

GTLD REGISTRIES STAKEHOLDER GROUP MEETING

March 27, 2013
10:00 – 12:00 EDT (14:00 – 16:00 UTC)

Note: The following is the output of transcribing from an audio. 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.

Coordinator: Please go ahead, we're now recording.

Cherie Stubbs: All right. Thank you, Ricardo.

I am just going to call - as usual, I'm just going to call the attendance of the Registry Stakeholder Group delegates in consideration of time.

From Neustar I show Becky Burr, Jeff Neuman and Judy Song-Marshall and Roy Dykes.

From VeriSign, Chuck Gomes, Keith Drazek and Barbara Knight.

From Afiliias, Ken Stubbs, Jonathan Robinson.

From PIR, Don Blumenthal and David Maher.

From MuseDoma, Cary Karp.

From DotCoop, Carolyn Hoover.

From Employ Media, Ray Fassett.

Did - did anyone else, right, I just see that from puntCAT, Nacho Amadoz just joined.

And from ICM Registry, Sheri Falco.

And I believe we have all the NTAG Executive Committee on the call as well, which is Jon Nevett, Krista Papac, Tim Switzer, and Bill Doshier.

Liz Finberg: And Cherie, this is Liz Finberg from PIR. I just joined.

Man: Thank you.

Cherie Stubbs: Hi, Liz. Thank you so much. And Brian Cute just joined from PIR.

Brian Cute: Hello.

Cherie Stubbs: Did I miss anyone, please?

Thank you all. Thanks Keith.

Keith Drazek: Okay. Thank you very much, Cherie Stubbs.

Cherie Stubbs: You're welcome.

Keith Drazek: Welcome everybody. This is Keith Drazek, Chair of the Registry Stakeholder Group. Welcome to our biweekly teleconference of March 27.

Today we - I think as everybody knows, we are joined by Fadi Chehadé, Cyrus Namazi, Dan Halloran, and Karla Valente from ICANN.

And we reordered our agenda, our typical agenda this morning to give Fadi the opportunity to discuss and present to the Registry Stakeholder Group and the NTAG membership a proposed solution around what's being called the Public Interest Amendment, which I think we previously referred to as Unilateral Right to Amend.

So with that, I would like to welcome Fadi and thank him for participating today. We really do appreciate your willingness to join our call and to give us a preview of what I expect will be posted publicly and hopefully for public comment on Friday, I think, if I understood your statement yesterday on the Webinar.

So Fadi, over to you. Thank you.

Fadi Chehadé: Hello, Keith, thank you very much. Thank you, all of you, for allowing us time to share with you some of our thoughts and where we are on this agreement. I very much appreciate it.

And I know this was helped by Jeff Neuman, and I thank him for that as well that he reached out to make this possible. So thank you.

Needless to say, there has been quite a bit of discussion within the community, both in private and in public in all kinds of fora between staff and

registries, between registries themselves, to find a way forward on the new gTLD agreement.

I frankly this morning come to you with a very clear view of where things stand with the registries. We have received from you during the -- well from the community in general -- during the open comment period we have received 58 comments.

These comments have been analyzed, the requests have been logged, and the recommendations from our team have been presented to me yesterday on 27 detailed pages on Size 2, I think.

Keith Drazek: Fadi, excuse me for one second. I apologize for interrupting. We're getting some background noise.

Everybody on the phone, please mute your phones if you're not speaking. Thank you.

Fadi Chehadé: Thank you.

So we have received, as I was saying, your comments and they've been all tallied up and logged. And I have now reviewed them along with the recommendations of our team on moving forward.

I was just joking, 27 very detailed small font pages from our team. Great work, great input, and frankly, very helpful to open our eyes as to the concerns that the community has.

I have also, as many of you know, met with several of you over the last few weeks on my travels and ensured that we made time to listen to you and to understand the concerns many of you have with the new gTLD agreement.

Now this is all happening, as you know, in parallel with the new gTLD operational readiness moving at a good clip forward. As I'm sure you all have noticed yesterday, we opened the Trademark Clearinghouse and you've received already hundreds of registrations.

And the process, at least on that end, on the front end, is working tomorrow - on Friday, I should say, this week we will release another 30 initial evaluations. That (train) has also moved and is working. And several of the key things that we need to put in place to get this program moving are fine.

If some of you attended my brief presentation yesterday on the new gTLD Webinar, I had drawn a little slide an hour before that call, to be frank, and just to share a little bit what I see as the kind of next steps that are critical.

And based on that really contracting comes next now. This is our focus next area of we wanted to keep the timeline on track we need to work together to make that happen.

And I know many of you have said this feels rushed. This feels unnecessarily fast, can we slow it down. And frankly, I mean, if the community wishes to take more time to review this agreement, I'm fine with that. I do feel though that right now it is a critical thing for us to finish. But I have no particular deadline and I'm prepared to work with you as long as necessary so that you get the right agreement.

Before I get into some of the comments that I've received, which I felt were very, very helpful in (making) good faith. I want to tell you that in the last few weeks since this agreement was shared, I have come to fully understand both sides of the debate.

And I put myself, having been myself in business and built many companies and signed many contracts on which my business is dependent, I've become very sensitive to the importance on the registry side to have a stable, reliable contractual relationship with ICANN in order for you to actually build your businesses secure, funding and operate in an environment that is not necessarily unstable or at least appears to be unstable to the outsider.

While we know how to solve problems, sometimes -- and many of you who have been very engaged in the ICANN community know that you can solve these -- someone from outside looks at something like a quote, you know, unilateral amendment by the board and says, "Oh my goodness, you know, that doesn't make for a reliable contractual relationship when people can unilaterally, without any checks and balances, change the core concepts of an agreement.

So I'm there and I understand these things, I appreciate them, I've lived them. And you've all been very generous with me in sensitizing me to the importance of these things as you move forward with the (unintelligible).

With that understanding, let me share with you that the - the comments that we've received, the 58 comments we've received, fall into eight buckets in general. We have analyzed these within these eight buckets. We plan to present to you the results of each comment in our summaries, as well as hopefully some solution to move forward beyond this in the next few days.

Right now we're targeting Friday this week and hopefully we make that date. I'm told that the worst case is that it'll be ready Monday morning. But right now we're targeting Friday.

Let me share with you - and I need to hear from you to the extent possible on this call, Keith, I don't know how you run these calls, but to the extent I can hear back I would really appreciate it before I ask my team to finalize some things.

I'm not going to go through the eight buckets. I think I will focus on three areas, in the interest of time, that I believe are, let's say, top of the mind from the comments that I've received both through the public comments, as well as through private chats that I've had with many of you.

And these three in order of, let's say, extreme nervousness and priority, are number one, the amendment. Number two, the use - the requirement to work with registrars who have signed the 2013 RAA. And number three, the request to implement the outcome of the Next Generation Directory Services team, the next generation Whois Team.

These seem, from the comments, to be in this order the three things that, frankly, may end up being what I would call showstoppers on our ability to move forward with an equitable agreement for all parties.

Let me address the three. And then depending on how you want to run this, Keith, I could - I could take some comments, which I would appreciate. Or if you want we can go deeper into some of the others. But I prefer if we can focus on the key things that are between us.

So let me start with...

Keith Drazek: Thanks, Fadi. Yes, I think - I think that's appropriate if you want to focus on those three areas for the purposes of this call. And then certainly with the proposal that you've got and the flowcharts, we should spend some time on that.

I know that members of the Registry Stakeholder Group and the NTAG will be very interested in, you know, having a dialogue and asking questions and potentially giving you some feedback.

So why don't you go ahead and give your overview, and then we'll move into more of an exchange.

Fadi Chehadé: Okay. So on the amendment, first of all, I'm now convinced a unilateral amendment, as many of you called it, rightly so, is not going to work.

We - I'm now clear that a unilateral way for the board that is without very serious checks and balances and very clear limitations and very clear pre and post-amendment processes that would (drive) the list very tightly I think

would not serve the ICANN model well, would not serve the registries well, and would not serve the businesses that need to rely on a steady contract well.

So to solve that, I have sent you this chart, which I'll walk through in a moment, that I believe addresses my concern and your concern that this amendment could create a situation of unilateral action that is not properly bridled and breaks, in my opinion, some of the bigger concepts that we all adhere to and live by in the ICANN model.

Secondly, I'm going to quickly address the other two points. The RAA requirement, the requirement that you only work with registrars that have signed a 2013 RAA, which is in final, final stages of negotiations.

I believe that we and the Negotiating Team on the registrar side have agreed that we are going to make our best efforts. And it's looking quite good now that by Beijing we would have - we will present the community with how we plan to close all the remaining gaps.

So this is looking fine. And I also think this - this agreement could be moving into finalization right after Beijing.

But on that, again, I have come to a clear appreciation that if we do not make, again, that requirement anchored in an operationally feasible regime, we make that requirement truly a problem, especially for new gTLDs, and it would restrict your ability to reach the market in the proper way.

