

**Transcript
Consumer Metrics Project discussion group
26 October 2012 at 19:00 UTC**

Note: The following is the output of transcribing from an audio recording of the Consumer Metrics Project discussion group teleconference held on Friday 26 October 2012 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-cci-20121026-en.mp3>

Attendees

Cheryl Langdon-Orr – ALAC
Olivier Crepin-Leblond – ALAC
Evan Leibovitch – ALAC
John Berard – CBUC
Tobias Mahler – Individual
Michael Graham – IPC
Jonathan Zuck - IPC
Mason Cole – Registrars SG
Jonathan Robinson – Registries SG
Cintra Sooknanan – NCSG – guest

ICANN Staff

Berry Cobb
Julie Hedlund
Glen de Saint Géry
Julia Charvolen

Coordinator: Excuse me. This is the operator and I just need to inform all participants that today's conference call is being recorded. If you have any objections, you may disconnect your line at this time. And you may begin.

Glen DeSaintgery: Thank you very much (Lori). Good morning, good afternoon, good evening everyone. This is the Consumer Metrics call on the 26th of October. On the line we have Cheryl Langdon-Orr, Tobias Mahler, John Berard, Mason Cole, (Sentra Sukananon), Steve DeBianco, Evan Leibovitch, Jonathan Robinson, Jonathan Zuck, (Mike) and Michael Graham.

For staff we have Berry Cobb, Julie Hedlund, myself Glen DeSaintgery and (Juliet Charvolen). Have I left off anybody? Thank you very much. Berry, over to you. But just before may I remind you all please to say your name before speaking for transcription purposes. Thank you. And Berry, now it is over to you. Thank you.

Berry Cobb: Thank you Glen. And I'm going to volley over to Jonathan Zuck as our Chair for what is hopefully going to be our last and final meeting.

Jonathan Zuck: Yeah. Thanks Berry. So as you know, this meeting was motivated by what was largely a fairly warm reception to the presentations about this work. I think the ICANN community as a whole and everyone I've spoken to in it have been impressed with the level of effort here and the level of detail in this document.

And I know that (Bruce) in particular who proposed this resolution in the first place was very excited with the results. So thanks everybody. I think it's been worth the effort that we've put in.

What we're - what this meeting is about is just an issue that Jeff Neuman raised as part of the Registry Constituency because such a large portion of the new TLDs that were coming online were - had the potential to kind of skew the performance results such that the targets that we set might not be met because of brands, TLDs that were artificially not posting notices and things like that and kind of made the recommendation that we categorize new TLDs a little bit to get a sense of whether or not a metric would apply to all of them or if the metric should be different for each of them.

And a number of conversations took place at the last ICANN meeting that resulted in this particular draft that Steve prepared. And I think what we need to do is just kind of go through this.

We've gotten some feedback from Jeff Neuman and some from Mike Graham. And I guess we should - and we got a little bit of feedback from Wendy Seltzer as well. So it might be worth discussing some of that even though Wendy's not on the call just to make sure that it's a part of the conversation before we call this finished.

Steve, can I pass it to you to focus us in on anything in particular umbrella wise that came out of some of the conversations that took place at the last ICANN meeting?

Steve DelBianco: Thanks Jonathan. We did start down the road of thinking where these changes would occur. But we also talked philosophically about the need to be clear when closed versus open would be counted in a metric as well as finding out how to come up with a vocabulary of what it means to be closed, whether there's an important distinction between a closed brand like a .amazon and a closed generic like a .book that is available only to Amazon and its affiliates.

And that led us to do - to try to come up with some concrete ways to defining things and that all begins on Page 9. But I think that's all I have in terms of umbrella conversations. But you want to dive right in?

Jonathan Zuck: Well I mean I guess then the last thing is probably - and I just want to see if people have any other reactions. Because the comments that Wendy made I think still fall in the umbrella category. Is there anybody that didn't receive or isn't familiar with the feedback that Wendy provided? It was just a quick email. So it might be worth just to (unintelligible)...

Cheryl Langdon-Orr: Cheryl here Jonathan.

Jonathan Zuck: ...that because they're high level points and not specific ones.

Cheryl Langdon-Orr: It's Cheryl here Jonathan.

Jonathan Zuck: I'm sorry.

Cheryl Langdon-Orr: Cheryl here.

Jonathan Zuck: Yes.

Cheryl Langdon-Orr: Wanting to put my hand up because I'm on that thing that doesn't let me actually put my hand up so I have to jump in.

Jonathan Zuck: Okay.

Cheryl Langdon-Orr: The only point with Wendy's comments that I wanted to raise and absolutely make sure that we're happy with. I did not read it that it required any alteration to what we had put in noting that the comments not only from - well from - on behalf of NCUC if not NCSG but also obviously on Evan is on the call so he can speak for himself.

But I didn't read as if any modification is required but I just wanted to check that everyone else felt that as well. I thought it was a reaffirmation of what had been said, not a reaction to anything new.

Jonathan Zuck: Yeah. And that there was a new draft I guess and she was reacting that her objections hadn't been addressed I guess. And in addition to the dissent that's in there, there's also something at the bottom of Page 2 of the document that explicitly lays out the notion that these metrics aren't designed to create new compliance requirements, contract requirements, et cetera.

I think she has a fear that there's some indirect, you know, (unintelligible) expansion that might come out of setting performance metrics like that because people will manage to them that ICANN, you know, compliance will be, you know, forced for enforce some of the things that we're measuring.

And I think at the bottom of Page 2 we deal with that explicitly. So I too believe there aren't changes called for. I just wanted to make it a part of the agenda. But if we're all agreed, we can move on.

Cheryl Langdon-Orr: Sure.

Jonathan Zuck: Is there anyone else that wants to say anything about these comments before we dive into...

((Crosstalk))

Jonathan Robinson: It's Jonathan Robinson and I had my hand up. So just if I may.

Jonathan Zuck: All right.

((Crosstalk))

Jonathan Zuck: Yeah. Instead of the Adobe thing, sorry. Go ahead.

Jonathan Robinson: No (worry). I was reviewing this and although I understand and fully appreciate the desire to keep the scope to only the changes that were discussed in Toronto, I would like to revisit one metric and just have a brief discussion on that. So I'll save that for a little later but I would like to just flag with you and colleagues on the call that I'd to have a little chat about 1.9 UDRP and URS.

Jonathan Zuck: Okay. So do you want to bring that up and when we get to that particular metric then?

Jonathan Robinson: Yeah. Happy to do that so we sequence through the document and I'll just keep that in mind.

Jonathan Zuck: Do Steve, Michael or Mason have anything Wendy's comment?

Steve DelBianco: Yeah. This is Steve.

Jonathan Zuck: Okay. Go ahead.

Steve DelBianco: In Appendix D we noted in detail Wendy's concerns and then Evan did a little counter to that. And that was with respect to our final draft. Wendy's latest email reiterates that point. But again, in Appendix D Wendy was recommending removal of over half of the metrics in the consumer trust area.

And this working group recognized that as a philosophical difference. We are following what the affirmation of commitments requires with consumer trust as well as the Board's instructions to come up with metrics and definitions.

So we feel that some of - we felt all but Wendy and (Alex) that we were within the scope of what we were supposed to do and it was sort of a philosophical difference there.

Wendy's other concern that you raised Jonathan is I believe a red herring that suggests that setting up metrics would force ICANN to begin to enforce them on a per registry basis during the middle of the program. And that also came up in Toronto at the Saturday meeting and I believe it was Milton Mueller who made that point.

And in fairness I believe that's just a fundamental misunderstanding of what the metrics were designed to do by the affirmation of commitment. It's a review that's done a full year after they're in the root. There is no intent and as you said at the bottom of Page 2 we laid it out. There's no intent on the part of the Board or this working group to micromanage each and every registry to hit every one of the metrics in this. It's an aggregate measure only.

Jonathan Zuck: That's right.

Steve DelBianco: So I wanted to get all that on the record. I strongly doubt that this working group would make significant changes due to Wendy's latest email since we did our best to accommodate and fully acknowledged her dissent in Appendix D.

Jonathan Zuck: I think that's exactly right. I know the issue of enforcement of, you know, new registry promises is a completely separate topic that's going on and I think it behooves us not to let them get conflated with this exercise. You know, if the decision gets made that those promises need to be enforced, it won't be a function of having created this metrics document. Mason.

Mason Cole: Hey Jon. And first I just want to say thank you for letting me join the group this late in the process. I recognize that registrar participation wasn't as strong as it should have been prior. And when this came to the attention of the Council, you know, I've jumped back in. So thank you for letting us join at this far down in the process.

I believe I have the same concern that Wendy expressed only because I - and Jonathan I think that your word that you and Steve that, you know, this isn't going to be used as a document to hold contracted parties to particular metrics is a compliance function.

You'll forgive me for being wary because there's so much focus from the community on contracts right now in general particularly registrar contracts. And there's also a move now afoot to get in the new TLD space the portions of applications for new TLDs transformed into binding agreements as part of registry agreements.

So I do think there's an unhealthy focus on contracts as policy tools. And I'm - as a contracted party I'm just concerned that there's too much migration toward that. So whatever works a workgroup can do to make sure that this document doesn't fall into that same sort of black hole I think would be appreciated on the part of contracted parties.

Steve DelBianco: Mason, this is Steve. Please do when we go through this document, if you spot a single metric that ever implies that the compliance department is supposed to apply the metric on a compliance basis, you bring it up and we'll fix that. We do require compliance...

Mason Cole: (Unintelligible).

Steve DelBianco: ...to produce data for us that...

Mason Cole: Oh yeah.

Steve DelBianco: ...a review team would look at it a year and a half afterwards and figure out...

Mason Cole: Right.

Steve DelBianco: ...whether the program as a whole has promoted consumer trust, consumer choice and...

Mason Cole: Right.

Jonathan Zuck: And competition.

Mason Cole: Right. And as I said Steve, I take you at your word that that's not at all the intention of this group nor the document. I just wanted to flag to the group that that's - I think that - I think that metrics or other measurements can be later on attempted to be used to, you know, to try to get certain outcomes out of contracted parties. And I - it's just an ongoing concern of contracted parties, which I think you can understand that we're sensitive to.

Jonathan Zuck: Of course. So let's keep our eyes open as we go through these things. But I think we've both have the intention and the explicit text in this document that

attempts to prevent that. And it wasn't the mandate of the Board and it wasn't the mandate of the affirmation of commitment to bring about that result.

So I don't think anybody in this group has that intention although Mason I know that some of those intentions exist the organizations you say and everybody on this call probably is in varying levels of agreement with those other efforts. They're not this one I believe.

Mason Cole: Right. Appreciate that. Thank you.

Jonathan Zuck: Why don't we - why don't we move on to Page 9 and start trying to roll through these different categories?

Berry Cobb: Jonathan, Cheryl's hand's up real quick.

Jonathan Zuck: Oh, I'm sorry. So Cheryl, go ahead.

Cheryl Langdon-Orr: Thanks Jonathan. Thanks Berry. That's why you need to keep us honest her Berry because you can't chair calls and manage so many things at the same time all that easy.

I just thought while Mason raised that issue it's appropriate to put sort of on the formal record that we continually need to remind ourselves and everyone looking at us that this work is preamble and preparatory to the review team of the futures work. And there are issues Mason that you have to bring up with them.

Jonathan Zuck: Yes. All right. Well that's perfect. Why don't we...

Cheryl Langdon-Orr: Page 9.

Jonathan Zuck: ...why don't we dig in. Berry do you want to scroll this forward her to Page 9...

Berry Cobb: Yes.

Jonathan Zuck: ...as the beginning of the metrics?

Berry Cobb: So what we're viewing is the version that Michael had just sent out to the group. So I believe it contains the changes suggested from Steve and from Michael.

Jonathan Zuck: Okay. And as we go along there's a - we'll see a few things that - we'll bring up some things that Jeff Neuman has had as feedback as well.

Steve DelBianco: Great. So as the one who tried to dump this in, what I did on Page 9 was to acknowledge that we had some feedback with respect to open and versus closed. And to try to suggest a concrete objective definition of what is closed.

And what I focused on was the registry code of conduct that's known as Specification 9. And I've suggested that if a TLD operator requested and was granted the exemption to Specification 9 well that's what allows them to close the (unintelligible) their own registrar if they wish. But it also allows them to own domain names for their own accounts - for them and for their affiliates. They cannot transfer control of the domain name to any third party.

So I think that the cleanest definition of closed when I went through the guidebook is an exemption to Specification 9. There's really only one other time it's mention and that is the discussion of the registry contract where they talk about what happens to the termination of a TLD that if a TLD shutdown that ICANN gets to take the zone and re-delegate it.

But in that section of the contract it says that if it's solely used for their own purposes and their own registrants sort of a single registrant TLD that the TLD would not be re-delegated unless the TLD operator wanted it to be.

So other than that, you're not going to find the word closed or band or open in the guidebook. And you're really only going to find this distinction in Specification 9.

So I wanted to put that out for discussion to see whether you think this is an appropriate way to distinguish it and remind everybody that a community TLD would not be considered closed because registrants and users can go to a community TLD and the registrants just have to satisfy the conditions of the community to get in. But they are in fact third parties whereas a closed has really no third parties.

I'll stop there and we'll take a queue on this.

Jonathan Zuck: Makes sense. Michael.

Michael Graham: Yeah. Just by way of explanation what I was trying to do in my suggested revisions was just clarifying perhaps for myself and then also possibly for publication what I understood that Steve was getting at. In looking at it, there are a couple of additional things perhaps for clarification. And thank you Steve for pointing out the fact that these are terms that are not otherwise defined although I think they're widely understood.

But I think in this - in the second paragraph here where it says in whatever way to maintain all domain name registrations, perhaps for clarity sake to use the terminology all second level domain name registrations. And then I...

Steve DelBianco: That is what it says in the registry code of conduct. It says all domain name registrations in the TLD. It doesn't say all second.

((Crosstalk))

Michael Graham: ...if we said all domain name registrations in the gTLD.

((Crosstalk))

Steve DelBianco: That could be second and third level. The way it's written I wouldn't say that we know it's second only.

Michael Graham: Right. However it's stated if we could adopt that language. As it stands all domain name registrations, domain name is rather loosely used elsewhere I think including the language as you were pointing out would be the way to do it. You said that it reads domain name registrations in the gTLD.

Steve DelBianco: In the TLD.

Michael Graham: Okay. Then I would just add in the TLD after registrations.

Steve DelBianco: Okay. Maintain all domain name registrations in the TLD.

Michael Graham: Yeah.

Steve DelBianco: And what I had was for their own exclusive use. And that again is exactly verbatim as what's in there. The words own exclusive use. You have added for a closed group of entities and that's not in there.

Michael Graham: Right. And actually I think that could be removed because their own exclusive use if they so decide to also grant domain names to, as you said, affiliates or other entities. That's their decision but it's under their control. So I think we could take out the or a closed group of entities.

Steve DelBianco: That's fine. And thanks Michael. And Berry, would you be holding the pen or should I? What - how we doing this?

Berry Cobb: I've got the pen.

Steve DelBianco: Okay. So would you please add after domain name registrations you would say in the TLD for their own exclusive use?

Berry Cobb: Got it.

Steve DelBianco: Their own exclusive use and take out Michael's change there. You know, what - I added a sentence rather than make one long sentence. I added the sentence that the conditions and criteria to grant the exception are set forth in Paragraph 6 of the code of conduct. Is it really necessary to smush that into the previous sentence and lose the conditions and criteria?

