

**Vertical Integration PDP Working Group  
TRANSCRIPTION  
Monday 24 May 2010 at 17:00 UTC**

Note: The following is the output of transcribing from an audio recording of Vertical Integration PDP Working Group meeting on Monday 24 May 2010 at 1700 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at:

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**Participants on the Call:**

**Contracted Parties House**

**Registrars Stakeholder Group**

Graham Chynoweth

Paul Diaz

Jeff Eckhaus

Ruslan Sattarov

Helen Laverty

Statton Hammock

**gTLD Registries Stakeholder Group**

Brian Cute

Jeff Neuman

Ken Stubbs

Kathy Kleiman

**Non Contracted Parties House**

**- Commercial Stakeholders Group**

Berry Cob -CBUC

Mikey O'Connor – CBUC- Co-Chair

Scott Austin IPC

Ronald N. Andruff – CBUC

Jarkko Ruuska - CBUC

**- Non-Commercial Stakeholder Group**

Avri Doria

**Individuals**

Roberto Gaetano – Individual - Co-Chair

Katrin Ohlmer

Phil Buckingham

Steve Pinkos

Richard Tindal

Kristian Ormen

**ALAC/At Large**

Cheryl Langdon-Orr  
Sebastien Bachellot  
Alan Greenberg  
Siva Muthusamy

**Staff:**

David Olive  
Margie Milam  
Glen de Saint Gery  
Gisella Gruber-White  
Marika Konings  
Mike Zupke  
Dan Holloran  
Amy Stathos  
Liz Gasster

**Apologies:**

Jon Nevett -CBUC  
Baudoin Schombe  
Michele Neylon

Coordinator: Is being recorded.

Mike O'Connor: Okay. I think we're going to start. Thank you all and to use the patented Gisella phrase, good morning, good afternoon and good evening to all on this, the 24th of May, Vertical Integration Working Group call.

As is our tradition we'll take a look at the agenda for a few minutes to let folks fight their way through the queue. And then we'll do the roll call. We've got a fair number of people still coming in.

The agenda's pretty simple at this point anyway. The thought would be to spend about a half an hour trying something new.

Actually we're going to do two new things today, one - the first being a listening session where we let people essentially tell the rest of us what their concerns are. But we won't debate it. We will just listen. And for those of us

who are proposal advocates and/or folks that are negotiating this'll be useful information for all, I think.

Then Roberto and I were talking about how to begin zeroing in on some conclusions. And we decided to take sort of a trial run today on an approach at doing that with two fairly easy topics partly to give your fearless leader a little warm-up on running all the buttons and dials and partly to give the rest of us a little bit of a warm-up as well.

And so I don't have real strong opinions about the two topics. The two I picked after visiting with a few of you were the equal access one and the question as to whether these restrictions apply just to a single domain or across all TLDs. But we can quickly change course on that if people have trouble with that.

And then finally spend a bit of time at the end of the call sort of working on near-term logistics. We are getting down to the wire. (Tim) has correctly raised the question: okay, how are we going to get across the finish line? And so we'll spend about 15 minutes working on that.

And there's a little time at the end for anything else. Is there anything that people would like to change about that or add or anything?

Not getting an overwhelming response I think we'll take that as a going in agenda and get started. Gisella, why don't you go ahead and call the roll? We'll go from there.

Gisella Gruber-White: With pleasure. Good morning, good afternoon to everyone on today's Vertical Integration call, Monday the 24th of May. We have Siva Muthusamy, Mike O'Connor, Ken Stubbs, Cristian Ernan, Avri Doria, Paul Diaz, Alan Greenburg, Cheryl Langdon-Orr, Brian Cute, Jeff Eckhaus, Sébastien Bachollet, Ron Andruff, Berry Cobb, (Steve Pinkus), Statton Hammock, Graham Chynoweth, Katrin Ohlmer, Kathy Kleiman, Richard Tindal, Roberto

Gaetano, (Rosslyn Satarov). From staff we have Glen de Saint G ry, Mike Zupke, Margie Milam, Amy Stathos, Dan Halloran, Liz Gasster, David Olive and myself, Gisella Gruber-White.

If I can please remind everyone to state their names when speaking for transcript purposes. Thank you. Over to you, Mikey.

Mike O'Connor: Thanks Gisella. For those of you who are on Adobe Connect we have a new layout today. The layout is entirely mine so if it's really bad you can blame Mikey. But the thought I had was that what we would do is I would scribe in that middle panel as people talk about stuff. We'd still have our standard chat.

And then there are two polls that, depending on where we are in the conversation, I may open up just to get a sense of how much agreement there is or choosing between some options. So those are just generic polls. And they aren't available to you right now.

And then in the middle is a countdown timer. My thought, at least for this first one is that in order to get through at least a fair number of people I'd try limiting us to about three minutes each. And just again this is purely arbitrary and if it doesn't work we'll throw it overboard.

But I wanted to try this out because as we get further into this sort of final conversation we're going to have to really bear down and take advantage of the kind of consensus-building stuff that we can do in Adobe. And this is my test flight.

So if people would be so inclined, jump in the queue and tell us in general terms about a facet of some or all of the proposals that concerns you. I decided again fairly arbitrarily to encourage folks not to pick on a specific proposal per se but rather a concept in a proposal or a group of proposals.

And again the goal here is for us to share concerns. This is kind of like in the old sales days we used to call this listening to objections so that then not necessarily right at that moment but at some point in the future those objections can be addressed.

So that's really the thought here is just to give us a chance to kind of change the dynamic of the conversation a little bit with several goals. One is to give the proposal advocates who are as you might suspect very busy talking to each other off-list some feedback on issues that they might want to consider but also to broaden the conversation just a little bit amongst all of us.

And - well I encourage people perhaps who haven't spoken a whole lot up till now to pipe up. This is a better time to voice concerns than a couple of weeks from now when we're really trying to get close to whatever agreement we've arrived at. And so this is the chance to do that.

Ken, your hand popped up before I finished. Did you have an objection or a concern that you wanted to express? Or did you have some other point that you wanted?

Ken Stubbs: Can you hear me, Mikey?

Mike O'Connor: Yes. I can hear you fine.