And therefore there the two things I'm going to propose to you that we change in that requirement. First is that we have to build within it a transition time, a ramp-up time that allows registrars to implement the new requirement that they would have to implement.

There are developmental cycles, there are investments, there are various things. And we cannot expect that every registrar will be able to turn on a dime to get ready for this.

So that's the first thing that we will build in a transition period. And I'm discussing this with the registrars, and in fact they asked for, I mean, we discussed with them a specific period of time for all of this to happen, and we're going to take sections of the registrar agreement and actually, in a way, put them in a specific fence and say, "These things do not need to be implemented upon signature, but over a period of time."

The second thing on that requirement was that the language included the parenthetical that required that you, you know, you also work with registrars that have not only signed the 2013 RAA but any subsequent RAA.

So in light of the fact we hopefully will find a solution forward on the amendment with the registrars as well, I believe that that requirement leaves too much uncertainty for you, and therefore I'm happy to let go of that parenthetical.

And lastly on that, there is a clear sense also by many of you that if we implement - if we require this for the new gTLDs and the old gTLDs do not also work within that framework or a similar framework, that we potentially could have the new gTLDs at a disadvantage.

And therefore I have committed and will commit to you as well that I - in good faith I'll be working with the current gTLD operators to see if, in good faith, they could also move in that direction along the same or very similar timeline.

So this is on the second point, Keith and team.

On the third item, if you recall that I mentioned that the item on the Next Generation Directory Services Whois. Listening to many of you and listening to excellent arguments made also on the public comment on that, I'm now convinced that that requirement would not be reasonable to keep in the agreement, so we will drop that requirement.

Okay. I go back then to the amendment, if I could, Keith. And I will walk you through - through that amendment quickly, if I could.

Keith Drazek: (Unintelligible).

Fadi Chehadé: Any questions at this point or can I just go through the description of the amendment process, which should be pretty self-explanatory, but may be helpful for me to just walk through it quickly.

Keith Drazek: Thank you, Fadi. Yes, go right ahead and then we'll circle back with questions and dialogue afterwards. Thank you.

Fadi Chehadé: First of all, I just would like to say that I hope you do not worry too much about the name of the amendment.

So the name of the amendment can be changed. It's not the point about its name. The reason I chose to call it the Public Interest Amendment was to make sure that it's only used for that.

Frankly when I named it that I was thinking of ensuring that the board does not use it for any other purpose.

Now since then many of you have written me and they said that that name may actually - looking at it from the registry side may look like, you know, we need some adult supervision because we don't take care of the public amendment, so here's something to hit us on the head with.

So I hadn't seen it that way, and therefore I'm just - it doesn't matter at all what we call it.

But one thing it isn't anymore is unilateral, and that's important.

But the name of it, frankly, we can maybe do a little contest and come up with a nicer name. No worries about the name.

Let me talk about this slide, which I drew on a plane ride earlier this week - earlier last week, I should say, because I really was getting concerned about many of your comments. And so forgive me if this is a little bit rudimentary, but it was just my way of thinking through how we're going to solve this issue.

The blue part of this slide deals with why we need it.

So let me focus on that for a moment because there are two parts here. There's why we need it and there's how to do it if we need it.

Why we need it has been the subject of a lot of memos and a lot of debate.

But let me just focus on two things. We can spend another year arguing why we need it, or you can just accept the following, if you could, in good faith for me.

There are many unknowns about where this market is heading. I think they're all good unknowns, they're not bad unknowns, but they're unknowns nonetheless.

We are introducing a massive expansion of this industry. There's going to be many, many new players, many players in different parts of the world. There will be integration. There will be acquisitions. There will be consolidations. Coupled with the incredible new focus, good or bad -- mostly bad, in my opinion -- of governments trying to take some control over how the Internet works.

This is inevitable. We are in a phase where governments feel that they should have a big say in how this system works.

We are working very hard, as I'm sure many of you have seen and know, to avert more governance and more control and to let governments keep the Internet where it is.

So with all these factors happening and the pressure, frankly, I'm feeling, just continuously trying to explain to governments that I'm not a regulator, that this works differently. We are stakeholders that govern ourselves. Even just that is going to take years to just get into some of these minds out there.

And so in order for us to have a regime of how these agreements, these contracts are managed, we need to have a number of tools that allow us to manage these changes as they come. Many of which, in my opinion, are not clear yet, and therefore all the more reason to have the maximum flexibility.

Now the flipside to this coin is maximum flexibility means less stability and therefore less predictability for you. And so I needed to find that balance and believe that this process in front of you provides some of that balance.

So I'll go down the - kind of the tan boxes very quickly. An amendment is needed, it would have to come through the community and the board would have to say, "Yes, an amendment is needed. Not just willy-nilly. It has to go through a board process."

There is a very small step. As you know, we have already in the agreement a mechanism. If it's an urgent need for security and stability the board can enact a temporary policy. And that step has never, ever been used in ICANN's history. So it's a very, very high test that it's something that must be done for security and stability.

But it's there. And as we pass this step, the first and most important piece here is to get into Community Consultation.

So this is the first what I call check. Let's go into Community Consultation, let's talk, let's discuss. And if the community comes to the conclusion that this is something that stakeholders should look at, then the stakeholders look at it -- the effective stakeholders, let's say the registry's here -- and if the registries believe this is a reasonable thing the registries can adopt it and we're done.

If the registries do not believe this is something they would like to adopt or we cannot get enough votes or however that process works -- and we are not changing that process, we're not touching it, that's your process -- then the first key question is to ask whether this amendment is within the picket fence.

And if you have any questions about the picket fence, please ask Becky. I got my lesson very, very clearly laid out. She knows that better than anyone and she was very generous in walking me through that a number of times.

So the amendment - if it's within the picket fence, then the amendment normally goes through the PDP process and it has to go there first. And we are not putting any time limits on the PDP process, we're not defining any of that. We will work with the community on a normal PDP process however long it takes.

And if the PDP outcome is for the amendments, against the amendments, whatever it is it'll be implemented.

(Hear it). If the PDP process does not come through any conclusion and gets bogged down, however long that takes, then and only then the board will have to go into that red part where they will have to ask themselves the key question, "Is there a substantial and compelling reason in the public interest to actually make that amendment?"

Now that same red area we would get to if the amendment was not within the picket fence.

And this, frankly, I mean, much of this process which wasn't - this is Version 8 of that process, by the way. I did Version 1 on the plane. And Versions 2 to 8 all happened because of input from registries, by the way. No, not from my team.

So many of these steps here that you see have evolved and gotten to that level through your input.

Anyway, if it's not the picket fence, what many of you felt is that it should go - it should not go to a PDP, that it's something that should go straight to this board step.

Now one of the toughest things to do in the English language is to define what is substantial and compelling. I have not. I tried in French and they said that won't work, so we're kind of sticking to English, but it's still very hard.

And therefore - first of all, I've added the concept of a public interest because, frankly, if it isn't what other reason would the board want to use an amendment for?

Well some people said, "Well, you may want to use it to change ICANN's (fees) or to change the Consensus Policy or to even change this very - this very amendment process that you're looking at."

And so I was very - this bubble, this red bubble in the middle of this page took some time to come up to, and of course, as many of you know, this will still have to translate into some legal language to go in the contract as Fadi (unintelligible) in here.

But I asked my team to even define what is public interest, so I've got a (long memo), I write the (long memo). And out of that memo I currently pick these two (unintelligible) to ensure competition and consumer choice and to promote consumer access to (unintelligible).

Now (these are) my business (unintelligible) level. And I'm sure as it translates into some legal terms it'll be far more complex. But I also very specifically asked them to exclude things that people were worried about, such as ICANN (fees) Consensus Policy, etc.

So we will - we will define that. And I realize and many of you have made it clear to me that the definition of substantial compelling reason public interest has to be quite tight. And I'm fine with that. In fact I'm very much in favor of that.

So let's assume the board makes that determination. They prove the amendment. They have to do it after another period of full public input, full public participation, public comment, all the good stuff.

And even after all of that, if they still want to move forward with it they have to achieve a 2/3 majority.

Now some of you have been ICANN board members, some of you haven't. But if you haven't let me assure you getting 2/3 of this board to vote on anything controversial, as I've learned in the last six months, is very complicated. It's not easy.

It's not going to be (unintelligible) represents our community to easily pass something so critical that have not passed through a PDP, that have not gotten the consent of the stakeholders, for them to just say, "Yes, yes, let's pass it with 2/3 majority." It's not going to happen easily.

But nonetheless it's there. And even if they get through that, then we ensure to the new step allowing you, the contracted party, to have a mechanism to counter. And the board must listen to the count and turn to consultation. And we made it so that the counter is not a one-off but rather a back-and-forth consultation.

And that's the only place - one of you asked in the comments period or - sorry, this actually came to me by email, you know, what is the time limit on any of these steps?

We haven't put any time limit on any of the steps described so far. But on this step we'll put the time limit and it will be a reasonable time limit. I can't remember it now. If (Dan) does I'll ask him to chime in, but there is a time limit there.

