

**Vertical Integration PDP Working Group  
TRANSCRIPTION**

**Monday 26 April 2010 at 17:00 UTC**

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**Participants on the Call:**

**Contracted Parties House**

**Registrars Stakeholder Group**

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Thomas Barrett

Paul Diaz

Jeff Eckhaus

Jothan Frakes

Tim Ruiz

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Volker Greimann

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Eric Brunner-Williams – CORE Internet Council of Registrars

**gTLD Registries Stakeholder Group**

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**Non Contracted Parties House**

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Michael Palage - CBUC

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**ALAC/At Large**

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Alan Greenberg – ALAC

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**Observers**

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Coordinator: Excuse me, I'd like to remind all participants this conference is being recorded, if you have objections you may disconnect at this time. You may begin.

Mike O'Connor: Thanks very much (Kelly). Glen let's hold on the roll call for just a minute, I see that a lot of people are still joining. We'll just spend a minute or two going through the agenda and making sure that we're basically on the right course.

This agenda's just about like last week's agenda, most of the time spent talking about proposals with a good dollop of analysis team brainstorming at the end.

I have three new proposals this week, I have the one from Afilias, I have the one from Go Daddy and I have the one that just came in to the list about an hour ago, very substantive proposal from Volker, Michele, Stéphane and JC called open registrar proposal.

So those are the three that I have slots. Do other proposal presenters want to take a slot in this first hour? And if you do raise your hand real quick and I'll take note of you, otherwise we'll just basically divide the time between those three.

Jon, you want to get in the queue for the discussion of yours?

Jon Nevett: Yeah, actually Jeff Neuman and I just circulated a combined version of both of ours together.

Mike O'Connor: Okay, so we'll do the Jon/Jeff version. If that was the list that would be really handy for your time keeper because that would be 15 minutes each. Does that work for folks? Last call for proposal presenter slots.

Tim Ruiz: This is Tim, I just joined by the way.

Mike O'Connor: Great, I'm glad your on the call Tim. I have a time slot for you, that's terrific. Okay, I think that's our plan. An hour on proposals with a little 15 minute gab at the end for the analysis team brainstorming session.

That leaves us a few minutes of slack to sort of play with. Glen why don't you go ahead and do the roll call and then we'll dive into the Afiliis conversation with Brian?

Glen Desaintgery: Thank you Mikey I will. On the call will have Mike O'Connor, (Ashley Bitterson), Thomas Barrett, (Reslin Federov), Paul Diaz, Jeff Neuman, Kathy Kleiman, Cristian Ernan, Sebastian Bachollet, George Sadowsky, (Jena Kuruska), Shiva Muthusamy, Mike Palage, Jeff Eckhaus, Roberto Gaetano, Volker Greimann, Jonathan Frakes, (Katherine Olma), Jon Nevetts, Brian Cute, Avri Doria, Scott Austin, Faisal Shah, Tony Harris, Baudoin Schombe, Alan Greenberg, Berry Cobb, (Carol Mustella), Tim Ruiz, Richard Tindal, Nacho Amadoz. And for staff we have Kurt Pritz, Mike Zupke, Margie Milam, Liz Gasster, Glen DeSaintgery and Gisella Gruber-White.

And for apologies we have Michele Neylon, Ron Andruff, Cheryl Langdon-Orr and (Victor Nitasani). Have I left off anybody? And Ken Stubbs has just joined the call. Thank you Mikey, over to you.

Mike O'Connor: Thanks Glen. Folks are continuing to join the adobe connect room, I encourage you to do that. And with that we're off. It's five after the hour and Brian, I hand it over to you and I'll keep an eye on the queue for you, you've got till 20 after.

Brian Cute: Thanks Mikey, I'll try to be really efficient here in terms of time. I hope everybody's seen what we put forward as a proposal at Afiliis. I doubt that much of what we put forward would have come as a surprise to folks who have been engaged in this discourse with us over the last God knows how many months.

But I'm just going to hit the highlights of the proposal and obviously happy to take any questions on that. So moving quickly we wanted to touch on the elements of cross ownership.

And what we put propose is an ownership cap of 15% in both directions if you will between the registry operator and the registrar in the one setting and in the second setting 15% ownership cap between a back end registry services provider and a registrar.

We've made points in here as to why we think the 15% cap is meaningful. Most importantly to minimize the real and perceived incentives to discriminate or favor one zone registrar in the TLD setting.

The next question acting as a registrar in your own TLD should be no surprise, we call for the continuation of that prohibition which we've done throughout the discourse.

Next element that we commented on with regard to equivalent access and non-discrimination, we believe that equivalent access and non-discrimination principles should apply in the new TLD setting.

And identified limited suspension of the equivalent access to non-discrimination requirements in three vertically integrated exceptions. The first one exception is a single registrant.

We - that was a model that was identified in the (Cray) report that's - it's an exception that a number of participants in the working group have put forward as something to be considered.

We went along a prior suggestion of a cap of 30,000 registrations for the TLD operator. But offered what we think is a bright line cast as well and that is if the single registrant should be able to distribute only to its employees.

There's consistency with that in terms of the (Cray) report's description of this category. But I think more importantly for any of these exceptions to the extent we feel strongly that if there's any gray area around the rules of the road in terms of what (unintelligible) do outside of equivalent access.

And that needs to be defined, so we believe that employee test is a clear bright line test, it's easy to prove whether someone is an employee of a company or not and we've - that any other party outside that category should be treated as a sale to the public.

Equivalent access should apply, non-discrimination should apply, use of ICANN registrars should apply. The second exception, community

TLD again we suggested that the registry should be able to act as a registrant in TLD up to 30,000 cap.

Again the issue of defining this category is important, further definition of what a TLD actually is and with an emphasis on defining what a community applicant is for purposes of the evaluation by ICANN, the scoring by ICANN in the application review process we think more work needs to be done for that exception category.

The third exception category we felt that PIRs proposal about establishing an orphan TLD exception if you will, limited exception merits consideration.

We didn't suggest a specific numeric cap but believe a cap is likewise appropriate for this limited exception. We also note and have heard that the NCSG has been noting concern for some time about the ability of smaller registries being able to find a distribution channel is a distinct concern.

And so for that reason as well we felt this was a category that merited consideration of the working group. And then lastly the brand TLD again this is mostly a call for further defining this category.

It does tie back to some degree to the single registrant because in the (Cray) report that was a corporate TLD and in trying to determine whether it can sell to its employees or a broader group we think the narrow group is appropriate.

But it begs the question was does a brand TLD holder do with its brand, how does it market it? Does it market it just as a brand? Does it sell to the public more broadly?

Are there two different rules of the road for when they're selling to employees versus (unintelligible) category. Again this is just a call, we're pointing out the fact that there needs to be greater clarity in this category.

And I think that's the highlights of it.

Mike O'Connor: Thanks Brian, it looks like the queue is building, we'll start with (Eric). Go ahead (Eric). Oh there you go, sorry, go ahead.

(Eric): There's a delay to mute off. Brian the question I have on the list I didn't see an answer to which is what in the (unintelligible) definition is Afiliias concerned about? What isn't there yet?

Brian Cute: Well it's if you look at the scoring system in terms of how community TLD applicant represents itself as being representative of a community, what is the definition of that community it's unclear as we went through - this is particular to the scoring analysis as to how an applicant is able to hit the 14 mark.