Michael Graham: No. Keeping it separate (unintelligible) where you're pulling this from, I think it makes sense to keep it to two sentences that you have.

Steve DelBianco: And Michael you weren't in Toronto so you wouldn't have known this but there was quite a lively debate in the public forum on what the conditions are to grant the exceptions. Because the third condition talks about that it would be in the public interest to grant this exemption.

So I and several folks including Olivier went to the mic to discuss that in Toronto because ICANN doesn't really have a definition for what public interest is to grant this exemption. That's not for us to worry about in this particular document but I'm sort of clarifying Michael why I had it as a separate sentence.

Michael Graham: Okay. Thank you. And that was one portion of the public forum that I did miss. I think lunch came along at that time.

Steve DelBianco: And then Michael, you're right about the word do as a typo on my part. And as you walk down into the four definitions, it may be that this group will conclude as we walk through the metrics, you may conclude we don't need the closed brand and closed keyword distinctions.

I have them in there because when we looked at the metrics I thought the brands and some - at least two cases brands are different than keyword. So when we move ahead to them, you'll see where that's used. If you as a team decide you don't need them, we'll be able to simplify this definitions page.

Michael Graham: Yeah. I do have a question there in both of those definitions where we use the terminology recognized trademark. I'm not quite sure what that means and also determining whether or not something is a trademark is an additional burden in the analysis obtaining and reporting portion of it. And I'm just wondering...

Jonathan Zuck: (Mike), do you have a better way of getting at the idea of a brand - how to describe .nustar? I mean this is a little bit like we - I mean because this is not a legal document we're creating here. This is sort of a know it if you see it.

Michael Graham: Right.

Jonathan Zuck: And we kind of know what the brand TLDs are and this is just a way to kind of write down (unintelligible).

Michael Graham: Well that's why I'm sort of wondering if - I mean by putting in the term recognized...

Jonathan Zuck: ...contract or something.

Michael Graham: ...that suggests it's either recorded in the TMCH or it's registered or something else whereas if you just say trademark that leaves it open to interpretation and also when the actual review team gets together they can determine what it is that they want to do to determine when it's a trademark or not.

Steve DelBianco: Well Michael, this is Steve. Everybody says a brand TLD in the ICANN community. And there are people even publishing lists of the brands in almost

every case to recognized trademark brand. Is they range from the really specific like Google and Microsoft, the word Kindle, the word Amazon. And I know that Amazon also refers to a (unintelligible) Apple as Apple computer.

Michael Graham: Right.

Steve DelBianco: I mean I think everybody pretty much knows what we mean by this brand. And there's a risk that if we make this more complex it will imply that we're trying to create a new distinction.

Jonathan Robinson: Steve, Steve. Excuse me. It's Jonathan. I have - I think I agree with Michael here. It's actually less complex to simply remove the word recognized. By putting the qualifier recognized in there, it just leaves someone to make a (unintelligible) of what recognized is. I think if we just simply say trademark you've got it.

Steve DelBianco: Well if that's what Michael was suggesting, I welcome that edit.

Michael Graham: Yes. That's exactly what I was suggesting.

Jonathan Zuck: Okay. Well that's fine.

Steve DelBianco: Berry, we could remove recognized on the third definition.

Berry Cobb: Got it.

((Crosstalk))

Steve DelBianco: Why don't we move on?

Jonathan Zuck: ...make it more complicated, not less so. So we apologize for jumping to that conclusion. Are there any other comments on the definitions? Should we dive into their use then?

Steve DelBianco: Yes. The first set of metrics under consumer trust and the first one in here that we've suggested is the service availability should only apply to open TLDs. And this was in fact the example that Jeff Neuman cited in a email he sent all of us the day before we all went up to Toronto.

And, you know, and Jeff was very respectful and grateful for the work we had done but he did point out this example that .nustar wouldn't necessarily - actually he didn't point this out. I pointed it out to him, that's right. That .nustar wouldn't have to keep its registrar portal open to the same degree of service liability because the public doesn't use it.

There are no public registrars allowed to register in .nustar. So they may or may not bother to keep their EPP SRS up at the 98% up time. Any comments on this? Are we all good with it?

Man: All good.

Steve DelBianco: One dot four there's a comment in there in blue and I'll let Michael Graham explain what he had in mind here.

Michael Graham: One thing I was trying to do as I was looking through these insofar as we are distinguishing where necessary between brand TLDs and open TLDs is where it might be appropriate to signal that we are looking at one or the other or at both.

And this was one of the very few I must admit spots that it seemed to me that it might not - that it might be advisable to put something in so that it is clear that we are looking at the differences between user experiences and these various types of TLDs.

I don't know that it's necessary but it seemed like an appropriate place to put it as again a signal and also a signal insofar as there are really no separate

metrics that we've established for governing and taking a look at the affect of the brand gTLDs on consumer trust, consumer choice and competition.

But by placing it as a suggested area of review in this survey that we have suggested seemed to me to be appropriate to find out what that experience might have meant through the qualities to Internet users and registrants. So that's why I thought including this as one of the areas to explore in the survey might be useful.

Jonathan Zuck: Okay. Evan, you have a comment on that?

Evan Leibovitch: Yeah. I also did on 1.3. I've had my hand up for a bit. But I'm actually opposed to this change. I don't think there needs to be a distinction made. I think the kind of metrics that are in 1.4 apply to everything. I don't think we need to apply extra ones to close brand TLDs frankly. I just think this injects some bias into the paragraph.

We should be able to do a survey of all of them. I don't think we should have to close ones separately in this. And I really don't see a reason to single them out.

And on 1.3. I'm a little hesitant about putting that in and mainly because if we want to go back to the example of .nustar; .nustar may be for the exclusive use of NuSTAR and its associates. But it's accessible and its URL is usable by anyone in the world.

So you could conceivably have a situation where an episode of abuse points back to a .nustar URL. NuSTAR might not be aware of it but there has to be some way that the public can point out or that they have to be able to track it down. They have to be able to point it out. And there has to be some public confidence in the ability to do that.

I would agree in limiting 1.3 to open TLDs only if .nustar was inaccessible to the public. It isn't inaccessible to the public. Any URL and any browser will be able to point to a .nustar URL and it will work. The fact it can only be registered to NuSTAR's internal organization does not eliminate the fact that it can be reachable from outside NuSTAR and therefore I would not...

Jonathan Zuck: (Unintelligible) related to being reachable or is it related to making (unintelligible) available?

Steve DelBianco: Couldn't hear that Jonathan. And this is Steve. So keep...

Jonathan Zuck: Sorry. I guess I'm saying...

Steve DelBianco: ...in mind that 1.3 has nothing to do with resolutions by end users. It has to do with...

Jonathan Zuck: That's what I'm saying.

Steve DelBianco: ...registrars - interfacing with the registry...

Jonathan Zuck: So (unintelligible) - so I think your point...

Steve DelBianco: ...to new domain names.

Evan Leibovitch: Okay. There's two people talking at once. I can't hear what's going on.

Jonathan Zuck: (Unintelligible). I guess my question to you Evan, I get your point generally. I don't get how you're applying it to 1.3.

Evan Leibovitch: Okay. Yeah. Now that I'm seeing specifically - okay. All right. I might have a problem elsewhere but 1.3 is too technically specific. I don't have a problem with that. But I'll stand by my objection in 1.4 that I don't think closed has to be singled out.

Jonathan Zuck: Okay.

Steve DelBianco: Jonathan, Steve's in the queue.

Jonathan Zuck: (Unintelligible) what you said is an overarching thing that we - that definitely brands need to be a part of consumer trust. I think that's something we can all agree on and we should be careful not to let them off the hook sort of as it were generally speaking. But if it's something specific to registrations, then...

Evan Leibovitch: I agree. Because we have a situation in which the public is going to be able to access them. They may not be able to register them. But the public is going to be able to access them. And so this is a matter of public trust. Then we need to be able to deal with every domain that can be reachable by the public, which may extend to things that they can't register but they can certainly get at.

Jonathan Zuck: That's exactly right. Steve, do you have another comment?

Steve DelBianco: Yes. I'd like to agree with Evan. It doesn't make sense to call out closed brand in this way. By calling it out, it implies that the rest of this paragraph didn't apply to closed brands, oh, but they all do.

This survey would be of users and registrants and users do visit everything. Not just closed brands but closed keyword. Registrants - and it wouldn't make sense to survey registrants on their experience in a closed brand TLD anyway because registrants can't register in a closed brand TLD.

So Michael, I think we get at it by not mentioning this...

Cheryl Langdon-Orr: Yes.

Steve DelBianco: ...but instead understanding that 1.4 covers all. And that's why we didn't want to put any qualifier in here. So I would agree with Evan on that.

Cheryl Langdon-Orr: Yeah.

Jonathan Zuck: Me too.

Michael Graham: And this is Michael...

((Crosstalk))

Jonathan Zuck: ...Michael or does that make sense?

Michael Graham: I'm sorry, say again Jon.

Jonathan Zuck: I was just saying do you need another bite at that apple or did what Evan and Steve make sense?

Michael Graham: No. What they say makes sense. I can live with that. And with that understanding.

Jonathan Zuck: Right. Perfect. So we're going to leave then open TLDs only in 1.3 and we're going to remove Michael's additional sentences Berry from 1.4.

Berry Cobb: Yeah.

Jonathan Zuck: And then let's keep going.

Cheryl Langdon-Orr: Yeah. Happy with that.

Berry Cobb: This is Berry. I've got it.

Steve DelBianco: This is Steve. On 1.5 Jeff Neuman...

Jonathan Zuck: That's right.

Steve DelBianco: ...had a question. But 1.5 is the uptime for things like Whois. And Jeff Neuman pointed out that all of the new TLDs have to be thick Whois and why is the uptime of a registrar service relevant. Mason, you and Robinson are on the call, help us out with this with respect of thick Whois. We still had the impression on this working group that the registrar had to maintain the uptime.

Mason Cole: Give me one second.

Steve DelBianco: The SLA is in the registrar accreditation agreement as far as I know.

Mason Cole: So if I understand one point - I'm sorry, Mason speaking. If I understand 1.5 correctly, what we're looking for here is a measurement of uptime for registrar facing services, right, Whois contact, complaints. Assuming the SLAs are established for these measures in the new RAA, you mean in the...

Steve DelBianco: That's right.

Mason Cole: ...new RAA there would be SLAs for us to maintain or for registries to maintain?

Steve DelBianco: No, the registrar.

Mason Cole: Oh, I see.

Steve DelBianco: And the reason I have three of them in there - I have Whois. I have the contact info because I have heard law enforcement talk about the need for registrars to be reachable.

Mason Cole: Yeah.

Steve DelBianco: They have to have a reachability for their contact, the 24/7 contact.

Cheryl Langdon-Orr: Yeah.

Steve DelBianco: And registrars have to maintain a complaint of intake facility that has to be up...

Mason Cole: Correct.

Steve DelBianco: ...so that they can take complaints on names they have registered.

Mason Cole: I don't know...

Steve DelBianco: And the word Whois, contact info and complaints were three of the things we heard about in the RAA. And we're suggesting that if those things get negotiated in the RAA and they have uptime SLAs in the RAA, then those should be measures of consumer trust.

Cheryl Langdon-Orr: Yeah.

Mason Cole: Yeah I - and you'll forgive me because I'm not part of the negotiating team and I'm (unintelligible) but if I recall, there - the last time I think we had a discussion on Whois SLAs, I don't remember agreement that we had to have an SLA in there because generally it's up all the time anyway. But let me see if I can find out. I'll try to find out before the end of the call.

Steve DelBianco: All right. And Neuman's point is just to strike the word Whois. He understood...

Man: I agree.

Steve DelBianco: ...we need to retain contact info and complaints because there was discussion of having those in the RAA. And if they don't make it to the RAA, this one will be disregarded by those who come after us at defining the metrics for the Affirmation Review Team. This one may be...

Man: (Unintelligible).

Steve DelBianco: ...non-applicable if the RAA doesn't have a service level agreement for these three elements.

Jonathan Robinson: Steve, can you hear me? It's Jonathan Robinson.

Steve DelBianco: Go ahead.

Jonathan Robinson: Yes. Steve, I think I'm with Jeff on this. I think you've made it pretty clear to the extent that these are measures in the new RAA, to the extent that they're not they get struck off. But nevertheless this is - I can't see how Whois would be if we are on a thick Whois system. So it's just a contradiction of having registrar services and Whois when we're defaulting to thick Whois.

So I think if you remover Whois, if that's what Jeff was suggesting, from my point of view -- I'm not speaking on behalf of the registrars -- that's - we're good to go.

Mason Cole: I would agree.

Steve DelBianco: I have a technical question then. During the initial new TLDs, do you mean to say that registrars will not offer any Whois for the sake of gTLDs? It just - they will not be required to even return answers to that. That surprises me.

Mason Cole: I don't know if that's the case Steve. I'm sorry. I would have to find out the details. I don't - from a market point of view, I can't imagine that we wouldn't make Whois available for all TLDs.

Steve DelBianco: That's exactly what I'm guessing because you already do.

Mason Cole: Right. So I just don't know it's required. I'm not sure that it is.

Steve DelBianco: So...

((Crosstalk))

Steve DelBianco: I don't know for sure that we take this out.

Jonathan Zuck: And again, this is a such as kind of list as well and so I'm not sure that making this decision now is that important because it's about registrar services. So if they - there might be something on - that needs to be on this list that isn't that some that isn't need not be...

Cheryl Langdon-Orr: Yeah.

Jonathan Zuck: ...based on the outcome of the RAA agreement. I'm not sure it's something we need to resolve.

Mason Cole: Good point.

Jonathan Zuck: Because registrar services is what this metric's about, not specifically what they are. Those are just examples.

Steve DelBianco: Mason, as they representing this for the registrars, would you - we'll go - we'll actually assign this to you and you can get back to us. It doesn't even have to be on this call. In the next couple of days. And if you guys are not required to maintain Whois, fine, take it out. But I would think you've had to retain it because not all of the - not all of it's going to be thick and you're still going to have the service available.

Mason Cole: I'll find out Steve.

Berry Cobb: This is Berry. I mean instead of actually doing the action item, why don't we just put pending RAA negotiations because I mean it's so loose at this point anyway we can't put a - we can't nail this one down. If in fact...

Jonathan Zuck: It's already (unintelligible) Berry. I mean that's...

Steve DelBianco: Well he says assuming, so why don't we change it to if these SLAs are established - if SLAs are established for these measures in the new RAA. So take out the words assuming that and replace it with the word if. How does everyone feel about that?

Jonathan Zuck: I don't think it makes any difference. I don't mean to be disagreeable but I think this thing's already worded correctly to accommodate all those outcomes.

Evan Leibovitch: This is Evan. I absolutely agree with that. I mean the whole point behind such as has already been said is that...

Cheryl Langdon-Orr: Yeah.

Evan Leibovitch: ...it is a set of examples. Either take out the whole such as clause or leave it in. I mean it's just giving examples. It's not exclusive. It's not exhaustive.

Jonathan Robinson: No objections from me. Jonathan Robinson.

Cheryl Langdon-Orr: And I - Cheryl here. I'd prefer the such as clause is left it but obviously (unintelligible) such as...

Steve DelBianco: We weren't discussing such as. I was suggesting the words assuming that could be changed to the word if.

Cheryl Langdon-Orr: Yeah.

Jonathan Zuck: Has the same meaning in this context. But I vote just to leave it - just to leave it alone unless everybody has objection.

Steve DelBianco: Okay.

Jonathan Zuck: Let's move on.

Steve DelBianco: There is one question mark that...