Regardless, if the boy rejects the counteroffer, they have to do so with 2/3 majority as well.

So we bridled that so hard that it means we created a mechanism for the board and the effected parties here to sit down and work together. And the board has a (high) test to still force them - their amendment through after all of these steps.

And if all this fails and the amendment is approved, the contracted parties have a chance to go and ask for arbitration if they believe that this was not done in the public interest, for the public interest, and it wasn't substantial and compelling.

And if the arbitration goes through, then that, you know, everyone will abide by the arbitration.

So this is the - this is the amendment process that I'm (proposing). And I will stop at that, because I know time is running out, and hand it back to you, Keith, and ask all of us to focus on what is important here.

And that is that we come out of this, all of us, not with ICANN forcing a new agreement or issue. I think that, in my opinion, would be a failure of my effort and of ICANN's effort.

If we can come out of this working together, and hopefully some time in the next month or two coming out publicly with this new set of legal frameworks and business frameworks, that we've all worked on together, and the industry looks like it has embraced these and made them happen and embraced its responsibility not by force, but by bottom-up consensus, I think this is the outcome I'm looking for.

Back to you, Keith.

Keith Drazek: Okay. Thank you very much, Fadi. I really appreciate your spending the time with us and going through that in as much detail as you did.

Maybe I could just, you know, make a couple of comments sort of at a high level. I think maybe some themes of a response that you'll hear, you know, from our dialogue now.

I noticed that Chuck has his hand up and if others would like to get in the queue, please go ahead and raise your hands.

But I think there's probably a handful of things that I think you'll probably hear. The first is that I think, you know, in reviewing the flowcharts, I think our initial sense is that there is a lot of detail needed - a lot more detail needed.

The flowchart provides sort of a concept at a very high level. And I understand that you're socializing that now and, you know, seeking feedback and we really appreciate that.

But I think before we're in a position to make any sort of, you know, decisions or recommendations or, you know, or judge levels of support, we're going to need a lot more detail, and specifically need the proposed language that would be incorporated in the registry agreement, a red line or whatever - however that's communicated.

So I guess I'm curious whether that will be - that level of detail will be included in the Friday release or if that's something that will take place later.

The next slide I think is really timing and process. The timing, as you noted at the beginning, I think has felt - there's been a lot of pressure to meet the date of April 23.

I note and welcome your comment that, you know, that you're willing to take the time and prepared to take the time to allow the community - and not just registries, but allow the community to consider what's being proposed.

As far as process is concerned, this proposal is very new, it's a new concept. There's a lot of moving parts that really deserves thorough consideration and probably the opportunity for public comments, you know, on this new concept.

Even though it came from the public comments or is a result of public comments submitted, it is in fact a very new concept and a new process that needs to be considered.

And ultimately I think that - the reaction that I've heard from some is that that this process still appears to be a unilateral power of the board with - yes, with checks and balances spelled out. But that at the end of the day it does appear

to some to be a unilateral power of the board and there's still come concern around that.

I know that others want to get in the queue and that there's going to be some detailed discussion around the need for specificity and other areas.

So I'll stop talking now and why don't we hand it over to Chuck. Thanks.

Chuck Gomes: Thanks Keith and - this is Chuck Gomes from VeriSign.

And thanks, Fadi, for taking the time - not only the time today, but the time you've been spending on this, which I know is extensive.

I want to back up a little bit. And we don't need to spend a lot of times on this.

But I, frankly, still don't understand why we're redoing this because we did it three years ago.

The issue of an amendment was raised then, a unilateral approach was proposed then, it was rejected. And we work together to create a compromised position which is in the existing guidebook.

And I frankly don't see how things have changed that much. We knew that there was going to be a lot of TLDs then. We knew there were government concerns then. We knew all of these things and we worked together to create a process, and frankly I haven't heard or seen anything that tells me why that doesn't work.

Keith Drazek: Thanks, Chuck. Did you have anything else you wanted to add?

Chuck Gomes: No, that's it for now. I just...

Keith Drazek: Okay.

Chuck Gomes: That's it.

Keith Drazek: Okay. Thanks, Chuck.

So Fadi, if you'd like to respond to anything along the way here, by all means feel free to jump in.

I know that, you know, some of the - some of the feedback that you'll hear are questions and we certainly would welcome your thoughts on it. So feel free to jump in at any point.

Fadi Chehadé: So, Keith, let me at least answer you.

Yes, the plan is that on Friday you will receive the full (flushed) out language on this amendment process. We've been working on it for the last three days diligently and you should have it on Friday. So that - just to clarify when you will get that language.

And the other thing to note here is that on your second question, Keith, that we do have a presumptive renewal notice that makes these agreements, you know, I don't like to use the word perpetual because it's not quite right. But, you know, quasi that.

And therefore I just want to clarify that one of the reasons this is needed, when you have agreements that have presumptive renewal, is to enable the process by which the community can review disagreements. As opposed to time-limiting disagreements until three years or five years, which I think, I mean, putting myself in your shoes, for a moment as someone running a registry, is not a necessarily very desirable thing.

Keith Drazek: Good. Thanks, Fadi.

Let's move now to Jonathan Robinson.

Jonathan Robinson: Thanks, Keith. Thanks, Fadi.

You sound like a man who's really taken the time to listen. And we've heard of many individual discussions you've had and many group discussions you've had to try and develop your thinking on this, so that certainly is appreciated.

One of the things that seems to risk - put risk to achieving a solution here, that I've heard time and again, is the speed at which we're working. So certainly that's something to add to the mix is to take this perhaps with a little less haste.

I understand some of the compelling reasons for speed, but that's something to think about.

The other theme I've heard time and again, which in some ways echoes what Keith was saying, is that this driver needs to be understood clearly.

And I know you've taken some time today and even a moment to go to attempt to explain this. But there is - this is a community that has significant baggage and, to some extent, lack of trust. And as you well know from all of your experience, trust is a hard one and easily lost.

And anything you can do to explain the motivations, whether they come from, you know, from where they come and what drives this, you know, even if you have to repeat what you said before to make it understood why what's driving this is critical.

And then certainly I think, as you've heard, the third point I make is that clearly the devil is in the details. The diamond highlights public interest, but immediately one goes into the bubble and starts to see something expand. And whilst it's well recognized that, for example, the new gTLD program is about promoting consumer competition and choice. Traditionally and historically I don't think that it's been ICANN's mandate, even as a quasi regulator or an overseer of this industry, to work in that area and to regulate it, be like consumer competition and choice issues.

So whilst that might be an objective of the gTLD program, it's not typically, as far as I understand, historically been within ICANN's mandate. So there's a sense of mission (creed) there that once one goes (unintelligible) to expand.

So those are three thoughts to add to the mix that, you know, thank you again for talking to us here and for all the efforts you seem to be going through to try and resolve this.

Keith Drazek: Thanks, Jonathan.

Jeff, let's move to you.

Jeff Neuman: Thanks. Thanks, Keith. And, Fadi, thanks for coming onto the call. I think this has been extremely useful for us and I know for you to get - to try to get an early start on some feedback.

The first point I want to make is that while it's great to hear you on this call, I just want to point out that even though there's a lot of registries and applicants on this call that not all the applicants are represented by the NTAG.

And so, you know, there should be some other mechanisms to reach out to all of the applicants and try to get their feedback because not every one of them is able to do so through the NTAG or even through being observed as on the Registry Stakeholder Group.

And I know that some may say, you know, kind of putting their cart before the horse here. But there are some - and I don't want to say that's, you know, we all need to discuss this concept to see whether we sign off on it.

But I know there's been some other discussions of some of the details and some of the concerns, you know, particularly on the arbitration process as to whether it's meaningful or not. And, you know, what it means to have 2/3 of the board given that most of the board that's familiar with the issues at hand are usually conflicted out of these discussions.

So 2/3 of a non-conflicted board is currently interpreted as not - doesn't give us much comfort, especially when, you know, Bruce Tonkin and others that are registries or registrars are not allowed to be in those discussions.

And I know you and I have talked about this before. And hopefully that will be put into whatever language that comes out.

I also do want to just tell you one of our fears, and I know we've talked about this, is that other groups are going to latch on to this new process and try to get ICANN staff and the board to circumvent the multi-stakeholder model.

We already know that the GAC has, on many occasions, or at least one in particular very recently, has questioned whether the GNSO has jurisdiction on PDPs in that they consider (of all) public policy.

You know, we all received the letter that the GAC had as questioning why the GNSO thought they had authority to initiate a PDP on the IGO names, for example, and that really it's just the ICANN board to take input from the GAC and then implement that.

I'm worried that, you know, this will be used by groups outside of ICANN or even groups inside of ICANN to kind of circumvent the PDP process and the multi-stakeholder model.

And so that's something we're also going to need comfort on. And strong words sent to these other groups that this process is not meant to encourage any way around the multi-stakeholder model at all. So...