We think in terms of representation of who's backing that community, how the community is defined, there are some certain terms that I think you can make good faith arguments, should be a generic TLD.



But you know a community, you could create an argument that what's otherwise generic represents a community. I know some people use the eBay example in that regard.

That's what we're talking about, we think that just further clarification about what the characteristics of a community are required so people have an understanding of you know whether hitting that magic mark of 13 or 14 points is achievable.

(Eric): Well as a suggestion since we spent a lot of time on this with Olof Nordling, I think that's your primary staff contact to make clear the issues you'd like to visit. Thank you.

Mike O'Connor: Thanks (Eric), Tim go ahead.

Tim Ruiz: Yeah, my question or may be more of a comment is on the same traffic as the community TLD and the discussion that just took place I think is good but what's being missed here is that there is no requirement for a community TLD to go through that scoring process.

So the scenario is potentially that someone self designates as community based, there's no contention for the stream or even if there is there's perhaps no selection or election of that evaluation which both actually true.

And so potentially a community can become a community based - a TLD can become community based TLD without ever having gone through the community evaluation process.

So I just wanted to point that out to Brian, make sure he was aware of that. I think (Steve) asked this of staff and staff confirmed it. And so if we're going to allow other types of exceptions such as this to community based TLDs, then we need to reexamine the conditions under which that evaluation process occurs.

So that we don't open this up to gaming. That's my comment.

Brian Cute: Yes, if I can I concur with that, I agree that was an omission that there is a two step evaluation process here and there is a possibility of an ill defined community skating through in the first round and becoming a community TLD.

But I concur Tim.

Mike O'Connor: Okay, Jeff Neuman I think you're next.

Jeff Neuman: Yeah, I just wanted to concur with that and realize Tim that that's also an omission from Jon and I's proposal, not intentional but that we'll be talking about.

But I do agree with that and certainly if someone's going to want to take advantage of this exception, then they do need to go through that community based review, absolutely.

Mike O'Connor: Okay. (Eric)? Looks like you're in for another one.

(Eric): Again the unmute. Coherent to the issue of there being an exception, I don't think there was actually a real interest or concern about a non-community applicant, master rating as a community based applicant,

because absent some exceptions by desperation, there just (unintelligible) to try and fake it.

Now with an exception as a possible motivator for bad faith representation for communities, there - this does raise a problem which would not otherwise exist. Thank you.

Mike O'Connor: Thanks (Eric), anybody else with questions or comments for Brian? And Brian do you have any final remarks, then we'll move on to the next one.

Brian Cote: Nope, thanks.

Mike O'Connor: Okay, great job. Tim, you're next and Brian was moving so fast we're picking up time so you have till just after the bottom of the hour. Go ahead.

Tim Ruiz: I have just to the bottom of the hour. Okay yeah, I don't think it's going to take any - I won't need that much time, I'll just skip right to Section 1 in my proposal and I'll just get to the nuts and bolts of what it is I guess you could say what we're proposing.

What we're proposing is that - and by we I mean Go Daddy. That the 15% ownership limitation apply to ownership both ways, so similar to what Brian was just describing.

Between registry operator or a credit registrar or ownership either way be limited to 15%. But that would also apply in relationship to the registry back end service provider.

So between a credited registrar and a registry back end so this provider would also be that limitation ownership of 15%. If any amount of ownership, cross ownership exists, then strict structural and administrative separation should be maintained.

We're proposing that Recommendation 19 of a GNSO policy on new gTLDs be adhered to and as a result ICANN would then abide by Section 2.4 of the May 2009 RAA which - so that they would abide by such requirements in any ICANN established policy.

Then in Section 2, you know what we do recognize is that some level of vertical integration could be beneficial. We're not - we don't intend to imply with the Section 1 that we think it should never happen or that it's a bad idea.

In fact at one time we were completely on the other end of the spectrum. So we've come to believe is that there hasn't been a cohesive really thoughtful approach to this whole process and that's what needs to take place.

So in Section 2 what we're proposing is that before that happens that there should be establishment of a cross constituency, actually a cross advisory council and supporting organization working group that would be formed to really develop a cohesive and thorough plan for looking at vertical integration and then recommending how a test bed might actually take place.

But before that happens and perhaps starting as early as the four month communication period for the new gTLDs, that a broad public notice take place.

So that it isn't just the ICANN community and the upcoming gTLD applicants who are aware that vertical integration takes place but that is broad a spectrum of internet users, potential registrants are actually aware of this change in the marketplace.

Once the working group is formed, the test bed is then decided upon and it actually has been introduced, then there would be a review of that within one year after the introduction of vertical integration.

Again preceded by a broad public notification and then the working group could be reconvened to consider the results of that review and what the next steps and the introduction of vertical integration might be.

And then finally in Section 3 we talk about mitigating registry failures and this might also apply to some other limited potential problems.

And that is that instead of looking at trying to form some process in advance to deal with the possible exceptions that may need to be made out of necessity that they'll be dealt with after the fact.

We have sort of - we have precedence for that actually right now, you know some of these issues came up with dot museum, there were issues with dot name, issues with dot pro that they've applied to requested ICANN to make exceptions.

Those have been dealt with in various ways but we have some cross benefit that we're able to deal with some of these types of issues after the fact on an as needed basis.

And we've tried to pigeon hole or sort of label some of these things like you know orphan TLDs or you know community based or single registrant.

We think that the spectrum of potential issues are much broader than that and impossible for us to really predict up front so that in order not to delay the roll out of new gTLDs dealing with them after the fact on an exception basis is probably more practical.

So that's the proposal and any questions?

Mike O'Connor: Thanks Tim. (Eric), you're up.

(Eric): Thank you very much. Tim thank you for the - for a very well crafted and readable proposal. I want to - this isn't so much a question as a I agree statement. Whatever went wrong with the original three TLD contracts back in 2001, we should fix those.

But in retrospect (unintelligible) total face of things that can wrong in the future is a lot harder than fixing what we know is wrong. And we can see that again with the least amount of risk taking.

So thank you.

Tim Ruiz: Thanks (Eric).

Mike O'Connor: Thanks (Eric), Jeffrey, you're next.

Jeff Neuman: Thanks, hey Tim it's Jeff. I sent this email to you, I sent it just before the call came so I don't know if you had a chance to read it. So I figured I'd just ask it on the call and hopefully you maybe can answer it.

So I know that and this is for you and maybe Brian as well since he's on the phone is that about the dot me domain which we know is - I know it's a ccTLD and I was saying I believe it's either owned or managed by you know a consortium of Afilias, Go Daddy and the government of Montenegro.

And you know personally I think it's been a great success, one of our companies you know our affiliated companies, NameJet just did a big auction on it, I've seen it on Facebook, all these other pieces I think you know it's been incredibly successful.

And I don't think anybody has had any issues about gaming or issues. So in your proposal you stated that you feel there's a potential - I guess there's a potential harm to registrants if the ownership level goes above that 15%.

So maybe if you could give me - maybe if I'm wrong about the ownership of the party you could clarify that. But if it's not could you describe Go Daddy and Afilias's experience with dot nee and what was to prevent any harm or gaming and how you're able to accomplish that without those 15% caps?