Ken Stubbs: Just a minor - it's not even a point of order. Please remember that quite a few of us that may be monitoring this on a relatively small screen and some of the little spots that you put into your thing are virtually impossible to read including that clock. So...

Mike O'Connor: Oh really?

Ken Stubbs: I just want to remind you. Yeah. I've got a 11 inch screen that I can't see the numbers on the clock.

Mike O'Connor: Oh. Okay. And I might start it just for fun and see how it goes. Can you see the numbers ticking down at all?

Ken Stubbs: I see movement. But that's all right. I don't want to bother. I just wanted you to remember that some people may not be able to see as clearly.

Mike O'Connor: Oh. That's very good feedback. Thanks Ken. I'll fiddle with that for the next try.

Okay. Ron, I think you have the floor.

Ron Andruff: Thanks Mikey. Good morning and good afternoon everyone. The concern that comes to my mind and probably the largest concern that - I'm not sure if others have been giving thought to it, but it certainly comes into my thinking over the course of the weekend is the issue of looking at this at - this entire process, the entire workgroup from the eyes of the ICANN staff that has to worry about compliance and all of the elements that will be addressed - will have to be addressed through compliance with the result that we're coming out with.

We now have some 25 or 26 generic top-level domains today. And if we add another 25 or 26 we've just added another 100% workload effectively to the compliance staff. If you start to go up by magnitudes of ten the number of people that we'll have to have from compliance watching over what's happening out there is quite significant.

So what I'm trying to bring out in this few minutes that I have is just to say that it is critical that with a brand new untested process as the new gTLD process is that we do not add more layers of complexity as a result of trying to shoehorn this VI working group into that.

So the thinking is that we might want to do this in a staged way. I've brought this up on the list before that we start to look at what can we do, how should we approach the rollout of the top-level domains which is imminent and how should we address the longer-term issues that we're all struggling with.

Thank you.

Mike O'Connor: Thanks Ron. Let's see. Alan, you're next.

Alan Greenberg: Two different concerns I have. Oh dear. The first is the music that's playing.

Man: (Unintelligible) problem. Could you...

Alan Greenberg: All right, there's still two concerns. The first is for proposals that are representing what I would consider radical widespread change, that is changes that are very different from the current practice and will be used across the board.

I very - I'm very worried about the attitude that I've heard at times that the onus is on the users or the onus is on those defending the public good to prove that they will be bad as opposed to the onus on the presenters to prove that they won't cause harm. And I have a great respect for the innovative ability of people to use - do things in imaginative ways and I don't think we can expect people to understand how things will be used in every possible way so the issue really is to make sure that there are protections in place to make sure that there aren't large harms.

And the other one is a much more vague one. It's that we don't take any action which will take what might be TLDs which are somewhat disadvantaged or ones that are going to have a difficult time to begin with and marginalize them even more and make their life even more difficult by actions that we explicitly take. That's it.

Mike O'Connor: Again if I get any of these wrong shout at me either on the list or something. Okay. Ron, is your hand up from before or is that a new hand?

Ron Andruff: I beg your pardon. Coming down.

Mike O'Connor: Okay. Anybody else got any concerns about proposals? Even you proposal advocate types can chime in here if you like. Surely there's concerns of some sort of another. If not we'll call it a dry hole and continue on to the next chunk but I would love to hear from people.

We'll give it another chance for folks to stick their hands up and then we'll move along. Okay, well that's that. Wow.

Now we have more time on the agenda for other stuff. So let me do a little jiggery pokery (sic) with Adobe gizmo.

Next one that I put up here is a question that I got. And again it's - this is really the beginning I think of the main event.

I think that one approach to arriving at Memphis and a report basically do it together on the - on this gizmo. I at least want to try that but being that we could do two things.

We could refine the language as we go so that ultimately we wind up with language that people are comfortable with and that that's the springboard into that bullet item in the report to sort of preview the logistics thing. Some of you have probably seen (Tim) and me conversing about what the report looks like. And I really think that it starts to look like the STI report. It's a series of bullets that we all agree to or at least most of us agree to and an alternate view.



And so one of the questions that came was: do these restrictions apply when in a single TLD or are they across all TLDs? We were to make that two options. Try my poll. I really want to try that gizmo too.

Single TLD is one, Option A. And Option B is across all TLDs. And I open the poll. Now you can vote. Tell us and, you know, don't be cute.

There we go. It's happening. That's what I - and hopefully you can see.

So just to get a preliminary sense of - select either that these restrictions apply over a single TLD or all TLDs. And somebody has correctly identified that maybe we need more information. Maybe we need to refine this just a little bit.

So those of you who are pounding in I need more information, why don't you jump in the queue and tell us a bit about what kind of information you need so that we can refine this. Alan, go ahead.

Alan Greenberg: Which restrictions are we talking about?

Mike O'Connor: Okay, which restrictions. And then I would encourage the proposal type folks to help us answer that question. Are all restrictions - ownership restrictions, what categories of restrictions are we talking about? Don't all speak at once.

Oh well why we're cogitating about that, Richard's on. Go ahead, Richard Tindal.

Richard Tindal: Yeah. This is Richard. So I'm just making the assumption that we're - that the poll here is about the fundamental most simplest form of restriction which would be the 15% cross-ownership between registries and registrars.

Mike O'Connor: Okay. So we'll add that to the list. And then we'll open up the other poll and say - so the one on the left side, the consensus poll, is that what we want to

zero in on or do we - if you want to just zero in on that with this one say you agree. If you want to zero in on some more let's get them up on the wall. There.

Meanwhile for those who had a need for more information - oh, Jeff Neuman, why don't you go ahead?

Jeff Neuman: Yeah. I'm going to try. Can you guys hear me? I'm on a train so it's a little hard.

Mike O'Connor: Fine. Oh no, it's fine.

Jeff Neuman: Okay. The question, it wasn't about 15% or any percent. It is whatever restrictions we decide, whether it's 15 or zero or whatever it is, whether that only applies in the TLD or that registry is in or whether it's all TLDs. So for example what I brought up on the list, if NeuStar has a registry for .biz could it be a registry or, sorry, could it be a registrar in all TLDs other than .biz? So it's basically separating out.