Fadi Chehadé: Yes. Keith, if I could - so thank you, Jeff.

So first of all, to clarify, Jeff, I did hear you and others earlier during my road trip that it's very important that the so-called conflicted board members, who I believe represent you very, very well, like Bruce, are part of the discussion and part of the process to reach these majorities. And that will be reflected in the language.

So I heard you on that and I agree with you. I think if we want the board to come to decisions, including all views, then your representative should be part of the discussion. So that's been fixed.

And secondly, just on the worries. I mean, of course every process will cause worries. But we have to trust, at the end of the day, that when you have multiple checks and balances, things will have to happen.

And we can worry for the next six years. But we have to move forward at some point.

Let me just also clarify something very important. While I'm happy to take the time, we all need to make this happen. I want to brief you on something new that is important.

Right now when you - important timeline related to the latest SSAC report, we are discussing with the community that manages the certificate on how to address some of the concerns that came from the SSAC in the recent report.

And all the discussions with that community now point to the day a contract is signed by new TLD as being the trigger for a very important period of time they need to pull some certificates from the market.

So the date a new TLD signs their registry agreement is very quickly becoming the longest pole on the tent.

So I'm just being very clear about that. It's no longer the (TMCH), it's no longer all the things that I described in my slide yesterday. It's actually the date a TLD signs their contract.

Keith Drazek: Okay. Thank you, Fadi. Appreciate that and certainly look forward to more detail on that particular topic as, you know, as it becomes clear.

And I know that there's an (SSR) session on Monday afternoon in Beijing. So I expect that that will be discussed there as well.

Fadi Chehadé: Yes.

Keith Drazek: Okay, great.

So Jeff, I see your hand is still up. I assume that's from before.

Next in the queue is Brian Cute, and then Jon Nevett. And if anybody else would like to get in the queue, please raise your hand.

Brian?

Brian Cute: Thanks, Keith, and thanks, Fadi, very much appreciate all the work and focus you've put into this and very much looking forward to the document that will be circulated.

I think Keith hit the point that the devil is always in the details here. And we'll look forward to that and come back to you with any thoughts that we have moving this ball forward. Let me just highlight the issues that are top-of-mind for me right now.

Stepping back from this entire exercise, to me the most important element here is not changing the ICANN model. That the point on if this process is to be a process that's implemented that it cannot be top-down. That while there are government pressures in stepping up and demonstrating that this community and contracted parties are committed to doing the right thing is an important signal to send doing it at the expense of bottom-up multi-stakeholder model would be a grave mistake by all of us.

And what I'm focusing on is listening carefully to the reasons why we're doing this. And what I've heard so far is clearly there are unknowns. And yes, there are unknowns, there will always be unknowns. But being a business man yourself and talking to contracted parties, being asked to agree to certain mechanisms in the face of unknowns has a baseline, lack of comfort, if you will.

There's certainty, definition, boundaries, that's what helps contracting parties get to mutually agreeable resolutions and approaches.

Another thing I've been hearing on the why-are-we-doing-this or what-is-the-problem-we're-trying-to-solve is presumptive renewal.

And I've heard it a few times now. First, you know, perpetual renewal, which is not what it is, it's presumptive renewal, which is an important element in the contracts.

And the reason it's in the contracts is because it provides certainty. As operators of critical infrastructure who need to make continuing ongoing investments in that infrastructure that serves the public, it provides that certainty to the operator. Assuming they're operating in good faith and there is the possibility to lose the contract if an operation or registry is in material breach.

But presumptive renewal provides certainty and serves the public interest. So as I hear this being added to the complications or problem sets, I'm not sure I disagree with that - I agree with that entirely.

The other thing I'm hearing is process breakdown. That we need some mechanism because the ICANN process can come to gridlock or a halt, and therefore this process is being put forward.

Just a couple of observations there. On this mechanism I think the other area where I see a potential weaknesses, I commend you for building the checks and balances, absolutely appropriate.

I think it's appropriate to build in the steps where the community is consulted and that we try to, absolutely at every turn, make this a bottom-up multi-stakeholder mechanism.

But at the same time if you walk out this process flow across the calendar and calculate how long it could take to get to a resolution or an approach on this unknown issue, this won't happen quickly if each step plays out as it should.

So when the baseline problem is we have unknowns, we have an important issue that needs to be addressed. But we're determining at the outset it's not urgent, so we're not going to use a temporary spec and policy provision. It's not urgent but it's important.

I'm not sure what's on the page here treats an important issue in a timely fashion. So it's a weakness in this model that I think needs to be flushed out and maybe the details can address that.

And my last point is in listening carefully to what the problems are, my takeaway is that the real problem is the process breaking down. My takeaway, although it's not being said, is that the problem may be a sense that the PDP process doesn't deliver timely results or results in breakdowns.

And the last point I'll make -- and I appreciate the time -- is that this model in ICANN, even in the face of contentious issues, actually has produced outcomes.

I won't belabor the history, I'm happy to talk to you offline. But if the baseline problem here is not necessarily unknowns, not necessarily presumptive renewal, but the PDP process, maybe that's what we should be talking about.

Thank you very much.

Keith Drazek: Thanks very much, Brian.

((Crosstalk))

Fadi Chehadé: Yes. I just want to say look, I spoke to Brian as well and I got very good feedback from him. Brian has been very helpful to me in coming around to this understanding. So thank you for that.

Look, I mean, I - we will have ample time in Beijing to discuss the very good points you just made in more detail. And I'm open and willing to listen to them more than ever.

But I just would like to say to all of you that we really have, you know, I've run many businesses, many like yours, many bigger, many smaller than yours, and I understand business continuity.

There are businesses, when I was in the 90s, that lived on their Microsoft contract. Microsoft in the 90s, as you know, was in huge command of the PC sector.

And if you had a Microsoft contract to sell their products or distribute them, I was with Ingram at the time, Ingram Micro was the largest distributor in the world of Microsoft products. That contract was vital to a \$30 billion company like Ingram.

How long was their contract for? Three years. Three years. If Microsoft canceled Ingram's contract Ingram's stock would've tanked in about 20 minutes.

But they lived with it and they performed and they worked hard to renew their contracts year-after-year. So did thousands of companies around the world.

I've lived at IBM with many contracts like this where IBM was (handing) contracts.

Here we have a situation where we have a single contract. Now people explained to me, they said, "Well okay, you know, if Ingram lost Microsoft they could have gone to some other provider of software." Yes, that's easily said. But if you - if you, as you recall, know who Microsoft was at the time, if Ingram lost Microsoft Ingram would have never recovered.

There was never a concept of presumptive renewal in any contract. Here we have the regime where these contracts can be renewed frankly, practically for 50 years, forever.

Is it reasonable for us to assume that the macro framework is not going to change? Especially at the time when we are multiplying the number of registries by hundreds, new registries from around the world, new companies, people who have not been part of the ICANN community?

We don't know how this market will look like in a year, much less in five years.

There has to be a mechanism for this board which, by the way, is not some strange body that we invented, this is your body. You elect these people. We elect. This is a representative body.

And I listen to you and you said make sure everybody is there and sitting and debating these decisions. The board today makes a lot of decisions that affect the community.

So I wanted to step back and think about this. Because really we have here a bargain where we are creating a mechanism that gives us a valve, a very, very well-managed valve. And if you have more ideas on how to (bridle), by all means let me know because I've been listening.

But we cannot have an agreement that goes practically forever without any reasonable mechanism for the community to at least be put into a debate mode, into a discussion mode, into a consultation mode.

Because, frankly, Ingram Micro has never changed the Terms of its Agreement on its own or with other major distributors of Microsoft products. There has to be a mechanism to bring debate to the table and to have it. And I think if you look at this page, if anyone goes and thinks through this page, I think Brian said it very well, there is at least years to get to any of these final boxes. It won't be a month or 2 or 6 or 8 or 12. It'll be at least a year or two or three to get through these boxes.

This is not anything rushed here. Anything the board can enforce here is being put into a very well-defined managed process that has a lot of checks and balances.

So I'll hand it back to you.

Keith Drazek: Thank you very much, Fadi. I appreciate those comments.

I think it's important to go back to Chuck's question. And I guess wondering, you know, why the September 2010 compromised language and the temporary policy process that's in the existing agreement is inadequate.

And I think that it's just calling on ICANN as you work towards publishing the detailed, you know, the detailed explanation, detailed language to the extent that you can explain, again, very clearly why the 2010 compromised language is not adequate.

And if there are any specific examples of, you know, policies or, you know, sort of specific need that you envision for this particular process that you proposed I think would be very helpful.

So, Brian, I see your hand is still up.

Jon, let's go to you and then to Becky.

Jon Nevett: Thanks, Keith.

Well I was thinking of saying something before I just heard that. And then I think, Fadi, what you just said is not going to resonate all that well in this community when you talk about a couple things. So let me just point that out on this call.

