

**Vertical Integration PDP Working Group
TRANSCRIPTION
Monday 30 August 2010 at 19:00 UTC**

Note: The following is the output of transcribing from an audio recording of Vertical Integration PDP Working Group meeting on Monday 30 August at 1900 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:

<http://audio.icann.org/gnso/gnso-vi-pdp-20100809.mp3>

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gTLD Registries Stakeholder Group

Keith Drazek

Kathy Kleiman

Jeff Neuman

Non Contracted Parties House

- Commercial Stakeholders Group

Berry Cob -CBUC

Ron Andruff - CBUC

Mikey O'Connor – CBUC- Co-Chair

Jon Nevett -CBUC

Scott Austin – IPC

-Non-Commercial Stakeholder Group

Avri Doria

Individuals

Roberto Gaetano – Individual - Co-Chair

Richard Tindal

Katrin Ohlmer

Tero Mustala

John Rahman Khan

ALAC/At Large

Alan Greenberg

Sivasubramanian Muthusamy

Baudoin Schombe

Sebastien Bachollet

Staff:

Dan Halloran

Liz Gasster

Margie Milam

Glen de Saint G ry

Mike Zupke

Apologies:

Cheryl Langdon-Orr – ALAC chair
Kristina Rosette – IPC
Michele Neylon - RrSG
Vika Mpisane

Coordinator: Thank you for standing by. I just need to inform everyone that today's conference call is being recorded. If you have any objections, you may disconnect at this time.

And you may begin.

Mikey O'Connor: Thanks, (Lori), and welcome all. Good morning, good afternoon, good evening to this the Vertical Integration call for August 30. And we'll queue a little bit more closely to the normal kind of agenda this time.

The GNSO Council Roles now require that we update our Declaration of - or -- Declaration of Independence there we go -- our Declaration of Interests on every call. And since this is the first time for all of us, I think we'll go through it in some detail today, and then perhaps try some sort of approach where we simply say it has not changed or something in the future. We'll sort of get through that next week.

So, maybe I'll start and then, Glen, you can take us through the roll call. I don't have interest in companies that have anything to do with new-Top Level Domains. And Glen, maybe you want to take it from here?

Glen de Saint G ry: I'll do that. Thank, Mikey.Sivasubramanian Muthusamy?

Mikey O'Connor: He, doesn't...

Glen de Saint Géry: Can you hear me, Siva? Siva? I guess...

Siva Muthuswamy: Yes, I can hear you. Hello?

Glen de Saint Géry: Hello...

Siva Muthuswamy: Hello?

Glen de Saint Géry: ...would you please give us your Declaration of Interest, your interest in this particular topic?

Siva Muthuswamy: Yes. I'm interested - I'm - I was to represent the issues related to the individual use of (unintelligible).

Glen de Saint Géry: Thank you, Siva. Volker? Volker Greimann.

Volker Greimann: Yes, present for (unintelligible) (key systems), member of the Registrar Constituency and potential technological provider for our new TLDs.

Glen de Saint Géry: Thank you. Ruslan Sattarov? Ruslan? Okay, the next one, Avri Doria? Avri's on mute. Avri? Berry Cobb?

Berry Cobb: Hi...

Glen de Saint Géry: Berry?

Berry Cobb: ...this is Berry Cobb. Member of the Business Constituency representing myself only, not the Business Constituency, small

business member and I have no specific interest in new TLDs at (unintelligible). Thank you.

Glen de Saint Géry: Jeff - thank you. Jeff Neuman?

Jeff Neuman: Yes, Jeff Neuman, Vice President and Neustar. We are a domain name registry, operator, as well as a back-end service provider. We do have interest in both being a registry and a being a back-end service provider for a new Top-Level Domain.

Glen de Saint Géry: Thank you. Ruslan Sattarov, are you - can you hear me? Ron Andruff?

Ron Andruff: Yes, this is Ron Andruff. RNA Partners, member of the Business Constituency, but acting in this working group in my own capacity as an individual, and we have an interest in pursuing new Top-Level Domain.

Glen de Saint Géry: Thank you. Paul Diaz?

Paul Diaz: Yes, Paul Diaz, Network Solutions. Part of the Registrar Constituency. I don't have a particular TLD interest at this time.

Glen de Saint Géry: Thank you. Jeffrey Eckhaus?

Jeffrey Eckhaus: Member of the Registrar's. I guess we're a stakeholder group and have an interest in new TLDs, although unsure what I'll be able to do.

Glen de Saint Géry: Roberto Gaetano?

Roberto Gaetano: Yes, I'm here as an individual. I don't have any commercial interest in the TLDs or go for full disclosure. I'd have to say that my employer a while ago has discussed the possibility of getting a new TLD - (firm) TLD. I have actively discouraged them from doing so and the (unintelligible) is dead now, but it might have been in the future.

Glen de Saint Géry: Thank you, Roberto. Jon Nevett?

Jon Nevett: Hey, Glen.

Glen de Saint Géry: Hey.

Jon Nevett: So, I'm a member of the Business Constituency, but participating in my individual capacity as President of Domain Dimensions, a domain name consulting firm.

Glen de Saint Géry: Thank you. Keith Drasek?

Keith Drazek Hi, Keith Drasek, Director of Policy for VeriSign, member of the Registry Supporting Organization, and representing VeriSign with an interest in Top-Level Domains.

Glen de Saint Géry: Thank you. Jothan Frakes?

Jothan Frakes: Hi, Jothan Frakes, here in an individual capacity. I have an interest no delay to new Top-Level Domains.

Glen de Saint Géry: Thank you. Tero Mustala?

Tero Mustala: Yes, I'm from Nokia from the network side and our company's considering possibly just to apply for a new (TPLD).

Glen de Saint G ry: Thank you. Statton Hammock?