Jonathan Zuck: (Unintelligible).

Steve DelBianco: ...Jeff Neuman asked me about 1.6 and 1.7. Thanks Berry. One dot six all that Neuman asked me was why are these not the same as or lower as opposed to significantly lower. But I'll just answer Jeff that that's the working group felt that significantly lower was necessary.

And then Jeff asks a question on 1.7. On 1.7 Jeff Neuman thinks it should only apply -- the breach notices -- to registrars with respect to the new gTLDs. So in the second line of 1.7 the relative incidents of breach notices issued to registrars with respect to the new gTLDs. Not an open or close but just all the new ones.

And for evaluating the new program and it turns out that the registrars are having breaches with respect to old legacy gTLDs we probably shouldn't count them. I think that's a pretty good - that's a pretty good catch. All would agree?

Cheryl Langdon-Orr: Yes.

Evan Leibovitch: This is Evan. I don't.

Cheryl Langdon-Orr: Why?

Evan Leibovitch: I - look, what are we measuring here? We're measuring consumer trust. Consumers aren't making a distinction between old and new. Consumers are looking at the whole ecosystem. And splitting hairs like this, you know, it may serve industry.

It's not serving to me the public interest because if this is supposed to be a measure of public trust, if this is to be a matter of the people that use the Internet, not the people that buy or sell domains, they're not making that distinction. And I don't think it helps anything in that regard to split hairs like that.

Steve DelBianco: Evan, look at 1.7. All of these on this page in front of you are comparing the new gTLDs with the legacy.

Evan Leibovitch: Right.

Steve DelBianco: So I don't disagree with you. Consumers don't care but the point is the affirmation review does care. The affirmation review is supposed to look at whether the expansion promoted consumer trust. So we do all over this document we measure the new...

Evan Leibovitch: Right.

Steve DelBianco: ...gTLDs activity in the new and we compared it to the contemporaneous activity in the legacies.

Evan Leibovitch: But is the - can you be - can you absolutely be assured that the expansion is not going to have any affect of breaches into legacy TLDs?

Steve DelBianco: Well the beauty of this measure is that we would say count up all the breach notices to registrars with respect to their activity in the new. And then compare that to the incidents on the legacies. (We have to say)...

Evan Leibovitch: Which means you have to measure both. Which means you have - which means you have to measure both and you can't just draw a line and say we're only measuring one. You're absolutely right.

Man: (Unintelligible).

Steve DelBianco: Now we do measure - we do draw the line. We drew on the line on nearly every single metric in here - we draw the line.

Evan Leibovitch: I understand. But what you're saying is...

Steve DelBianco: Point out - is it - to make it a little clearer and this might be true of more than just 1.7. There might be several on this page. We almost infer that the measures refer only to the new gTLDs. We almost infer that. And maybe there are more places we should say it. Now 1.7 is one place where we would say that relative (innocence) of breach notices with respect to the new gTLDs, that's the measure and look at the target.

The target is it should be significantly lower than the relative incidents in legacy TLDs.

Michael Graham: Steve, it's Michael. Let me raise my hand and I agree with Evan as I'm thinking of this because measurement is not only the new gTLDs. It's of the DNS. That introducing the new gTLDs will have these particular affects not in the gTLD space alone in this case at least 1.7, but in the system itself.

So that we're not looking - I would go along with Evan. We're not looking only at the new gTLDs. We're looking at the entire system.

Steve DelBianco: You're right and that's exactly what it says; 1.7 says you would measure breach notices...

Cheryl Langdon-Orr: In both.

Steve DelBianco: ...that registrars have with respect to the new and our goal is that the breach notices there is significantly lower than the breach notices those registrars are having with the legacy gTLDs.

Cheryl Langdon-Orr: Yeah.

Evan Leibovitch: Then I would - then if the issue is clarification, then it's - then the clarification actually needs to be stated in the target, not in the measure. So what you're saying is it's - if it's clarity you're saying, significantly lower, what significantly lower? Incidences in the new TLDS.

So what you're actually - what you're actually advocating for is a change in the wording of the target, not in the measure.

Steve DelBianco: If it's either or Evan. If we change it in the measure, then the target is about the measure. And that's typically the way we've done it is that we make the measure as explicit as we can and then the target simply refers to that measure.

Evan Leibovitch: Okay. I'm just saying right now if you - if somebody wanted to be nitpicky they'd say - I'd say right now the target is - it says significantly lower. What's significantly lower?

Cheryl Langdon-Orr: The relative incidences of (unintelligible) in 1.7.

Steve DelBianco: It wouldn't make sense to repeat, like Cheryl just said, to repeat the entire text of 1.7 in that skinny little target column. In all cases the target column refers to the measure that's in the first column.

Evan Leibovitch: Okay. Okay. I see what you're getting at. And I guess I can withdraw my objection to this. I just don't want this to result in a situation where only the new ones are being measured. Because in order to have...

Man: (Unintelligible).

Steve DelBianco: ...this kind of - in order to be able to have that target, you have to measure both.

Jonathan Zuck: Well and when we talk about the relative incidents Evan, that's - I think that implies measuring both.

Cheryl Langdon-Orr: Yeah.

Evan Leibovitch: Okay.

Jonathan Zuck: That delta will need both numbers.

Evan Leibovitch: Okay. Then I withdraw my objection.

Steve DelBianco: And ironically 1.6 all the way through 1.10 are identical in this regard.

Cheryl Langdon-Orr: Yeah.

Steve DelBianco: And so we wouldn't do Neuman's change just to 1.7. We either leave it alone, explain in a footnote, assume that readers would have gotten it by now. But it doesn't make sense to change just 1.7 and not the rest on this page.

Evan Leibovitch: Yeah, you're right. I'd much - personally - I'm sorry. I'd much prefer - if you're going - if that's the issue, then make it explicit rather than a footnote that you've got to read elsewhere.

Steve DelBianco: And by making it explicit, are you thinking that each of these, 1.6, 7, 8, 9 and 10 would each have the words with respect to new gTLDs somewhere in the text?

Evan Leibovitch: What about in - what about making it clear in that header in gray right above because it's applying to all of these? Measures related to confidence that new gTLD operators are fulfilling their stated promises. Or is that still being a little too subtle?

Steve DelBianco: No. Then no all operators; 1.7 is registrars. You know what I mean? So it's not all operators. Sometimes it's the registrars serving the new. You know, if I explained it to somebody like Jeff and Mason you're new to this. Now that you've seen the explanation, it's clear that all five of these metrics are going to measure it for the entirety of the domain space.

Mason Cole: Yeah.

Steve DelBianco: And the target is that the news would be significantly lower than the legacies.

Mason Cole: When you - I'm sorry, may I get in?

Steve DelBianco: Please.

Mason Cole: When - Mason speaking. When this was crafted, was it with the understanding that breaches would be related to producing of TLDs or that they may be related to other issues?

Steve DelBianco: All breach notifications should be counted in 1.7. That's the text.

Mason Cole: Okay. Because I don't know that breach notices have to do specifically with individual TLDs. Right. So if you've got breach notices for registrars now in legacy TLDs, I don't - you know, there may be a breach across old and new

and it's the same breach. Right. So I may be in breach of some provision of the RAA but it's not specific to the TLDs that I (unintelligible).

Evan Leibovitch: It could be.

Steve DelBianco: On the other hand, I'll be there are breach notices that are referencing a specific TLD. I'm positive that there are.

Evan Leibovitch: There absolutely can be. There could be breaches in fact to individual domains.

Jonathan Zuck: And there's - and I think that distinction is easy to make when the time comes because again, all of this information is going to be tracked. I mean that's Berry's comment.

The thing if I want to reiterate is that all this - once we establish things to be measured, they're not going to pick and choose what to measure. Going to pick and choose what to analyze and report on when it comes to the review team. So they can certainly exclude breach notices that are not TLD specific.

Evan Leibovitch: I have a suggestion to - a solution to this that I think may be not very wordy and may address what you need. And I'm going to go back to the target and for adding three words to each of them. Significantly lower for new gTLDs than blah, blah, blah because we're repeating basically the same thing across 1.6 to 1.10 anyway.

So if you just add the words after lower for new TLDs - for new gTLDs, essentially you're accomplishing what Jeff is suggesting across the board on these.

Steve DelBianco: So they would read significantly lower for new gTLDs than - or compared to legacy gTLDs.

Evan Leibovitch: Yeah.

Steve DelBianco: Significantly lower for new gTLDs...

Evan Leibovitch: Than for legacy gTLDs.

Steve DelBianco: ...than for legacy gTLDs.

Cheryl Langdon-Orr: Cheryl here. I have no problem with those modifications as they're heading but I do have I think an almost painful memory of bludgeoning the words relative incidents into these. So let's make sure we don't throw babies and bath water there together.

Steve DelBianco: Yeah. Great point. Any time - if we made Evan's change, then we have to make sure that each of the metrics in Column 1 have the word relative incidents.

Cheryl Langdon-Orr: Yeah.

Steve DelBianco: Because relative incidents for the newcomers on the call...

Cheryl Langdon-Orr: Oh yeah.

Steve DelBianco: ...is all about relative to the total population. When it has to do with domains it's a relative population of registrations. You know, when it has to do with TLDs, it's a relative population of TLDs.

Michael Graham: Well this is Michael. I know that 1.8 does not include those terms over in the measure.

Steve DelBianco: Right so what - I - this is Steve. And I think Evan's got a good fix here. We would change 1.8 to say relevant incidents of registry and registrar general complaints instead of quantity. And then change all of the targets to say...

Cheryl Langdon-Orr: In new G...

Steve DelBianco: Well not all of them say significantly. Two of them say significantly. The other three just say lower.

Cheryl Langdon-Orr: Yeah. But just add the new Gs n there but don't (ditch) relative incidents.

Evan Leibovitch: I agree with Cheryl.

Steve DelBianco: Oh, you could (ditch) because relative incidents is in the metric column Cheryl. I guess that's...

Evan Leibovitch: Ninety-one point eight.

Steve DelBianco: I know. But I was just recommending we change 1.8...

Evan Leibovitch: Got it.

Steve DelBianco: ...to say relative incidents than of quantity. And if we do that they're all identical.

Cheryl Langdon-Orr: Yeah.

Steve DelBianco: And that all the targets can read either significantly lower or lower for new gTLDs than for legacy gTLDs. And that way the target reads simply and it always refers back to whatever's in Column 1, which in all cases will be relative incidents.

Cheryl Langdon-Orr: Yeah.

Evan Leibovitch: And the clarity that Jeff wants will be there.

Steve DelBianco: I think so. That's a good fix Evan.

Cheryl Langdon-Orr: Right.

Steve DelBianco: Berry, does that make any sense to you?

Berry Cobb: This is Berry. I've made those changes. So 1.8 now says relative incidents and each of the targets have for new gTLDs.

Steve DelBianco: You retained the words significantly lower or the word lower?

Berry Cobb: Yes. Yes.

Steve DelBianco: You took out than relative incidents in.

Berry Cobb: No.

Steve DelBianco: Yeah. Yeah. Under the target column it would now say the words significantly lower or lower. Then the word for new gTLDs than for legacy gTLDs. Right Evan?

Evan Leibovitch: Right.

Berry Cobb: Okay. I got it.

Tobias Mahler: May I make one additional suggestion. This is Tobias speaking. In terms of 1.7 we still have this last sentence or breach related notifications should be counted. And I've just looked at some recent examples of breach notices and one I found where it said that this is a notice because you didn't pay and because there was an incident or some problem with (unintelligible) domain name.

So that's perhaps an example of what is out there. So there might be breach notices that are only for failure to pay money and others that are related to specific domains.

So my suggestion would be to amend the last sentence of the first column on 1.7 to say that all breach related notifications should be counted provided that they include a specific top-level domain. This way we would disregard those that are only for failure to pay. Would that make sense?

Steve DelBianco: Yeah. Sometimes the breach would be a group of TLDs and not just one. And I think Tobias - this is Steve. I think what you said makes good sense. The reason we have the words all breach related notifications is that there are often a series of notifications and early warnings and escalation and then a final warning.

Compliance got on the phone and explained that to us. And that's what we meant by all notifications. It's at every stage of the breach process, not just a final breach notice.

So if we could keep this language and just supplement it with, as you said, all breach related notifications should be counted, provided they make specific reference to one or more gTLDs. Berry does that make sense?

Berry Cobb: Can you repeat that once more then?

Steve DelBianco: At the end of the words all breach - this is 1.7. I'm really just echoing what Tobias said. I do think it makes sense. All breach related notifications should be counted, provided they reference one or more gTLDs. Or you could say the word gTLD and put the S in parens. Provided they reference gTLDs.

Berry Cobb: Okay. I got it.

Steve DelBianco: That gets to what you wanted Tobias, right?

Tobias Mahler: Yes it does. Thank you.

Jonathan Zuck: Any other comments for Page 11? Let's go to 12.

Jonathan Robinson: It's Jonathan. This is my 1.9 comes in here. Should I fire away with 1.9?

Jonathan Zuck: Yes please, go ahead.

Jonathan Robinson: Thanks Jonathan. Right. So, you know, I was prompted to revisit this by looking at Wendy's comments. And, you know, some of you may remember the background to this more clearly so you - by all means if I go off track here let me know.

There's a - there's two thoughts I've got on this. The first is on the use - and if I (unintelligible) clearly intended to be that way is the use of the word complaint. Because when I think about this really we're talking about - this is to Wendy's point I suppose.

A complaint simply is the incidence of a complaint. Really what we should be concerned about is successful decisions. Complaints that lead - let's just stick with the UDRP for a moment. Complaints that lead to a successfully UDRP decision in favor of the complainant simply...

Steve DelBianco: But Jonathan please quickly look at 1.10. We have both in here on purpose.

Jonathan Robinson: I apologize. Right. So that wasn't my - and that's great. So if that - okay. Very nice Steve. That's fine. Thank you. Sorry.

Second point. The threshold for UDRP and URS is quite substantially different. Now my commercial experience is that in some cases - let's take a notional threshold for UDRP of say \$5000. It might be as much as \$10,000 to process a UDRP when all the advice and everything is taken into account.

Some complainants or brand owners who've been infringed may take a view that the commercially more pragmatic approach is to simply pay \$1000 to the cybersquatter and move on.

So the price makes a difference. And clearly the URS is priced quite differently to the UDRP. So I wonder about bundling these two and whether we shouldn't say something different which says the relative incidents of UDRP complaints and then make a points that the incidents of URS being a new mechanism should be considered in this context as well. Should be monitored alongside it.

Steve DelBianco: Well...

Jonathan Robinson: My simple concern is bundling the two. Steve, correct me if I'm going over old ground here.

Steve DelBianco: It is. And it is old ground and as you quite correctly identified, this is all about comparing the expansion of the program versus the pre-expansion world or the legacy gTLDs. And you can't compare these on an apples and apples basis because in the new gTLDs, URS will be used sometimes instead of UDRP.

And we cannot do URSeS in the legacy gTLDs. So we have to compare our apples and oranges against their apples to get an equivalent quantity of complaints with respect to cybersquatting. And we knew going in that this would be a problem and that's why we wrote that explanatory text in 1.9.

Jonathan Robinson: Yeah. Okay Steve. Look, I'm going to back off on this one. I'm not going to die in a ditch over it by any means. But having re-read it, it does strike me that my preference would be to have relative in terms of UDRP and then to monitor URS as opposed to as you say putting apples and oranges in the same cart.

I would be - I'd be more comfortable with comparing apples with apples and saying but by the way oranges my influence this mark as well so we should monitor that.