Or same token, if (Eon) is a registrar in every TLD except for - and it wants to be a registry for let's say .Web but it agrees not to distribute names in .Web would anyone oppose that or is anyone against that. Does that make sense? So it's - right now there's a prohibition that says that if you're a registry you can't own more than 15% of a registrar in any TLD which I don't think has much justification.

Mike O'Connor: Thanks Jeff. So why don't we - unless one of the I need more information people feels really strongly why don't we just zero in on whether Jeff's question pertains? So Option A I've reworded it, Jeff, to say that Option A is the restrictions apply to the single TLD that the registry is in or Option B, the restriction applies across all TLDs.

And if we say that now go back and change your votes if you have votes that you want to change. Right now restrictions across ownership applying across all TLDs is slightly favored but it's a pretty small sample. And we still have a lot of people that need more information.

Any of you in the queue needing more information, like Jeff Eckhaus, are you...

Jeff Eckhaus: Yes. I definitely need more information. I'm still - I don't know. Maybe it's Monday morning here for me but I'm still trying to figure which - the restriction - what is the - I guess maybe it was Alan. What's the specific restriction? Are we saying do ownership restrictions apply or is it, you know, what kind of restrictions?

I'm just - maybe I missed it. I - could you just go over that. I'm still not sure what restrictions there are.

Mike O'Connor: Well the one that I've included so far is the cross-ownership one.

Jeff Eckhaus: Right. That's what we're saying? So it's just the ownership restriction? Is - that's the one we're looking at for this question?

Mike O'Connor: That's the one we're working on right now.

Jeff Eckhaus: Okay, perfect. Thanks.

Mike O'Connor: Okay. Dan, you go.

Dan Halloran: And just wanted to add one of the points I've been trying to flesh out in the last week or so is do that restrictions apply also to contracted backend services providers, registry services providers.

Mike O'Connor: Let's save that one. I'm going to add that. Let's see. Let's call that scope. And let's - and we'll get to that in a minute. Do the restrictions also apply to backend service providers? But let's - for (unintelligible) let's go separate for now in the voting. Alan?

Alan Greenberg: Yeah. That question covered half of what I was going to say. I was going to prefix saying your question would have been fine at the beginning of this working group. Now we've added the issue of RSPs and resellers. And so the question is: are we talking about restrictions from anyone to anyone or just the traditional registrar/registry one?

Mike O'Connor: Yeah.

Alan Greenberg: It makes a big difference these days.

Mike O'Connor: I seek the advice of the group. Which if these questions...

Jeff Neuman: Mikey, can I jump in?

Mike O'Connor: Sure, go ahead, Jeff.

Jeff Neuman: Sorry about the echo.

Mike O'Connor: Jeff Neuman, no worries.

Jeff Neuman: So I think we've got to start at the most basic level. In other words you've got to - before getting down to the very details you've got to say whatever restrictions they are, do we want to apply them across TLDs are just only the TLDs that you start with the registry operator, meaning the one that signs the contract.

Then once you get past that question you go to the next one which is: okay, does that also apply to the registry service provider? So people who are

voting for Option B right now are basically saying that Network Solutions or eNom or any registrar that currently exists could never be a registry in any TLD unless they divest their entire registrar business. So I just wanted to make sure that that's clear for people who are voting for Option B.

Mike O'Connor: Okay. So maybe the scope thing is - I'm stuck on which one comes first. I'm going with Jeff at this point. We'll start with: do restrictions between registrar/registry apply within the - so our (A&D) are just the registrar and registry and...

Alan Greenberg: And you're talking ownership/control restrictions?

Mike O'Connor: Shall we say cross-ownership and control restrictions?

Alan Greenberg: With a slash it's vaguer.

Mike O'Connor: Okay. Okay with that. And then once we've answered the first one we'll add on do these also apply to backend service providers. And we'll add on do they also apply to resellers. How about that for an approach?

Alan Greenberg: But those are separate questions.

Mike O'Connor: Yeah. It will be asked as separate questions. So first question is still just the question: do the - do cross-ownership and control restrictions apply? Let's see. So do cross-ownership and control restrictions between - let me stick that up in there. (Unintelligible).

So the question now is: do cross-ownership and control restrictions between registrar and registry apply within the single TLD that the registry is in or across all TLDs? We still - so shall I clear the voting and let you all vote again or are there other more information things to put in there before we nail this down?

I'm going to (unintelligible). Oh, Cathy's got her hand up. I'm sorry, Cathy. Go ahead.

Kathy Kleiman: Great. Thanks. I just wanted to raise what has - some questions that have been raised along the way on this issue which is that if cross-ownership does not apply across all TLDs then - oh as I understand it today the cross-ownership limitations apply across all TLDs. So you can - a registry can own any registrar only up to 15%. And that registrar can distribute in its TLD or can distribute exclusively in other TLDs.

But introducing - so I just wanted to raise the concerns that have been raised of - already on the working group numerous times that if we create a rule that's different from the status quo and that says that a registry can own 100% a registrar that's distributing only in other TLDs are we opening up to a series of questions and concerns that we don't know the answers to. Could there be consumer harm? Could there be gaming? Could there be a way for the registry to use its cross-owned registrar to promote the TLD even if it's not directly distributed?

So I just wanted, you know, I wanted to go back and just raise the questions and the flags that have been raised throughout the working group on this.

Mike O'Connor: Thanks Cathy. And I think this gets back to, you know, we do face a number of chicken and egg problems here. So one of the chicken and egg problems is that - do we know what that restriction looks like. The answer to this question varies.

Jeff Eckhaus, you're next.

Jeff Eckhaus: Yes. I just want to comment on what Cathy's point was and to sort of - let's actually - I'd like to actually address that specific issue and, you know, those, you know, the consumer protection and those issues saying is there something because I think, you know, we're living in this thing of hey what if,

you know, what if we do this, what are the fears. And I think, you know, we can't live in this constant state of like sort of fear unless we actually address what it is.

And so I'd say - I'd like to if we can address that issue of could there be gaming or could there not be. And I'd love to say, you know, it's very easy to throw it out there, say hey people are going to be gaming. So I'd like to say, you know, the people that are very concerned about it especially in the point where - let's use Jeff Neuman's example is can NeuStar be a registrar for other, you know, for other TLDs besides the one that they own.