Statton Hammock: Hi, this is Statton. I'm the Senior Director of Policy at Network Solutions, a member of the Registrar Stakeholder Group, and also Network Solutions is - has a membership interest in Central Registry Solutions, which intend to be a back-end service provider for new TLDs.

Glen de Saint G ry: Thank you. Kathy Kleiman?

Kathy Kleiman: Hi, all, Kathy Kleiman, Director of Policy for PIR, a member of the Registry Stakeholders Group, and a possible applicant for new gTLDs.

Glen de Saint G ry: Thank you. Katrin Ohlmer?

Katrin Ohlmer: I'm Partner and COO of DOTZON and we are converting companies and organizations and applying for their own TLD.

Glen de Saint G ry: Thank you. Scott Austin?

Scott Austin: Yes, hi. I'm a Partner with the Law Firm of Roetzel & Andress. I'm here on under the individual capacity, but the invitation of the Intellectual Property Constituency and the International Trademark Association, of which I'm a member.

Glen de Saint G ry: Thank you...

Scott Austin: My firm is a member.

Glen de Saint Géry: Thank you. Richard Tindal?

Richard Tindal: Yes, hi, this is Richard. I'm self-employed, which is a euphemism for unemployed, and I'm planning to apply for a TLD.

Glen de Saint Géry: Thank you. Kathy, I see you on two lines. Is that correct?

Kathy Kleiman: That is correct. I get dropped so often that I want to make sure I lose the discussion.

Glen de Saint Géry: Thank you so much. And for staff we have Liz Gasster, Dan Halloran, Margie Milam, Glen de Saint Géry, and Mike Zupke. Have I left off anybody?

Avri Doria: This is Avri, I was on mute at the time you called my name (unintelligible)...

Glen de Saint Géry: (Unintelligible)...

Avri Doria: ...I'm a member of the NCSG. I do give some advice - some of (unintelligible) to possible applicants for a Community TLD. I don't represent anyone and I have no commercial or financial interest in anything.

Glen de Saint Géry: Thank you very much, Avri. And for the record, Ruslan Sattarov, who was on the call at the beginning is disconnected, so we can't have a Declaration of Interest from him.

Thank you, Mikey, over to you.

Mikey O'Connor: Thanks, Glen. Sorry about the slightly slow kickoff. If we could drive the process to ground a little between calls as to whether we need to repeat that whole process each time that would be good. Maybe we can just (makes) do with the changes, but I'll carry that on offline with Liz and Margie and we'll figure out what we're doing.

Today, I think what I would like to draw your attention to is the Agenda. The only things that I've got on the Agenda right now are to continue to work on the list of harms, and then get started on the -- essentially -- discussion and disposition of the public comments that we received.

Anything else that people want to add to the Agenda before we get started on those two things? This would be a good time to stick your hand up if you've got anything.

Okay. The list of harms hasn't seemed to move much in the last week or so, and so I thought I would just devote some call time to discussing what we've got now maybe in some detail. Margie, if you could get the two documents handy to put up in Adobe that would be -- I think -- a good thing.

I think what we'll...

Margie Milam: Mikey, it's Margie. I don't know if I have the latest. Do you know when the last time they were updated?

Mikey O'Connor: I don't. I'm assuming that they haven't been updated in a while and the - I - they got posted to the Wiki last week -- I think -- and I don't think

that they've been changed since then. At least I haven't seen anything go by on the mailing list.

Jeff and - I'm not even sure if (Anthony) is on the call today.

Jeff Neuman: It's Jeff here. I haven't received any updates. Nobody's sent anything to me to update. I don't know if anybody has actually used Wiki to be - to make edits within the Wiki. I don't know. I haven't looked at that.

Mikey O'Connor: Okay. Well, I think then, Margie, that the versions that are on the Wiki are probably current and let's see, with (Anthony) not on the call, when we get to (Anthony)'s maybe somebody from the staff can sort of be the scribe note taker for that part of the conversation.

But I think what we should do is just to get our attention on this list, we should get the list up in front of us in Adobe and just walk through it item by item, and with an eye for several things. One, to see if there are any duplicates that should be merged; and two, to see if there are any major ones that are missing so that we can at least get the list to a point where we can finalize it fairly soon.

And it seems as though the conversation on the list is taking a summer vacation, so I thought we would spend some time on the call just talking about them.

I'm not sure that we want to debate them, except to make sure that our list is inclusive, but I'm open to the idea of debate as well. We haven't had a debate about anything for so long, I'm sort of missing it.

So anyway, thanks, Margie. The - oh, and we've got a couple of folks in the queue. Ron, go ahead.

Ron Andruff: Thanks, Mikey. I wanted to - just with regard to this harms, I think you just hit the nail on the head. It's been the summer vacation period, so people have not had their heads on this list very seriously in the last several weeks. And these documents that we're trying to produce here, or one document ultimately, I think it's a very important exercise. I think we all agreed up that. That's how we got ourselves here.

When I last checked in on this, I understood there were three lists. There was Jeff E, then (Anthony) brought forward some ideas, and then Scott had also brought some. And I had made the notes that on Jeff E.'s list -- for example -- there was a number he - he'd went back and grabbed a lot of different data -- or different data -- different comments that are said from different people.

And also, he listed other harms and there were like six bullets; account (lock-ins), easier cybersquatting, shelf space, all of those needed to be clearly defined.

So, the point I wanted to make right now is I think that there's a lot of work that has to happen here, in terms of integrating all of these three documents that we have into something that's more manageable as one list. And then once we have that list, I was under the understanding that we would then go back and debate the elements one by one to determine whether or not they belonged in the Vertical Integration discussion, or if this was a larger harm that needed to be addressed by perhaps another PDP, and I posted something to that effect in the last ten days or so.

But the point I wanted to bring out here, is that the debate has yet to be had. We're still -- as I understand it -- just in a drafting stage of pulling together some ideas on harms. And there's a significant number of things that need to be flushed out just with what we have, and I don't believe that we have all.

