAN: What I don't want to do is have this go through the cycle of our approval process in order to get to the point that it becomes actioned.

LAUREEN KAPIN: I think actually I interpreted it that way but what I'm hearing Jordyn say is this is really a timing thing and if we can make this happen now, we should. I agree with that, which is why we have it as an action item. It's unclear to me whether it can happen now or not. Jonathan.

JONATHAN ZUCK: I think if I can try and translate what Jordyn is trying to say is twofold. What you're saying is whether it can happen now or whether we can do it now. What Jordyn is saying is if it's not for us to do, it may be something for someone else to do now rather than waiting until next summer to get a recommendation from us to do it.

Those are the two things. I think that what we need to do is determine whether it's feasible for us to engage in this analysis now. If it isn't, make this recommendation immediately afterward to whomever might be in a position to start this

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process now rather than waiting until next June to mention, “Hey, you might want to consider doing this.” That was Jordyn’s point I think.

LAUREEN KAPIN: Okay. Thank you for the translation. That makes sense to me. I think the first thing we need to find out then is what we can do now and then take it step by step. Yes, I agree with you if there's a way. Faster is better. Carlos.

CARLOS RAUL GUTIERREZ: I have a very stupid question. The way I read it is that in the new 2013, it's up for the registrars to verify WHOIS. My question is, do we have these data either in the Health Index or in the 77 or 66 recommendation? Do we have data that is somebody controlling or are they the new signatories of the 2013 reporting? How often they are verifying WHOIS? Otherwise, just making a recommendation, the new WHOIS Review Team will come, say “Where is the data? Now, it will take you six months” or a new study to look for the data.

Since we have been so data-focused, my question is, has somebody checked some kind of reporting of this new condition that they have to verify the WHOIS?

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UNIDENTIFIED FEMALE: I guess that's just [another] question for Compliance because I imagine they are doing some auditing of that obligation. I don't know the answer to that. We can follow up with Compliance on that question. Then the other thing is the ARS system, in the reports, they're looking at syntax accuracy and operational accuracy. Part of that is tracking to see whether the e-mail is verified as an example because that's a requirement under the 2013 RAA. You might have some of that data already in the ARS. Again, I didn't want to assume that they're having the staff that works on that time and at least either send you a document or come talk to you about it so that you understand what the reports actually say.

JORDYN BUCHANAN: Even if you knew that registrars were complying with this 100%, it still wouldn't tell you the answer to the question that we're imposing because the requirement of the RAA is only to verify the initial e-mail address so that doesn't guarantee that it remains correct in the future. The question here is what's the overall effect on accuracy, I assume, not just whether or not registrars are doing what they say that what they're supposed to do.

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CARLOS RAUL GUTIERREZ: Thank you. I don't need translation. I got that one straight.

LAUREEN KAPIN: Those are two separate issues because what I hear Carlos asking about is how does Compliance monitor this, what is being done and do we have data on that. If we can make that an action item to gather that information, that would be useful also. That is still separate and apart from the over... whether the accuracy overall has improved under this safeguard which is required in the 2013 RAA.

CARLOS RAUL GUTIERREZ: Fully agree that if we spell it out this way, it will have a better content or context. Thank you.

LAUREEN KAPIN: Thank you. Other comments, questions regarding this recommendation? Okay.

My other recommendation here is and also a compliance issue and also perhaps something we can find out about now which is taking a look at the data that ICANN contract compliance has to



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get more specificity regarding the subject matter of the complaint.

As I mentioned, WHOIS is one of the largest complaint categories for compliance. It would be interesting to know what the topics of these WHOIS complaints are. Are these complaints, for example, about syntax, operability or identity? Those are the three categories that the ICANN ARS phases has been identified although currently, they're just looking at syntax and operability.

Also, ICANN compliance really is just one place where we find complaints about WHOIS but there might be many other sources of WHOIS complaints to consider if we really want to delve into accuracy issues. One recommendation is to try and get to amplify the data we have about accuracy by getting data from other sources particularly if there's going to be an assessment made by ICANN whether it is worth it to move on to the identity phase of their ARS WHOIS project that this data gathering effort might inform that decision-making.

This is rather specific. To me, it came out of the data capture recommendation and it comes from the recognition that this is a huge source of complaints within the ICANN compliance system and a significant topic of interest to many different communities.

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Other comments or thoughts about this recommendation?  
We're in this phase of the afternoon where we all should be jumping up and down and doing jumping jacks before we do anything else I think.