Steve DelBianco: But that means count them.

Jonathan Robinson: Right.

Steve DelBianco: Right. And it means count them and it isn't apples and apples to compare UDRP and the new gTLDs since the whole design of URS is to discourage the use of UDRP and do it more quickly through a URS. So we do expect the UDRPs to go down, relative incidents that is, in the new gTLDs.

Yeah. Because what you're suggesting is measure them all - measure all three but don't necessarily add URS and UDRP when doing the comparison. The truth is we only had to do this because the Board asked us to do targets. Had they not asked for a target, we wouldn't necessarily have done the math of combining and would have allowed the review team to just take a look at URS and UDRP and they probably would have added them together.

Jonathan Robinson: Yeah. Well I mean they should be compared with some sophistication I suppose. And the danger here is that there's a crude metric oh, UDRP plus URS is higher than UDRP previously; therefore new gTLDs are worse. And it just - it simply doesn't follow that logic. But we may be stuck with that.

I mean I hear your argument so and I don't want to slow up this call completely on this point unless there's, you know, unless there's anyone else has support for this or a particular inspired alternative. I'll back off on it.

Mason Cole: Steve, may I.

Steve DelBianco: Go for it.

Mason Cole: Mason speaking again. I share a bit of Jonathan's concern because I think registrars experience is that there are parties who will intentionally over complain with not necessarily expectation of winning a name. I'm also a little worried about this one because I think registrars have seen mischaracterization of UDRP complaints in the market -- specifically in the press -- in general that paint an inaccurate picture of what's happening with cybersquatting.

Now that's my concern. And your question is what do you want to do about it with regard to this metric. And the immediate answer is I'm not sure. But I do agree with Jonathan. I think you've got a bit of skewed situation here because URS and UDRP are different. You've also got a situation where complaints can be overdone and give a misimpression of the rate of abuse in a TLD.

Steve DelBianco: And this is one of 60 metrics that will be taken in total to determine whether the new gTLD expansion contributed to consumer trust, choice and competition.

Mason Cole: Yeah. I get that. And...

Steve DelBianco: We can't just take it out. I mean how could we ignore one of the quantitatively accountable elements that we have at our disposal?

Mason Cole: I would say I'm not suggesting that we ignore it and I completely understand it's one of 60 but in my experience it's one of - it's a lightning rod one of 60. So, you know, like I said, I don't have an immediate suggestion but I'm - while we're talking I'm going to sit here and look at this for a minute.

Michael Graham: Steve, it's Michael. Let me raise my hand. Just by way of explanation of the apples and the oranges, under the legacy gTLDs there were only apples. So if you had a terrible situation that presumably would be covered by a URS complaint in the future, you could only bring that as a UDRP so that the sort

of complaints that you would bring are either URS or UDRP would all have been under UDRP.

So although we now have oranges and apples, before they were all mixed together and we called them all apples. So to the...

Steve DelBianco: Right. (Unintelligible).

Michael Graham: ...and that was one reason why we included the URS in this. I understand the concern about the lightning rod. But we're not putting the rod there. We're just measuring the strokes of lightning I think. And that's something useful once we have that information going forward, which was as Steve pointed out, one of 60 metrics that we put out there.

Whether or not they utilize this or not, it's one that we're putting there on the table as something that they should consider. And what is made of it later we also don't have any control over. But...

Cheryl Langdon-Orr: Yeah.

Michael Graham: ...in attempting to set some - set the recipe or I guess the menu, not the recipe, the menu from which the review commission group can choose putting that out.

Jonathan Zuck: I think that's exactly right Michael. We need to get at - get data tracked and make sure that they're not left trying to scramble to find information to use down the road. Evan, had his hand up.

Cheryl Langdon-Orr: Yeah.

Jonathan Zuck: Evan.

Evan Leibovitch: Hi. I just wanted to suggest that maybe the little explanatory note on 1.9 may be - could be moved to a footnote or something and expanded a little. I think we can acknowledge that it's not an exact comparison, that the number of UDRPs in one is not going to be the equivalent of the UDRPs in the other because now you have this lightweight addendum that's possible.

By the same token, just adding them all together isn't going to be an equivalent. Can we not just sort of acknowledge and document the fact that it's not an exact comparison. Explain a little bit about the distinction that would assist the read in understanding that as some explanatory text and just leave them be?

Jonathan Zuck: Yes. I think we can probably do that.

Steve DelBianco: But if the explanatory text is no different than the text in the box, I - Evan, it was you who said earlier you didn't want us to add a bunch of footnotes when we could put the text right in the box (unintelligible).

Evan Leibovitch: If it can be - if it can be done in few enough words, fine. I - yeah, I definitely...

Steve DelBianco: I can't image what words we could change in that little explanation. It's a factual statement that the URS is required only in new. And so maybe we do this. Here's a proposal.

So combined UDRP and URS complaints could be as opposed to should be. That we reveal the fact that we have - we're making a recommendation for a review team that hasn't even been formed yet and will take two weeks at least to figure out what it wants to do with the data. Why not say could be compared instead of should be?

Michael Graham: This is Michael. Or may be compared.

Steve DelBianco: May be comparable, how about that? May be comparable to.

Michael Graham: Yeah.

Evan Leibovitch: All right. Okay. At this - to me that's getting to the point of splitting hairs but I'm okay with that. I just didn't want to see this tossed. I think we need - as long as we can make the point that they're not absolute equivalents because fewer people are going to be using UDRPs in the new ones we would anticipate.

And since the UDRP is a fallback to a URS, you could have more of them because somebody might do both. So, you know, it's maybe a little bit more complex than we're alluding to here. But that's probably going to be at the time that the metrics are produced. I think we've - I think with what you're suggesting we've covered that here.

Steve DelBianco: Right. It's in the chat. Anybody has any objection to what's in the chat?

Cheryl Langdon-Orr: All good.

Steve DelBianco: Next page.

Man: (Unintelligible).

Cheryl Langdon-Orr: (Come on controller). Thank you.

Steve DelBianco: Mr. Controller...

Cheryl Langdon-Orr: (Unintelligible).

Steve DelBianco: Neuman had asked me about 1.11.

Cheryl Langdon-Orr: Yeah.

Steve DelBianco: The very first paragraph it said IP claims and cost of domain name policing. His comment was not sure what an IP claim is. So Michael Graham, you were the author of this section. Do we - is it evident to everyone on the phone what a intellectual property claim is?

Cheryl Langdon-Orr: Yes.

Steve DelBianco: And is there a more precise word you can use? Cases, enforcement or is the word claim the term of art?

Mason Cole: Yeah I guess - Mason speaking. I guess I am a bit unclear about that. An IP claim is that, you know, against a registry or a registrar or I guess registrant?

Steve DelBianco: Oh, no, no, no. It's not registry, registrar. It could be against the registrant Mason. More than likely it would be the registrant.

Michael Graham: And those are laid out in that Subsection 1.

Cheryl Langdon-Orr: Hence registrant, hence registrars, blah, blah, blah. I'd (have felt playing) with the right term that...

Steve DelBianco: I think maybe it's just I need to explain it to Jeff and that would handle it. And then Jeff also said in 1.11 Item 3, he suggested we put the word demonstrable in front of the word cost - the demonstrable cost of the domain name policing.

Jonathan Robinson: May I just ask a question on this one Steve. Jonathan. I'm not - and Michael if you are there also. It strikes me that typically what we mean I think by an IP claim here is a claim by a brand owner against a registrant who is infringing their brand.

And what I think we're trying to identify here is how many of those occur through a particular registrar or through a particular registry. I think the claim

is less likely being made against the registrar or against the registry. Typically one is making the claim or the complaint, if you like, against the registrant.

But I can see how some might find it useful to know whether there was a higher incidence of those complaints with registrants who were using a particular registrar or registry. But whether or not those claims would be against the registrar or against the registry is perhaps that's the terminology issue.

Steve DelBianco: Michael Graham, were you all right with putting demonstrable in front of cost?

Michael Graham: Yeah. That would be fine.

Steve DelBianco: And then Michael Graham, you have the word claims up top, you have the word claims inside but also you have cases in the text here. Is there a difference between a claim and a case?

Michael Graham: Wait a minute. Where - how - here we go. Hang on a sec. I would have to look back at the earlier drafting. The IP claims would be both those that are made - and this was one reason why we were looking back to the IP groups because we were looking not only at the file UDRP actions and not only at litigation but also at claims.

Steve DelBianco: We're explicitly not looking at UDRP. They're excluded from this entire metric.

Michael Graham: Right. So these are claims that need - that are not - do not become UDRPs. Cases would be actually filed cases then.

Cheryl Langdon-Orr: Yes.

Michael Graham: So the claim would include either a non-UDRP or URS filing. So that would be a lawsuit or a mere objection to it. That was one reason why we were looking to the IP focused entities to put together a report or survey to get this

information on how many claims were actually being made that did not become UDRPs, did not become URSes, did not become litigation.

Steve DelBianco: Hey. I'm convinced. I'll take the responsibility of explaining this to Jeff Neuman. I think we leave it alone.

Cheryl Langdon-Orr: Thank you Steve.

Michael Graham: That does make sense.

Steve DelBianco: Yeah it does. I get it. In 1.13 this is security breaches. Neuman asked that we clarify the end of 1.13 just to say the words at the registry. Because if the breach - if the breach happened at a client or customer, wouldn't count at all. It's the data security breach at the registry.

Cheryl Langdon-Orr: Fair call.

Steve DelBianco: But he's - that's what he's asking for.

Jonathan Zuck: That makes sense.

Cheryl Langdon-Orr: Fair call to me, yeah.

Michael Graham: Yeah, I'm fine.

((Crosstalk))

Cheryl Langdon-Orr: Hang on. Hang on.

Man: Only...

Cheryl Langdon-Orr: Something's wrong. We dispensed with that awfully quickly.

Steve DelBianco: Thanks Cheryl. Everybody's getting tired.

Michael Graham: I don't think we have quite the stamina that we did in the old days.

Steve DelBianco: Oh gosh.

Cheryl Langdon-Orr: Oh guys, just get yourselves a coffee. Come on.

Steve DelBianco: On this next one...

Cheryl Langdon-Orr: Grab a coffee. Keep going.

Berry Cobb: Hold on. This is Berry. So back to 1.13. Data breaches only at the registry?

Steve DelBianco: No, not the word only. Just at the registry. Yeah, but why would we limit it to the registry? I think our point was it could be registrars as well. Registrar has a data breach all those credit card numbers get out.

Cheryl Langdon-Orr: Yeah.

Berry Cobb: Right. Or the root servers...

Steve DelBianco: I think...

Berry Cobb: ...get hacked.

Steve DelBianco: Yeah. So add registries and registrars.

Cheryl Langdon-Orr: Yeah.

Berry Cobb: Okay. Got it.

Steve DelBianco: On 1.20 these are complaints. Do we mean complaints to ICANN? That's the official ICANN filed complaints, right? Inaccurate, invalid and suspect (who) records; all those complaints are made to ICANN, are they?

Berry Cobb: Correct. Through the InterNIC system, which is evolving.

Steve DelBianco: Okay. So Neuman asked that we clarify it by saying complaints to ICANN or filed with ICANN. How about that, filed with ICANN.

Cheryl Langdon-Orr: Yes. I'm happy with that even though the source is clearly ICANN, yes. (Unintelligible) and (braces), there's not a problem there.

Evan Leibovitch: In the ICANN context aren't IP complaints really URS and UDRP? What else exists?

Berry Cobb: There's ombudsman complaints and there are other categories available through the InterNIC system as well. And that's expected to expand with the newest system.

Cheryl Langdon-Orr: It's a brave new world.

Steve DelBianco: Okay. Berry moving on. The footnote, Neuman being the lawyer, did point out a change to the footnote. That ICANN is a party to the registry operator agreement and the registrar accreditation agreement.

Berry Cobb: And I deleted counter.

Steve DelBianco: So is a party to the registry operator agreement and the registrar accreditation agreement. We wouldn't call it a registrar contract.

Cheryl Langdon-Orr: Ah, I see.

Steve DelBianco: Next page.

Cheryl Langdon-Orr: Yes. That's a good call. I think Berry will be typing and moving pages at the same time. We might let him take a small break. (I) thank you.

Steve DelBianco: Okay. Now we get to the one that Jeff Neuman actually had his example on on October the 12th. He said that .nustar for instance running as a closed brand TLD would definitely not tell aspiring registrants how to get a .nustar domain. And it wouldn't be clearly disclosed as to the benefits of getting a .nustar TLD because they're not giving them.

He makes a great point and therefore I recommend we add the words this measure includes open TLDs and closed keyword TLDs but not closed brand TLDs.

So I did leave in keywords like .book, et cetera, because registrants would go to a place like the .book - info.book and they would fully expect to say how do I get a book and I think registrants and users ought to know if Amazon wins .book and they run it closed - as a closed keyword TLD, I do think that should be on the Web site as an important transparency element.

Cheryl Langdon-Orr: Yeah.

Steve DelBianco: But not for a .nustar, not for a .google.

Evan Leibovitch: This is Evan and I'm going to be contrary again for the same reasons I said earlier. If someone goes to a .nustar, there should be somewhere where on that site or somewhere where there is a recognized place where somebody can go to say well, I'd like to get a .nustar and there has to be a message saying no you can't or here are the restrictions.

And so maybe the word benefits is mute but restrictions definitely are and I don't think that should be - I don't think NuSTAR should get off and get a pass from that. They have an obligation to say somewhere that if you want -

that if there is a TLD called .nustar and if someone wants something in it, there has to be at least information somewhere publicly accessible that says no you can't.

I don't think...

Michael Graham: This is...

Evan Leibovitch: ...I don't think that brand - I don't think that brands get a pass on this.

Michael Graham: Evan, this is Michael. And I wonder if although not initially the idea behind it but the - and I don't know if you're looking at the meeting online with the proposed paragraph. It's actually a proposed new metric that was looking at closed brand TLDs. If that might not be a specific one that would cover that sort of concern that you just expressed within those closed brand TLDs.

Cheryl Langdon-Orr: (Unintelligible).

Michael Graham: Because I think the same interest runs across with the -- whatever we call them -- recognized brands that when I come to the site something within that statement should be made as to what the restrictions may be on that site or within that registry.

But I think there's a good point in that they're going to be quite different from the very transparent type of statements that should be expected with the open TLDs of when you move to a closed. So I would...

Evan Leibovitch: Right.

Michael Graham: ...(choose to fight) it somehow perhaps.

Evan Leibovitch: My opinion is that we're over engineering this. Two point one said clearly disclosed benefits and restrictions. And if those restrictions mean we are a closed TLD and you can't have something, that satisfies 2.1.

I think - I don't, you know, we've had to go into all these definitions that may not even be necessary by just saying, you know, if something is a closed TLD they answer that question differently from an open one but the question doesn't need to change.

Steve DelBianco: If I got to www.nustar.com they don't disclose how I'm not allowed to get a third level domain. So I mean again, this is a Web page for a company.

Evan Leibovitch: And but that's not about [nustar.com](http://www.nustar.com). That's about something [.nustar](http://www.nustar.com). And I do believe there's a matter of public interest that there is a need somewhere under something [.nustar](http://www.nustar.com) - there has to be a publicly accessible piece of information that says this is private to our associates and outsiders can't have one. I think as a mater of public interest that needs to exist.

And if Jeff has a problem with real estate on his Web page, I'm sorry, that's not sufficient deterrent to needing something in the public interest.