So if NeuStar became a registrar for .com and .net and maybe .shoe and .horse but, you know, they're just doing that, how - I'm just - I've been trying to figure this out and look at it and say what is the data sharing? How could - as NeuStar being a registrar for other TLDs against their competition, how could there be gaming and how could there be consumer harm there?

So I'd like to address that issue because I know some people have brought it up on the list. Something I've been trying to figure out and when I ask, everyone says we don't know but - we don't know what we don't know. But, you know, that goes both ways. It's good and bad. So I'm just - maybe I'll just throw it out there to the group if somebody - if we could help answer this because I think it's a burning question of this group.

Man: Yeah.

Mike O'Connor: I've - I don't know what you all can see as I type in this note. I captured the concern, the consumer protection one. And I also captured the example, could NeuStar. But I'm not sure whether when I scroll up and down you see it. So if you aren't seeing it roll up and down and for those of you who aren't on Adobe I'll try and keep everybody up to date on this.

Alan, you're next.

Alan Greenberg: I'm trying to remember what I was going to say.

Jeff Neuman: Hey, Mikey. I'm sorry. I was..

Mike O'Connor: Actually Jeff was next.

Alan Greenberg: Oh I'm sorry. Go ahead Jeff.

Jeff Neuman: Yeah. I - and I don't agree with Jeff Eckhaus all the time but I certainly agree with him on this one, that there are not consumer or data protection (unintelligible) to date (unintelligible) for which you have no (unintelligible) control over (unintelligible). So that's never been in any document that's ever been submitted before this taskforce. So I think it's the only (unintelligible).

Mike O'Connor: Okey-dokey. Alan, do you remember or shall I...

Alan Greenberg: Yeah. I do.

Mike O'Connor: Okay.

Alan Greenberg: Because I'm going to say something that Jeff always says. These answers are chicken and egg things. It's a mosaic. Whether we care about the issue of multiple TLDs or a single one will depend on to what extent, for instance, we bring resellers into the game or RSPs.

So if we choose not to include resellers or RSPs then yes I'm a little bit more concerned because I don't know what those who are not included in the restrictions can do across the boundaries. So we're stuck with our chicken and eggs.

Mike O'Connor: Yeah. We do have it. Well that's okay. That's our job is to sort out the chickens and the eggs.



Richard, go ahead, Richard Tindal. Oh you may be on mute.

Richard Tindal: Yes. I'm here. A question for Jeff, Jeff Neuman. Jeff, is NeuStar appointed to be registrar today in say .com?

Jeff Neuman: No. Can you guys hear me? No. The answer is no to that.

Mike O'Connor: We heard you. You're fairly faint but I think we heard you. Brian?

Brian Cate: Yeah. I think there's actually two answers to the question. And maybe they're not complete answers but there's two elements to it.

One is if you're setting up a set of rules that are trying to constrain registrars and their resellers from distributing a name or they agree not to sell a particular TLD and that frees up them to do something else in another TLD, you have to ask the question -- forget about data sharing for the moment -- can that structure be enforced effectively.

And we've seen a registrar marketplace where registrars literally control over 100 creds for other registrars, have relationships with tens if not hundreds of resellers. So there's a very basic enforcement question you have to ask first about whether that can be effectively policed by ICANN even if, you know, a registrar is willing to raise their hand and say I absolutely agree, I won't distribute this TLD so I can have the rights that I want in other TLDs.

That's Question Number 1. There are many people who are very circumspect about ICANN's track record and being able to do that in the past, never mind in the future when you have a number of - any new TLDs at play.

And then secondly in terms of the data sharing, that's the second question you have to look at. And while you can say, you know, look it's not the TLD in question where there's a relationship between the registry and registrar so it's

not getting access to a TLD it can distribute, data sharing can happen, you know, in ways that provide advantages to the registry and the registrar if you have this un-policed, broader network of resellers and registrars that can be used as distribution channels. So there's two separate questions there to my mind.

Mike O'Connor: Okay. Let's see. Gray, you're next.

Graham Chynoweth: Yeah. I guess I would just kind of pick on some of what Jeff is saying in the channel, Jeff Neuman is saying in the channel.

I just don't - I mean and also with the - some of the discussion that was on the list today. I mean all you can do is put together, you know, put together simple structures that make people state things and create penalties that they don't follow what they say they're doing.

There's no possible way that we can ever be totally sure that there are no bad actors. And quite frankly it just doesn't - it wouldn't be practical to do so.

I'm not - I mean, you know, we can't be sure about the current regime. There can be - there could be collusion in the current regime. We don't think that there is but that doesn't mean that there isn't.

So, you know, I think that we've got to be careful about, you know, restricting trade because there could be a potential for a problem because there can always be a potential for a problem. And there - no amount of anything can prove it otherwise.

And even if, you know, even if there's required separation, you know, there's - you can still get around that. You just, you know, you just don't put anything in writing and deals get made.

So, you know, I think we've got to make sure that these are real bogeymen that we are chasing, not fake ones.

Mike O'Connor: Okay. I think the queue is emptied out. I want to take a checkpoint on sort of where we are in this conversation.

Had a little bit of a discussion. It feels like it's time to circle back to the little poll. Check your answers. In fact let me just clear it, clear again. That - all right.

So where are we at at this point on this one? I'm, you know, we're still on the question - somebody's on and doesn't have themselves on mute so we're hearing you yawn. I don't - I think I'm more interesting.

Do cross-ownership and control restrictions between registrar and registry apply within the single TLD that the registry is in or across all TLDs? Given the conversation that we've just had where are people at right now? Go ahead and vote on the right side.

I think the folks who are going to vote have voted or polled. I don't like vote. I like poll.

We have one person saying I need more information. Who's that? Whoever you are, if - just chime in by voice unless it's Cathy or Brian. I'll go to the queue.

Man: It's - can you tell us which question this was? I was off for a second and I don't know which question you're asking.

Mike O'Connor: We're still on the do cross-ownership and control restrictions between registrar and registry apply within...

Man: Okay.

Mike O'Connor: The single TLD that the registry's in or across all TLDs, just voting on that original question. Cathy, is your hand up from before? Is...

Kathy Kleiman: Yes, sorry. It is up from before. Let me take it down.