JORDYN BUCHANAN: [inaudible]

LAUREEN KAPIN: It's so good. Okay. Then I'm going to move on right away. I'm looking to see if there's a recommendation here. Where? Yes.

The next safeguard, again, we're in the context of safeguards applicable to all gTLDs. There's a safeguard about mitigating abuse of activity. This is a "follow the law" provision that registry operators are required to include a provision in their agreement with registrars.

This is a great example of the downstream requirements. The registry operator has to include a provision that tells registrars to do something in their agreements with registrants. It flows all the way down. It basically says, whoever has this domain, don't you dare distribute malware, abusively operate botnets, engage in phishing, piracy, etc., etc., etc. That's in the base registry

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agreement. That is the safeguard. It's just saying, of course, that mitigating abusive activity.

The recommendation. Are we scrolled down to that? It's actually hard for me to see on that screen. Let me look at mine. This would be a continuation of, I think, the data we're going to be starting to gather to the DNS Abuse study. These are snapshots as I understand it by definition. This recommendation would be to continue on in this effort because as we've been discussing in a stanza contextual comments, these early innings here, we want to continue to see how this issue of DNS abuse evolved as usage and the business model potentially becomes more robust for new gTLDs. There may be changes as time evolved. So this recommendation would be to continue gathering this type of data, one, so we can see what's happening. Then, two, so we can compare it what's happening under these agreements for new gTLDs which have this particular safeguard and prior agreements which may not.

Carlton?

CARLTON SAMUELS: There's a real issue of whether or not we're collecting the right data points. And I think it is important for us to at least put some light on that. Let me tell you the instances.

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There are researchers that we know have published different categories of abuse data from the ones that seem to be reported by ICANN Compliance. I don't believe it's because ICANN Compliance doesn't want to collect the data. I think maybe it's the data points that they are looking at that the disconnect is.

LAUREEN KAPIN: Can you explain that a little more?

CARLTON SAMUELS: In order to enforce, enforcement means somebody has to collect the data against some threshold and the data points that you set out to collect tell a story. If you look at the abuse researchers and what they are reporting. You look at the copious of data that Compliance reports. There's a difference. And I'm thinking, at least some of us believe it's not because they have not tried to collect the data —

LAUREEN KAPIN : At Compliance?

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CARLTON SAMUELS: At Compliance in good faith. It's because they may be measuring different data points and we need to look at that and make sure that they're apples to apples.

LAUREEN KAPIN: Give me an example, Carlton. Are you talking about something that Spamhaus says or Symantec? If you just give me an example so I can put flesh on that.

CARLTON SAMUELS: Spamhaus, Symantec, Cisco reports. If you look at those reports. You look at a broad spectrum of reports on various categories of domain abuse. If you look at what they're reporting and from the same marketplace and what ICANN Compliance reports, big disconnect.

UNIDENTIFIED MALE: What's an example?

CARLTON SAMUELS: Malware, for example. Phishing incidents. All of these. Several of them. I mean, every category you look at there's different numbers.

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JORDYN BUCHANAN: Do you use different metrics that someone else would look at versus the metrics that supplied [inaudible].

CARLTON SAMUELS: Okay. Let me go to a specific report.

JORDYN BUCHANAN: I think it's entirely unsurprising that the metrics are different because they're looking at different things. Spamhaus is looking at the incidents of spam, right? That's their modus operandi. That's what they're trying to understand.

CARLTON SAMUELS: That's just one category.

JORDYN BUCHANAN: Compliance is trying to look at compliance with the contract and there's nothing in the contract says that either registries or registrars have — are supposed to be doing some specific thing about incidents of spam. What Compliance would look at is, for example, do you have this obligation in your agreement that tells registrar if they're absolutely not allowed to do that, right?

That's what Compliance should be measuring because that's what the contract says. If the contract had an obligation that

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registries were supposed to get rid of every incidence of spam within the registry then Compliance probably should be looking at but that's not what the contract says so that's not what Compliance is measuring.

CARLTON SAMUELS: Actually, it's a little bit more than that.

JORDYN BUCHANAN: ICANN commissions other studies outside of Compliance that still pay —they did abuse studies that we've commissioned, for example, is a good example of where the ICANN community decides these other issues are important and we want to know more about them but that's separate from the framework of what the current contract actually says and demands.

LAUREEN KAPIN: While you're looking, Carlton, I think that is a very fair point, Jordyn, that ICANN Compliance focuses on the contract provisions so we want to — if we're thinking of making recommendations about what ICANN Compliance should be monitoring, we need to keep that context in mind. Their race on [detra] is bound in the contract.