Cheryl Langdon-Orr: Evan, Cheryl here. So you're proposing that 2.1 brackets A as a new addition into this list is not required and no change happens to 2.1 or do you believe that with the addition of 2.1 brackets A it meets the requirements you're concerned about? Because I'm not sure which way you're arguing now.

Evan Leibovitch: My original argument is actually for the former Cheryl. That I didn't think a change was necessary. As a fallback that I would consider sub optimal that for most the proposed addition could do it. But I think that - I think it's over engineering things. It's requiring us to do definitions that otherwise we wouldn't need to do. And we're simply making the issue more complex than it need be.

There's a simple question. What are the benefits and restrictions and closed and open can answer it differently. I don't know why we have to over engineer this.

Cheryl Langdon-Orr: Yeah. But that's a different debate that...

Evan Leibovitch: But there needs to be something www.nustar has to have information about the NuSTAR TLD that's open to the public. I absolutely fervently believe that.

Steve DelBianco: That might be a contractual item but nothing in our entire paper says what a company has to do. (Unintelligible)...

Evan Leibovitch: But we are measuring...

Steve DelBianco: ...after the fact looking back to say did it promote choice. That's what this whole section's about.

Evan Leibovitch: Right. And this - and...

Steve DelBianco: So - and Evan, Evan, you're using words and strident argument that might have made its way into the registry contract discussion that was had a couple of years ago. But it doesn't have a place in this discussion...

Evan Leibovitch: Okay.

Steve DelBianco: ...because we're not specifying requirements for registries.

Evan Leibovitch: Right.

Steve DelBianco: (Unintelligible) measurement item.

Evan Leibovitch: And we are - and so...

Steve DelBianco: It's 700 dot brands are very unlikely to say at info.nustar here's how to get or here's why you can't have your own delbianco.nustar. They're not going to do that.

Evan Leibovitch: And I - and they may not be required to do that...

Steve DelBianco: (Unintelligible).

Evan Leibovitch: ...but I think...

Steve DelBianco: They're not required to. And you and I are not in a position to put requirements because this is not where we make requirements.

Evan Leibovitch: And I...

Steve DelBianco: That should have been two years ago when we did the registry contracts. It's too late for that.

Evan Leibovitch: You're missing my point.

Steve DelBianco: We do not use this exercise to impose requirements.

Evan Leibovitch: You're missing my point. I fully understand the difference between metrics and requirements. And I fully understand they're not required to do so. I absolutely though believe that we ought to measure whether they do it or not. I understand the difference between requirements and metrics very clearly. We're here to measure and the idea is we've got an issue here in 2.1 saying we should measure...

Steve DelBianco: Okay. (Unintelligible).

Evan Leibovitch: ...where or not they do it.

Steve DelBianco: ...we leave it in. If I followed your line of thinking, this metric will be a failure because the 700 brands aren't going to do it. They're not required to and it makes no sense in their mind, not yours, but in their mind it makes no sense to do so.

So they won't do it and 700 of the new gTLDs will fail this metric. We do not in any place else here - we have never got a metric in here that's designed to fail. Therefore I would...

Evan Leibovitch: I'm not presupposing...

Steve DelBianco: ...stridently stick with what the edit is because I do not want to design a metric to fail. I hear all your points and now you're being normative about it. These are descriptive, not normative. And it...

Evan Leibovitch: I'm just...

Steve DelBianco: ...doesn't apply to the brand.

Evan Leibovitch: And I'm saying the fact that something may fail doesn't mean that you ignore it. If a company wants to put - if .ibm says okay this is normally for IBM. If you are a (var) of IBM, here's how you go about doing it. Okay. I don't think it's a failure because I think that it's not going to be a blanket you can't do this across the board.

I think that there has to be a way that people can say for any TLD these are the ones I can't get to, these are the ones I can and these are the ones that have restrictions. And if the end result of that is that the bulk of them don't provide information as a matter of public trust and confidence, that needs to be put out there. The fact that something may not produce...

Steve DelBianco: (Unintelligible).

Evan Leibovitch: ...the number - wait - hold - let me finish. The fact that somebody may - something may not produce the numbers you want is not an excuse to leave it out.

Steve DelBianco: And then Evan consider Michael's suggestion in blue as a way to measure that metric and then you will get your opportunity to...

Cheryl Langdon-Orr: Yeah.

Steve DelBianco: ...indicate how they should disclose. But you're trying to make policy through metrics right now. And we're trying not to do that.

Evan Leibovitch: How - I don't understand how leaving 2.1 the way it was makes policy. I simply don't. We're making it more complex and I'm saying the simplicity actually...

Steve DelBianco: You're adding a requirement that's not in the registry contract. That's why.

Evan Leibovitch: It's not a requirement. I'm measuring something that maybe optionally done. We're going back to this. I'm not asking for requirements. I'm asking let's measure what's being done. If they do it they do it. If they don't they don't. This is a metric as a matter of public trust that ought to be out there.

Mason Cole: Steve if I may.

Jonathan Zuck: Go head.

Mason Cole: Jonathan, excuse me. Mason speaking. Evan I get where you're coming from. But I just - I have to agree with Steve here. I mean if I'm a branded TLD, I'm never going to put anything on the Web site that says this is the purpose of the TLD and this is who can and can't have it.

And measuring that, I agree, it presupposes failure and suggests future action that needs to be taken, which I would oppose at that point anyway. Because mandating content on a Web site except in the most necessary reasons is just something that ICANN is not in the business of doing.

And I definitely see going down that path because I've seen ICANN go down that path before and it is ultimately unproductive. So I just don't - with all due respect, and I do understand where you're coming from, I just don't see this as a productive area to go down.

Jonathan Zuck: All right. Jon, do you have a comment on this?

Jonathan Robinson: Yes I do. Yeah, yeah. I'm here. I have to - I've been thinking about what Evan's been talking about and I'm reminded of the whole - the old adage that, you know, if you can measure - if you can measure it, you can manage it. But there are just some things that even though you can count, they don't really offer you any insight. And I have to come down on the side of Steve and Mason who's just spoken.

You know, my feeling is this is almost like, you know we could count the number of keystrokes it takes to get to a particular site. I'm not sure that that would offer us any meaningful insight. I think we probably - we probably should accept where we are and move on on this. I just don't think it adds anything to the conversation.

And I certainly don't think it adds anything to what ultimately will be viewed as the credibility of our effort. And I'm very concerned about that. I believe that there is a slippery slope.

I don't know that we're on it but I do believe that there is a slippery slope that could lead some things that we think can be counted and so therefore should be counted to lead to - to give - provide a handful for substantives

discussions that we never intended to instigate. And I think that this might be that kind of instance. So I side with Steve and Mason.

Jonathan Zuck: I was going to suggest that maybe we should just - because we need to keep going because we're running through the time. We're going to suggest everybody use the tool to vote perhaps. Michael do you have something else quick to add or...

Michael Graham: No. Actually I think John just covered it and I think in good part our ability to recognize that the landscape has changed from the time that we began some of this is part of the credibility of the entire study that we need to enhance and not for want of a place for a word or a phrase to avoid. So...

((Crosstalk))

Michael Graham: ...with Steve.

Jonathan Zuck: Let's quickly if you would just do a - cast your vote if you - in favor of making this distinction for brand TLDs. So that's an affirmative vote that we're not trying to manage this particular metric for brand TLDs and just cast you vote.

Mason Cole: I'm sorry. I'm unclear on the question again. What is it we're trying to do?

Jonathan Zuck: If you agree that...

((Crosstalk))

Jonathan Zuck: ...for brand TLDs then cast a vote of yes please. And Cheryl I have yours.

Cheryl Langdon-Orr: Thank you.

Jonathan Zuck: All right. So they're saying - so got Evan, Julie and Mason that are still concerned. Is that right? Everybody - I think that's how I interpret this.

Steve DelBianco: Julie is staff and I thought I had Mason side with us. Mason, you still with us?

Cheryl Langdon-Orr: Yeah.

Mason Cole: Yeah. I'm with you. Yeah. I...

((Crosstalk))

Mason Cole: Yeah. I'm just unclear on what means yes and what means no. But if it means we don't audit closed brand TLDs for this type content on their Web site, then yeah, that's what I agree.

Steve DelBianco: Then you should click yes please.

((Crosstalk))

Cheryl Langdon-Orr: Switch your vote then Mason.

Jonathan Zuck: ...yes vote and I think we have a preponderance here Evan. So let's take offline a way to note your concern about this. But I think we got - I think we have to move on from here.

Evan Leibovitch: Okay.

Jonathan Zuck: All right. Thank you.

Steve DelBianco: Michael, do you still want to present 2.1a or leave that go?

Michael Graham: Actually the more - it's Michael here. The more that I look at point 1a, I would like to have something like that within the metrics. However I do not believe it has to do with choice. I believe it has to do with trust. So at this point I would

not put it in there and if we believe that our trust metrics are strong as to the branded closed domains, I think we can live with that.

Cheryl Langdon-Orr: Okay.

((Crosstalk))

Steve DelBianco: ...apply to everything? So that if the trust measures were strong then by definition the trust measures are strong with respect to branded TLDs. They're all applied.

Michael Graham: Right. And I would hope that in light of the changed geography that whoever puts together the survey will focus in part on some of the affects that having closed branded and open the differences how they affect the user and the registrant experience when they do those surveys.

Steve DelBianco: Seven hundred brands - closed brands, if they have a trust problem it will show up. It'll show up in all 24 of those metrics. Aggregate again. This is not an audit of sites in order name names. It's an aggregate measure of the program to see if it promoted trust.

And if a full third - well I should say half, 700 out of 1400 strings are brand. So if half of them have trust problems Michael, you can rest assured it'll show up in the affirmation review.

Michael Graham: Yeah. I'm happy with that. So I would remove the 2.1a.

Evan Leibovitch: Okay. You're going to have to forgive me but if you're not going to accept my wanting to keep 2.1 as is, I think at the very least you need to keep 2.1 because essentially that is - that gives the option of how to go for the closed brands.

If the public is going to - and this is not just a matter of trust. It's also a matter of choice. Because I think we're presupposing that a closed brand is going to have absolutely no way for anybody to get in. You could have a company that will have franchisees or (vars) or other kinds of partners that would go into a quote unquote closed TLD.

So what I'm suggesting is if you're going to make the modification to 2.1 and you're going to limit it that there has to be something that allows this for closed brands. So there has to be a metric for 2.1a.

So if you're going to go ahead and put in the change for 2.1, I really think 2.1a needs to be there because I think you're making a presupposition on what all the brand TLDs are going to do and I don't think that's reasonable.

Michael Graham: Evan, it's Michael. My only question then would be originally in the draft I put in lieu of the open registries having, you know, a statement on their pages showing the benefits and restrictions of the site that the test for the closed brand would be that they have the trademark of the brand and the services somewhere on their site. I wonder if that's what should be looked for or something else should be looked for in that case.

Evan Leibovitch: That's - I think that's covered in 2.1a.

Jonathan Zuck: Well it is if that's the right measure. I mean I think the intention is good there but I mean that's pretty prescriptive about what should go on a brand.

Evan Leibovitch: Well have a look in the chat. You now have the three people coming in from At Large that are all saying from a - and trying to come in here and represent the public interest and saying that if you're going to change 2.1 that you need 2.1a there as a matter of what the consumers and end users need from this. Take that as a sign.

Jonathan Zuck: I mean - and I, you know, and again I - it sort of gets down to definitions because even if I allow franchise owners to be in it, that's still not public in the normal sense of the word. Those are contractual relationships that it doesn't seem like the overall consumer or the or, you know, whatever that is the normal registrant...

Evan Leibovitch: The consumer can still get at it. The consumer can still type in a URL at .ibm and get there. So the consumer has access to this. So as Cheryl is typing it's a matter of transparency.

Michael Graham: This is Michael. I think you're right Evan. I mean that is the case that it's a matter of transparency and it does relate to choice insofar as the basic purpose or one of the basic purposes of trademarks or brands is to offer consumers a choice between different brands and a confidence that if they go to a particular brand or in this case a particular Web site, that is what they're going to find there.

Cheryl Langdon-Orr: Exactly.

Jonathan Zuck: Mason, do you have your hand up?

Mason Cole: Yeah I do.

Jonathan Zuck: Okay. Go ahead then.

Mason Cole: Just if I can understand this. If - let's say I'm United Airlines and I have .united and I want to make a point about the fact that I serve Coca Cola or no, I'll make it more generic, the fact that I serve soda on my flight and I register soda.united. And I put a picture of I don't know, a bunch of cans of soda on there. Is that counter to what this 2.1a is intending?

Cheryl Langdon-Orr: I don't think it's counter. I think it's fine.

Michael Graham: Right. Because it's not saying that every page has to go there. It said if you go to the site just as with the open registries we're not expecting that every site that you go to within that registry is going to have a statement of benefits and restrictions. It's just that as you go to that site, the entry, you will get that.

Evan Leibovitch: Yeah. Somewhere in .united needs to go to something but certainly not everywhere in that - everywhere down that (tray) needs to.

Mason Cole: Okay. So closed brand TLDs should resolve to a site. Does that mean some domains include brand TLDs or the top level? I guess it's just (unintelligible).

Jonathan Zuck: But there should be a page in that TLD that...

Evan Leibovitch: Yeah.

Jonathan Zuck: ...presents the brand. Is that what you're getting at Evan?

Steve DelBianco: (Unintelligible).

Evan Leibovitch: Well okay, you know, okay. My first choice as you know was keeping 2.1 as is. If 2.1 is changing I'm happy with the wording of 2.1a.

Jonathan Zuck: Okay. Steve, what's your comment?

Steve DelBianco: Evan, I want to make this work. I want to satisfy it but the wording of 2.1a doesn't really work the way it's (going here). So I have a suggestion for you and Michael to think about. I would say that 2.1a could read Web sites for closed brand TLDs - Web sites for closed brand TLDs should include a page disclosing registration policies.

And then underneath the three-year target column like several or four metrics it should say no target. So we want them to audit it and measure it and we hope that the team will - the review team will do this because it's in our

recommendation. But as a group we don't want to specify that this has a target as in all, some or most.

And I do think that Michael saying that TLDs should resolve to a site technically that doesn't make that much sense because not all domain names would resolve to a site. It would be some domains.

Cheryl Langdon-Orr: Yes that's fair.

Evan Leibovitch: Yeah.

Steve DelBianco: Maybe policy.nustar or info.nustar.

Evan Leibovitch: Okay.

Steve DelBianco: I don't know which it is but I wouldn't say all of them. (Unintelligible).

Evan Leibovitch: Okay. No I'm with you. I'm okay with that. I would still like to have a target suggest that every TLD should have some publicly accessible information about that TLD.

Man: (Unintelligible).

Evan Leibovitch: So I think I agree with you. I now - you've convinced that the wording of 2.1a is clumsy enough that it needs a little bit of rework as you've suggested. I would not like to eliminate the target.

Jonathan Zuck: Okay. Mason, do you have a problem?

Steve DelBianco: (What is it the target should)...

Jonathan Zuck: Mason.

Mason Cole: I'm sorry. I didn't hear.

Jonathan Zuck: Okay.

Mason Cole: I'm sorry. My cell phone rang and I had to take it. I'm sorry. What's the question? I apologize.

Jonathan Zuck: You have your hand up or is that left over?

Mason Cole: Oh no, no, I'm sorry, no. Let me clear that. I apologize.

Jonathan Zuck: Okay. Michael.

Michael Graham: Okay. I do have my hand up. I would agree with the wording that you were proposing Steve. But what I would add is disclose or embody because I think that you can symbolically embody what it is you're finding on that site without saying in so many words. And I would provide for that.