Tim Ruiz: Sure. Well first of all in terms of the 15% Jeff, you know there is a historical basis for it, we're all familiar with that. First of all you know

keeping it at a 15% level we think still allows for investment and new round registries to invest in registrars and vice versa.

And that's important that there be you know capital available investment available, people are able to place their bets but do so in a way that doesn't create an ownership position that really incents the registry to discriminate in favor of its controlled registrar or vice versa.

So it's really trying to avoid that scenario and the fact of the matter is you know if you go back in history even where there was a 15% ownership cap and I'm going to speak to VeriSign and Network Solutions, there's still among registrars, between and among registrars deep, deep suspicion that there's some form of favoritism going on behind the scenes.

There's a recognition that you know as a financial matter you know by owning a 15% stake that there's certain financial and revenue benefits that roll up to the registry and always concerns about cross subsidization.

So even with the 15% cap in the past it hasn't completely eliminated elements of concern and suspicion. But between among registrars, but we think it's very important that it be in place.

You know with regard to the dot me name as you said it is a cc and in responding to cc's as we know the rules can be different and governments can require certain structures and certain approaches to managing their country code names.



All I can tell you about in terms of Afiliias is that we have as you know a long (unintelligible) structure of having registrar owning parts of the company.

And you know we feel that we've got a very strong track record and have been able to manage in a very neutral and appropriate way those ownership percentages, those relationships and that's basically my comment on Afiliias.

Jeff Neuman: So Tim I don't know if you wanted to respond to that, to the question or I'm just - because I understand that you know there's we're saying hey, let's think about things going forward. What I want to say is let's - and I think maybe I don't want to steal I guess it was Volker, the other presentation.

But saying there's a long history of non-discrimination, non-gaming in the ccTLD world and you know I believe so in the dot me which is while ccTLD being marketed you know as open to everyone that we haven't seen discrimination.

I personally you know haven't seen it, haven't seen any issues and it's been wildly successful and I think that has larger than 15% co-ownerships by registries and registrars.

So I'm just trying to reconcile how on one side you're saying you know how we reconcile not necessarily but how we reconcile on how we say it's a long history of you know non-discrimination in both sides.

How do we reconcile that we've seen non-discrimination in both sides, in both cc's and gTLDs?

Mike O'Connor: Tim, you want to speak to that? You may be on mute you lucky dog.  
Give it one more try.

Jeff Neuman: And let me say one more thing...

Mike O'Connor: Hang on Jeff. Tim, I can hear you now.

Jeff Neuman: I just wanted to add one thing, Tim or Brian if you don't want to answer now you wanted to answer to the list that's fine because it is sort of short notice, I wasn't expecting like an answer this second.

So if you want time to think about it or to respond to the list that's perfectly fine.

Tim Ruiz: No, I'd like to respond I guess evidently the - I was being muted by the conference management. Because my line was noisy.

At any rate, I think Brian explained things pretty well. In reality I think that we kind of you know we're where we are with me as far as protections are concerned, maybe to some extent by accident.

Because we - you know I mean we originally went in to the dot me proposal process on our own. But you know the way things worked out we'd be partnered with Afiliis on that which is well known and a local company called MEnet based in Montenegro.

And I think as a result because of who Afiliis is and their experience with this and just the way things end up being structured, not due to any experience we had or any you know brainstorm on our part.

But it just fell out that I think the protections are very much in place. Afiliacorp has had experience with that. You know keeps us from making any stupid mistakes.

But on the other hand too it's just different in that there was a set of rules that applied to dot me registrations that was produced by the government prior to anybody being involved.

Those are a part of what we need to enforce and restrict what we can do and the government is still actively so much of what we do or things we want to proceed or whatever still have to be vetted with the government.

So they're still very much involved in the management of the TLD. And I think rightfully so, we offer - it's marketed much like a gTLD but the government has - it's cautious about that, they think you know that's the way they want to proceed.

But they're cautious in that they don't want to go too far with it. So you know it's a little bit different in that respect because it is a ccTLD, there's some similarities.

But what I don't want to say is that from this experience we do think that ultimately some amount or some level of vertical integration could work. What I think we're saying and I tried to make clear in the proposal is that I think there hasn't been any cohesive look at it.

There hasn't been any thoughtful approach to it or cohesive and thoughtful approach to it and that's what we're concerned about, in that

we don't go through all these ad hoc studies and processes and then come to some quick decision that later bites us in the butt or that we regret later.

That's what our concern is.

Mike O'Connor: Thanks Tim. We have two more folks in the queue and about four more minutes to get through them so Jeff, you're up but try to be brief.

Jeff Neuman: Okay, I will. And I was going to say the cc - for the next - or for the open registrar proposal but since it was brought up, I think - I don't think it's doing us justice to compare us to ccTLDs at this point.

Because for every ccTLD that - and there's some that are listed on those lists, that allows integration, there are just as many ccTLDs that don't.

And they for example the United States is one of them, dot US will now allow any percent integration or cross ownership, so zero percent at this point in time.

Has a very strong statement in their RFP as to why it hinders competition to allow any kind of cross ownership or vertical integration.

So that's in the US RFP alone, I will also say the Columbian dot co which is launching also has a very strict cross ownership and vertical integration - I should say anti- cross ownership or integration issues.

So we could easily delve back and forth between different ccTLDs that have it, that allow it, that don't allow it but I will say that there are many

ccTLDs that are much different than the gTLDs comparing apples to oranges.

And many ccTLD - while there are some ccTLDs that are not heavily regulated by their government, there are others like RUS and Columbia and others where the government has to prove every single action much more regulatory in nature than you know dot - than some others that are out there and without - I'm not badmouthing any out there.

I'm just saying that certainly I could tell you the amount of regulation in dot US I believe is much greater than ICANN exerts over its gTLDs. So at this point in time until we can do those studies on both sides, until we can figure out what makes it work, what doesn't make it work I think going down the path of saying what works in some ccTLDs is just - it's not going to cut it for me personally.

And so that's all I have to say at this point.

Mike O'Connor: Thanks Jeff. We've lost Brian, Tim do you want to respond to that or shall I go on to Palage? I may have lost him again due to the mute. I'm asking the conference call operator to be pretty aggressive on muting people because we've got so many people on the call.

So if you find yourself on mute star 6 will get you off. Tim?

Tim Ruiz: Well can I ask Jeff to ask me again? I was muted and being talked to at the same time here as I was trying to listen to Jeff so I'll be honest, I did not quite get everything he said.

Jeff Neuman: Actually Tim it was more in support of what you were saying, that you can't really compare the ccTLD market to the gTLD market and until the studies can be done between the - you know why certain ccTLDs do one thing and others do another, that your approach and the approach advocated by a number of proposals is the right one.

Tim Ruiz: Yeah, right, right. I think another point I didn't make was that you know in the dot me situation you know it's somewhat unique in that these were three (unintelligible) government four you know unrelated - previously unrelated entities that came together in a venture.

I think that's much different than some considerations that are being made. But anyway I think Jeff's right that it's difficult to make that comparison right now.

Mike O'Connor: Okay, Palage is in the queue, Ken Stubbs is in the queue, we're at 35 minutes. I'm going to go another - I'll go till 40 after the hour. Go ahead Mike but try and be brief.

Michael Palage: Can you hear me Mikey?

Mike O'Connor: Yep, hear you just fine. No star 6 required.