As an example, the KnujOn report where a lot of people said it was not a very valid document and there was questions about the authors, I'm not sure what happened, but I didn't hear about anybody suing anybody or causing any - bringing lawsuits against some of the comments that were raised in that. So, in that KnujOn report -- for example -- there are a number of harms that we might want to be integrating into this.

So from my point of view, we're at the very beginning of this thing. We're certainly not at the point where we're going to be able to wrap anything up shortly. And I'll just finish my comment by saying again, most people have been taking the summer break and I don't think they've had their heads in this. I think we're at least another two, three, four weeks away before we get to a place where we can say, "We've got a document we can start talking about in more concrete terms."

Mikey O'Connor: Thanks, Ron. The only caveat I would add to the - what you said, is that on the call last week what we started thinking about was the difference between developing the list of harms, and that's sort of the Jeff and (Anthony) documents, and the categories of harms or the buckets into which we might place them. And that's really what Scott's document is more aimed at.

And what we decided to do almost telepathically between Roberto and me was focus on the list first and the categorizing after that. So, that's reason why I'm really zeroing on the two documents rather than all three today. But other that...

Ron Andruff: Thanks for that clarification.

Mikey O'Connor: Yes. Kathy, go ahead.

Kathy Kleiman: Great. I have kind of a procedural question to start with, and then I'll raise my hand again for substantive questions. But, I still am trying to - I was part of the quiet period of the group over the last few weeks, so I'm still trying, and I admit that honestly, still trying to figure out the purpose of these documents. How they're going to be used, what the timeframe is, what - are these tools for the working group or are these tools for publication, different audiences, different purposes?

What is - what's - what are we thinking is the timeframe, and then maybe it's just me, I've gone - I've visited these documents several times on the Web site, but they don't seem editable. This idea - I mean, they seem posted - they're posted, which is great, but if there's some way to edit them I'm missing it.

Mikey O'Connor: Oh, you mean the mechanics of editing in the Wiki?

Kathy Kleiman: The - yes. Yes, I'm calling up the PDF.

Mikey O'Connor: Yes, I don't think that they're editable. I think they're PDFs. And so, we could pretty quickly probably copy and paste them into a Wiki page so that they would be editable on the Wiki, and maybe that's a good thing

to try. We haven't done that before. It's been called for a couple of times.

So, Margie, Mike, Liz, maybe the three or four of us can put our heads together and get a Wiki-editable version of these out on the Wiki page so that people could start doing a little collaborative document work on that. That'd be kind of an interesting thing to try...

Liz Gasster: So, this is Liz again. There's no problem with posting a Word doc, but - and there's also no problem with putting like all the text up on the Wiki, but it doesn't - it isn't very edit-friendly in that it loses all its formatting. It's not a great system. Neither is Google Docs really, for editing a document. And we want to change that. They're plan - (unintelligible) to change it, but just to warn you about what you're kind of wading into, because...

Mikey O'Connor: You're no fun...

Liz Gasster: ...it doesn't work very well and we've had our own experiences with that. And then lately also, we're getting hit by a huge amount of spam on the Wiki and so we're constantly removing stuff, you know, that you don't want to have interfere with your document.

So happy to do it, but we might end up needing to have, you know, a Word document that we share on a list and have you all edit with track changes, which I know has its own document control problems, but we're in - it's just a slight imperfect collaboration situation right now.

Mikey O'Connor: Well, that's good to know. Why don't the three or four of us get our heads together after the call and we'll figure out something. I - but Kathy, I

think your point is noted, which is we need some mechanism to edit this thing, either a shared Word document or a Wiki page or something, and we'll take that action to...

Kathy Kleiman: And some people like me have been kind of holding back because we thought that there was going to be a tool and that that's what we should be using.

Mikey O'Connor: Yes. Well, there you go.

Kathy Kleiman: Okay. Cool. Thank you.

Mikey O'Connor: So, then in terms of the question of what's the document for and the timing and all that stuff, I think that basically until the tumult of the Council and the Board and all that dies down that the mode that the working group is in is to continue working.

And so right now, these documents are for us. At least I hadn't thought at all about publishing them for the Board. Roberto can whack me if I'm out of line that. So at least at this stage, these are working drafts -- let's say -- that clearly aren't secret. Anybody's that's on the list or wants to can see them, but until they're considerably further down the line there's no thought -- at least in my mind -- to push them along to anybody else.

Roberto, is that sort of where you're at? We're sort of doing this on the fly here, but just check with my Co-Chair and make sure that that's right.

Roberto Gaetano: Yes.

Mikey O'Connor: Yes, okay.

Roberto Gaetano: Yes.

Mikey O'Connor: So that's...

Woman: Great.

Mikey O'Connor: ...our plan is to, you know, treat these as ours, very preliminary, and again at this stage of the game, you know, there's been some conversation on the chat and I just want to kind of amplify the notion that right now we're sort of in the brainstorming expand the list mode and not in the edit out, refine, compress, eliminate duplicates mode quite yet.

It's really mostly making sure that we've got a comprehensive list that we haven't left anything off. We may well find that some of the things are duplicates that others are, you know, essentially kind of outside our scope, but that's a conversation that we'll have later.

Jeffrey?

Jeffrey Eckhaus: Okay. Thanks. So, you know, actually it's - it was weird hearing you guys discuss that editing to the Wiki, because I always thought that the whole idea of a Wiki was that it's a site that allows - you know, that you're able to make easy updates and create and - you know, create things, delete things, and change things on it, and I thought that's why we're using a Wiki.

I guess to - all - if it's - if we're not able to do that, then it's not actually a Wiki that we're using. I just - that was just something I was just thinking about when we were discussing it. And I understand that from what Liz was saying, that there are people who go in and edit and I guess those are problems with - all Wiki's have, but I would say that we should - probably shouldn't call it that if we can't - if nobody can edit on there.