Mike O'Connor: Brian, I bet yours is too. So I'm going to go to Ron and then...

Ron Andruff: Yes. Yes.

Mike O'Connor: If you had something else you can jump back in again. Ron, go ahead.

Ron Andruff: Thank you, Mikey. I'm the need more information. The issues for me, as much as we started to delve into them through the list and the calls are really, really thorny. And we need to make sure that we've done a one - a 360 degree view of every element before we start saying yeah, yeah we're good to go.

So for me I'll continue to need more information until we've finally got every last issue addressed, every t crossed, every i dotted because it really is important this work we're doing. And I just don't think we can put it out there saying well I think we're there. We need to know we're there. Thank you.

Mike O'Connor: Let me seek a co-chair for a sec. One of the sort of peculiar things about this working group is that we really have two for the price of one.

We have one that we are going to be able to take the full 360 degree view and do all of the research that we need to do and so on. And that one hasn't really started yet.

We also have a very short-term one -- and by very short-term I mean literally a couple of weeks more -- where we need to see if there's anything that we can agree on to bring forward to Brussels. And I think we're going to have to

work in an atmosphere of somewhat less than perfect information unfortunately. We have to do our best. But there's no way that we're going to have all the information that we really want given the timeframe that we've got.

Okay. Well we're fairly split on this one. Ron's got a hand up again. Go ahead, Ron.

Ron Andruff: No. I just have to comment, Mikey. What you just said was if I could put it in other terms so as - we have a time limit and therefore because we have a time limit we're going to throw something out there. It may have holes in it like Swiss cheese but it'll still smell like cheese.

And I'm sorry. We cannot do that. Everything that we do in this process has to be reviewed and checked and everyone seeing that it's the right way forward because once the genie is out of the bottle -- and if you talk about 50 or 100 or 200 TLDs I don't know how many there are going to be -- that's a nightmare that cannot be stopped.

It's a little bit like what's going on down here in the Gulf. The oil keeps pouring out. They're not quite sure how to solve the problem. Eventually they will. But what happens to all that mess that's got to be cleaned up after the fact and the damage it will do?

So I'm sorry. I really have to come back a little strong on that. We are not under a timeframe to come up with something that is not 100%. If we need more time we'll request time. And we'll request as much time as necessary to get every one of these elements right or we shouldn't be doing it.

Mike O'Connor: I'm going to lean back into you a little, Ron. I think this is a useful conversation.

Cristian Ernan: Cristian Ernan here. Can I say something?

Mike O'Connor: Go ahead.

Cristian Ernan: I'm not on the Connect so I couldn't wait for a hand.

Mike O'Connor: That's fine. Go ahead.

Cristian Ernan: I have to say that I totally agree on that. It's never true in Brussels to say that we cannot come up with anything yet and we'll wait for Cartagena. We have to do this the right way. It's - it would be such a mess to just go on and say well we think it's about this and about this and then that would be put in the deck and go for the first round. That's really a bad idea.

Mike O'Connor: Thanks. Can you restate your name for the call log?

Cristian Ernan: Cristian Ernan.

Mike O'Connor: Thanks. I think that, you know, this is a crux kind of question and I'm going to park it for the moment because we've got so many questions flying around it's hard to keep track of which is going on.

I think what we're going to have to do is essentially say that if we wait to get every i dotted and t crossed essentially the board resolution prevails. And there is a pretty substantial portion of the community that would like to at least influence where the board position is at and we need to do the best that we can to identify those things in the near-term.

And if we can't identify any then we're done for this very first phase and we'll move on to the longer kind of thing that you're describing. But it won't be done by Cartagena.

My guess would be that it would be sort of the standard year and a half. And, you know, I think at that point then we need to step back, talk about what

kinds of studies we want to have done, who should do them, economists, competition experts, etcetera, etcetera.

You know, this near-term thing is really aimed right squarely at the board resolution that's there. And if we can come to consensus on some incremental changes to that, great and if we can't then we can't.

Richard - Gray, I assume your hand is left up from before?

Graham Chynoweth: No. Actually I was on there. I just wanted to push back a little bit on, you know, no one has ever - from my perspective no information is perfect. And I think that while we're going to try and do our best it's always a guessing game as to how good our information is.

And we can, you know, so we should not let the perfect enemy of the good because we will never achieve perfection in any of these policies because the game will continue to change and facts will continue to change. So all you can do is make the best - from my perspective make the best decisions you can on the information that you have.

And if there's real good information that we don't have, then that's an issue. But saying that we need perfection in order to do anything I think is overstating the case.

Mike O'Connor: Thanks Gray. Richard, I think you're next. Hello, Richard?

Richard Tindal: I understand the questions flying back and forth here. I understand that some people might vote differently on this poll if the backend RSP was included. I understand people might vote differently if resellers were included. I understand people might vote differently if it was 30% instead of 15%. And so, you know, there are a large variety of potential scenarios we could put here.

But again my understanding of this simple poll is just really looking at the status quo. And I say the status quo of existing contracts like .biz and .org and .info, etcetera.

And so the question that I think I'm responding to here is the current - the status quo which does include a prohibition across all TLDs at 15% is that something that people think is appropriate or inappropriate. That's the question that I'm voting on. But if other people are not then we need to clarify.

Mike O'Connor: It's - the question is framed more broadly than that. But maybe that's the way to change this. Would people be comfortable if we essentially changed this to be do the current cross-ownership and control restrictions between registrar and registry apply within the TLD versus across all TLDs? Would that be a way to refine the question and...

Man: Doesn't that just flip A and B?

Mike O'Connor: I don't know. I'm at sixes and sevens here. Anybody got any ideas on how to get Mikey out of the jam that he's in? Richard, go ahead, Richard Tindal.

Richard Tindal: Yeah. I think Option A is saying - if you vote for Option A you're saying that -- let's take .biz -- you're saying that NeuStar could be a registrar in other TLDs. They're also saying - for example in terms of new TLDs for Option A you're saying that GoDaddy could apply to be the registry for .Web and operate .Web as long as it wasn't an accredited registrar in .Web. That's what Option A is saying.

Option B is the status quo for existing contracts which is that NeuStar can't be a registrar in anything because it's a registry. And it's also saying that no, GoDaddy for new TLDs could not be the registry for .Web because it's accredited in com, net, org, biz, info, etcetera.