Michael Palage: Just two statements that I think are interesting to note. The first is I kind of - I would like to support Jeff's statement about the blending of cc and gTLDs and point back to the ICANN board discussion in 2006 when they called for a full market analysis of the domain name space in which ICANN has failed to do to date.

This has been specifically noted by the GAC and others within the community. So perhaps ICANN could do the full market analysis so we actually can engage in a fact based discussion of this topic.

Point number two, we heard about how the US government has exercised control in their approach as well as the Columbian government with strict separation.

But then we've also heard how the dot me with the Montenegro government has adopted a much more lax approach to their sort of co-ownership and integration.

And the point I'd like to raise here is those people that have been critical about the MMA proposal and how it goes to government competition authorities to help provide safeguards and regulations, we just heard from both Jeff Afilius and Go Daddy that the government's involved in those respective ccTLDs actually do work in protecting consumers.

So I just find that an interesting sort of point to note. Thank you.

Mike O'Connor: Thanks Michael. Ken's dropped off so I guess that's it. Tim, any final thoughts before we move on to the next and then we'll move on to the open registrar proposal.

Tim Ruiz: No, that's it for me. Thanks.

Mike O'Connor: I don't know who's speaking for the open registrar one overview, who submitted it but whoever you are, you're up and you can go till about 10 minutes to the hour with my usual slots (unintelligible) bolted in.

So Volker, are you the presenter?

Volker Greimann: I'm trying to be, yes.

Mike O'Connor: Oh it's so good to hear your voice. I can hear you just fine, go ahead.

Volker Greimann: Okay, I have a little cold so it might be a bit difficult to understand me but bear with me for a couple of minutes. I'll try to be brief in this.

Having read all of the proposals out there in the open we felt that it was necessary to make our point clear as well as registrars dealing in the gTLD world as well as the ccTLD world.

We have made a lot of experiences and we simply do not believe that vertical integration or co-ownership necessarily is the evil that it is sometimes made out to be.

In the past ICANN has had many remedies to abuses and misconduct by registries or registrars which are always implemented after the fact and we wonder why this shouldn't be possible in this view as well.

So we are proposing that 100% co-ownership or vertical integration is possible in the new gTLD world, especially since many new gTLDs will be like ccTLDs in every aspect except for being not of the country but ICANN accreditation.

We see this as the easiest proposal, needs no exceptions. It has very strong - we implemented a very strong but flexible framework of rules that govern how these vertically integrated registries and registrars



have to act, then we would be able to allow all kinds of registrations or TLDs that have been proposed and that had exceptions proposed for them possible without needing to go into details at every level.

We do not see that competition authorities are a solution because at least in Europe competition authorities will not look at companies when they start with zero percent market share and zero percent market ownership but only after they become something of an entity that would interest them.

They simply do not have the time or the resources available to check every proposal that is coming out of the table for possible violations and I firmly believe they won't even consider the option of looking at these proposals from the competition angle.

We do believe that audits are possible and necessary but not in - on an annual basis as in the proposal by (Demont Media) and others but only in the case as needed.

Or if there's criticism or complaints about conduct of a certain registry, in that case audits should be implemented and if misconduct is found stiff penalties should be imposed of course.

But we believe that the after the fact remedies are much more effective than implementing what you say, rules that prevent certain TLDs or proposals from even getting off the ground from the start.

I think that's most of the basic things of the proposal to be concise here. We've put a bit more detail into this written form but I think I should be open for discussion here.

Mike O'Connor: Terrific job Volker, thank you very much. I'm looking for queue for questions for Volker. This proposal by the way for those of you who are not reading the list every minute of the day came fairly close to the start of the call.

So the proposal has hit the list and I encourage everybody to take a look at it.

Volker Greimann: I apologize for that.

Mike O'Connor: No worries. Palage, is your hand up from last time or is this a new one? I'm going to go to (Eric) and if your hand is really up I'll go to you next. (Eric), go ahead.

(Eric): Thank you. Volker, would you be adverse to rewriting your proposal so that the proposal itself, what ever it is clearly stated and not commingled with argument and counterargument?

It's actually somewhat difficult to figure out what your proposal is. And I'm sure it can be stated simply. Thank you.

Volker Greimann: I think we can do that, yes. I will propose something for the group.

Mike O'Connor: Okay. Jeff Neuman.

Jeff Neuman: Yeah, I was actually waiting for someone to propose it, now we have both ends of the spectrum, we have one proposal I think that was initially submitted by the registry stakeholder group which is the -

probably the strictest and now we have the other end of the scale which is the loosest.

So I think I thank them for proposing it so now we can get to somewhere hopefully in the middle.

Mike O'Connor: Kristina, go ahead.

Kristina Rosette: Yeah, I guess I have - I would just second (Eric)'s request because it was difficult to read. The two questions I have are I'm not really quite sure how to reconcile on the one hand the position that audits are unnecessary I guess.

What I think is a proposal for increased compliance monitoring and penalties for violation of equal access provision so then the other question I would have is that with regard to the SRMUs, what is your group's position on the registry imposing objective criteria that would apply equally to all registrars interested in carrying the TLD?

Volker Greimann: Well obviously as registrars we believe in equal access for all registrars. Some factual inequalities must probably be there, for example if you have a Zulu registry they won't probably be able to service you in French.

So if you're a French registrar you'd better learn English or Zulu. That - but apart from those factual inequalities that are just based on the TLDs that are proposed, I believe - we believe that all registrars should be able to become accredited in every new ccTLD and have the same opportunities to register domains for their customers as the vertically integrated entity is.

And of course if there is found to be lack of judgment or compliance in this case then the penalties should be imposed after an audit trend seems to be true.

Kristina Rosette: But I thought one (unintelligible) or at least maybe I misread it but I thought one part of your proposal was that audits were unnecessary.

Volker Greimann: Audits on an annual basis as prescribed by some of the proposals we have seen are unnecessary. Audits after the fact, after a certain complaints have been made then they would be part of the penalty system.

The compliance monitoring and penalty system so we would have audits in case of complaints by a co-registrars that the vertically integrated entity isn't playing by the rules.

Kristina Rosette: All right, thank you.

Mike O'Connor: All right, Ken Stubbs, you're up. You may be muted, if you are try star 6. One more try.

Ken Stubbs: Can you hear me?

Mike O'Connor: There you go, now you've got it.

Ken Stubbs: I'm sorry, I've got noisy people here. I've got a couple of questions here. First of all I'm not trying to put words in your mouth so please correct me if I'm wrong, but what I get from what you said is basically there would be no requirements for audit.

There would basically audit is an oversight function. It seems to me that there's no clearly an indication of any clear oversight function defined here, it's almost like well we can't have oversight because it costs too much money to comply with it.

And we're just getting started and that's just too much of a burden to impose on us and really what we're saying is when we have a problem, then we'll deal with it.

The only problem is that in some cases and I use register fly as an example by the time you discover you have a problem it is so material. The effect can be somewhat devastating on both the registrants and the community.

And I believe that you have to have an oversight function to be able to allow those kind of issues to be surfaced early enough on and the oversight function has to be properly managed.

And there have to be penalties allow you to deal with it early on. One of the biggest problems that ICANN had in the early stages and I'll never forget I though it was (Lou) who indicated the frustration.