Cheryl Langdon-Orr: Okay.

Michael Graham: But otherwise I would...

Cheryl Langdon-Orr: Sorry. Cheryl here. Can we just - I don't want to move on too fast from this because this really is important. But particularly with Michael's change on Steve's change can we have an example of the text in the chat please?

((Crosstalk))

Jonathan Zuck: ...draft a very (unintelligible) text and put it in the chat?

Michael Graham: Yeah. I'm looking at Steve's language now. I'm - let me work on that and get back. Can we sort of pass by and come back to this in a moment.

Cheryl Langdon-Orr: That's fine. Happy to (look back).

Michael Graham: Okay.

Steve DelBianco: All right. Let me just suggest that the column under source should say audit of closed brand Web sites. Let's keep - be consistent with our defined terms.

Cheryl Langdon-Orr: Yeah.

Steve DelBianco: And the I would say moderate difficulty in auditing. There's no need to say comparing with branding goods and services. Just moderate difficulty in auditing.

Cheryl Langdon-Orr: And then no target.

Steve DelBianco: (Unintelligible) 100 of them.

Cheryl Langdon-Orr: And then no target, correct?

Steve DelBianco: Well I'm going to try to give something Evan on saying what should the target be, disclosures so all closed brand TLDs should include the disclosure. Because we're giving them the opportunity to put it some place on the site.

Cheryl Langdon-Orr: Yeah. Sort of - it should be absent or not. I mean it's either there or it's not, isn't it?

((Crosstalk))

Jonathan Zuck: That's right. Okay. Do you have that Berry?

Berry Cobb: Okay. I'm still waiting for the text for the 2.1a.

Jonathan Zuck: So the other three columns of 2.1a, are those - is that clear.

Berry Cobb: Yeah. I've got for source audit of closed branded Web sites for the difficulty...

Steve DelBianco: And it's not branded. It just says closed brand.

Jonathan Zuck: Yeah. It's a reference back to the definitions Berry.

Berry Cobb: For the difficulties I just have the moderate difficulty in auditing and then for the three year target was all closed brand TLDs should disclose and I think I didn't catch the end.

Steve DelBianco: I put it in the chat. Should include a disclosure page or include a disclosure.

Michael Graham: Yeah. Steve, I've just revised that and put it in. Take a look.

Cheryl Langdon-Orr: Yeah. Michael's got language there.

Jonathan Zuck: I think that's fine.

Steve DelBianco: Okay.

Cheryl Langdon-Orr: Well good.

Jonathan Zuck: All right. So that - so Michael's language there Berry is for the measure.

Cheryl Langdon-Orr: Perfect.

Jonathan Zuck: Okay. So we move on to 2.3.

Steve DelBianco: Yeah. In 2.3 it picks up on 2.1. And Berry, if you're going to put in 2.1a we need to renumber everything from there on down right because we've never used the AB nomenclature on any of our other metrics, have we?

Berry Cobb: No. I would just go ahead and add - have the new - have that be 2.2 and...

Steve DelBianco: Okay. So we'll refer to the numbers that are on the screen but Berry will end up renumbering. All right. So 2.3 is just like 2.1 but it doesn't get to the clear disclosure. It gets to the understandability to registrants and users. And because benefits are there to attract a registrant, you would not disclose the benefits of registering a name when you cannot register a name.

And that is why for 2.3 I think it only makes sense to reflect what we did a 2.1 and include only closed keyword and open TLDs but not closed brand.

Michael Graham: This is Michael. Forgive me for not raising my hand but it sort of begs the question because it seems to me that this would apply either case and it's only going to apply if the restrictions and the benefits are up there. So if they're not included, if it's not measured then you're not measuring whether or not clear or not.

I mean if we want to do this again as an acknowledgement that we understand the difference, that's fine. But I don't think it's necessary.

Steve DelBianco: That's really why especially given that we do have to get this through Council.

Jonathan Zuck: That's right.

Cheryl Langdon-Orr: Evan, sorry Cheryl here. Evan suggested in the chat is 2.3 - the current 2.3 being redundant I think worthwhile.

Jonathan Zuck: Well I think in one case it's measuring the actual presence of that disclosure and the other it's a survey of consumers to see whether or not they understood.

Cheryl Langdon-Orr: They understand it, okay. Yeah, yeah, yeah, fair enough. Yeah. Yeah.

Jonathan Zuck: So I think those are probably two different things.

Cheryl Langdon-Orr: Yes.

Jonathan Zuck: I mean if they...

Cheryl Langdon-Orr: Yeah. Understandable to, yeah, yeah, yeah. Sorry, I'm...

Evan Leibovitch: The problem with that though is how do you measure clarity? As I said in the chat, clarity is sort of an eye of the beholder kind of thing. And what's clear to one person is unclear to another and I'm almost wondering if 2.3 is good in intent but in execution is almost pointless because who's going to argue over what's clear and what isn't?

((Crosstalk))

Cheryl Langdon-Orr: ...language and things like that.

Evan Leibovitch: Well that's what I'm saying. So you could change - you could put in a reference. Instead of clearly just say put 2.1 registry Web site should disclose benefits and restrictions in plain language and just be done with 2.3. It's just if 2.3 gets into how clear something is, I think that's going to be an invitation for pain.

Jonathan Zuck: Yeah. I mean again that's probably going to be left to the design of the survey to see whether or not people had a perception that they understood it. And I think we need to be careful if we're ever going to get through this before November 15 that we don't rehash the things we've already discussed. And if we can try to focus just on the categorization between the, you know, the different types of TLDS.

So when I - we - I don't want to cut you off Evan but we - 2.3 is something that we already kind of decided on. And so I think we - if we can get through

this and just sort of say, you know, this is the stuff that's related to this category versus that category, that's the exercise we're trying to do here because I think we're going to already be pushing to another meeting.

Is that okay with everybody? I'm not trying to be Attila the Hun but I think we need to try not to retrench old ground if we can avoid it.

Steve DelBianco: Agreed.

Cheryl Langdon-Orr: Agreed. But what we do need to do is make sure the language in 2.1 matches 2.3, which is what the (red ticks) does.

Steve DelBianco: Agreed.

Jonathan Zuck: That's right. And it does, right?

Cheryl Langdon-Orr: Yeah. So that's a tick then for me.

Jonathan Zuck: Okay. So can we move on then?

Berry Cobb: This is Berry. So were there any changes to 2.3 then?

Steve DelBianco: No.

Jonathan Zuck: I think not.

Berry Cobb: Okay. I didn't think I heard some. No changes on Page 15. Moving on to Page 16.

Jonathan Zuck: Does anybody have an issue with 2.9. That's related to...

((Crosstalk))

Jonathan Zuck: ...registrations that aren't like to occur...

((Crosstalk))

Jonathan Zuck: ...in a closed TLD.

Steve DelBianco: You know what. This is DelBianco. I was on mute and didn't realize it. But Jeff Neuman did have changes on the prior page with respect to open and closed. And in fairness I'll - he's not on the call. I'll introduce his concepts and then you guys can give a reaction.

On 2.5 he thought that it would only apply to open TLDs. And I don't understand why that's true. I think it's all.

Jonathan Zuck: Because he doesn't...

Steve DelBianco: Actually given that our target is just a relative improvement over 2011. So if the dot brands - if the 700 dot brands end up being in their own language.

Jonathan Zuck: Well and the brands might very well contribute to an increase in IDN scripts, you know, over time.

Cheryl Langdon-Orr: Yeah.

Jonathan Zuck: That might help the metric.

Steve DelBianco: Good. We agree 2.6...

Cheryl Langdon-Orr: (Yeah).

Steve DelBianco: ...Neuman said not applicable to closed but registrars aren't open and closed. This is the registrar Web site, not the registry. So I don't Jeff Neuman is understanding 2.6 correctly.

Jonathan Zuck: That's right.

Cheryl Langdon-Orr: No change.

Steve DelBianco: On 2.7 he said same thing. And I don't think this has anything to do with open and closed. Count them all because there's no disadvantage if a bunch of the sites do us ASCII and Latin.

Michael Graham: I would agree. I know a number of these IDNs are brands but we're looking at IDNs. We're not looking at anything else.

Steve DelBianco: Right. And we're not comparing them.

Cheryl Langdon-Orr: No.

Jonathan Zuck: Right. We're just trying to see if there's an increase in IDNs and brands may very well contribute to that.

Cheryl Langdon-Orr: And that's...

Steve DelBianco: Well this is two things. It's an increase to trend closer to the percentage of the population. Okay. So I think his point is that if all of these Latin brands - 700 Latin brands are in there, I don't think it's going to hurt the percentages. So let's suppose the percentage of IDNs - let's suppose we have five in Urdu divided by 1400. Well how is that close to the percentage of people in the planet who use Urdu script?

So I guess Neuman is staying that by having 700 Latins in that denominator that makes that a tougher metric to hit.

Michael Graham: And Michael here. To get at a pure number then you would have to be dividing out how many are brands, how many are generic both in the IDNS

and in the Latin characters. And that might be important if you were going at some absolute number that you were trying to shoot for.

Our target is trend closer. So I think although there may be an affect because of 700 brands, I don't think that that's something that this metric is intended to necessarily track.

Steve DelBianco: Yeah. That's a great point. Because it says closer it really doesn't matter what the denominator is as long as you trend it over time. Okay. That's great. Glad we were able to dispense with that quickly. And I'll be able to explain this to Jeff I hope. Next page.

Mason Cole: Steve. Steve. Sorry, Mason here.

Steve DelBianco: Yeah.

Mason Cole: Just a point of clarification. If I go back to 2.6 when it say quantity of registrar Web sites offering IDN scripts or languages other than English. Does that mean registrations in those or does it mean the sites are written in those languages? I assume the former.

Steve DelBianco: No it's sites. It's just that the Web site itself is readable to somebody who speaks and writes in Urdu.

Jonathan Zuck: I think that's right.

Mason Cole: I'm not going to go to the mat on this one but I don't like it. I mean if my customer base is in Urdu, I'm not going to write a - I'm not going to write a site in Urdu.

((Crosstalk))

Steve DelBianco: It's not a requirement, right. It's not a requirement. It's simply a measure that says that did - was there an increase...

Mason Cole: Yeah.

Steve DelBianco: ...over time...

Cheryl Langdon-Orr: Yeah.

Steve DelBianco: ...relative to 2011?

Jonathan Zuck: That's right.

Steve DelBianco: So all we need is a few registrars who put up a site in Spanish, in Arabic.

Jonathan Zuck: And we'll view that as a (unintelligible).

Steve DelBianco: Are you with me? This is not a requirement for you. It's simply a measure of the aggregate number of registrars three years out. We ought to have more IDNs than we had in 2011.

Mason Cole: I understand.

Steve DelBianco: And frankly Mason, that's an another saleable point. You have to assume that if people are using those scripts for their TLDs, that's the script they do their business in.

Mason Cole: I - and I - believe me, I hope it's the case.

Steve DelBianco: Right. And it's not requiring you to do anything. It's the hope that some registrar will up an Arabic Web site to let Arabic speakers see what sites they can buy.

((Crosstalk))

Mason Cole: I realize it's not a requirement today. It may - you know, somebody will try to make it a requirement tomorrow.

Cheryl Langdon-Orr: We'll fight that battle then, not now.

Steve DelBianco: If we use that argument against everything ever said at ICANN, I guess we'd never...

Cheryl Langdon-Orr: Yeah.

Steve DelBianco: ...get anything done.

Cheryl Langdon-Orr: Yeah.

Steve DelBianco: Let's be (aspirationable) at serving the global public interest...

((Crosstalk))

Steve DelBianco: ...ICANN signed up for the global public interest in the affirmation.

Mason Cole: Right. I just - I want some respect for that point.

Steve DelBianco: All right. But you're not proposing a change.

Mason Cole: No I'm not.

Steve DelBianco: Okay.

Jonathan Zuck: Olivier, you've got your hand up?

Olivier Crepin-LeBlond: Yeah. Thank you. It's Olivier for the transcript. Just to summarize, this whole section is really about the internationalization of the Internet and how well the new gTLD program is contributing to this. That's all.

I don't think one should start looking at requests that registrars should be available in the six UN languages or the 20 different scripts or 100 different scripts. I think that would be pretty sill if your customer base is not set to be in that part of the world. Thanks.

Jonathan Zuck: That's right. I think that's right. So maybe we'll move on and try to get through one more page of this before we call it quits.

Cheryl Langdon-Orr: Do we need to call it quits? Can we review (unintelligible).

Steve DelBianco: Page 16. Let's go, let's go, let's go.

Cheryl Langdon-Orr: Yeah. We're getting there man.

Berry Cobb: This is Berry. I don't think we're quite there yet. We've got quite a bit through choice and competition to review I think or not so much competition.

Cheryl Langdon-Orr: Understood. But let's see how we go.

Jonathan Zuck: Let's - well under that heading then Cheryl let's really all make an effort to make this whole conversation be about what category these should fall into and do our very best not to rehash discussion of the metric itself. Because then we can go through them a lot faster. So how do people feel about 2.9?

Steve DelBianco: Well real quick Jonathan, 2.9, 10 and 11 can be taken together.

Cheryl Langdon-Orr: (Unintelligible).

Steve DelBianco: We're in the choice area.

Cheryl Langdon-Orr: Yeah.

Steve DelBianco: And I was proposing these were the open only because registrants...

Cheryl Langdon-Orr: Yeah.

Steve DelBianco: ...don't have any choice to get in to a closed TLD.

Jonathan Zuck: I agree completely on all three.

Cheryl Langdon-Orr: Yeah. So there you go. That's that page done. Next.

Jonathan Zuck: Any dissenters? All right. Let's keep going. Anything from Jeff Steve?

Steve DelBianco: Thanks for asking. Two dot twelve Neuman's recommendation is that 2.12 be open only.

Jonathan Zuck: And I feel the same way. I think we're still in this issue of internationalization and it's not a requirement but just a measure of whether or not that affect has occurred. And I think that's fine especially since it's just a relative increase, not a percentage. So I'm...

Steve DelBianco: I think you're right.

Jonathan Zuck: ...(unintelligible) leave it alone. Just...

Steve DelBianco: I think you're right. It gets to the point that the target itself would - the measurement would not suffer by the inclusion of the closed.

Cheryl Langdon-Orr: Yeah.

Jonathan Zuck: That's exactly right.

Cheryl Langdon-Orr: Leave it alone.

Steve DelBianco: Good.

Jonathan Zuck: Keep going. Anything else from Jeff?

Steve DelBianco: He did on 2.14. Yeah. Jeff said on 2.14 that it should not cover closed but I completely disagree because the users will still use closed TLDs. Evan has made this point over and over again on the call. End users still...

Cheryl Langdon-Orr: Yeah.

Steve DelBianco: ...walked away into closed TLDs. And this survey is about users as much as registrants.

Jonathan Zuck: That's right.

Cheryl Langdon-Orr: And no change.

Steve DelBianco: Agreed.

Jonathan Zuck: Agreed. Any dissenters? Then let's move on as long as we feel like - we can work on how to respond to Jeff together Steve if you like.

Cheryl Langdon-Orr: Buy him a beer.

Jonathan Zuck: So 3.5 here.

Steve DelBianco: Three dot five is a relatively minor one. There may be registrars that are wholly owned captives of their corporate parent company in a closed brand TLD. And for them that as a registrar they're not even having a Web site that faces the public because they don't distribute open gTLDs.

So again, with vertical integration Google has a registrar that they will own and if a registrar does not face the public and sell open TLDs, they don't count in figuring out whether we've increased the quantity of suppliers.