Mikey O'Connor: Oh, I don't that's true. I think that what Liz was saying is that the editing is cumbersome if you haven't done it much. I've been using Wiki's for a while and find the editing on this Wiki about on a par with all the other ones that I've used.

But, it's not nearly as easy as typing into a Word document and having trackable changes pop off to the side. You know, it's a - it's like Media Wiki or Wikipedia or anything like that. It's got all the same sort of good news and bad news associated with that.

I think that it's possible, and I'd be willing to take a run at it, to get some -- if not most -- of the formatting that's in the documents that we've already got moved over to the Wiki. It may take a little tinkering, but...

Jeffrey Eckhaus: Yes.

Mikey O'Connor: ...you know, I've fiddled with that a bit.

Jeffrey Eckhaus: Okay. But actually, let me - I - just thanks. I just wanted - my main point was, I guess this was going back to what Ron had just mentioned, where he said - you've brought up the KnujOn report, which I - me

personally I know I've had lots of problems with it. And he stated, "Oh, I haven't seen any lawsuits or any issues, so I guess everything must be okay."

And I just want to really state that absence of a lawsuit does not validate that document or that report and I would hesitate for anybody to even come close to that and believe that because nobody has sued KnujOn that means that the document is valid.

And that is a very scary assumption to make and unless somebody can go in, you know, and just to make those assumptions and say just because there hasn't been a report - I mean somebody rebutting it does not mean that it makes it accurate, and I just wanted to state that on the record.

Thanks.

Mikey O'Connor: Thanks, Jeff. Okay, so with that sort of stuff out of the way, we've got the document in front of us. I think what I'd be first most interested in is major harms that you've thought about as individuals that aren't on this list yet. Not necessarily precisely stated, but you know, big broad strokes so that we can capture some of those and make sure that they get into this list.

And then as you sort of work your way through it, any refinement that you see, but mostly what I think we're still doing is trying to get as big a list as possible so that then we can circle back through and weed out, you know, ones that either irrelevant or out of scope, or whatever.

Kathy, go ahead.

Kathy Kleiman: Let me come off mute.

Mikey O'Connor: Go.

Kathy Kleiman: Big broad strokes, I think we discussed in the last meeting, compliance and enforcement I think needs to be called out, not just as a cost to ICANN, but in some of the larger detail.

And I don't have our Compliance section in front of me, but some of the larger detail of the many, many issues and concerns. It's the number one concern out of Brussels of our group was the complexities, the difficulties of compliance and enforcement; the monitoring and then the cost as well.

So, I think we need a whole new section on that.

Mikey O'Connor: So to state that as harm, the harm would be increased cost and complexity of compliance enforcement? Is that (sort of the theme)...

Kathy Kleiman: Absent Vertical - with Vertical Integration and cross-ownership, right.

Mikey O'Connor: Yes. Okay.

Kathy Kleiman: Not (necessarily) the increase, the difficulty of it, the possibilities of it.

Mikey O'Connor: Okay. All right. So, that's a big broad stroke.

Kathy Kleiman: (Unintelligible).

Mikey O'Connor: Good. Okay. Any others? Crickets, I love the sound of crickets on a summer afternoon. I think the thing that - I know it's summer and I know that nobody's totally zeroed in on this right now, but I do think we need to get to the point where we can say, "We're at least done enough to sort of go on to the next phase," which is weeding out, categorizing, et cetera.

And so, I think that first action is that - I'll try really hard later this afternoon to get this into the Wiki in editable way, and then, Kathy, if you could drop in a chunk about compliance stuff that you mentioned that would be very helpful.

Are there other big broad areas like the one that Kathy mentioned that needs to be brought up, because at some point I'm going to start saying kind of going once, going twice, okay let's go on to the next phase. Not this week, probably not next week. I would bet that next week is a record low attendance, but we'll see. But, you know, it would be good to sort of bare down on this a bit and get it at least the big chunks out there.

Scott, go ahead.

Scott Austin: Yes, Mikey, I'm looking at the documents up on the screen right now. I guess I was just trying to make sure that, you know, we're talking about harms, but it's harms in the sense of if we don't have cross-ownership. I mean, it's sort of the way I read it, right? I mean, it says, "Harms caused by vertical separation and limits on cross-ownership," which that's - if we stay with the status quo these are the harms, is what (unintelligible)...

Mikey O'Connor: Yes, this is - I think this is (Anthony)'s draft. We have another draft from Jeff that's the opposite, that's harms from - let's see, one of them is harms from vertical integration, one of them is harms from vertical separation, and eventually the goal is to combine them so that, you know, we can see sort of both sides of the coin, and then...

Scott Austin: Yes.

Mikey O'Connor: ...start debating. So, the - I think you're right. I think this is (Anthony)'s draft.

Scott Austin: Yes. I just was thinking in terms of - you know, or - do we need an apples to oranges, because as Kathy was saying that I was trying to determine if the cost increase is based on the fact that there would be vertical separation. In other words, it would make it more difficult to enforce if - you know, if there were limits on it, or more difficult to enforce if cross-ownership was permitted.

And I just want to make sure that in making a response if we could put them together into one that at least says the same - you know, two documents that are focused on the same direction, because I think it might be difficult. It's sort of like you're either dealing with a negative - trying to prove a negative or you just (unintelligible)...

Mikey O'Connor: Yes, I think that's right. I think - you know, the - if the rhetorical device was -- I think -- mine, which was we had a list of harms. Yes, this is Jeff's, right, Margie?

Margie Milam: Yes, I've just pulled up Jeff's.

Mikey O'Connor: Yes. So, this is the harms I think from vertical integration, and then at some point in the conversation we said, "Well, but there's another set of harms that might come from separation," and that's -- I think -- what (Anthony) came in with. And so, what we need to do is -- as you say -- sort of normalize all this so that it reads as a single document, but has an acknowledgement that there are really two sides to the same coin.