The only way they could deal with problems with the registrars initially, they had - all they had was the death penalty, that was it. There was nothing in between and there was a lot of frustration.

Also the contracts were limited by the relationship that ICANN currently had had with Network Solutions which at that point in time was still a registrar tied in with the original registry.

So I guess what I'm really saying is I don't think you can afford to have a situation where the community has to wait until you have a material problem to deal with issues.

And if you don't have some sort of an oversight function you may not be able to recognize it early enough on to deal with that significant impact. Thanks.

Volker Greimann: Okay let me just - basically put my or our thoughts to that in perspective. We have maybe as a bit of an aside put that concern into the proposal at the very end in the section V miscellaneous dot c, compliance monitoring and penalties.

We do believe that compliance monitoring is necessary but not as a standard auditory - not a standard audit system that is repeated annually and will create a large financial burden for many of the smaller proposed registries and new TLDs.

Which would effectively lead to them not being able to be commercially viable. We believe that registrants and coregistrars will watch 100% vertically integrated or co-owned registries very closely and will complain to ICANN or any so designated authority.

And will then be investigated at that point and at that point when the investigation takes place and finds anything to be wrong with that then certain penalties could be imposed which could be graded along the severity of the problem that it was found in the end.

We do believe that vertical integration is possible and I think we should as a working group find the middle ground as to what penalties should be imposed on such registries which are found to be in violation and as well as how to best do the compliance monitoring.

We did not want to impose any of our views as to how this is best done because there's many people that have many different impressions or ideas on that subject on this list.

And I think if we operate on that effect then we would find a very good solution to that. This is why we put that as an assigned - as a basis for discussion if you will.

Mike O'Connor: We're right at the end of the time, I think I'll let Jeff Neuman get in one last - Scott you were sort of popping in and out, are you back in for...

Scott Austin: I am back in but I didn't know if this was the time. I didn't know if we were raising questions for each individual one or overall when we should ask those kinds of questions.

Mike O'Connor: Oh, okay. Let's save the overall one for the very end, that way we kind of march through the ones that we've got in front of us. And then jump in again at the end Scott.

Scott Austin: I'll try and keep the point.

Mike O'Connor: Well I'll try and keep track too, thanks. Jeff, is this quick? Can we push through?

Jeff Neuman: Yeah it's a question for Volker I guess, it's - I've heard you say a couple times and I saw it in your paper that how vertical integration are all cross ownership that TLDs won't be commercially viable so I guess my question, what TLDs do you find have been launched with these restrictions, not commercially viable?

And then the second question is what type of innovations do you see that you can only do by allowing cross ownership and vertical integration?

Volker Greimann: Actually I think that most - in most cases different approaches might be possible. I just think that it should be the proponent of new TLDs to decide on the how to best operate a system.

I also think that many small communities, registrars will not be willing to pick up that registry - that TLD just because of the small numbers to be expected.

And will not have established registrar base like for example (core) has where they have a registry operator owned by I think 20 different registrars who will be able to pick up a new TLD very quickly and very easily.

In such cases it might be very beneficial for the registrants and the registry as well to be able to get accredited as a registrar as well. And sell their rights to their customers because how big is Zulu land, how big is a small town in the middle of Mexico that wants its own TLD.

And it has a very defined target audience for their domain names and those domain names will maybe not be reached by the established



registrars or on the other hand registrars will simply not pick up that TLD because they think they won't make any money off of it.

And it might be better done if they could sell the rights just as one example.

Mike O'Connor: Okay. Any other questions for Volker, any final comments that you want to make Volker before we move on to Jon and Jeff?

Volker Greimann: I think we've heard everything that we wanted to propose discussed here so I think I'll just open the floor for the next proposal and the rest can be dealt with on the list I think.

Mike O'Connor: Terrific. Thanks Volker. Jon and Jeff? Since this is a combined proposal can I allocate you a slightly shorter period of time, like 10 minutes then we'll get to Scott's question and then we'll get to the analysis team.

Jon Nevett: Each or ten minutes total?

Mike O'Connor: Ten minutes total, unless there's something really dramatic that you need to tell us about.

Jon Nevett: I can describe the proposal and we'll see what kind of level of questions there are there. Essentially and - we've combined the elements or certain elements of both of our proposals into one and tried to merge it, added a couple more elements and tried to reach a middle ground position.

So essentially we stick with the 15% cross ownership limitations that we've discussed in the past 15% or control that have been out there and the reasons for and against those have been widely discussed so I won't go into that considering the time frame.

The exceptions to the 15% are as follows, one well essentially if you're not selling names in the affiliated registry then this doesn't apply and that distinguishes our proposal from some of the others that are out there.

So essentially an entity, a registry operator can you know apply for a certain string and then as long as their affiliated registrar doesn't sell it it's not a problem.

The other three exceptions are based on comments from various folks or the single registrant TLD and we limited that to I think like Brian mentioned to employees and the entity itself and agents essentially no third parties.

The community application would be an exception up to 30,000 names and again I agree with Jeff and Richard and others who mentioned that you still have to get the 14 points to make sure it's a true community applicant.

And then the orphan registry where you know they make a good faith showing that they can't get traction in the registrar marketplace if - and again I think Tim pointed out that this hasn't existed before.

I think there's - every TLD has at least three or four or five registrars selling their names. But in the case that with new TLDs within you

know an explosion - I won't say explosion but an enhancement in the number of TLDs out there perhaps this might be an issue.

So we leave the safeguard for that. And then finally we have this in place for an 18 month period so we would adopt the dot - the current sTLD agreement language which essentially says with ICANN approval you could go above 15%. And the criteria would be these three exceptions in the beginning, and then after 18 months, just like Tim Ruiz mentioned you know we get together and we could get advice from competition authorities.

We get advice from economists if we want. We continue to do our work but we could expand it after an 18 month period. The other helmets that we added we continue with the same use of registrar distinction.

The other new elements however if there's a restriction on the ability of an affiliated registrar, an accredited registrar to sell the names, that should - that restriction should continue with any reseller. So you don't have a back door way for essentially for registry operator applies for dot Web, and they're a registrar they can't sell it on their registrar accreditation but they could do it indirectly through another kind of defeats the whole purpose.

So we put a restriction on that again for 18 months and to Brian's point you know we don't want to incent a registry to favor an affiliated registrar and if they're not selling the names there can be no favoritism and if they're not selling it indirectly through a reseller there will be no favoritism.

And then again on the back end registry to make it comparable we say you know if the back end provider isn't dealing with policies or setting prices or selection of registrars then they can sell the names through an affiliated registrar with certain criteria you know protections that are in place that we've talked about.

That there's a strict separation, strict controls, you know no data sharing or sharing of confidential information. I would have annual certifications to that effect and we talked about annual audits and the sanctions program.

So we would have those in for back end providers and for resellers after the 18 month period. How was that? Did that make the time?

Mike O'Connor: That's spiffy. How about that for a technical term. We have a little bit of a queue building, Jeff Eckhaus, you're first.

Jeff Eckhaus: Thanks Jon. You know I got this a little while ago so I'm still reading through it and I just - maybe you guys can explain, I'm just kind of confused a little bit about the term control and how - I can understand the ownership, how that's measured.

How - maybe you can give me a little bit more maybe if I'm the only one you don't have to about how control would work and how it's measured. And yeah, because I'm not really clear about the control part.