Again I understand that there's nuances and variances there but to me that's what we're voting on at the moment.

Mike O'Connor: So to do the - I got the first clause of each of your examples, Richard. So the second clause is registrar can be a registry, you know, B means a gTLD registrar, an ICANN-accredited registrar cannot have an interest in any gTLD registry, period, the converse of NeuStar can't be a registrar.

Richard Tindal: Below 15%.

Mike O'Connor: Yeah.

Man: Above 15%.

Mike O'Connor: And so the converse would be in A, the registrar can have an interest in a gTLD registry other than its own.

Man: Other than its own.

Mike O'Connor: And B says there can be no interest greater than 15%, period. Boy I'll tell you something's very busy on my connection because I can't type on this.

Okay. Look on the screen here people and make sure I've got this at least vaguely right. So do cross-ownership and control restrictions between registrar and registry apply within A, single TLD that the registry is in, (unintelligible), his registrar could be a registry in another - his registrar - his could - no. What is going on with my screen? So much going on I can't type. Registry, and be a registrar. The second half, should registrar can be a registry that it does not sell or market or whatever and it does not.

Okay. Then how's my B language read there? The status quo and existing contracts, registrar cannot have an interest in any gTLD registry. Is that sufficient?

Man: And vice versa.

Mike O'Connor: Yeah. Come on here. And...

Man: You're assuming 15% is no - anything above 15% is yes in interest?

Mike O'Connor: We could stick that in there.

Jeff Eckhaus: Mikey, it's Jeff Eckhaus. Can I jump in a second on this?

Mike O'Connor: Go ahead.

Jeff Eckhaus: I would say - and I've been - I just want to echo what Jeff Neuman has been saying on the Adobe and saying that I think that the 15%, the 0% isn't the question here. I think the reason why certain parties want the 15% inserted is because then it allows them, you know, it keeps their status quo versus - because that number shouldn't be part. It should be - here's the question - it should be one question saying should we allow, you know, the restrict - should they be allowed to sell, yes or no, within the TLD or across all TLDs.

The 15% or 0% has nothing to do with this question. That's a separate question where we have to decide down the road is should we keep it at - should we go to 0% as what the board proposal is right now or should we change it to 100% with exceptions, 15%. So I'd really like to keep those two questions separate and not include the 15% or any ownership percentage here in this question.

Mike O'Connor: Okay. So then on B - so it sounds like the A option would read okay. But I got to get rid of the status quo thing. Registrars cannot have an interest - any gTLD registry or vice versa. That - capture that (unintelligible).

Alan Greenberg: Mikey, can I get in?

Mike O'Connor: Sure. Go ahead, Alan. Then Richard Tindal. Sorry.

Alan Greenberg: I - Mikey, I couldn't hear what you said.

Mike O'Connor: Yeah. Go ahead.

Alan Greenberg: Okay. I think what Jeff is saying is we don't want to debate the percentage here but what we're talking about is in a - or in a - the relationship is allowed but - if it's - we're still talking about above or below the threshold whether it's 0, 100 or 15.

Mike O'Connor: Right. So we probably need to frame it that way somehow. In other words...

Man: Mikey, (unintelligible).

Mike O'Connor: In other words below the threshold, whichever the threshold is, is no relationship.

Man: Mikey, this is Ken Stubbs. Point of order, please.

Mike O'Connor: Sure Ken. Go ahead.

Ken Stubbs: Yeah. I'm sorry. But the gentlemen who just spoke, I - please don't assume we know who you are.

Mike O'Connor: Sorry. It's...

Ken Stubbs: I apologize but got to ask people to give their name before they start talking.

Mike O'Connor: It was Alan.

Alan Greenberg: It's Alan.

Ken Stubbs: Sorry Alan.

Alan Greenberg: No worries.

Mike O'Connor: So to get back to Alan's point, where do we insert the notion of above or below a threshold in - oh Brian, I didn't see your hand. Go ahead, Brian Cute.

Brian Cute: I just want to talk on Alan's point. Below a certain threshold there's no relationship. I'm not sure I understand that. Fifteen percent ownership is still 15% ownership.

You have 15% share holdings in a company. That represents value. That represents investment. I don't understand the last part of that.

If we're talk - zero then we're talking about no relationship. But if we're talking about some number above zero we're not talking about no relationship. Could you please clarify, Alan?

Alan Greenberg: I was trying to describe what I thought was the current status quo, that co-ownership or ownership of a registrar by a registry is allowed as long as it's not greater than 15%. I don't - I didn't think there was any prohibition on which domains that registrar marketed. I may be incorrect interpreting the state - the current contractual status quo but I thought that's what it said.

Mike O'Connor: Richard Tindal, go ahead.

Richard Tindal: So Alan, is the question: does the across all TLDs prohibition apply currently?

Alan Greenberg: My understanding is it does.

Richard Tindal: Was that your question though? You asked a question...

Alan Greenberg: Let me phrase the question specifically. Jeff is the one who's pointed out that .biz cannot own a registrar regardless of what domains that registrar markets. The question is: can they own 14% of a registrar?

Richard Tindal: Yes. The answer's yes.

Alan Greenberg: Okay. Then the current interpretation is as long as it's below 15% there's deemed to be no relationship with regarding this restriction?

Richard Tindal: Well there is no restriction.

Man: Okay.

Alan Greenberg: Yes.

Richard Tindal: This is Brian's point. There's still a relationship. But there is no...

Alan Greenberg: Deemed to be relationship with regard to this restriction to be...

Man: Yeah. I would not join in the deemed to be or deemed to not be part of this conversation. I don't think that has any legal meaning. You are allowed under certain contracts today to own up to 15% of the shares of that registrar company. I don't see it as having a deeming quality one way or the other.

Alan Greenberg: Sorry I...

Man: (Unintelligible).

Alan Greenberg: Was just trying to make what I thought this word restriction was. But I'll bow out.

Mike O'Connor: Yeah. Let's try and get unstuck here. Cross-ownership and control restrictions between registrar and registry apply. The restriction is X percent:

5, 10, 15, 20, 100. Does that restriction apply, whatever it is? So put that in there: whatever they are around.