In - you know, in the case of Kathy's point, which it may be a point she's getting ready to make in a minute. She's in the queue, but I'll jump in on this. It could be that there are compliance and enforcement issues on both sides and I think that's one of the things that's incumbent on us to figure out.

So, I - you know, Scott, I think you're right. I think we're a good long way away from having a document that really reads smoothly and is clear, and that's part of why I think we need to sort of make sure that we've got the universe well-described, and then start digging into really cleaning up the language and the editing and make it clear.

Kathy, go ahead. I assume you're (up) again.

Kathy Kleiman: Yes. Yes. I'm back in the queue. Thank you. I had actually intended my compliance enforcement ideas on Jeff's document on harms and vertical integration...

Mikey O'Connor: Yes.

Kathy Kleiman: ...because that's where we've kind of discussed them, but it may apply to both as well. I think there's another big -- since you want the big broad brushstrokes...

Mikey O'Connor: Yes.

Kathy Kleiman: ...and they may be in one but not the other, kind of the impact on the marketplace, the impact on the big picture, also the impact on registrants. There are certain places, we call them consumers - certain documents call them consumers, but the registrants, people who are registering the domain names, how will this all affect them, kind of big picture questions.

Scott Austin: Mikey, this is Scott Austin. Sorry, I got knocked off the call. I just wanted to let you know I was back.

Mikey O'Connor: Oh, okay. Thanks, Scott.

Scott Austin: Thank you.

Kathy Kleiman: And to make sure that we've looked at these groups for each one.

Mikey O'Connor: Yes. Now, I think a lot of the ones in Jeff's document, especially touch on facets of that. That one may be so broad that it's too broad. But again, we can - we certainly don't want to lose sight of it because ultimately certainly a lot of the competition (laws - assets) of what we're doing at aimed at consumers and not participants.

Kathy Kleiman: Right. But I think we should, you know, assume that people are going to come in with many different perspectives to these documents, so you can call it a data harm. And deleted domains drop data, you know, generally will give one registrar an advantage over others, but it will give registrars advantages over registrants, there's - you know, there's

a number of different ways we should be looking at who the harm affects.

Mikey O'Connor: Yes. Absolutely. Yes.

Kathy Kleiman: Thanks.

Mikey O'Connor: Okay. Jeffrey Eckhaus, go ahead.

Jeffrey Eckhaus: Yes. Thanks. You know, I'm just reading through the chat here and I also wanted to comment on this end about my list of the harms, which first let me just state that if people wanted to - if there's an issue with editing on the Wiki, I'm - or whatever it is that I'm happy to make changes to it or to add to it.

Or if somebody - I don't know if somebody from staff is going to - wants to be the keeper of that, but I didn't - you know, I was going to say if we want, I'm happy to do that. I'll just volunteer that. Or if not, I don't know if Margie's now the owner of it. I just would want one person to be the owner, so we don't have duplicate copies. But, that was just one thing I wanted to say.

The other one is the thing I was looking at about the harms and about my list, and you know, I have said - I wanted to put together a harms that I had pulled together from other people of harms that will happen if there is any sort of vertical integration. And you know, there's people - there's discussing saying like, you know, the KnujOn list or something like that.

I don't see - maybe somebody can - you know, the people who are saying, "Hey, we should have - wait until we hear about those or see those," how those will help? Is there, you know, as - those harms have anything to do with vertical integration, and how that will help this group?

I think it - you know, it's - what we're - I'm trying to put together is, what will happen if we allow any sort of ownership, the different levels in your own TLD, not in your own TLD, those sorts of things? Specific to what we're doing, not what are harms that can - that registrars can do, or registries can do. Of if Mikey and I collude to corner the, you know, .shoe market, you know, as registrants?

You know, those are things that - you know, things I don't understand like - that people want to include that on this list. But, I think we would be - it would best serve us to focus on what could be the harms resulting from any sort of vertical integration, not what are harms that two people in - you know, in an office can think of on how they're going to do something bad, because that is an open-ended list that, you know, has nothing to do with vertical integration.

That's all.

Mikey O'Connor: Thanks, Jeff. I think you and I are more or less on the same page; although, I would like to corner the .bar market, rather than the .shoe market. But, I'm also okay with a list that gets a little bit too big at first, sort of in brainstorming mode. As long as it's clear that before we go much further we then (winnow) it and get rid of the ones that clearly don't have anything to do with vertical integration.

I wouldn't want to see people just put any old harms up on the list with no connection in their mind vertical integration. But, if somebody put one up there mistakenly, I'm not terribly concerned about that as long as we can come back and sort of thin the list back down again.

But, you know, I agree. I mean, we don't want to put every single harm that can happen in the domain space up on this list that explodes our scope and doesn't really help us get to the bottom of what we're trying to discuss.

((Crosstalk))

Jeffrey Eckhaus: Oh, Mike...

Mikey O'Connor: Oh, I'm sorry.

Jeffrey Eckhaus: ...I'm sorry. I just wanted to jump in I - because I'm - I forgot Jonathan had - he'd put on the chat and I wanted to say he had put over - he put in harms that I don't believe were added to this document, the Summary of Potential Harms that I started.

Can we make a decision now, do you want me to make - does Margie want to own this? Should it be me? I'm just - I just want to be clear so that we don't leave people off and then they say, "Hey, Jeff didn't include it or Margie didn't include," or something like that. Can we, just to be who the owner or editor is of the - going forward, so - or do they - we expect people to make the changes themselves on the Wiki? Just so that we are inclusive and we're able to add to that list of harms.

Mikey O'Connor: Margie, do you want to be the owner?

Margie Milam: Yes, that's fine. I can take this document and update it.

Mikey O'Connor: That's probably the easiest way for everybody, except Margie. If you've got time to do that, I think that would be good, Margie.