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With that frame, Carlton, it still would be helpful to get a little more of an example —

CARLTON SAMUELS: I'm looking for a specific example.

LAUREEN KAPIN: While Carlton is looking, does anyone have other comments arising out of this first recommendation? To remind people where we started, this is a continuation of data gathering regarding DNS abuse.

JORDYN BUCHANAN: Just on number three here —

LAUREEN KAPIN: We're not to number three.

JORDYN BUCHANAN: Oh, you're just doing the very, very first one?

LAUREEN KAPIN: One at a time. I'll move onto those and give Carlton — when you're ready Carlton, I'll come back to you.



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JORDYN BUCHANAN: Sorry. I mean [inaudible]

CARLTON SAMUELS: I'm actually looking for a specific place in the company that was filed.

LAUREEN KAPIN: Okay. The second recommendation here — you'll be ready to jump in at number 3 — the second recommendation here is — and I think this actually relates to Calvin's cost benefit, is to determine whether it's possible to draw conclusions about the impassive individual safeguards and rates of abuse.

As I'm reading this, I really think this is more of a subpoint of the first recommendation that as we gather this DNS abuse data, we may be in a position to make more specific recommendations to future Review Teams about ways to perhaps gather data that gives us something more targeted than just correlations. That we may be able to actually draw some relationships between certain safeguards and rates of abuse as opposed to the whole system which is embodied in the contract. But contracts are not one safeguard.

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This — I won't say multitude of safeguards but there're many safeguards. It may be that when we are on the other side of the DNS Abuse study, we may have information on how to be more — to gather even more targeted information about how safeguards influence abuse. I do see this as I'm reading it as more of an addition to the first recommendation, not a separate recommendation in and of itself. Yes, Megan.

MEGAN RICHARDS: I just have a question about the second one. Am I on the right one? On survey registrars to find out how they're complying.

LAUREEN KAPIN: No.

MEGAN RICHARDS: No wonder. So my question doesn't apply. Where are you then? Which is the second one that you're referring to?

LAUREEN KAPIN: I'm on the recommendation under Abuse of Activities Mitigating — it's on page 5.

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MEGAN RICHARDS: No wonder. I'm following on page —

LAUREEN KAPIN: It's on page 5.

MEGAN RICHARDS: No wonder. Okay. I was following the screen.

LAUREEN KAPIN: I'm sorry. The recommendation is on page 6. The recommendations are at the top. Are we all on the right page?

Then we can move to this third part. Carlton, whenever you're ready, you just wave your hand and we'll go back to that.

The third recommendation is a recommendation for a survey, to survey registrars to find out whether the safeguard about including this provision has made a difference in the way they approach combating abuse. You had a comment on that, Jordyn.

JORDYN BUCHANAN: I don't know. I thought there was language about an audit somewhere, but maybe not.

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LAUREEN KAPIN:                    There is but not here.

JORDYN BUCHANAN:                Okay. Maybe I was looking at the wrong thing.

JONATHAN ZUCK:                    Can you recommend that the survey takes place during the signing of the renewal of the Registrar Agreement? I'm just trying to figure out if we can get a better response rate that way to surveys. So here, "Please fill out this survey before moving on to signing this contract." Something like that.

UNIDENTIFIED MALE:                Certainly using an actual point of action is a trigger point would help.

JORDYN BUCHANAN:                I'm hesitant to suggest this because it would probably be interpreted badly but one —

LAUREEN KAPIN:                    It's not being recorded or anything.

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JORDYN BUCHANAN: One useful — so ICANN does periodic audits of registries and registrars.

LAUREEN KAPIN: Yes.

JORDYN BUCHANAN: And it might be the case that you could talk with the Audit Team about whether there's a way to — and I would probably want to do this in conjunction with conversations with the registries and registrars to make sure this doesn't just piss them off, but include in the audit — here's also some just informational inquiries we have. While you're responding to us anyways, can you also give us this information? It's not really part of the audit.

UNIDENTIFIED MALE: We will [inaudible] and not judge you on.

JORDYN BUCHANAN: Right. Please provide this additional — sometimes you get, “Please provide this additional demographic information.” Something like that just to help have touch points where you're more likely to get responses from them.

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LAUREEN KAPIN: That's a good — I mean both Jonathan and Jordyn, I think those are really good pragmatic suggestions for how to make this recommendation something that we're actually able to get more useful information on.