One, if you talk about the benefit of a bargain and you talk about a contract and you talk about a negotiated outcome and agreement, as Chuck mentioned, we did all this already. We negotiated this agreement. We all, as applicants, we all paid, you know, a significant amount in application fees, and that is the bargain that we negotiated.

And it has numerous amendments processes in there. So there's the ones that are in the existing contracts with temporary policy, which is a unilateral right to amend.

There is a amendment process through the multi-stakeholder model called the PDP. That's also a unilateral right to amend and that each registry does not need to approve that. In fact collectively every registry, even if they go against it, that still could be amended. And to say that the board is representative of this community's probably not the best way to go about selling this.

With that said, I want to make sure that folks know that, you know, to Jeff's point that NTAG is open to all applicants and we've recruited and sent many messages.

So I totally agree with Jeff's point that there should be outreach to all applicants. And yesterday's Webinar is a perfect example of outreach - to applicants. But NTAG is a - represents half of the applications at this point and then open to all of them.

So we're happy to have you come to our meeting in Beijing and present this to all of our members who are there.

And I also want to actually commend - commend you on, you know, a couple things. One, dropping the parenthetical and the use of the 2013 RAA.

I also want to commend you on dropping that Whois requirement that many of us thought was a challenge to the multi-stakeholder model.

And this process is a big step forward from where we were in my eyes. I think there are significant checks and balances in here. I think the devil will be in the details. As many people mentioned, that red cloud needs - we need to see the language around that. But it is a potential (unintelligible) forward.

I personally think it'd be an absolute failure if this process ever gets used. Just like, you know, it would be a failure if the temporary policy process was ever used. And it hasn't been, as far as I know, in this industry.

So I think this is, you know, a safety net and we should approach it like that. And if we get the correct - the correct level of detail and correct level of protections in here, then perhaps it's a way forward.

And to that, again, I look forward to the discussions in Beijing and making sure we get this right and that we don't take a lot of time to do it.

I know others have said we need more time. And, you know, waiting until Beijing is fine and getting it done there.

But we've been talking about this for awhile and I think we understand the issues. And if we could sit down, roll up our sleeves and get it done, I think that's the way forward as opposed to creating more delay. Thanks.

Keith Drazek: Thanks very much, Jon.

Fadi Chehadé: (Unintelligible). And, Keith, if I may quickly just say, Jon, thank you.

And I am - I am at your disposal in Beijing, this is my Number 0 priority there. I'm all yours. I'll attend an NTAG meeting if you all want to have another meeting where we roll up our sleeves and get this done, I'm at your disposal. So I appreciate that very much.

And yes, yes, I want to echo what you just said. Just like the temporary policy was never, ever used. I'm hoping this never, ever gets used, ever.

In fact jokingly I was telling my team maybe we should rename it the Extreme Emergency Amendment process. This should not be used willy-nilly and I've asked our team to (bridle) the language around it.

Becky gave us some input on using that input to make sure that we reflected as best we can in the language.

So yes, I am of the opinion this is a last, last resort safety net that should be available in extreme conditions. We're in agreement that keeps getting reviewed with market conditions changing significantly allows us a way to at least engage the community in a change.

And I hope you all view it in the same way Jon just described, because that's how I view it as well.

Keith Drazek: Thank you, Fadi.

Becky, to you and then to Ken Stubbs.

And if anybody else would like to get in the queue, raise your hand.

Becky, go ahead.

Becky Burr: Thanks.

Fadi, when I first met you at whatever meeting you came to first, I think I mentioned that there was lot of pent-up good will in the community.

But conversation that we're having here today I think reflects that pent-up good will. But I'm a little concerned that it may not, as a result, come across as clearly as offline conversations do about it. So I hope you will forgive me if I'm blunt, although polite.

I am, you know, we can talk about this process until we're blue in the face. And I agree with everybody who has said that this process here is much improved.

To me there is still the three fundamental questions, which are, you know, are we sure that the tools that you have right now don't work.

Two, how do we reconcile changing the bottom-up policy development process that is reflected in the ICANN bylaws. And that was the product of a huge amount of work by the community during the evolution and reform period.

And then the final one and this to me is just - it's a- you can't have a conversation. All of our conversations about process will be irrelevant if we don't properly define what's in this red cloud and what substantial and compelling reason in the public interest means.

And so I'm a little surprised to see in the cloud that we're still seeing competition and consumer protection issues.

As you know I did a little research on public interest standards as exercised by regulatory bodies. And in each case the public interest standard was clearly constrained by the specific and allocated - and articulated authorities and, you know, in the wheelhouse of the regulatory agency.

As I said my concern for about this competition and consumer protection thing is I think it's - it leads ICANN down a path where the level of frustration around the world will be increased not addressed and creates instability and changes the bottom-up bargain without answering any question that we really identified.

So and that I don't - if you could talk a little about what you see the constraints on this and whether you actually think that sort of consumer protection and competition are appropriately within the scope of this amendment process?

Fadi Chehadé: Becky I believe in you should correct me because, you know, far more than me all of you that competition, promoting competition and consumer choice is at the core value of ICANN. And it's written all over the place in our goals.

So I - now I'm not the competition authority nor would I want to be one nor am I consumer protection authority no - but and I don't want to be one.

But if a registry or a group of registries go in a wrong direction and I need, you know, I think I'll be expected by competition authorities and governance to do something to protect that behavior and to protect consumers. I'll be expected to.

Now I know you've explained to me very well that this is not a good place to be, that this shouldn't be our role. And I agree with you. I don't want to be in that role. But I may have no choice. We may have no choice.

And then they come to us and they say well sorry the agreements are perpetual or "they will renew it" or change it. Well I can't change it. Okay.

Becky Burr: If I could respond.

Fadi Chehadé: And if it's outside the picket fence we can't send it to the PDP because you all don't want it to go to the PDP if it's outside the picket fence. So what do we do if it's outside the picket fence?

Becky Burr: So if I could respond, ICANN's position statement is to coordinate and - is to provide coordination of specified resources.

And it's required to do so in a manner that promotes competition. That does not turn it into a consumer protection regulatory agency nor does ICANN have the expertise to do that or competition.

Competition is an extraordinarily complex economically-based theoretical area of law that varies from country to country and groups of countries to groups of countries.

And nothing in ICANN's bylaws or mission statement says that it is supposed to regulate competition.

Now is it supposed to introduce, you know, create an environment in which creativity or competition can thrive? Yes. That's the point of introducing new top level domain for example and having competing registrars.

But I do not believe that it is an appropriate use of ICANN's authority to regulate licensees as, you know, as (dandy) competitive behavior on a theoretical level in the way that a antitrust regulator would do. And I don't know how you would do it. I think, you know, I just think it's asking for trouble.

And but when you say the authorities will expect you to do it well put this amendment in an - and describe it in that way and you're sure to be in that situation.

Fadi Chehadé: Again as I said Becky I understand and I don't want to be in the governor role. But, you know, my core values are clear. I, you know, it says clearly when feasible and appropriate depending on market mechanisms to promote and sustain a competitive environment I have to introduce and promote the competition and the registration of domain names where practical.

But I - you know, we have an obligation to respond not necessarily to regulate. If the regulators who have a complex model come back to us with the requirements right now my response will be sorry, I can't do pretty much anything. I can introduce it and if they say no I can't do anything.

I'm giving you an actual vow that the board can use bridled under these very tight conditions that allow us to at least have a dialogue.

I think that the unpredictability of what's coming because none of you can tell me exactly what's coming in that market. That's why I've asked many of you. No one can tell me. No one can tell me what consolidations will take place.

No one can tell me what the entry of very large players who have different business models will do to the registration market. Nobody can. Nobody's predicting it.

And we unfortunately we don't have good analysts in Wall Street or at IDC or at Gartner looking at this sector. So nobody can give me any prediction of how the sector will behave and how it will grow and what money come into it as it is now will change it and do.

So we need to recognize that beyond the coordination of our technical remit we are responsible to keep an open market and to promote and sustain a competitive environment. That is part of our core values. This is what the world is expecting us to look after.

Unless we change our core values and happy to consider that in Beijing and go back to coordinating numbers and not worrying about a massive market whether we like it or not we're about to make happen here all of us, not ICANN staff all of us are about to open this market. This is reality we're at now.

Keith Drazek: Thank you Fadi. Becky do you have anything else you'd like to say or should we move on to Ken?

Becky Burr: No I just have to say I find that very alarming response.

Keith Drazek: Okay thanks Becky. Ken over to you then to (Jasmine) than to Chuck.

Can we can't hear you.

Ken Stubbs: Can you hear me now?

Keith Drazek: Yes we've got you now. Go ahead.

Ken Stubbs: Yes, quick reaction to your comments there Fadi. Having been involved in this process since 1997 the words you just uttered have been uttered many times before particularly with the involvement in the original expansions of the TLDs.

So this is not a concern that is just unique to this expansion process but has been expressed many times before.

Secondly, I'm still having trouble understanding having had before me the TLD agreements, the specifications for temporary policies that were enacted as a result of discussions that go back about four or five years and having

talked to member many of the board members whose only real concerns about this were the implementation aspect because it seemed like you have to meet every 90 days to re-ratify it.