Margie Milam: Sure.

Mikey O'Connor: So, maybe what people should do is post your additions to the list so that we can see them, and you know, flag them for Margie so that she knows that these should go into the document. It might not be a bad idea, Margie, to take a try at merging the two documents, as well.

Margie Milam: Sure, I can do that.

Mikey O'Connor: And I note Kathy's point about seeing a real Wiki, but you know, Wiki's are a pain if you've never used them much. And I think that the learning curve is enough that it's probably easier to do it the more traditional way with a marked up Word document, and circulating periodic drafts to the list.

Margie Milam: And Mike, this is Margie. May I ask a question?

Mikey O'Connor: Sure.

Margie Milam: So, when you're talking about merging these two documents, you're talking about Jeff's and (Anthony)'s, right? (Unintelligible)...

Mikey O'Connor: Yes.

Margie Milam: Okay.

Mikey O'Connor: Yes. Scott, go ahead.

Scott Austin: Okay, I'll try not to cut myself off after I finish, so I can hear what's said afterwards. The question that Kathy brought up, I think is an excellent one, and that is the distinction between registrant and consumer. And I think the - one of the points that needs to be addressed perhaps on the list, and maybe these are categories as well, but is - who's the victim of the harm?

That is who's the - who's harmed, okay? Because I think there's a distinction sometimes that some of the harms may be to unaffiliated registrars, for example.

If there's vertical integration and a registry and its affiliated registrar sort of gang up and exclude or create price differentials or allocate territories or do things like that so that new registrars or other registrars don't gain the same benefit. Then that could be an instance where's there's - competition is injured, or is the harm is to competition, but the person affected is, you know, other unaffiliated registrar.

On the other hand, we've talked about, you know, things that may harm the actual TLD applicants, in the sense that the folks who've been around the longest will have the - be able to draw the quickest line or quickest bead on experience and background, and so forth. And perhaps that's as it should be, but that's a different type of harm directed to a different type of target, and that would be the applicants for the new TLDs.

And then the final one, and I think this comes closer to the consumer protection angle, and that is what is the impact on second level domain owners for the people who - or the entities that the people who want to be a second level domain owners to an applicant who is successful and obtains a TLD?

It seems to me that those are all potential victims of harms and perhaps some of the harms may apply to more than one category of victim, and I use that term lightly, but the party that's affected. Let's put it that way. That's just a thought when Kathy brought up the distinction between registrant and consumer.

Mikey O'Connor: So, here's a thought and that is maybe when we're firing additional harms at Margie, maybe we put another chunk on this document that's something along the lines of analysis or something like that, so that basically we can capture this kind of conversation like what you just said, Scott.

Man: Yes, (unintelligible).

Mikey O'Connor: So that when we get to the analysis part we haven't forgotten it. I mean, right now we're really narrowly focused on just trying to expand the list, but we don't want to lose these thoughts about what we do with the lists and the contexts of the lists either. And so - that's just a thought that you might want to aim that - you know, write that stuff down, Scott, and aim it at the list and also at Margie, so that she can capture it as sort of an analysis...

Scott Austin: Okay.

Mikey O'Connor: ...section. Harmapedia, I think there's a missing A in harmapedia, don't you think Harm-a-pedia, or...

Man: That's (still a word) to you. That would work.

Mikey O'Connor: Yes. Okay. Ron, go ahead.

Ron Andruff: Thank you, Mikey. I just wanted to echo what Scott just said. I think, you know, these are some important points and - in the discussion in the chat right now, Volker had brought up a comment that I think also should be put onto the call, in the sense that he mentioned -- for example -- front running and such things are not necessarily endemic to vertical integration or vertical separation.

It comes back a little bit to what you said, Mikey, that you would prefer to see this list both - you know, be more focused on VI, but there will be those things which cut across and they are harms that are serious harms that would be affected if vertical integration were happening or not.

And I think even though it may not specifically, you know, I use the front running example and Volker's comments are quite valid. You know, we just established - defined what front running is, put harsh penalties on it, and have compliance, you know, monitor it.

That's it. That's all well and good, but the fact is it still is a harm -- front running -- it's a serious harm, so we have to make sure that we address these things that would have an impact. And there's no question front running would have an impact in a vertically integrated

world, so we would have to address - define that under - and then address what the - you know, the penalties should be, and so forth.

So I think you said it right, but I just wanted to restate it that we create a list that is focused on this, but if it's expanded a little bit larger because that's the nature of that harm, we cannot disclude it or discount it and say, "Well, it's not a - this particular harm -- whatever that may be -- is of no value on this list because it could happen with or without vertical integration." That's not the way to approach this.

If it's a harm that could affect a consumer or a user of the Internet, then that harm has to be addressed properly.

Thank you very much.

Mikey O'Connor: I - Ron, I'm a little I'm a little cautious about leaving the door quite that wide open, because what that could do is put us in a position where we're trying to enumerate every harm that could happen to every participant in the domain lifecycle. And then...

Ron Andruff: And that's where we'll split them out in to two lists, and when we see that it's - there's - this affects the lifecycle that gets split out and those that affect VI stays in.

But, that work should not - it's hard to think so narrowly to say, "This - these are the things that will be affected," because we're certainly - if we get 50% of the harms that I'm amazed that we were actually able to nail 50% of them down. Because there's a whole world of harms that are out there and I (see that they're on the list), they have to be identified and we have to get them addressed.

So, we have to be holistic in our approach. We cannot try to do this in a narrow way because we'll never be able to achieve the goal.

Mikey O'Connor: I - and I'm not terribly opposed to what you're saying, Ron. I just - I want to leave myself a little bit of wiggle room that if the scope of this thing explodes because we've got a whole bunch of harms - I mean, you know, there are all kinds of things that happen that ICANN thinks and talk about. I don't want to take necessarily everything that could possibly happen...