Jonathan Zuck: So should we say quantity of public facing registrars?

Steve DelBianco: I did say that and the word I used was only count registrars distributing an open gTLD. That - because if it's public facing and you can't buy anything, it shouldn't count. The public facing is an imprecise term. How about the term that registrars distributing open gTLDs?

Jonathan Zuck: I like that better. Okay.

Cheryl Langdon-Orr: It's clear. Yeah.

Steve DelBianco: Okay, 3.6.

Cheryl Langdon-Orr: Michael.

Steve DelBianco: Let me quickly explain. I felt this should be open only because if the new entrant - there really won't be very many registrations. Again, this is registrations. There really won't be very many registrations in the closed is our guess, right. But somebody could flip that switch. It might be that there's a lot.

Michael Graham: Say that again Steve. I'm not sure I'm following.

Steve DelBianco: Doesn't like - there's not likely to be a lot of registrations in closed TLDs since they can only be their own property. Now some may come (up and away) to let their customers register where the single registrant is the company.

Jonathan Zuck: Yeah. Facebook has (got one that)...

Steve DelBianco: Just making the point that this - I'm not sure that quantitatively - I'm not sure that the close will affect this very much because they may not have a huge denominator. But philosophically...

Man: (Unintelligible).

Steve DelBianco: ...only the open gTLDs will be seen by registrants as generating a new place where they can register names. So rather than have to do everything through NuSTAR or VeriSign, oh great, there's a whole bunch of new entrants out there offering open public registrations. That's really what this metric was supposed to look at. New entrants that operate in the relative market that's done up above on 3.1 and 3.2 and 3.3.

Michael Graham: Michael here. I understand now. I was reading 3.6 differently. And I think for clarity sake we might want to add a word or two in that regard because what's being measured is the availability of different gTLDs in which to register my SLDs, correct? And that is the reason why we would not count new gTLD owners that are owning closed...

Cheryl Langdon-Orr: Yeah.

Michael Graham: ...branded.

Evan Leibovitch: I don't know. I'm having a harder time with 3.6 than I did with 3.5. Three five I didn't have a problem with. Three six I find more problematic. Simply because a TLD is not open. It's still going to have registrations in it.

And those registrations aren't necessarily - you know, you might have an Amazon - you might have an Amazon TLD that's closed but it may have booksellers and partners that are - that have registrations inside that closed TLD. And I think I would consider those new entrants. So...

Steve DelBianco: But they wouldn't be under the definition we all agreed to already. Because the definition of new entrants strictly has to do with whether that company was in the previous legacy space.

Evan Leibovitch: No, okay. So I'm confused by the explanation. So it's gTLD registrations held by new entrants. So is the new entrant a new registry operator or a second level registrant?

Steve DelBianco: Registrations are always second level.

Evan Leibovitch: Okay.

Cheryl Langdon-Orr: (Unintelligible) and competition.

Steve DelBianco: (Unintelligible).

Evan Leibovitch: Okay. Then that wording is clumsy.

((Crosstalk))

Michael Graham: With the relative share of registrations in new gTLDs they way you were referring to it Steve.

Steve DelBianco: Now the - or to say new gTLD registration. But a registration means just that. It means a registration. So you would total up the number of registrations that could be millions that are held by a new entrant. And then we go on to define new entrant. And we didn't set a target for this. The new entrants should operate a significant percentage of new gTLDs.

By restricting it to open, then you would not include the closed brands in the denominator when you say a significant percentage of new gTLDs. And this is a tough one because the math might be very minimal.

Cheryl Langdon-Orr: Remember that what we're measuring here is competition. Right?

Steve DelBianco: The math might be very minimal since there's unlikely to be...

Cheryl Langdon-Orr: Yeah.

Steve DelBianco: ...big quantities of registrations in the closed. And I say that but like Evan just indicated, somebody might come up with a scheme whereby every customer in Comcast or every customer at Verizon gets a second level but the registrant of record is still Verizon. I don't know. It depends on whether they get granted the exemption to Specification 9.

Evan Leibovitch: I could certainly see that kind of thing for Amazon associates. That was the first thing that popped up when I thought about a third party registrant that would be part of a closed TLD. And since Amazon is frequently put up as one of the poster children of closed TLDs, that would be a good example.

So if you're a bookseller you have a choice of getting your own second level domain under .shop, .com or whatever, an open TLD. Or you have a choice of being an Amazon partner and part of the benefits of being an Amazon partner would be getting something under their closed TLD. That's choice.

Steve DelBianco: Right. But this is not choice. This is new entrants.

Cheryl Langdon-Orr: It's competition.

Steve DelBianco: We're in competition. And...

Evan Leibovitch: But it's still - but the bookseller is still a new entrant. Right?

Steve DelBianco: Well no, this isn't measuring registrant - it doesn't measure the registrants that are new. It measures the gTLD operators...

Cheryl Langdon-Orr: Yeah.

Steve DelBianco: ...that are new and tries to say that the entrant operators have a significant percentage of registrations under their belt.

Cheryl Langdon-Orr: Jonathan, didn't Tobias give us a really good primer on some of these aspects of competition at some point? I'm sure I'm not dreaming that. And that was Cheryl for the record.

Steve DelBianco: And Tobias (unintelligible).

Tobias Mahler: This is Tobias. I can't remember that. Yeah.

Cheryl Langdon-Orr: I thought you helped (unintelligible).

Michael Graham: This is Michael. I have - I'm having difficulty because if I come to understand the measures I am actually as it's explained I'm losing the meaning of it. What we're looking at here are as new entrants are owners of the new gTLD registries. Correct? And yet I was told earlier that new gTLD registrations are the second level registrations owned by the same registry owners it appears.

Steve DelBianco: No, no, no.

Michael Graham: The language seems to be I'd say circular but I think that's too clear.

Evan Leibovitch: Welcome to my confusion here too.

Steve DelBianco: So the denominator is the total number of registrations in the gTLD...

Michael Graham: Oh, registrations of what, gTLDs?

Steve DelBianco: Registrations means second level.

Michael Graham: Okay.

Steve DelBianco: Names - domain names. I could say new gTLD domain name registrations to make it clearer.

Michael Graham: Okay.

Steve DelBianco: So you put that in the denominator and let's suppose that it's - when they do the review there are 100 million second level domain registrations in a new gTLD space.

((Crosstalk))

Steve DelBianco: ...since this says relative share the numerator would be how many of those registrations are held by new - are in TLDs that are run by new entrants.

Man: New operators.

Evan Leibovitch: Okay. So if Amazon is a new entrant and they have a closed TLD that happens to have a bunch of second level domains of booksellers, why would that be - why should they be excluded from this metric?

Steve DelBianco: Because registrants don't have a choice of closed. A registrant cannot get into a closed. (Unintelligible).

Evan Leibovitch: All right. I just gave you an example of a bookseller.

Steve DelBianco: No, no, they will not be the registrant of record. They're not allowed to be. (Unintelligible).

Evan Leibovitch: But if you're talking about choice and you're the bookseller...

Steve DelBianco: They can't control it. Remember Specification 9 is Appendix B and this is not choice, it's competition.

Evan Leibovitch: Oh.

Steve DelBianco: I know they're closely related Evan. But...

Cheryl Langdon-Orr: It's not increasing the competition. It's not increasing the diversity in the competition with bona fide new entrants.

Steve DelBianco: Yeah. Because the registrant have no...

((Crosstalk))

Steve DelBianco: ...the registrant couldn't choose to get into a closed TLD.

Cheryl Langdon-Orr: And I'm sure that's something that (unintelligible).

Evan Leibovitch: Okay. The registrars don't but I'm looking from the point of view of the registrant. I'm the bookseller. I have a choice of having a second level domain under an open one or I have a choice of becoming an Amazon associate which gives me second level under a closed on. As far as the public...

((Crosstalk))

Steve DelBianco: ...associates...

Evan Leibovitch: Sorry.

Steve DelBianco: ...that qualify under Specification 9 as an affiliate.

Evan Leibovitch: Okay. Affiliate.

Steve DelBianco: You do?

Evan Leibovitch: I'm - what I'm saying is from the public facing point, bookseller.amazon in a closed or bookseller.shop in an open from the public point of view has the same functionality. And as far as booksellers concerned...

Steve DelBianco: (Unintelligible) to be closed. They cannot distribute, sell or transfer control at any registrations to any third part that is not an affiliate of the registry operator. And the affiliate is upper case A. Somebody - some lawyer on the call tells us does affiliate have a meaning in a corporate ownership way?

Michael Graham: I'm not going to touch that Steve. You must refer to the contract. How's that?

Evan Leibovitch: All I'm trying to say is it doesn't preclude it. It leaves open the possibility and as such I would not leave the metric restricted to open. If it doesn't - if it doesn't provide competition, then it doesn't provide competition. But if it does we should allow for that possibility. And again, I'm looking at it from the point of view of the bookstore and of the book buyer.

Tobias Mahler: This is Tobias. Maybe I can give a different example.

Steve DelBianco: Not book buyers thought. This is only registrants. This one on competition does nothing to do with the users. I'm sorry. Go ahead Tobias.

Tobias Mahler: Yeah. Sorry. I write books, okay. So I have actually domain names already for books that are not yet published. But if I could get a second level domain under .books, that would be an equivalent alternative for me to .com or .org or .info or whatever I'm choosing now.

So from my perspective under .author, author is also applied for by Amazon or book. That would basically be my alternative as a author. So at least from my perspective those would be somehow equivalent. But certainly in a

competition sense, it's more complicated because it's not really the same market.

But nevertheless or not necessarily the same market because it wouldn't necessarily include the same breadth of rights I get when I register my own domain name. I don't know whether that helps.

Steve DelBianco: But Tobias, what we're trying to measure is did the introductory on new TLDs bring a significant percentage of new entrants into the market and new entrants are registry operators and we said they're new if they weren't already running legacy. So this was specifically designed to see if we brought new people in not just in terms of out of 1400 how many are new but weighted by the number of domains they get, the number of registrations they get.

So this is really just an attempt to say that the new entrants come in and to have - has the expansion brought competition not just from the same old guys who were around in 2011 but new entrants.

((Crosstalk))

Steve DelBianco: ...on their registrations as opposed to just simply counting the number of TLDs. I believe - I don't know for sure but...

Jonathan Zuck: (Unintelligible).

Steve DelBianco: ...is this the only one for which we have a new entrant? I believe it is.

Jonathan Zuck: Might be, yeah.

Steve DelBianco: So I can tell folks have been getting - it's late. I realize that. Maybe we're confused by weighting it by the number of registrations. Is it simpler to just say the quantity of new gTLD operators that are new entrants?

Evan Leibovitch: Well why not? Rather than registration say domains.

Steve DelBianco: Okay. That wasn't what I was suggesting but yes, you could say domain registrations to be doubly clear.

Michael Graham: Steve, this is Michael. Three point three I think we were looking at the number of new registries - just looking at the number of registries coming online. I do like in having this later measure of percentage of the space that these people are opening up.

Jonathan Zuck: I think that's right. I mean I think that's why we're interested in doing it. This is Jonathan for the transcript. Because it's - just the fact that there's new operators if nobody's actually using their domains that just sounded interesting.

Michael Graham: Right. And what I think my difficulty comes from the third sentence in 3.6. And if I remove that then I understand what we're getting after. We're just looking at the relative share of new gTLD registrations that are held by or offered from within these registries owned by new entrants.

Steve DelBianco: And then the rest of this is just defining new entrants. But when I've got two sentences that both define it, I'm getting confused.

Evan Leibovitch: But I thought the point wasn't redefining. The point was just the matter of do we open this to - do we add in the proviso of open gTLDs. So I'm just trying to say I don't think it needs that limitation. If it turns out that closed, you know, that closed don't offer anything, well then that becomes part of the measure. So I'm advocating essentially to leave 3.6 the way it was.

Steve DelBianco: Well the practical implication is that virtually all of the closed corporates will be new entrants. Virtually all. We'll have 700 of them.

Evan Leibovitch: Right. And if they're closed, then they won't have that big a relative share.
That is worthwhile measuring.

Tobias Mahler: This is Tobias. I would...

((Crosstalk))

Steve DelBianco: I could go with you on that Evan.

Jonathan Zuck: I think I can too.

Steve DelBianco: And just take out the open only. And I think Michael's been saying that all along. So I'm happy to withdraw this one.

Berry Cobb: This is Berry. Another way to look at it instead of trying to classify it, how about it's across - or that the metrics gauged by category. Let's look at it for open gTLDs, let's look at it for closed brand TLDs and perhaps there may be competition within those classifications.

Jonathan Zuck: Right. And the fact (unintelligible).

Steve DelBianco: Great idea Berry. Just put a note in there to do a separate analysis for closed versus open TLDs.

Michael Graham: This is Michael. I can agree with that.

Man: (Unintelligible).

Steve DelBianco: Do it without two rows. Just do it as a sentence in place of open gTLD only.

Jonathan Zuck: Is that crackling just on my phone or everybody's?

Michael Graham: I've got it on mine.

Jonathan Zuck: Oh.

Berry Cobb: So what I've included here was just an additional sentence says analysis to be performed across all classifications of new gTLDs.

Steve DelBianco: Well another way to say it is prepare separate measures for open and closed gTLDs. Do a bunch of the open, do a bunch of the closed. Because if you really just want to say across all classes, we would simply - we don't need to add anything because that would be the assumption.

Evan Leibovitch: Which is what I've been advocating for. Just leave it.

Steve DelBianco: That's right. And Berry came up with an alternative suggestion that says not only leave it but add the words separate analysis if that's what you were saying Berry.

Berry Cobb: Correct. So as I have it now is a new sentence. Prepare separate measures across open and closed gTLDs.

Evan Leibovitch: But not between them.

Berry Cobb: About - but not necessary between them.

Steve DelBianco: Evan, you would like to see - you would like to see total, only open and only closed, all three?

Evan Leibovitch: I'm saying leave the original 3.6 and don't put in a - don't put in a filter.

Steve DelBianco: Okay. Let's do that. It's getting late. I withdraw my change. So let's just...

((Crosstalk))

Berry Cobb: Yeah. This is Berry. I agree because the base data here is, you know, every TLD is going to have some sort of classification or category based against it. We're going to be measuring them all anyway and then it's still going to boil up one way or another.

Steve DelBianco: And let me go to 3.7. And obviously 3.7 should be open only. I didn't have it in the draft and it's my fault. But I don't know how you could do 3.7 for the closed. They're not even available. In other words, 3.7 was driven from the U.S. Government who said they wanted to measure over time how prices would be affected as new entrants came in and gave registrants the option to go other places with competing prices and terms.

Jonathan Zuck: Right.

Steve DelBianco: And a registrant does not have a choice going into a closed TLD.

Evan Leibovitch: And the scenario I can think of is Google starts giving away second level TLDs but you don't own it. It's second level domains but you don't own it.

Steve DelBianco: Yeah. And they're not allowed to register. So you would not be the registrant of record.

Evan Leibovitch: Right. But you still have your domain that you have. It's not yours but you rent it or you whatever. I'm just saying...

Steve DelBianco: (Is there) a target for this one? The bar is rather low. But I can tell you that when the U.S. Government asked for this one, they were mostly interested in assessing the competition for com and they want to look at prices and quantity and it's a tough lift for staff because it calls - they actually ask for weekly basis.

By doing it for open, we cut in half the number of registries that staff has to look at. From 700 to 1400. We would double their work if we include them all.