The single TLD that the registry is in, i.e. biz registry can be a registrar outside and the registrar could be a registry that it does not sell. Or does that restriction, whatever it turns out to be, apply across all TLDs? Does that capture the notion that we're struggling with? I typed it into the note.

If so how do people's votes feel? Are we ready to try another round of the poll? We're pretty evenly divided on this issue so we may be up against one that we want to just chalk up for further conversation.

But I think what I'm going to do is clear the poll, let folks take one more run through. We'll capture that and carry on assuming I can actually - it's interesting that Adobe takes a lot of bandwidth. I don't know what people are seeing on your screen.

Man: Mikey, the poll hasn't been cleared yet.

Mike O'Connor: Yeah. I - well and it's interesting that...

Man: Also, Ron Andruff has a question about your wording. You might take a look at the notes.

Mike O'Connor: Thanks Ron. (Unintelligible) and biz registry can be a registrar. You're right, Ron. If I can get my silly computer to - there, at least it did that.

So go ahead and vote, folks. But Ron's correct. It should - and be a registrar. I don't know how long it's going to take to finally hit - actually type. There we go.

Okay.

Man: Mike, this bandwidth question could be a problem as we move forward.  
Hopefully ICANN staff can work on that.

Mike O'Connor: Yeah. It may be that it's bandwidth at my end. It may be that - oh, I've only got about a 1 megabit upstream connection. So it may just be bandwidth. It's what it feels like. It could be as much - as - something as silly as my computer is trying to download an update that I'm not aware of.

So anyway, go ahead and the poll should be open and rolling at this point. We have a couple of folks stating neither. While other folks are voting, those of you who voted neither it would be helpful if you could explain your concern if anybody wants to do that. And if I'm not calling on you it may be because my screen is so slow that I'm not seeing updates on the end so just jump in.

Now we - at least on my screen we see three folks want none of the above. And it would be helpful either, you know, feel - it's - at this point we're not defining the 15% number. We're simply saying whatever the restrictions are, whatever the threshold it would either apply in all TLDs or it would only apply in the TLDs that the registry - so 15% doesn't enter.

Okay. Well we're about evenly divided. At this stage of the game I'm going to draw a line under this part of the conversation. We can do a little assessment as to how effective this session was after the call.

Avri, go ahead. You may be on mute. I can't hear you.

Man: This is...

Avri Doria: Hi.

Mike O'Connor: There we go.

Avri Doria: I tried to raise my hand. But you had already drawn the line. I'm one of the neither. And the reason I'm a neither is I still have a problem with any notion of one size fits all.

I tend towards B to say that it's wider than just across the single TLD. But I think any restriction can have exceptions. We need mechanisms that look at these things, each in its own merit and then figure out what to do with it.

I think the exercise has shown that to come up with a global answer to this question no matter how carefully we phrase it leaves us split because I think we all can come up with reasons one way or another. And I really do think it's circumstantial. Thanks.

Mike O'Connor: Thanks Avri. I'm glad that you got your hand up. It may be - it may be that it wasn't just me. It may be that the bandwidth issue is back at Adobe.

And in that case Ken's point of order is correct. We could see whether there's any kind of dial that we can keep an eye on with the Adobe chat so that we can determine what its performance is. That would be - global answers are really hard.

Ken Stubbs: Mike, this is Ken. Can you hear me?

Mike O'Connor: Yes. Go ahead, Ken.

Ken Stubbs: Yeah. I - one of the problems we could have in the future is as these - much more active like they are people are trying like hell to stay up with the dialogue in the chat. So if we don't have enough bandwidth from Adobe the points that people are making in the chats don't become relevant because they don't end up getting under the screen (unintelligible) to look at.

Mike O'Connor: Yeah. I think you're right, Ken. It may be just time of day, that we're on a shared server with Adobe. But, you know, Mike Zupke, if you're on the call



could you make a note to maybe you and me take a little jaunt via email after the call and see if we can run that one down because it would be good to have the performance be a little bit snappier than it is.

Okay. I'm going to draw a line under it. It's a quarter after the hour and I really want to spend the last 15 minutes talking about our near future.

I appreciate everybody's diligent work on this. And if nothing else we've proven that we still have an interesting puzzle to solve.

Go to the last thing. Some of you have probably watched on the list, (Tim) and I have been conversing about this and I couldn't agree more with (Tim) that we do need some hard deadlines here. I actually heard that from some of the proposal advocates when I visited with them on Friday.

And so I've developed some. But they are just mine. And I am open to suggestions and refinements.

But the thought that I had is that we would take the next two weeks, basically the - now the next three calls plus clearly very active conversation on the list and between proposal advocates and set ourselves a deadline to find what if anything we can agree to by a couple of weeks - a week from Thursday.

The thought that I had is that the report itself would be relatively easy to draft because it would be very short. It would be very closely worded as you can see from today's conversation.

But it wouldn't be a long report. It would be one that each word would probably have to be very carefully worked over.

I would be happy to turn around a first draft very quickly to give us effectively a week to refine that draft and so shoot for a mid-June 14 deadline for the draft that describes whatever we can agree to. And I volunteered to be the

secretary and scribe. And I will leave that up there unless people have difficulty with that.

And the final sort of logistical point is that we are beginning a biweekly - a call twice a week. Gisella has posted the invitation to the list for the Thursday call. And that's sort of the plan as it stands. So I wanted to spend the rest of the call today refining that, tuning it, making sure that it's workable, getting your input, etcetera.

So Avri, is your hand left up from before? Or is this one for the logistics one? It is (unintelligible).

Avri Doria: No. It was - sorry, it finally got up in delay. I hadn't even known it got up. I apologize.

Mike O'Connor: Okay. Then it wasn't just my bandwidth. That's good to...

Avri Doria: Oh no, it's definitely I'm sure the server. When I first sent the message in about bandwidth problems I thought it was the server can't handle all of us hitting on it at the same time.

Mike O'Connor: Okay. Cathy and then Margie.

Kathy Kleiman: Hi. Question, questions really. First I thought on the report that the sooner the better. I think a week is really a short period of time to edit a report because one person's edits will generate discussion. I know with the STI it took awhile to try to get to a final report.