Ron Andruff: Understood. (I understand).

Mikey O'Connor: ...and have to analyze it.

Ron Andruff: Understood, and that's - and I'm not pushing for that, but I just am saying, let's try to be holistic in this, as opposed to trying to be too narrow. And I think we're saying the same thing, I just wanted to...

Mikey O'Connor: Yes.

Ron Andruff: ...just restate that.

Mikey O'Connor: Yes. Well, and that's why I'm fine right now if the list gets quite a bit bigger, as long as we've got a process where we can winnow it back down to something that's within the scope of our efforts if we need it.

Ron Andruff: Very good.

Mikey O'Connor: Jeffrey, go ahead.

Jeffrey Eckhaus: Sorry. Yes, one last thing, and I think I - you know, I'm sort of - I understand what Ron is saying and I sort of agree with him on one point, saying that if somebody's cut across vertical integration, yes then they should be included.

Like front running, you know, I - the one thing I know I - I don't know if I got - you know, I sort of got criticized on this in the past, but is for people that put down harms, you know, that put - add to this list to sort of give an explanation of it. Because I think it will be helpful because, you know, that's - well, somebody asked, I believe it was Kathy earlier when she said, "Oh, I saw there were a couple that were just bullet points," and those are the ones I had just included that people had said, "These were harms," like account lock-in, but there was no description of it.

So, now they're sort of there and -- I hate to use this word -- but they're sort of orphaned out there, you know, nobody's has really taken a hold of them. But, I think it would be helpful and hopefully, you know, I won't say this is a requirement, but when people add to the list of harms and we go forward with it is to say, "This is how I see this occurring. This is how it can occur."

You know, because if somebody just says, you know, "Higher prices or Internet will shut down," you know, things like that, you know, it's - it - I don't know how much it will be helpful for this group. So, I think it would be helpful if people could add a little description or explanation of how that occurs and what the actual harm is, versus just throwing out buzz words or other pieces.

That's just a suggestion, but everyone can rip me apart if they want.

Thanks.

Mikey O'Connor: You know, you're getting a pretty good response on the chat there, Jeff. I think that's pretty widely thought as a good idea.

One - I'm going to drag a couple of things out of the chat, one is back to the Wiki thing. Why don't we try something new and that is we'll kind of run two things in parallel. We'll set up a Wiki page for this stuff so that people who are in the Wiki's can add stuff and edit it.

And at the same time, we'll continue to dub Margie the official editor of the official version and she can kind of keep an eye on the stuff that's showing up in the Wiki folded into the real document. Because I think there's some people who are comfortable with Wiki, certainly I am, but there are other who aren't, and I just want to make sure that we don't leave either group out. And so, maybe the thing to do is run it in parallel for a while and see how that goes.

And then, the other point that came up was Berry's point about a list of harms getting developed by staff. I'm sort of running backwards through the chat here real quick. Oh, I guess it was Berry commenting to (Eric) about a list - Margie, Liz, does that ring a bell with you guys? Was there a list of harms developed that we should circle back around to and fold into this?

Margie Milam: Mikey, it's Margie. I'm not aware of it, but I'll take it as an action item to follow-up and see if there is something like that.

Mikey O'Connor: Okay. Because, you know, clearly if there is one, we should find it and stick it. Oh, there's Berry. Go ahead, Berry.

Berry Cobb: Thanks, Mikey. Yes, this is Berry. I just sent an email off to the list asking (Eric) if he could provide us that information where he recalls seeing it. It was very early in our discussion, And anyway, I think he'll respond back and kind of give us a pointer where that was so we can go figure it because I think it'll be important to one, not only ensure that our list is comprehensive, but secondly I don't want us to have to recreate the wheel where possible as well.

Mikey O'Connor: Yes.

Berry Cobb: (And he'll just send that out to us). Thank you.

Mikey O'Connor: Yes. Okay, this seems like a kind of reasonable break point for the harms document. I - Roberto and I are pretty agreed that we really want to get this moving again. It's late summer and at least we're focused on the USA, it's going to be dreadful next week, but pretty soon thereafter it's time to really dig into this and start to move it along to the next stage, and I think we've made a lot of progress today.

So, I think we'll leave that for now and maybe go on to the matrix that I think Mike Zupke put together about summarizing the document that Margie prepared, which in turn summarized the public comments. And I can use a little coaching on this from the staff folks.

The way the matrix is set up is it gives us, the working group, the opportunity to sort of go point-by-point through the public comments -- oh yes, and it's up on the screen now -- and do two things to - well

three things, discuss it, and then for each one prepare our own response, and also determine what our action is.

And at least at first, I'm going to sort of stumble along until kind of get the rhythm of what this is all about, because I've never led this particular kind of discussion before, and so I'm not sure quite how it will go. So, I ask your forbearance all you working group members, and I ask your assistance all you staff folks who've seen this happen elsewhere.

And with that, I'm going to go to the second page of the document where the comments start on Number 1. So, there's a demand media comment from Jeff that says, "Policies that prevent registries and registrars from owning each other limit competition, and thus negatively affect consumers by denying them better prices and services."

So, I guess that my thought is that we ought to talk about this a little bit and prepare a response if we can, and decide what we're going to do about that. Is that sort of good summary of what this is about, Margie, Mike, Marika, Glen, anybody?

If it is, it could - we could be at this a while because this is a pretty tall document and a lot of these comments are sort of right at the heart of a lot of the disputes that we've argued long and hard in the working group. And so, I'm wondering sort of how this works?

Margie, go ahead. And then (unintelligible)...

Margie Milam: Oh, sure. Yes, typically what we do -- as you know -- public comments are very important and we want to make sure that we evaluated them and decided whether or not they should, you know, reflect either a change in a recommendation or something in the initial report, or sometimes the comments may not really amount to anything that needs any further action.

But, it is something we typically go through in our working groups to go item by item to determine whether there should be a response or a change in the recommendation or the report.