Jon Nevett: I'm with Jeff. That's just a safeguard. You could conceive of a situation that could be gained that if you owned 5% of a company but you control the entire board for example, and you do that through a

contract that you are actually in control of that company even though you only own 5%.

Or you only own 5% but you're entitled through contract to own the entire revenue of the company or something like that. So it's just a way to avoid gaming.

Jeff Eckhaus: Right but who would - I mean two things, one is controlling you know it says the direction of the management or policy so you know part of it is you could say hey, some large registrars can control how certain registries or TLDs are operated because they control it on what they want them to do.

Or you know that's just conjecture and I'm just saying how would that be measured? How would anybody say oh they do control it or they don't.

Is that a possibility? I'm not really clear on that.

Jeff Neuman: This is Jeff Neuman, Jon can I jump in?

Jon Nevett: Yeah, please.

Jeff Neuman: Yeah, I think it's a good question Jeff. It's - but it's one that actually has been tackled a lot in other areas of the law and unfortunately I can only speak for the United States and have some familiarity with a few of the countries in Europe.

But there are like in the US for example the securities and exchange commission which looks into these types of issues all the time. They do have objective tests and they do have objective criteria.

Certainly if people bought off on this principle we could easily bring some of those objective criteria back in here.

But it requires an examination of bylaws, it requires an examination of articles, it requires for example material contracts for certain portions of the business that are being done to be disclosed at least to the regulatory body.

Here I guess the closest thing would be the ICANN so there are a number of ways to look at it. I know it's - for those not familiar with this area it may seem daunting task, but it's really - it's almost down to a science in those other areas.

And so assuming that there's buy off on the principle we could easily provide more objective criteria.

Jeff Eckhaus: So I thought I'd just follow up quick. So you would propose that I know in the other areas like the SEC they have a full huge organization that manages this so would ICANN be the regulatory body that checks on controls and would have to be monitoring that at all times in your proposal based on your ideas?

Jeff Neuman: Well as part of the application you would submit what you would anyway, your bylaws, your articles, your financial due diligence and your material contracts to provide - or your contracts to provide material portions of the services.

So in that respect you know if there's any services that are provided by an affiliated entity you have to disclose that and you have to disclose the contractual terms.

And yes, that would be part of the review process and that would also be something that would be check up on in the audits.

Mike O'Connor: Okay, Palage you're next.

Michael Palage: Thanks. Mike Palage here and Jeff just another shout out referring to your security and change and other governmental bodies that seem to have objective criteria that businesses rely upon in conducting businesses, again just wanted to point that out.

Getting back to my original question which was the 18 month, we've been - according to sort of my calculations I think we've been discussing this issue for over 18 months now.

So what happens and again Jeff I think you said it was 18 months from the time of execution when the clock would start ticking.

Nevett, do you agree with when that clock starts or do you have a different time frame and what happens if we reach a stalemate and we're not able to have some type of decision on flexible criteria outside of that 18 months?

Jon Nevett: Yeah, no, from the data contract is definitely workable from my perspective and you know I think you have to stick with the status quo unless we come up with - or ICANN comes up with a better system

after community input and the kinds of discussions that Tim Ruiz referred to.

You know ICANN could get advice from the competition authorities as well so you know that could be part of a study.

Michael Palage: So I guess what happens is - and again Jon when you were speaking you talked about in 18 months ICANN going to the experts. So what's preventing them from going to the experts now?

And again as a follow up to my original email to the list, what happens if an applicant goes to an expert right now, a competition authority that gets a business review letter that says yes you can do this.

You're basically proposing that notwithstanding a national competition authority saying that there's no issues, you somehow believe that ICANN's bottom up consensus process could prohibit that legal business from taking place.

That's correct, from your proposal, right?

Jon Nevett: No, it's not correct. You assume a whole bunch of things in your statement so I mean we can talk..

Michael Palage: Okay, so let's break it down.

Mike O'Connor: Hey Michael, I'm going to push you a little bit, let's take this one to the list. We're getting real tight on time here, I'm sorry to cut you off but maybe one more round of discussion and then let's draw a line under this one and move on.



So you go one more time and then we'll call it a day on that one.

Michael Palage: Okay. A competition authority says that there's no problem with the proposed joint ownership, 100% joint ownership. That's - so somebody goes to a competition authority, gets that approval.

Would they be able under your guidelines within before 18 months or after 18 months to do that without ICANN community saying yes?

Jon Nevett: I think any application, any kind of application if they have input from a competition authority that would be obviously very important to ICANN in evaluating a request for approval.

Jeff Neuman: And this is Jeff. But Mike, this is what I tried to say in my email, may not have done a great job. A competition authority is but one input into the full situation of what we're talking about.

We're not only talking about for example Department of Justice looking in to whether a merger would affect competition. We're also looking at other types of affects on consumers and there are other authorities within a government and frankly other considerations that are outside of the government that are within the ICANN community that need to be considered.

So just because someone receives a note from a competition authority saying we don't care at this point, which is really all they get, they never say they approve, they would say at this point nothing has come to our attention to raise red flags.

That is not the be all end all statement to allow everything to go forward.

Mike O'Connor: Okay, I'm going to draw a line under this, I know it's tasty and we need to get it on to the list. Ken, you're next. We're running a little late on time so try and be brief.

Ken Stubbs: Okay, can you hear all right Mikey?

Mike O'Connor: Yep, can hear you fine.

Ken Stubbs: Okay. I have a suggestion I think will make it a little bit easier for the group to deal with time to structure and so forth. Why don't we try to define a starting point for these periods as being the time that a domain is commercially available to the general public?

That way we don't have to worry about 18 months from when the contract is signed, 18 months from when they go into wait, 18 months from sunrise, whatever.

It would make it much easier for us and you would remove an awful lot of these questions even on post as to what do they mean by this time period.

So let's - maybe we can start drilling down on some of these issues just to get them out of the way so that we can concentrate on the real meat. Thank you.

Mike O'Connor: Thanks Ken. Scott, is this your general question or is this one for the Jeff's?

Scott Austin: No, I think I've heard enough, I'm not sure that I could hold any more information in my head for the discussion and still have a meaningful question.

I'm going to try and attempt though, I do like Jon Nevet's piece, I'm assuming that's JN squared, is that correct?

Jon Nevet: Yeah, Jon Nevet, Jeff Neuman.

Scott Austin: Okay, if it's a combo that's fine because for the first time in my experience on this list anyway I've seen some detail put into words that I think are key and whether it's - and that being control.

And I guess the question I have and I'm also going to make a brief comment on competition authorities, we have a Securities Exchange Commission and we have a Department of Justice and we have an FTC, the Federal Trade Commission.

All of those bodies have very specific roles based on expertise but yet all of those things are impacted by what we're working on here. So I think that's where we're running into some of the troubles of trying to be all things to all people.

My question in listening to all the proposals today and I applaud the one Volker's also in the sense that it's sort of free enterprise and I think that's great.

I'm surprised that some of the ones coming out of the United States haven't been more free enterprise. But the bottom line is that all of

these anticipate audits. They all anticipate that these percentages somehow are going to be audited.

My question to those who have the experience, whether it's Neuman or whether it's people from Go Daddy, have they ever been audited under this 15% that exists under the current regime?