And here's the question. What is the - what is our deadline? Is it a drop-dead deadline? And if it's not what are we aiming for here? Will - is it anticipated and - not just among the chairs but among the people in the working group that the working group continues its work over the summer, that we continue our work over the next 18 months, that our - that we're - that this report is our

recommendation for the first round or that we'll continue editing over again the next few months or many more months? I wanted to see what other people have on their mind.

Mike O'Connor: Well let me give you my view first and then others can chime in. The way that the work plan is laid out right now is we would come to an agreement soon and we would represent the outlines of that agreement in Brussels and take feedback on it.

We would refine it and make sure that to the extent we can, we've got the language tuned very carefully over the summer months, acknowledging that we've got to get out for public comment and constituency statements because those have timelines and so on, so that we can get a final detailed version of whatever we conclude in front of the council in - I think it's September which then there's another month of public comment after the council resolution which puts resolution in front of the board in October.

Then we drop back basically to our original charter which was the charter to take a broad, wide, deep, fact-based, research-based view of the issue. But the deadlines that we're working against right now are driven by the current draft of the applicant guidebook and that if the applicant guidebook stays on schedule and it's the last draft, all of which are if statements that I don't know, those are the dates we need to make.

So we have some hard deadlines driven by the current schedule of the applicant guidebook. And then we have some much longer, more traditional working group kinds of schedule guidelines, 18 months kind of - that we would commence as soon as we've got this very urgent response to the board and applicant guidebook drafters done. So that's, you know, we really are operating on two separate timelines, one of which is the normal working group kind of timeline which we really haven't started yet and one that's very urgent.

Margie?

Margie Milam: Yeah. This is Margie. I just wanted to point out -- and I think you guys already know this but -- our deadline for documents to - for general community discussion in Brussels is actually May 31. Knowing that we're not going to really get anything done by May 31, you know, just wanted to give you a heads up that the, you know, the public participation committee might get a little, you know, might question why we published whatever we publish after that date. But I really think it's unavoidable at this point.

Mike O'Connor: Yeah. I, you know, I can't imagine how we'd do the whole shebang in two weeks. But, you know, if we could that would be great.

Now Cathy when she posed the question asked others in the group for answers. And so I didn't want to shut that off. If folks have thoughts about all this I'm all ears.

Ron, go ahead. You may be on mute, Ron. Give it another try to get off mute. Now I hear sounds. Is that Ron?

Ron Andruff: How about now?

Mike O'Connor: There we go.

Ron Andruff: Oh, okay, very good. I was just about to say that I think the point Margie brings up is important.

We should let the - that committee know that the date that we have is the 3rd of June because we have a call scheduled on the 31st. So that will give us two days or so then to try to refine something for public discussion. So I think it's important that the co-chairs address that immediately with that group so they're not looking at us, as Margie has pointed out, with an unfavorable light.

Mike O'Connor: That's a good idea, Ron, although I'm not sure that June 3 is the date that I would tell them. I think I would tell them June 14 because June 3 is really the deadline for us - agreement of some sort and then give ourselves at least in this schedule a little bit of time to write words around that.

You know, I may be unfairly doing this. But I keep thinking about this as essentially a deal negotiation which once the deal is struck then there's a lot of work to get the words to really accurately reflect the deal that people thought they struck. And I think we need a little bit of time to do that.

But Roberto and I will certainly do that. It's a great idea.

Ron, are you...

Ron Andruff: Yes. If I may, just a response. I think that I agree. We probably will need a little more time. But I think what's - with all the discussions going on in the back channels I think there's going to be some good push-forward over these next few calls. So I think again, just underscoring it's important that we make that comment to the appropriate people so they know something's coming, that in fact the GNSO can also address this in Brussels and hopefully get it in front of the board.

So there's a number of things we feel very strongly about, I think all of us on this call. But once - one of the most important things is that we need to show the work that has been done to date, get a - kind of put a peg in the ground as to where we are and give the community a sense of where it's going from here. Thank you.

Mike O'Connor: Yeah, absolutely. And we are on the schedule in Brussels for sure. But your point is right. Thank you.

Ken Stubbs: Mikey, I have one question regarding the calendar if I could please.

Mike O'Connor: Go ahead, Ken. This is Ken Stubbs.

Ken Stubbs: Yes. Yeah. This week the preliminary schedules for the GNSO were released. Are we still scheduled for a working session on Wednesday afternoon from - I think from 1:00 to 3:00 Margie?

Margie Milam: Yes we are.

Ken Stubbs: So it's my understanding now that if things go as they are tentatively planned there will be a working session on Saturday morning prior to the actual ICANN meeting I believe at 9 o'clock and then the second working session will be on Wednesday afternoon. Thank you.

Mike O'Connor: That's right. The first one is two hours. And Ken, thanks for reminding me. I meant to mention that.

The first one is two hours for us to work. And the second one is - the Wednesday afternoon one is much more a public session where we describe our work and encourage the folks who are there to tell us about their reactions to it. But the first one is really a working session that's primarily organized to give us a chance to meet face to face if we need it.

Any other comments, thoughts about the schedule? I know it's awful. It's just above my pay grade to change it. That's all.

And, you know, clearly if there's any indication that there's another iteration of the applicant guidebook that would certainly give us a lot more breathing room. But at this point I've had no such indication. And so that's just kind of what we're working on.

So for those of you who are working on, you know, behind the scenes on trying to craft a deal have all my blessings. Carry on. For sure use the list. For sure if people have need of a scribe or a person to run a meeting for them

feel free to call on me. I'd be happy to sit on a conference call or two and essentially just run a meeting, write things down, whatever I can do to help. I'm sure Roberto would say the same thing.

I'm still quite hopeful. And I appreciate all of the work we did today. And with that I think I'm going to wrap the call up a couple of minutes early.

Margie, is your hand left from before or do you have a new...

Margie Milam: Oh yeah. I just wanted to clarify the Wednesday session's at 12:30, not 1 o'clock. But yes we do have it on the calendar for Wednesday.

Mike O'Connor: Great. Okay, folks. I would love to hear from you on the list as to (unintelligible) and how I can do it better. And with that we'll call this meeting adjourned and we'll see you on Thursday at (unintelligible). Thanks all.

Man: Bye.

Man: Bye.

END