And so, what I suggest is - since Mike had put together this document he could be the keeper of this document -- if you will -- and rather than reading all the comments, I think that would take a long time, we would just simply go, you know, "Item 1, you know, is there any - a response or action?" And if there is then Mike Zupke can (unintelligible), you know, (unintelligible), and then publish an updated version of this document.

Does that sound like a good plan?

Mikey O'Connor: I have a couple of questions, and that is first in many cases these comments are - might be better talked about after we've done some of our own analysis. You know, it's sort of the - it - this is the chicken and egg problem, do we drive our analysis out of these comments, or do we review these comments after we've done some more of the work that we need to do to make sure that we haven't missed anything?

Our initial report's a little unusual in that it does not have recommendations in it, as opposed to most initial reports which do.

And thus, we're not banging these comments up against a preliminary recommendation, so much as we are using them as an input to our analysis.

And so, I'm curious if there's any thought about the - I mean we could just declare on or the other, the chicken or the egg. I'm just curious which would be the most productive. Any thoughts on that, Margie, before I go to the queue?

Margie Milam: I agree with your analysis that, you know, this is a little different because we don't have recommendations yet. As long as we, you know, factor it into our work before we get to the next version of the report, I think it's fine to delay it. But, it is something that, you know, it's prudent upon us to look at when we get to that point in our work.

Mikey O'Connor: I agree. You know, we certainly don't want to skip this and - you know, it's just a question of when and how. So with that, let me go to the queue. Ron, go ahead.

Ron Andruff: Yes. Thanks, Mikey. I just wanted to pick up on your comment. You know, I would see these comments as input to analysis and particularly because there's a number of the - our working group members who've weighed in on these things, where it's constituency statements or SO statements - comments, I think that - those have merit for us to look at.

But, I think for us to be commenting to our fellow working group members with a WG response, I don't think that's quite appropriate. I think what we should be saying is that unless the individuals who posted these say, "Listen, I'm on this working group as an individual and I always state my individual points of view, and what I wrote up

here in my comments came from my company and there's a clear Chinese wall between the two," then no problem.

But, otherwise I don't understand exactly why so many members of the working group weighed in, and that clarification would be helpful. But, I think input to analysis - to our analysis -- I think -- is probably the response we should be coming back with most of these things because that was the whole point of it, is to get some response back from the community to our report and that report will now become something else as we continue to develop this process.

Thank you.

Mikey O'Connor: Thanks, Ron. Jeffrey, go ahead.

Jeffrey Eckhaus: Thanks. I mostly agree with Ron on that. I think that these are, you know, for myself that I know I put in comments and I - you could - mine's the one that's right on top, but I think that every member of this - of the - you know, of the community, even part of the working group or not, has a right or he can comment on the working group so far and of - on this initial report.

And that's what I decided to do and to let my comments be known, but I think that a response to it, I don't know what that - I agree - I don't know what the help is there and what it's supposed to be. And I think - I don't know if it's going to really help anybody out and I think that separating it saying, "Oh, if it's an individual or if it's a constituent or somebody else," it doesn't really - I don't know if that helps.

And I always - I completely disagree with the point that somebody says, "Hey, I'm representing - I'm an individual and I'm not representing the company that I work for." You know, I just have a problem with that in general when people say that because it seems - you know, I don't know how people can divorce themselves and say, "I'm not," maybe they don't speak on behalf of the company when they say it, but most peoples' viewpoints are skewed by, you know, where their bread is buttered.

And to say that it doesn't would be - you know, it - that there's a separation between the two is almost impossible. But anyway, I don't see how - what the advantage of this exercise would be on the working group comments, because I don't think we'll have agreement on this in any aspect.

Mikey O'Connor: Thanks, Jeffrey. I think that then where I'd be inclined to go is first, a - to offer a giant hats off and thank you to both Mike and Margie for preparing these, because I think they're a fabulous piece of work.

It seems like they're a really good checklist/punchlist kind of thing, which we need to address before we're done, but not now. That what we ought to do is figure out how we're going to puzzle our way through this problem that we've got. And then when are further along in that process, use this list to make sure that we haven't missed anything.

And in many cases, we are going to have to essentially say that on this particular point we agreed to disagree there, you know, et cetera, et cetera. But I think that too, and you know, I was a little bit daunted by the height of this table when it came out and thought that we could probably spend three or four full calls going through it.

And I'm not sure that we would move the ball forward that much at the end, but I think treating more as a list that we need to confirm and check off before we're done that it's a good sort of, maybe not final exam, but mid-term exam on the next phase of our work.

I don't know, I guess that's kind of it for me. Roberto, you got anything you want to add at this point? I think if not, we'll do our usual summertime routine and draw the (cloud) to a little bit of an early close, but anything on your mind that you want to share with the group before I do that?

Roberto Gaetano: No, I don't have anything particular. Nothing bright to say. I (don't want to get) overwhelmed by the paper on the comments and I really think it's going to be a huge task to go through them and evaluate them. So, I think that we might have a short discussion and suggestions from staff on how to do it, because if we go sequentially in the document, it is going to be - it's going to be quite a long job.

Mikey O'Connor: Yes, I agree. Margie and Mike, maybe Liz, maybe we can huddle on that as well after the call, but I think we're pretty much all in agreement that going through it from top to bottom is probably not the thing to do right now. I think really we need to zero in on this harms thing.

I've been following the chat about the Wiki and so I'll dive in and sort of tinker with that and see if I - you know, maybe I'll own the Wiki page and Margie can own the Word document, and between the two of us we can kind of keep things straight.

And I think that's it. I - it's ten after the hour, I think it's time to wrap it up, call it a day, we'll see you next week. I'm really curious to see how many people show up and we will be meeting at the same time next week on the U.S Holiday, and hope to see lots of you here then.

That's all for now. Thanks.

END