Any other comments on these recommendations?

CARLTON SAMUELS: Let me tell you a specific case. In Spec 11 3a, there is a whole set of activities that are prohibited. Trademark or copyright infringement, fraudulent or deceptive practices, counterfeiting or otherwise engaging in activity contrary to applicable law, etc., etc. The registry is supposed to covenant the registrar in reporting these violations.

It says you must have a Registry-Registrar Agreement and the Registry-Registrar Agreement must include all of these. On this Spec 11 3a that says that you must report them. If you look at the numbers that are reported by Spamhaus, by APG, or any of those and it's instances. Not just you have one violation. It's every instance that you have one of these violations, you must report it and must report it upwards.

If you look at the numbers that are coming from the registrar level, looking at the Registry-Registrar reports to ICANN and the

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Registry reports to ICANN against what is reported by the individual anti-abuse campaigners, they don't match.

LAUREEN KAPIN: You're talking, Carlton, about a different safeguard now, just for clarity. I want to make sure we're all on the same page.

CARLTON SAMUELS: Level safeguards, yes.

LAUREEN KAPIN: Right, but there are many safeguards in Spec 11. I just want for clarity to point out that you are talking about the security — you're talking about the technical analysis to assess whether domains are being used to perpetrate security threats.

CARLTON SAMUELS: Yes.

LAUREEN KAPIN: That's a different safeguard and it's fine to — I'm happy to hear your point on that but I just want to make sure that we're all on the same page. So we're not on the safeguard that we've been

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discussing now. In fact, we're moving onto our next safeguard, which is a great transition, Carlton, which is security checks.

I just wanted to make that point that we're now pivoting a little bit to discuss security checks and you're going to have a point that you want to make about the information that's supposed to be collected by registries regarding security checks. With that context, go on.

CARLTON SAMUELS:

Right. There's a whole set of these violations that must be collected at the registry level. If you look at the reports — if you look at the Compliance reports that are provided, I look at the reports that can be connected to our registry against a certain gTLD because they have them categorized by gTLDs and by categories of those safeguards. You see a difference in the numbers.

LAUREEN KAPIN:

Just to stop you for a second and I see you Jordyn. You're talking about the security reports that registries are required to have that monitor these security threats. You're saying you've looked at — are those public reports, by the way?



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CARLTON SAMUELS: No. These are reports from the Compliance people.

LAUREEN KAPIN: But Compliance doesn't — this is different data. I'm just talking about the safeguard. Registry operators are required to make the security reports.

CARLTON SAMUELS: Yes.

LAUREEN KAPIN: But as I understand it, these are not security reports that are given to ICANN Compliance and then the public can look at them. These are the registry operator's security reports. We don't see them. I'm not sure actually who does see them. I can't speak to that but it seems to me you're... It sounds like you're conflating the registry operators and I'll say internal for this purposes — internal security reports with the information that ICANN Compliance has and I think they're two different things. I'm not positive but that's what I sense. I could be wrong.

CARLTON SAMUELS: I would be concerned if they are two different things. There's a general question. How do you know what happening without

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somebody reporting it to you and if you don't have the reports, how can you say they're in compliance?

JORDYN BUCHANAN: Carlton, this information could be requested by ICANN as part of an audit but it's not provided routinely in month-to-month operations to ICANN.

CARLTON SAMUELS: These are categories of abuse that come up in the security reports. They do come up as part of the security report.

JORDYN BUCHANAN: These Registry reports are not published to ICANN. As Lauren says they're internal reports.

LAUREEN KAPIN: They're internal.

JORDYN BUCHANAN: When Compliance in audit of a registry, they can say, "Show us your reports," to make sure that the registry is actually producing them but you don't know and no one else knows

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whether those reports match Spamhaus or not because you haven't seen them.

LAUREEN KAPIN: Right. Right. Right. Why don't we talk more offline through the simple assist machine?

CARLTON SAMUELS: There's something that's troubling about that. There's something that's troubling about that. I don't know how to square the circle here. If you tell me that your safeguard security of the system and you are collecting reports downstream, bringing upstream for me to ensure that what you tell me actually works.

LAUREEN KAPIN: Two different things.

CARLTON SAMUELS: Okay. I don't agree.