It would seem to me that somebody should take a very close look at dealing with the existing wording there on temporary policies, try to make the process a little more effective and easier for the board to manage.

It would seem to me as people have pointed out again we've gone for years and years and years without even ever having to implement this.

And yet at the same point in time one of the reasons we've gone for years and years is because it's rather effective approach to use if the issues come up.

So I'm really hoping that we can revisit the possibility of making some modifications in the existing temporary policies section and dealing with some of these issues there rather than just resurrecting something that may just create nothing but angst among many of the members in the community. Thanks for hearing me out.

Keith Drazek: Thanks Ken. Let's moved to (Jasmine) then Krista then (Brett).

Jasmin Omer: Thanks Keith. So I'd just like to thank Fadi for the presentation and quickly say that (unintelligible) point of view as I arrive registry services whilst it's clear that some (adjusting) needs to be ironed out that the clear solution's definitely a (awkward) change and it's certainly a very positive way forward. Thanks Keith.

Keith Drazek: Okay thanks (Jasmine). Krista?

Krista Papac: Thanks Keith. So first of all I just want to thank Fadi and (Cyrus) and (Dan) and (Carlos) for joining us and taking the time to talk through this as well as, you know, ICANN for definitely listening to all the feedback that's been shared certainly over the last, I don't know, six weeks or so.

I agree - I just want to echo some of the comments of my colleagues and so far in.

So I agree that this chart is an improvement over what we've seen so far.

I also agree that the devil's in the details. And so it's very difficult to say more than this is an improvement because we don't really understand the red box is really important and there are certain steps - and excuse me, the red bubble is a really important piece in getting definition right and the specifics down is a

super important piece as well as talking more about some of these processes from the square boxes we see on here.

I also just want to reiterate and I know it's been said a couple times but one of the things I continue to struggle with is I still don't understand why we're re-doing this.

And so it's very difficult to move forward mentally in my mind without understanding why we're re-doing something that we already did before.

I also just want to echo I think it was Brian Cote that said I do get the sense that part of what's driving this is that there's a believe that the PDP doesn't work or that it falls apart.

And, you know, if that's how we all, if that's what we truly think that's something that we should be - that should be what we are addressing.

I also think I hear a lot in the community that the PDP is broken or doesn't work, it takes too long.

The very nature of the ICANN model and the policy development process is that it takes a while. And I - while I completely agree that there are improvements that need to be made to it and could be made and we should be doing that we also have to accept that part of this very unique model is when you're bringing in all the stakeholders that's going to be the net result because you do have multiple stakeholders with conflicting interests.

And then the last thing I wanted to also echo is that the very - the most important thing that we need to keep in mind through all of this is that we are not stepping away from the ICANN model and that this cannot be top-down. It has to be bottom-up.

I feel like that is again, just the very most important thing for us to focus on. So thank you.

Keith Drazek: Thanks very much Krista. (Brett) go ahead and then Volker.

Bret Fausett: Thank you Fadi for joining us. I think it's been a helpful conversation. And I think I'm looking forward to seeing what comes out of the legal process once you put wording around the chart here. And I hope that some of the comments that you've heard today will inform the drafting process when this does go through the legal department.

My point, I wanted to take you through something you said a minute ago though which was that no one really knows the future. You know, I don't give my crystal ball any more credit than anyone else's.

But I do think that those of us who have been in the industry for a long time and have seen what is happened in other industries that have faced similar situations could give you a fairly clear picture of maybe the next five years, or the next years.

And maybe that's a subject for meeting in Beijing, an hour session where we can talk about what we see. Or maybe that's an invitation for comments.

But I don't think that the future is as unknown as you painted it. And I think, you know, based on what we've seen in the past both in this industry and outside I think we sort of know where we're going.

And I'd bet that the people on this call and in the registry, registrar community and probably in ALAC and other places could also helping to a fairly accurate picture of where this will all go.

Keith Drazek: Okay thanks (Brett). Volker?

Volker Greimann: This is (unintelligible).

Fadi Chehadé: If I could Keith just say something about (Brett) comment?

Keith Drazek: Of course Fadi. Go right ahead.

Fadi Chehadé: Just to (Brett) you're absolutely right. I'm probably the novice in this industry. And I've been listening. And I think many of you know that I've been listening and learning from many of you.

And I look forward to more listening in Beijing about your views of where the industry is going. And the more clear we are on where this is heading the more we will design a better process and a more defined and refined process. So I'm there and I'm happy to listen.

Having said that we've seen a lot of people be very, very certain where the industry's going the way the Internet is evolving and the world is evolving and the participation of governance which we should not forget and the process of Internet governance changing dramatically as it is right now.

These are changes that are beyond most of us to really put together in a complete system.

There are also going to be new players. I met a telco in one of my recent trips, a very major telco, a multibillion-dollar telco who has a business model with names that frankly would very seriously disrupt a lot of the things we're doing.

So I don't know. I mean yes maybe we are - we have a very good feeling for where it's going better than I do and I'm happy to listen. But I've seen many, many industries. I was there when 3Com was insisting Cisco will die. And I watched 3Com die.

I was with the CEO of Nokia when he was sure that he will take over the world and the iPhone is nothing and the BlackBerry is a toy. And look where they are today.

Markets change. Powerful, powerful moneys come into markets. They change them. Government involvement is usually not helpful but it does change market. And governments are all over this right now. Many of you are not seeing this as much as I am because I'm being pulled into every governmental agency on the planet to talk about Internet governance and they're all paying unfortunately too much attention to this now.

So we can't say that we know it's coming. We can't say. We might have a much better idea than I do. And I'm happy to listen and learn. But there is quite a bit of change coming. At least that we can agree on, there's quite a bit of change coming.

Keith Drazek: Thank you Fadi. So I think I heard Chuck on the phone but it looks like he's dropped from Adobe. I know you are in the queue earlier Chuck. Are you still there?

Chuck Gomes: I am Keith thanks. I got - I lost my connectivity here so...

Ken Stubbs: Okay.

Chuck Gomes: ...so appreciate this. A few quick points, number one, I'm disappointed that the question I asked at the beginning and at least six or seven people have repeated it it's never been answered. I hope that we can get that answer in the near term.

Secondly I want to talk just real briefly about the consensus process, the PDP for new gTLDs days with regard to the presumptive right of renewal.

That was dealt with very deliberately over a long period of time in the PDP process. And all the factors that have been raised today with regard to concerns about that and the ten year period that were dealt with by the entire

community dealing with all the issues that we talked about. And so that should not be minimized. But it was not ignored. It was not done rightly and that should be remembered.

And finally on a more constructive note I hope note I hope, we need to figure out how we're going to get where we need to be in the next few weeks.

I personally don't think that it's the most effective way just to say we're going to talk about this in Beijing, that we're going to take comments that were made today and deal with it. I think we need a more specific action item.

Three years ago we had a legal working group that specifically looked at the issues raised and we came up with a compromise and one that was put into the agreement that is in the guidebook now.

Do we need to do that again? I don't think just going into Beijing and say we're going to talk about this again is the right way to go. We're all looking forward to the details that will be provided on Friday but somebody's going to have to work on those details.

And we need some key people involved in that. And I'm not saying it has to be closed to anybody except for registry. It's okay for others to be involved. But frankly registries and future registries need to have some representatives with legal expertise that can work these details out.

And I'm quite confident that those of us in the Registry Stakeholder Group and the NTAG are willing to put forward some representatives to work with staff and to move forward on this. Enough of that, thanks.

Fadi Chehadé: Keith if I could respond to this.

Keith Drazek: Yes please.

Fadi Chehadé: So first absolutely Chuck. I want you to know that from my perspective the presumptive renewal model of these agreements when I was commenting on it and making my comments about Microsoft and Ingram in no way do I think this should be touched.

I think this is a very, very important component. Because as much as one could argue that, you know, Ingram could have gone to another player than Microsoft, reality is that Ingram could of, you know, potentially gone into distributing other products.

But in this case there is a clear relationship between ICANN and all of you that is unique here.

So I'm the biggest wearing my business person hat I do - I would - I do not see this as "negotiable." In other words we should keep that presumptive renewal as it is. This should not be touched, should not be touched.

I'm there. And I want you to know that I'm not questioning it. I'm simply saying that this is an important piece and it's a piece that in my opinion cannot be touched.

In terms of your second comments which I think is very important you're saying we should have a let's say like a plan, an action plan. I like that. And if to the extent we can do that, I mean we're moving forward in terms of we're turning another revision of the contract all of you by Friday for your review.

And if there's as opposed to just having more debate and more discussion in Beijing if you all really want to advance this process through another very focused face to face I'm fine with that although I don't think that face to face should be limited to legal. I really need the business people to also sit with us and share with me their business concerns.

My experience is that this should happen first and then the legal language can be managed. And that was my attempt with this graph is to have a business discussion first.