And if so what are the documents? What are the things that are looked to, to verify that? Because I think that may go into our new definitions. And I think that the Nevett proposal is the closest I've seen to hitting the nail on the head with that.

Jeff Neuman: This is Jeff Neuman, can I answer that?

Mike O'Connor: Sure, go ahead.

Jeff Neuman: Sure, so in the ICANN world there's - there have not been any audits that I'm aware of for NeuStar. I will say for NeuStar though we have a very strict annual audit every year by the - in the telecom industry with our contractor for 5% ownership.

I had posted an example early on when this group started that NeuStar is prohibited from owning more than 5% of the telecom service provider or no telecom service provider can own more than 5% of us.

There's all sorts of rules on who can serve on the board, it's really detailed. And we do get audited every year by a top five firm, accounting firm and we have to submit self certifications initially and then the audit firm actually comes in and randomly picks out a ton of

documents and material contracts and everything else to look at it to make sure that we live by those requirements.

I'm not saying that it needs to be quite as extensive as that or expensive as that as I noticed someone has posted but certainly you know looking at key corporate documents is not that great of an expense.

Things like bylaws, articles, board resolutions and material contracts for portions of the service are really not too many and in the registry line of business would not be really onerous at all.

Mike O'Connor: Thanks Jeff.

Scott Austin: Okay, if I could make one comment to that, I think that because many of us operate with UDRP proceedings and operate on the internet with clients who are always wondering who's out there, because of the fact we're in a virtual world I think it is very important that we do have ways to audit.

And we do have ways to without a complaint make sure there is some oversight by some agency that we trust. And with that I think that I'll - the only other comment I would make is that Jon Nevett's piece where you also talk about registry operators or service providers, that's the first time I've seen that addressed and that seems to me that that's a way to create a subterfuge of ownership.

In other words a lot of these TLDs will be owned by a new co, and that new co may not mean anything in terms of ownership of a registrar.

But in fact that new co may be created by or owned by either the owners of a famous registrar or the famous registrar itself.

Mike O'Connor: Okay Scott, thanks. I'm going to draw a line under this chunk of the agenda. We have 15 minutes left to spend, I'm going to completely change our gears now and put Berry Cobb, our fearless leader of the analysis team on center stage.

This is a repeat of last week, I wanted to spend a little time brainstorming around the questions that the analysis team has for the group but I'm going to leave it to Berry to lead that part of the discussion.

We'll go to just about the bottom of the hour and wrap up the call. Berry are you on the phone I hope? You may be muted.

Woman: Berry seems to have disconnected.

Mike O'Connor: Too bad, did he just disconnect or has it been a while?

Woman: Just now, I'll just check with the operator, just hang on a second.

Mike O'Connor: Okay, well I'm going to kick it off and Berry can join when he rejoins the call. Ah there's Berry, I hear his voice, he's back on again.

Berry I just put you on center stage, I don't know how much of my intro you got but we're into the analysis team portion of the call and I thought I would just throw the ball to you and let you lead us through about 15 minutes of brainstorming about the questions that your team might have for us.

Berry Cobb: Okay, thank you Mikey. I apologize, I'm not in a closed office so I probably have some background noise. Just wanted to start off by saying that the sub team met briefly last week.

There are about six others that joined the call. We basically talked about our approach for the - well first and foremost the schedule of goals for the sub team and then the conversation carried forward with our approach.

We reviewed through kind of a first draft or I wouldn't even call it a draft but initial concept that basically outlined our approach and it kind of took the approach of looking at different proposals based upon attributes.

We talked that basically that would probably be very hard to accomplish and so our discussion kind of took a turn towards taking the approach from looking at the stakeholders.

So for instance what does this proposal mean from a registry perspective, a registrar perspective, registrant/consumer perspective. And that's basically where we had finished.

We didn't get very far in terms of the overall framework for which we would conduct the analysis just yet. We have a meeting scheduled after this working group call today to continue our discussions and then we'll be meeting again hopefully early next week.

Our goal is basically to meet at the beginning of the week by close of Friday of this week, we hope to have our first draft up to the larger working group for review.

We'll meet I think it's approximately 5/3 or 5/4 within our sub team. By 5/7 we'll submit our second draft out to the working group for review and we hope to be able to wrap this up by May 10 if everything goes well.

So right now our approach or what we hope to discuss and then this upcoming call is to continue our discussion around the framework as applied through the lenses of the stakeholders.

And probably a dependency for us to consider is the work being done against I can't remember his name - yes thank you - and take a look at what that charting exercise will be coming up with.

For now that's about all I have to offer up, I invite anybody on the sub team to offer up questions, we really didn't get to corral around any major questions that we wanted to pose to the larger working group and I myself don't have any at this particular time.

So I invite others on the sub team to ask the larger working group.  
Thank you.

Mike O'Connor: Thanks Berry. I'll take a queue on that. Palage is your hand up from long ago or is this a new question? And meanwhile - not a new question. Given that the analysis team is maybe not quite ready, maybe rather than chew up time on a call where every minute is a person hour I'll draw this one to a close.



I'll look at the queue for just a second to see. To give you a brief update, Mike Zupke has come up with a first pass at a matrix that compares the proposals by concept.

So he's built a giant grid basically where he's listed a whole bunch of concepts down the side and then attempted to determine which proposals contain that concept.

And I'm very excited about it but it's one of those things where I think it's fair to let the proposal advocates take a look at Mike's draft before we publish it to the list.

So during the course of this week of you're a proposal advocate and somebody's trying to get a hold of you please respond quickly and the quicker we can get that first round of editing done, the quicker we can get his draft to the list which will not only help all of us.

But it will also help the analysis team know which pieces aren't yet covered. So that's a quick advertisement for speedy action on Mike Zupke's stuff.

Jeff I see your hand up, go ahead.

Jeff Neuman: Yeah, I wasn't sure if you were going to close the meeting after this or whether you were just closing this part of the discussion. I just wanted to ask a general overall question but...

Mike O'Connor: Go ahead, we've got a little time.

Jeff Neuman: Yeah it was just on timing. Like so what's the plan? How are we moving this forward? What's the...

Mike O'Connor: well our main deliverable and our main deadline is sort of the deadline at the end of May for documents headed to Brussels. The GNSO is going - we have a slot on the GNSO working session for Sunday morning I think.

Glen told me and I've forgotten but as a result we need to get a deliverable...

Glen Desaintgery: Sunday morning.

Mike O'Connor: Sunday morning, thanks Glen. We need to get a document ready and so that's the sort of most major deadline.

The framework that Zupke has started developing I think will help us fairly quickly identify the major concepts and the major essentially clusters of consensus that we've got in the group.

The ideal would be that by about a month from now we could have consensus around each of the concepts that's in there. Whether we'll get there or not we will at least have snapshots along the way and as you've sort of heard on this call there's an emerging sense of sort of best of breed language from various proposals that we may be able to stitch together into that etcetera.

And so I'm as your process type guy still pretty comfortable with the progress we're making. The conversation on the list is fantastic and

one of the things I've started doing is using the list as a searchable knowledge base for questions that I have.

I'll throw words at the list and you know in my email browser and get very rich slices of conversation about all sorts of topics.

So that's kind of the story Jeff. You know I'm feeling like we're pretty much carrying along on track. I invite other comments but that's the world as Mikey sees it at the moment.

Ken is next.