LAUREEN KAPIN: I certainly leave the possibility open that I'm confused or getting it wrong but the safeguard about mitigating abusive activity is a

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downstream requirement and it's a contract provision. Make sure this provision is in your contract. Security check is a different safeguard and it is — as it's written and we may object to the way this has been written and say, "Well, if you really want to do this you need to do it a different way." If we have data on that we certainly can do it but these are two different safeguards and the security checks as its currently implemented says, "Conduct a technical analysis and make this assessment." I have some recommendations about the security checks and I think your threshold question that's evolving here is, "Well, what do they do with these reports? Why don't we seen them? What happens next?"

Those are very valid questions but it's a little different than your prior point which is assuming that Compliance has these numbers and these numbers are different from the industry folks who collect this information. That, I don't think reflects the reality of what's going on as I understand it with the caveat that I could be wrong. Jordyn.

JORDYN BUCHANAN: Just briefly because I know we're pressed on time. One formulation that could make its way into a recommendation could be that Compliance ought to know the industry figures so that when it does an audit you can look and see if those

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numbers make sense relative to the Registries internal reporting.

So if Spamhaus thinks there's 50,000 instances of spam and the Registry says, "We did our reporting and there were three instances of spam." Then Compliance might want to say, "Well, let's take a look at your reporting mechanism. It doesn't seem like it's any good." So it might be informative to Compliance to be able to help interpret the audit process. But given that there's no obligation — another thing that could be recommended — this probably would have to go through a PDP process or something — we'd have to figure out how to get it into the contracts. You could recommend that it's not only that the registry should gather these reports, but the data should be published at ICANN and it should be published [inaudible].

It's not what the contract says right now so that's not why — so Compliance doesn't do that now because that's not what the contract says right now.

LAUREEN KAPIN:

I think actually we've raised a whole lot of issues here that I probably want to deal with.

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CARLTON SAMUELS: I'm going to say that in my mind, the issue for me in my mind is this; there are effects of thresholds that are established in contract and there is a compliance requirement. If I'm supposed to be enforcer and an independent entity looking at the same set of numbers, looking at the same thresholds, come up with different numbers consistently, I might want to look at that. That's all I'm saying.

LAUREEN KAPIN: Okay. It's an interesting point that I think we need to flesh out a little bit more with ICANN Compliance to see exactly what data they're gathering and then assess whether we can make a comparison. I think we'd have to have that data as a foundation from Compliance to make sure that we can then say, "Okay. You're collecting this data and the industry folks are collecting this data and there's a disconnect. Why is that?" If that's something we wanted to do, I think we would need to meet with ICANN Compliance and try and assess whether we can make that comparison which is what I think you're asking for.

I'm told that our time is very short and I don't want to short circuit this safeguard around security checks because I think it's an important topic. But the one thing I will say is the whole issue of security checks and what happens next is a current issue that is a topic of discussions within the community. And there's a

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working team grappling with this issue because right now the safeguard is make these security checks but there isn't meat on the bones, to put it colloquially, about what you're supposed to do once you find these security threats. That is a topic of discussion in the community.

We may want to make a recommendation to keep an eye out on what the community comes up with because this safeguard is intended to mitigate abuse and unless there's a future obligation to act specifically in response to these security threats, it may be that this safeguard does not meet its intended goal and that's what my recommendation is.

CARLTON SAMUELS: That's all it is. If I have a disconnect, I'm not fulfilling the role.

LAUREEN KAPIN: Fair. Anyway. I think we need to move on because someone else has the room. We will resume this discussion. Yes. Yes. It's true. I know you're all devastated. We will resume this discussion at our next face-to-face meeting.

JONATHAN ZUCK: We have a wrap-up session.

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LAUREEN KAPIN: We have a wrap-up session. We may resume it then even sooner.

UNIDENTIFIED MALE: Wrap-up is Saturday morning.

JONATHAN ZUCK: Tomorrow morning we have the Engagement session and I'd love for everybody that can make it to try and make it there to get a sense of what feedback we get from the community. I think we're going to try to [inaudible] possible given the superficial view of the findings that we'll be delivering, collect recommendations.

I think that's one of things that we're really trying to do with the community is to get a sense from them about what they think next steps should be and then try to coalesce around that and finish up this discussion in our wrap-up session. We may not be able to drill into this level of detail in the wrap-up discussion but instead really map out a process for approval of these recommendations because we need to get the drafting within about a week of getting back home from here. We need to get to concreteness and consensus on these recommendations very soon.



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The thing tomorrow is 9:00 a.m. and do you know what room it's in? Hall 3. Where's our wrap-up on Saturday? In this room.

Hall 3 tomorrow morning. Here Saturday morning, downstairs.

**[END OF TRANSCRIPTION]**