And of course the devil is in the detail. That's what I've heard from my attorneys for the last 32 years, absolutely. And that's we're turning that into a legal document that the legal folks could look at.

But I need business people to also sit around the table with me in Beijing and say what works and what doesn't work and how this affects their business.

Chuck Gomes: And Keith if I can respond, thanks Fadi. This is Chuck again. I agree. I didn't mean to imply it should only be legal. But I think many of us we all need some legal expertise as we refine the language. It shouldn't (unintelligible) business case as well so I totally agree with you on that.

Keith Drazek: Okay thanks Chuck and thanks Fadi. We've got four folks in the queue right now and we're starting to run a little bit short on time.

So right now I've got Volker, Ray, (Jordan) and David. Anybody else would like to get in the queue do it now. Otherwise we'll probably cut it off at that point, maybe have some final comments from Fadi if you'd like and look to wrap up the session so Volker to you?

Volker Greimann: Well first of all I appreciate the comment from, you know, Fadi that the presumptive renewal should not be touched. That's certainly something to - that we will be discussing again tonight on the RA discussions I hope.

But I think this proposal is a huge step beyond what we had before and which was another step beyond the original proposal that was in the first RA that we had for a long time and couldn't agree to.

I still have a lot of issues with it. There's - still needs a lot of fixing. But I have two main issues which frankly concern me a lot.

Taking off my registrar I am putting on my GNSO council hat now first is that the community considered this problem that changes would be needed in the context of the registry agreement.

And the community came together and proposed a consensus. A compromise was reached and that was included in the registry agreements.

And now suddenly the ICANN staff, the ICANN board or you Fadi decide that community consensus that was reached back then is not good enough anymore.

And you are trying to impose a top-down process which in effect illuminates this original compromise without the community having come out and saying that they really want that.

There has been no outcry for a different solution from the community from what I've heard. That's one point.

The other point is that I expect that this proposal will have a chilling effect on the PDP process because it will dis-incentivize our key stakeholder groups from coming together for a consensus if they are getting more of what they want by denying consensus.

So if the amendment would be in the picket fence it goes to the PDP. But one party or the other has more to gain from this - the original amendment that was proposed than from any compromise that comes out of PDP they will block the PDP. The PDP will end with no consensus and we will be back in this queue of the - of this flowchart.

This is a big concern to me because essentially it will serve to change the stakeholder model to a top-down model because there will be less incentive to compromise. And compromise is the essence of what ICANN's all about. So I'm very concerned about that.

Keith Drazek: Thank you Volker.

Fadi Chehadé: Yes if I could ask please Keith because I'm not sure about this, ask Volker so how is community consensus reached? I mean is there a PDP process or something like it or is it just registry amongst themselves? How is the - because the community's obviously much more than the registries?

Volker Greimann: If I recall correctly the entire amendment process and the renewal process was discussed a couple of years ago in the negotiations for the registry agreement. And there - I'm not sure if there was a PDP but it was a consensus-based decision to establish the procedures that were put into the registry agreement at that time.

It was not any top-down decision at that time. As somebody who was involved in this discussion might shed some more light onto that because I didn't participate in the registry side at that point.

Keith Drazek: Thank you Volker. I think the answer to the question is that it was part of the new gTLD PDP. And I'd be happy to be corrected if that's not the case.

So what anyone like to jump in on that?

Chuck Gomes: Hi. Can you hear me?

Keith Drazek: Yes Chuck. Go ahead.

Chuck Gomes: Yes. It was not part of the PDP process. It was part of the implementation process. Several versions of going through implementation as everyone knows there were whole bunch of versions of the registry agreement and various versions of the guidebook.

And the - what happened was a group was formed. It was called the legal working group but there were business people in there as well, people from the community were also involved.

And it came to a point where the unilateral rise to amend was rejected and a compromise that's in the guidebook now was supported and then became a part of the guidebook that we know today. Hopefully that answers that question.

Keith Drazek: Yes thanks Chuck and thanks for clarifying or correcting me -- important detail.

Jeff Neuman: This is Jeff, Keith.

Keith Drazek: Jeff go ahead. Yes?

Jeff Neuman: Just to add to what Chuck said, so the legal working group met and actually met in person. And it wasn't just members of the community. It was also ICANN staff Jones Day, so ICANN's outside legal counsel. We did several presentations.

And actually, you know, a little historical trivia, the version that was in the final guidebook was actually the beginnings of it was presented by Jones Day on the screen. I'll never forget that it was presented by them. And then we helped shape that.

And then that provision went out for public comment separate and apart from everything else. So that it was like May of 2010 I want to say. It went out for public comment separately.

The comments were all very positive on the agreements. There was no one that submitted any negative comments. And then it was put into the next version of the guidebook which was either Version 3 or 4.

But yes it was a good process. It worked well. Staff was involved. Outside legal counsel for staff was involved. And it was a very productive session.

Keith Drazek: Thanks Jeff. Okay so Volker I see your hand is still up from before. We've got Ray, (Jordan) and then David. Ray?

Ray Fassett: Thank you Keith, Ray Fassett. Listening to Becky's points carefully I'm interpreting what she's saying in that we're talking about a process here.

But it's a process that could and likely will thrust is the ICANN board into a whole new role as it relates to competition and consumer trust if you will than ever before.

And I'm curious if how the board feels about this issue potentially being thrust into a whole new role with perhaps a whole new set of expectations placed upon the board. And should we be engaging with the board or hearing their feedback?

It seems we're talking about a process that impacts the board but we - but we're not hearing necessarily the voice opinions or thoughts or anything along those lines. So that was an observation. Thanks.

Keith Drazek: Okay thanks Ray.

Fadi Chehadé: And just to say Keith that the board is fully briefed on every step we've taken here. I brief them regularly. And they are aware of what this means and they've been briefed not just by me but also by our legal team.

So I think that in, you know, Beijing again would be a challenge for the community to engage with the board directly and talk about this.

But the board is quite well aware of what it means to have this and the responsibility this adds just like they did before with the temporary policy which as was noted was never, ever used. And I'm hoping this is also never, ever used in the same vein.

Keith Drazek: Okay thank you Fadi. (Jordan) over to you.

Jordyn Buchanan: Thanks Keith and thanks Fadi for your time this morning.

I just want to make a quick point and have a question and then a slightly longer point related to the question.

The quick point just relates to what Ray was just saying and Becky earlier which is, you know, I do think that ICANN has an important role to play when it comes to competition.

But I've always thought that role is to promote competition. I think that's a vital role of ICANN. But that's very different from enforcing competition or making sure that, you know, laws are enforced and so on and to make sure that the competitive marketplace plays out the way that the promotion was intended to.

And we do have competition authorities that are well versed in that latter arena. And so I think we should, you know, be careful about sort of completing those two things one, sort of making sure that we promote competition wherever possible and another trying to, you know, make changes on the fly in order to enforce a competitive environment.

The second point and really my question relates to I think, you know, as several people have indicated today, you know, we don't really understand where this is coming from a what the motivation is and why the existing process isn't good enough.

And I particularly like to focus on one aspect of the process today which is that part that goes from, you know, is this amendment within the picket fence and sort of skips past the PDP if it's not and particularly, you know, if Fadi either here now or at some point sort of understands what are the scope of

changes that we anticipate might not be within the picket fence that might be needed?

Because I think it's probably worthwhile to focus the discussion there rather than on something that can bypass the PDP as Volker just alluded to.

Because (Ruben)'s earlier today on in the chat room that we have made a really great point which is I think, you know, one way that we could potentially change this is to say if the process goes into the PDP and consensus isn't achieved then that's the will of the community right, like we haven't been able to achieve consensus on this point and the process should terminate at that point.

But the changes in the picket fence and within policy development process should be contained to the policy development process.

And I say this because I think the PDP in my mind is the heart of ICANN it's so important that we get it right.

I mean it's the embodiment of the multi, multi stakeholder process right? It is the - when we say ICANN is bottom-up it's multi-stakeholder almost all the time what we're talking about is the PDP at least within the context of the GNSO and the ccNSO.

And so, you know, beyond that in my mind at least is where ICANN gets its authority to take action from, you know, in a variety of areas.

And personally for me is what inspires me for ICANN when people sort of, you know, outside of our little world say oh that ICANN's just doing sort of crazy stuff like I talk about how, right you know, no in fact there's this deliberative process, you know, we get the whole community involved and so on.

And it's really hard to have that same passion about this multi-stakeholder experiment if there is a big sort of flowchart that allows that process to be bypassed.

And as Volker pointed out there will be people that will be using this bypass if they can't get consensus through the PDP they will undermine it by essentially, you know, going directly to the board and lobbying them to get the results that they can achieve through the multi-stakeholder process.

So to the extent we don't believe that the PDP is capable of achieving the goals that you need here Fadi I think we need to focus our efforts on fixing the PDP.

And then let's focus the rest of the discussion on what might not apply within the picket fence. And I think understanding where the concerns are there would be really helpful. Thanks.