And for that reason I would say let's be realistic here and count only the opens. No second to that motion?

Jonathan Zuck: I agree.

Cheryl Langdon-Orr: Yeah. I don't have a problem with that. I think it's more likely to actually get done if it's that way.

Berry Cobb: I agree.

Steve DelBianco: Okay 3 dot - next page.

Jonathan Zuck: Three dot eight.

Steve DelBianco: Everyone sort of agree that 3.8 is again it's open only.

Jonathan Zuck: Yeah. Same issue.

Cheryl Langdon-Orr: Yeah. Well the whole set really.

Steve DelBianco: Okay. And we have just what - I think we only have one more set, 3.9. And on 3.9 I used the strike through text because believe it or not, 3.9 and 3.10 we had already thought about the open versus closed. And we just said it in a way that didn't match the new definitions. So I struck through the old and put in the new.

Cheryl Langdon-Orr: Tidier, yes.

Steve DelBianco: And Michael Graham has asked price of SLDs but the price of a gTLD domain Michael is a second level domain. That's what the word domain means, right. Do I need to say second level domain? Would that make it clearer to everyone?

Michael Graham: I mean if it's clear within the context of the community, I'm fine with it.

Steve DelBianco: Community on the phone, do - should we say...

Michael Graham: Had my trademark hat on there for a moment.

Steve DelBianco: Understand but I'm just asking the folks on the call. The need to say second level domains or can we just say domains?

Michael Graham: What would be perfectly clear would be price of domains in new gTLDs.

Steve DelBianco: That's fine by me.

Cheryl Langdon-Orr: I can live with that.

Steve DelBianco: The sale price of domains in new gTLDs.

Cheryl Langdon-Orr: (Unintelligible) yeah.

Steve DelBianco: Retail price of domains in new gTLDs.

Cheryl Langdon-Orr: Yeah.

Steve DelBianco: And that we strike through - take out the strike through and keep...

Cheryl Langdon Orr: Yeah.

Steve DelBianco: ...the open gTLDs only.

((Crosstalk))

Cheryl Langdon-Orr: ...same language as (we now use elsewhere). Yes, yes and yes again.

((Crosstalk))

Steve DelBianco: ...objection?

Evan Leibovitch: Well I'll register mine but I'm the only voice here that doesn't like it.

Jonathan Zuck: That doesn't like making it only gTLDs?

Evan Leibovitch: Correct.

Jonathan Zuck: I see.

Cheryl Langdon-Orr: Okay.

Evan Leibovitch: I think what we're doing is we're putting in a serious imposition on some of the innovations that have the potential to take place in closed TLDs and I'll leave it at that I think. I think that we're missing an opportunity to measure something that could happen, that hasn't happened yet. There's some innovation that could happen. A possibility for some innovation and I think we're just closing off the ability to measure it before we even try...

((Crosstalk))

Steve DelBianco: We're making a recommendation now to a review team that has the advantage of standing in the field a full year after the first new gTLD is launched. And if they look back and it turns out Amazon was giving bookstores or Google was giving users, they will do exactly what Evan is suggesting.

Cheryl Langdon-Orr: Yeah. That's when it needs to be...

Steve DelBianco: It absolutely will Evan. So we're not closing anything off.

Evan Leibovitch: Well then why put in the - then why put in this restriction now?

Steve DelBianco: It isn't a restriction. It's a focus on the data gathering that has to be done by a vendor. It's a phenomenal amount of work for staff to begin to set this up, start to gather the data and again, there is no retail price. They're not available to the public. There won't be a retail price so 3.10 isn't even applicable to a closed.

Evan Leibovitch: All right. I'll disagree and leave it at that.

Steve DelBianco: Appreciate it.

Evan Leibovitch: I'm - I don't want to slow things down but I just want to make the point. I think there's a missed opportunity here.

Michael Graham: This is Michael. Can I raise my hand very quickly to put to the group in response to what Evan's brought up? I apologize for the phone. You know, on Page 2 where we state the understanding of the limitations of the studies, perhaps to put in a sentence that also acknowledges the fact that certain - that - oh, I'm trying to go with the language you just used Evan that there may be changes in...

Cheryl Langdon-Orr: Innovations.

Michael Graham: ...thank you, innovations that occur after the preparation of these metrics that should be included in the review of the team that we cannot anticipate at this time and that should be considered then.

Steve DelBianco: Is 3.11 exactly that?

Evan Leibovitch: No. I personally don't think so because I think some of it is going to involve price competition just not in a way anyone here envisions. I honestly think by, you know, I'll say my piece and then I'll shut up. I honestly think that by

restricting all these things to open gTLDs you're basically shutting out the unknown unknowns.

Steve DelBianco: Okay. I hear you but we already agreed to both of these. We just changed the word from open to the general public to the words open gTLDs only. These are just definitional changes to embrace the new definition. Right. We already adopted by 3.9 and 3.10 to be only the open.

Jonathan Zuck: And they may be the ones - the only ones that it's possible to easily get this data too given they may have different contract requirements.

Tobias Mahler: This is Tobias. Evan maybe you are actually focusing on something that is more relevant to 3.7 and I apologize for being late on a very late Friday evening here.

I think - I'm not completely sure what we agreed to on 3.7. Did we limit that to open gTLDs only?

Steve DelBianco: Yes.

Jonathan Zuck: Yes.

Tobias Mahler: And I think I have a problem with that and maybe that's also related to the problem Evan is having. When - I think we should - and this is a situation where the option to have for example a free domain under a Google would be an alternative to having to pay for a domain name in some other TLD.

And I think if we don't capture these things then we fail to measure something important with respect to 3.7. So I think what the U.S. Government wanted...

Jonathan Zuck: All right. So I'm going to let Mason - he's had his hand up for a while and then Mike I'll let you raise your point that you did in the chat about 3.11. Mason, do you want to go ahead?

Mason Cole: Yeah. Thanks Jonathan. Just one thing I know in Note 5 of the report there's a notation in there about how measurements related to say 3.10 would be somewhat dependent not just on the price of the domain name itself but on other services that registrars may offer. And I can testify to that fact.

You know, sometimes products are bundled, as you well know. And the (private) measurement that you're trying to get out may very well be obscured. Another thing that - this may be in the report. If not, I haven't seen it.

But another thing that may be difficult in that environment of collecting data is somewhat of unwillingness on the part of registrars to share certain price related information because it's competitive in nature and they don't want to disclose it to the rest of the market.

So I guess I just want this team's eyes open on that fact that as you correctly point out it is difficult to automate collection in the best scenario. And it would be - I think it would be difficult to get a completely accurate picture again even in the best scenario.

I'm not trying to throw roadblocks. I'm just pointing out what I think I know about the market.

Jonathan Zuck: That's right. Michael, I think you made a relevant point in the chat. Can you surface that verbally here and...

Michael Graham: We're talking about the 3.11. Again I apologize for my phone. I think - and this was after your comment Steve asking whether or not 3.11 might be sort of that catch all providing for what we cannot anticipate. I think with a minor change it could be.

I was just suggesting that we change the language just a bit to say qualitative assessment of other non-priced indicia of competition through innovations dot, dot, dot. That would have this be an open handed suggestion that these other types of competition to the extent that they could be viewed should be. We just can't define them because there are so many possibilities.

And also looking at the fact that it's not always - as we were discussing, it's not always price that indicates competition. It can be other services or benefits. I think that's what you were getting at Berry.

Jonathan Zuck: Yes. I think that makes sense.

Cheryl Langdon-Orr: Yeah. I'm okay with that.

Jonathan Zuck: So as we go on, Michael can you redraft it...

Cheryl Langdon-Orr: In the chat.

Jonathan Zuck: ...as a whole sentence for Berry?

Michael Graham: It's getting late in the day to do a whole sentence but I'll try.

Berry Cobb: I've got it. Qualitative assessment of other non-price indicia of competition through innovation that blah, blah. Blah.

Cheryl Langdon-Orr: Yeah.

Steve DelBianco: Right.

Jonathan Zuck: Okay.

Cheryl Langdon-Orr: Well done Berry.

Jonathan Zuck: All right. Tobias, do you still have you hand up?

((Crosstalk))

Cheryl Langdon-Orr: ...back at 3.6. I thought Tobias took us back.

Tobias Mahler: Well, is there a possibility to get back to 3.7?

Cheryl Langdon-Orr: Three point seven, sorry Tobias. It was 3.7.

Tobias Mahler: Is there a possibility to talk about that again...

Jonathan Zuck: Well it depends (unintelligible).

Tobias Mahler: ...or am I too late in meshing my disagreement?

Jonathan Zuck: Okay.

Cheryl Langdon-Orr: Sorry.

Tobias Mahler: Okay. So...

((Crosstalk))

Jonathan Zuck: We're trying to avoid rehashing things that we've already gone through. So...

Cheryl Langdon-Orr: But hang on. Hang on Jonathan.

Jonathan Zuck: (Unintelligible) to new versus to open versus closed TLDs.

Man: (Unintelligible).

Cheryl Langdon-Orr: We made the change from what the existing 3.7 is to now limit it to open only. And that was Tobias' point.

Tobias Mahler: And we went very quickly through 3.7 and there was nothing in writing there. So I was a bit slow in reacting.

Jonathan Zuck: Okay.

Tobias Mahler: So basically I think it would be good to include at least the closed keyword TLDs if that was the right terminology in 3.7. Because they may actually be alternatives to regular open gTLDs. So I think when people move from one kind of TLDs to another that should be something we can manage to measure here.

Jonathan Zuck: So just (unintelligible).

Steve DelBianco: But by definition the closed keyword TLD is not available for any registrants other than the (unintelligible).

Tobias Mahler: Well it might become somehow available just like I have suddenly an email address with Facebook or - I mean Google might suddenly give you a gTLD for - together with your gmail account. Or Amazon might give me a domain name when they sell my book. Something like that.

((Crosstalk))

Steve DelBianco: ...enough concern about this that - what we had in the original 3.7 said that the TLD attributes should be noted with the data, that is open/closed country of operation. So what if we said open gTLDs, closed keyword TLDs, country of operation (unintelligible).

Tobias Mahler: It's already there. I'm fine with that.

Steve DelBianco: And then we would take away any red text that said open gTLDs only. But we're telling - we're asking staff to measure it separately. TLD attributes should be noted with the data. So I'm proposing where it says open/closed team, change that to open gTLDs, closed keyword gTLDs, country of operations, et cetera.

Jonathan Zuck: That makes sense.

Cheryl Langdon-Orr: As ever Steve, you are a wordsmith.

Steve DelBianco: But this is what Evan was getting at as well in the chat.

Cheryl Langdon-Orr: It does. It picks it up perfectly.

Steve DelBianco: Evan you still with us?

Evan Leibovitch: Yeah. I'm okay I mean so it's basically you're saying the 3.7 will apply to all except closed brands.

Steve DelBianco: That's it.

Cheryl Langdon-Orr: Yeah.

Jonathan Zuck: That's right.

Evan Leibovitch: Yeah. All right.

Cheryl Langdon-Orr: And that works for - that works fine. That's good.

Steve DelBianco: Should we do the same to nine and ten on the outside chance that there's some way to get around the Specification 9. Do you want 3.9 and 3.10 to be open gTLDs and closed keyword or are they open only?

Evan Leibovitch: Well see something like .google, which is closed, your .amazon is closed could have exactly the kind of scenario Tobias was talking about. And so all I'm saying is don't shut out this - don't shut out this measurement exercise from the possibility that that could be available.

And to say that this isn't a matter of choice or competition is I think not really being - well, I mean I think it's eliminating a possibility that could very well be an issue of choice or competition. And if it doesn't happen it doesn't happen. But the survey's got to allow for this possibility that it could happen.

Cheryl Langdon-Orr: I'm happy to use the new language - the new drafted language in the following 3.9, 3.10. I think we've been repetitious for the sake of clarity before. We may as well do it again.

Evan Leibovitch: But Cheryl even in the case of closed brands, if a closed brand is a .google and it's offering stuff to authors like Tobias was saying, then why aren't, you know, are we automatically saying that...

Cheryl Langdon-Orr: Did you hear what I'm saying Evan? The new language that Steve just proposed back in 3.7 should be repeated in nine and ten.

Evan Leibovitch: Okay. That should work.

Steve DelBianco: That language is TLD attributes should be noted with the data, i.e., open gTLD, closed keyword gTLD. Is that what you're getting at Cheryl?

Cheryl Langdon-Orr: Yeah. That's what I'm getting at Steve.

Evan Leibovitch: Yeah. That works for me. Thanks.

Cheryl Langdon-Orr: Next.

Steve DelBianco: Oh no, I think that's all. And I did put Appendix B in there, which is the actual Specification 9. And during much of this discussion of the creative approaches of Google giving second level domains to all of us and Amazon giving them to bookstores, I'm just still scratching my head folks because Specification 9 says they can't do it.

Evan Leibovitch: And you may be absolutely right.

Steve DelBianco: So the point of my picking Specification 9 as the definition for open and closed was to avoid all of this ambiguity. But let's have consensus. Let's come together and I'm happy to pull out the open only on nine and ten.

Jonathan Zuck: Okay. Well congratulations everyone.

Cheryl Langdon-Orr: That wasn't too shabby (unintelligible).

Jonathan Zuck: Thanks for sticking it out. I think we may have lost Mason but...

((Crosstalk))

Berry Cobb: ...to the team I'll circulate the next version out here in the next hour or so. Let's review through the next version. If you have any other changes, please send those to the list. And we'll look to publish the final version middle to late of next week.

Steve DelBianco: And ALAC was gracious enough to move approval through last time and we have to regretfully ask that you consider the new version over there in the ALAC sometime soon. And we would hope to get it to GNSO Council by November the 15th Council meeting.

Berry Cobb: Right. We actually have to submit it by the 9th to make the deadline for submitting documents.

Cheryl Langdon-Orr: (Unintelligible) Cheryl here. Would be running an ExCom before that date or approximately around that date?

Olivier Crepin-LeBlond: Yeah Cheryl. It's Olivier here. I'm currently looking at a calendar and it looks like we will have an ExCom on the week of the 15th. There's not one as early as that. What I can do is to ask for it to be sent over to the list and we can do a...

Cheryl Langdon-Orr: Do it online.

Olivier Crepin-LeBlond: ...vote online, exactly. And would it be possible to have a red line version?

Berry Cobb: Yes Olivier. I'll send both.

Olivier Crepin-LeBlond: Because that'd be great. At that point it's just, you know, we're seeing minor changes and I think that we'll have broad support on this. So I mean they said yes to the first version and I don't see this one being vastly different. But it would certainly help to expedite matters if we had red lines so we could just have five days reading time and then a vote.

Cheryl Langdon-Orr: Especially if someone like Evan was to move that resolution. Hint, hint Evan.

Steve DelBianco: And the red line would be vis a vie what the ALAC approved last time.

Cheryl Langdon-Orr: Correct.

Olivier Crepin-LeBlond: That's right, yes.

Cheryl Langdon-Orr: Excellent.

Jonathan Zuck: All right. Thanks everyone.

Cheryl Langdon-Orr: Thank you.

Michael Graham: Once again, it's been a pleasure.

Steve DelBianco: Have a great weekend everyone.

Cheryl Langdon-Orr: Terrific. Enjoy the weekend but not until you've done your final review that Berry sends out. No relaxation till after that, right Berry.

Berry Cobb: Absolutely.

Man: Bye all.

Man: Bye.

Man: Thank you guys.

Cheryl Langdon-Orr: Bye all. Thanks all.

Coordinator: This concludes today's conference. Please disconnect at this time.

END