Ken Stubbs: I have a major question but I want to defer because Roberto your co-chair is in there and why don't you put me in after Roberto.

Mike O'Connor: So he is. We'll let Roberto talk. Roberto go ahead.

Roberto Gaetano: Yeah, well I didn't want to jump the queue but anyway I wanted to add a couple of things, maybe I'm stating the obvious but when we are talking about deliverables, I think that we have a range of possible results.

I think it's clear by now, it should be clear that we are not going to have one proposal among the one that is presented that is going to be chosen and presented as a result of the working group.

But that those proposals would be just the source of items that we are going to discuss and put together. And I think that our minimum is to find some of these items on which we have consensus.

For instance I don't know, the cost of ownership, 15% or whatever where we have a consensus and present that as a consensus of the working group.

Even if that is not a complete proposal that will solve once and for good the vertical integration across ownership and all the other items that have been raised.

So I think that this is important because we can go on bit by bit and come to Brussels with whatever we have in terms of consensus of the whole working group as an initial part for the board to make decisions on.

Mike O'Connor: Thanks Roberto. Ken.

Ken Stubbs: Thanks Mike, can you hear me?

Mike O'Connor: You bet.

Ken Stubbs: Okay, first of all it's interesting, Kristina and I almost hit the same button at the same time. This is a question for Glen and then I need a follow up. Glen, how much time have you budgeted from the GNSO council session on DI on Sunday?

Glen Desaintgery: I was asked by Stephan to put at 45 minutes.

Ken Stubbs: Okay, well I'm going to respond to that. We have somewhere between 45 and 65 people involved in a work group that will end up creating probably into the thousands of email letters.

And if we're going to end up making a presentation to the names council and only budgeting 45 minutes for this, I consider this to be a somewhat Herculean effort.

Knowing the way that the council works the next opportunity to respond to that, please correct me Kristina or anyone else who is on the council, there's no real formal working sessions during the week unless ICANN creates one and in fact the council would manage that one.

I'm terribly concerned about trying to get any sort of a product through any major part of any process in Brussels with 45 minutes and I see Kristina has responded indicating she felt that we needed much more than 45 minutes.

I would hope Mikey that you and Roberto and anyone who's on the ICANN staff who is on this call would seriously consider taking a very close look at the enormity of the body of work that's been done here and the amount of time that needs to be taken for deliberation in Brussels please.

Thank you.

Mike O'Connor: Thanks Ken, duly noted. We'll take a look at that. (Eric)? You may be muted (Eric).

(Eric): Like Ken I have a process issue to raise. We have ten people in the first poll response out of the 70 or so, 15 in the second.

In spite of the number of email written there is a substantial number of the participants or volunteers who are non-participants. So my question really goes to before we get to Brussels what does consensus mean in a group in which we have essentially half of the participants who don't participate?

And the other half which could be evenly divided into now ten I think different advocacy positions. Thank you.

Mike O'Connor: (Eric), I'll send you the \$50 after the class is over. That feeds into something that I would like to encourage and that is that we do have a very substantial number of members of the working group that haven't said a word.

And that may be because you're bewildered or it may be because you're still making up your minds or something.

But it's important that you speak up. I think one of the most difficult outcomes would be a situation where people you know we are clearly a group of people that's working very hard.

You've heard that in several contexts. And it would be a tremendous disservice to have essentially a sudden arrival at the very end of the process of a very disruptive component of the conversation.

So if you are silent please consider speaking up. If no other way than through the poll, that's one of the main reasons that the polling is going on is to draw in comments, thoughts, positions from people who find it difficult to speak up either on the phone or in email conversations.

One of the comments that came back on the poll was perhaps if it were a private poll we would get better participation. And I'll take this opportunity to say that this is consensus.

And in consensus processes it's very important to know who holds which opinions. And so a private poll may work fine for majority rule kind of decisions making but it doesn't work very well at all for consensus.

So I just want to second that point that (Eric) made, that we need to - especially those of us who haven't said much, you need to make the effort, because otherwise I think Roberto and I will be faced with some very difficult decisions if right at the end a bunch of people speak up with a very contradictory point of view.

I'm going to let Sebastian talk first Ken if that's okay.

Ken Stubbs: No problem.

Mike O'Connor: Sebastian go ahead.

Sebastian Bachollet: Thank you, as one who is not talking a lot in this - I mean I just wanted to underline that there is so much mail that is in one sense you are very happy with that but I am not unhappy with the fact that a lot of people or some people write a lot of emails.

That means that they have some discussion but for me and I guess for some part of the working group people it's almost impossible to read everything and to find the time and to find the ability of reading everything.

And as I start with the idea of if I read the proposal it's going to be okay but now there is no just four, five, six, now it's ten even more proposals and it's really very difficult.

I am hoping that the work - the (unintelligible) metrics will help better participation because it will allow compilation between the different proposal and not discussion on one to one proposal.

And I hope that will be great. The same time I just want to underline once again that we are in an international environment and that it's always difficult for non-English native speakers and you have to take into account that when you add acronyms to some difficult English word to a lot of text it's - we are dead.

We are outside of the discussion. And in the same time I think we need a face to face meeting. I am not sure that something on that, it's not written on the mail, I didn't read it.

But and even if it were to be done prior to Brussels I hope that on Saturday it will be possible to have a face to face meeting and with some time to work.

I know that it will not deliver something for the Brussels meeting but I will hope that it will help for the next phase of the work - of the group after Brussels because it's less costly and less difficult to have people participating to a face to face meeting on Saturday prior to the Brussels meeting.



And my last point is that I do think that you do a very good job Mikey with the survey and I would like to ask everybody to participate at least to the survey because I think it could give a good idea.

I am not very happy that we have just 15 people answering and 60 plus participants in the working group. Still it's not enough. And it's not enough for the results but it's not enough to rework the work done by Mikey on that issue.

And I would like to urge you to do that and maybe Mikey this is survey you just give the result could be still open for the other participants to try to have at least, I don't know, more than half of the participants to answer your question.

Because this seems to be a very good way to go on the next phase. Thank you very much.

Mike O'Connor: Thanks Sebastian. I will send \$50 to you after the meeting as well. The survey is going to be repeated every week. What you have all lived through is the alpha test and maybe the second alpha test of the survey. I think as the matrix evolves that also will refine the structure of the survey.

And that very quickly the survey and the matrix will become structured pretty much the same way. And we'll do one every week and so expect on Friday morning to get an email from me with a link to a new survey each week.

I'm sure that the structure of it will continue to evolve, the structure of the matrix will continue to evolve and basically all roads lead to

Roberto's vision at the end of May that we will have a series of ideas and a strong sense of which ones we agree on at that time.

And that's basically what we're going to carry forward into the meeting in Brussels. I certainly understand the issue with email and that is one of the reasons that we're doing the matrix is to get it to the point where you don't have to follow every single one of the 1100 plus emails to be current on the conversation.

So thanks very much Sebastian. Ken I think you're last on the list then we're a little over time so please make this brief and then we'll wrap up the call.

Ken Stubbs: Mike I'm going to just take a post and offer you had about everybody monitoring and dealing with these type of meetings in their own way. So have a nice day.

Mike O'Connor: Okay, thanks all, great call and it's - we're over time so I'm going to cut it right off. We'll see you this time next Monday. Thanks people.

END