Keith Drazek: Thanks (Jordan). Well said.

Fadi Chehadé: And Keith if I could comment (Jordan)...

Keith Drazek: Of course.

((Crosstalk))

Fadi Chehadé: ...(unintelligible) on that way about the importance of the PDP it is what in many ways what happened in the PDP is in my opinion probably the legitimacy of ICANN.

So I fully support that we need to be very, very clear that the box on the left of the PDP consensus sheet not say amendment implemented. And that was a fix that Becky helped me make. It says outcome implemented so whatever the outcome of the PDP it'll be implemented even if it's against the amendment.

This is all new in the original language of what we sent to you a few weeks ago for public comment. None of this was clear.

So we've introduced at least in this business level graph not in the legal language. But it will be reflected in the new legal language that the PDP process is sacred and it has to be gone through.

Now for much clear definition than I could ever give on what goes in the picket fence and what doesn't I defer to my professor Becky on this. I mean she knows a lot more than I do. So I'll mess this one up but I'll let her if she wants to add to this.

But the PDP process by this new proposal is highly central to the solution. And I'm hoping that as the PDP process works and improves because in my opinion it works today.

I mean some people want to always attack the PDP process. I think it works. Can it improve? Anything can improve. But it's an amazing process. It's what makes it worth it. It's what gives us legitimacy so I'm not touching that. And whatever its outcome it trumps everything.

Keith Drazek: Thank you Fadi. David let's move to you then will have I think some wrap-up comments. David go ahead.

David Maher: Thanks Keith. And I think there's been a great discussion with a lot of great points. So my addition is kind of brief.

I just wanted to point out one business perspective that I think we've overlooked.

The new gTLD the process has invited a lot of potential future registries that are big businesses that are not familiar with the PDP process and the standard registry agreement.

And I just wanted to point out that, you know, those organizations that are willing to experiment with being a registry have a lot of checks and balances within their legal and business process about which agreements they're willing to accept then especially, you know, the ramifications of certain clauses.

And so I wanted to point out how this amendment process whatever we call it appears to a lot of those organizations.

It's unsettling and it, you know, has a potential to inhibit their ability to enter the, you know, the registry world.

And I wanted to encourage us to, you know, include that perspective. It's a large group that's, you know, more fragmented than we are and so I'm worried that their view on this amended process isn't being discussed.

Keith Drazek: Thank you David.

Okay with that I think I'll just make a couple of sort of wrap-up comments here and then offer the microphone to Fadi for any final comments.

Fadi I think that you've heard today that the, you know, the registry stakeholder group and the new TLD applicants that have participated today, you know, have some pretty significant concerns still.

Some of those are sort of printable concerns about the multi-stakeholder model, the bottom-up policy development process and all of that and concerns that this proposal could potentially undermine that principle or those principles.

I think you've heard that there's a lot of questions that hopefully will be clarified once ICANN publishes the next version of the red line of the registry agreement.

So we certainly look forward to seeing that to having the opportunity to consider and to discuss and to provide feedback to you.

And I think you've heard concerns a little bit about timing and process.

I want to reiterate that we as a stakeholder group and registries and new TLD applicants are not seeking delay. We want this process to move forward as quickly as it reasonably can.

But I think there are some significant concerns about the pace with which this proposal and specifically the next version of the redline are being presented and concerns that there may be a rush to try to push something through to meet an arbitrary or artificial deadline.

We heard on the Webinar yesterday that it's likely that new gTLDs won't be launched. In other words the first new TLD launch in terms of getting into marketplace through sunrise and, you know interacting with the trademark clearinghouse won't be likely until July, early July, late June early July.

So I think we have the time that we need to be able to approach this discussion in a sort of a deliberate way that also provides other members of the community the opportunity to consider and to provide input.

I'm concerned that whatever solution, whatever result we come up with if it's different than what's already included in the applicant guidebook if it's anything different than that and it's done in a rushed fashion there will be those in the community that point to this process and the discussions that we had and saying ICANN registries cut a backroom deal. We didn't have the opportunity to consider this.

So I just want us all to be, you know, sensitive to the fact that what's been proposed here is the result of a public comment period it's brand-new. And we need to make sure that as a community we take the appropriate time. Because it does create a fundamental change to I think the way that we operate in terms of a bottoms up process.

So let me stop there and Fadi I'll offer you the sort of the closing comments. And we really do appreciate you joining the call and spending two hours with us now. It's been very, very helpful.

Fadi Chehadé: And with great pleasure. Thank you. I wish we could do more of this. This is very helpful to me. I - let me make two tactical comments and then a closing comment on what I learned today.

The tactical comments first to your point Keith that there are many people who need to know what is happening here and to ensure that there isn't a sense that a few of us are making decisions on behalf of the larger group.

I would appreciate this if you would all make a decision to share the transcript of this call so that more people can listen to it when they can.

Secondly on the point that, you know, we have time - till July, I just want to reiterate that in Beijing we will be sharing with you, we've been very diligently working to respond to the ASAC report that just came out a few days ago as it relate to certificates and trying to sort out what it all means.

But in discussions with these groups it seems like this may as I said be - end up being the trigger point in the long pull on the tent here because they would like to start addressing the cert issue in the market based on the number days after each contract is signed.

So just as a heads up this may end up being unannounced and unplanned by me but just literally in the last few hours of discussions internally it seems like this may end up being an important thing.

So if we wait till July to sign an agreement we may need to wait another 90 days or 100 days before we can go out with a new TLD because of this cert issue which affects some of the TLDs. So just as a tactical comment. And we'll discuss more on Monday afternoon as you said Keith.

No in terms of just my macro final comments, first of all this is the group quite frankly I like to work with most because culturally I feel I'm part of this group. I understand your concerns.

And when you raise business concerns and legal business concerns I understand them. I've been on your side for a long time and I understand these. So I'm not oblivious to them.

There are clearly specific market knowledge and nuances that I keep learning. And I learned a lot from the last two hours. And I thank you for that. This is very important. And I need to keep doing this and more of it with you.

Some of what I heard today will affect. So I'll have meetings with my team immediately after this to review what I heard. And we will reflect that in the language.

But let's be candid. We cannot - we've been at this for several months now. So we have to come to as Chuck said -- and I second on that -- we have to come to a process here.

Most of what I heard today except for a couple of comments is we want the amendment removed.

I started with some language that was the last language that my legal team showed me. And that house last language in my opinion after listening to many of you was not checked and balanced enough.

So I've moved and I've put around this process all kinds of steps including enshrining the PDP process as a must go through step including stopping the board even after they do that and forcing them into a very clear counter proposal phase.

So I've done my part. I've done my part to bridle what it means public interest. And we will put that in the language.

So I think we need to find where we're going to head. I mean are we going to stay for six more months where we don't want it and let's keep pushing back until Fadi either relents or ICANN relents? We can do that. That pushes the TLD program into next year for sure.

If that's what we as a community want to do again I'm at your service. I have no agenda. I'm here to make this work. And I won't break the multi-stakeholder process and I won't break the bottom-up process as we go.

So that's my commitment to you. I made it on the first day I started. And I - when I made the mistake when I did not stick to that process I was the first to come out and say I made a mistake.

But right now I will tell you that my sense is with the regime that is in place today and with the benefit that I don't have all the history looking at this objectively, looking at the agreement that can perpetually for all practical purposes be renewed, looking at the changes coming in the market I feel that this is a reasonable process.

If it's not I'd like to hear how we can make it reasonable. I'd like to hear more from you on how we can do that. And that's why I'm heading to Beijing.

And finally look if Beijing you all select maybe NTAG and the registry stakeholder group, I don't know how frankly you are organized then you can organize, if you want to have a business roundtable and then a legal roundtable I'm very happy to be there and to listen intently.

If you will pick some representatives I will make the time. I'm very free every day between midnight and 6:00 AM. And I'll move anything else on the

agenda. This is most important because it is right now potentially what will lead to every day we're not agreeing is the day we're delaying the program.

So that's my commitment to you. And I'm open, I remain open and will continue to listen and learn as we go through this process. Thank you. Thank you very much for inviting me. I really appreciate it.

I know that two hours is a long time for all of us but this has been most helpful. And I'm not leaving without changes in my head to what we need to give you on Friday. I will discuss these with my team right after this call. Back to you Keith.

Keith Drazek: Thank you very much Fadi. And again thank you so much for your willingness to engage with us. It is very welcome and refreshing and very sincerely thank you for your participation and engagement on obviously this important issue to us. So thank you with that.

I think what I'd like to do now is ask the registry stakeholder group folks and the NTAG folks just to stick with us on the call for another ten or 15 minutes just so we can cover sort of stakeholder group business that we didn't get to today.

So Fadi thank you to you and the ICANN team. If you'd like to drop now that would be fine. We're just going to get back into just touching on any critical issues preparing for Beijing from the registry stakeholder group at this point. So thank you again for joining us.

Fadi Chehadé: Very well. See you in Beijing.

Keith Drazek: Thank you.

#####