

GNSO
Domain Tasting design team teleconference

26 February 2008 at 21:00 UTC

Note: The following is the output of transcribing from an audio recording of the Domain Tasting design team teleconference 26 February 2008. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at:

<http://audio.icann.org/gnso/domain-tasting-drafting-group-20080226.mp3>

<http://gnso.icann.org/calendar/#feb>

Participants on the call:

Alan Greenberg - ALAC
Mike Rodenbaugh - CBUC
Kristina Rosette - IPC
Robin Gross - NCUC
Christian Curtis - NCUC
Tim Ruiz - Registrar C
Jeff Neuman -gTLD Registry C

ICANN Staff

Liz Gasster - Senior Policy Counselor - GNSO
Marilyn Vernon - EA

Coordinator: Excuse me, Mr. Christian Curtis has joined.

Excuse me, Kristina Rosette has joined.

Kristina Rosette: Hello everyone.

Man: Hi.

Coordinator: Excuse me, Liz Gasster has joined.

Liz Gasster: Hello.

Kristina Rosette: Hi, Liz. It's Kristina. How are you?

Liz Gasster: Good. How are you?

Kristina Rosette: I'm well.

Liz Gasster: Good.

Marilyn: Hi, Liz. It's Marilyn.

Liz Gasster: Hi, Marilyn.

Marilyn: I'll be monitoring the call in place of Glen today.

Liz Gasster: Excellent. Thanks.

Marilyn: I'll just go ahead and put myself on mute and who is...

((Crosstalk))

Coordinator: Excuse me, Mike Rodenbaugh has joined.

((Crosstalk))

Marilyn: ...who's leading the call.

Mike Rodenbaugh: ...everybody.

Kristina Rosette: Hey, Mike.

Mike Rodenbaugh: (Unintelligible).

Yeah. I've got the - Glen sent me the meeting and so getting on - that
on now.

Who else is on the call?

Liz Gasster: It's Liz.

Mike Rodenbaugh: Hi, Liz.

Liz Gasster: Hi.

Robin: Hi. Robin is here.

((Crosstalk))

Kristina Rosette: Hi, Robin.

Mike Rodenbaugh: And I heard Jeff or (Tim)?

Kristina Rosette: I haven't heard them.

Mike Rodenbaugh: Or (Alan).

Kristina Rosette: I haven't heard him either.

Mike Rodenbaugh: (Right).

Coordinator: Excuse me, Alan Greenberg has joined.

Liz Gasster: Hi, (Alan).

Alan Greenberg: Hello.

Liz Gasster: It's Liz and we have Mike and Kristina then Robin and Marilyn.

Christian Curtis: And this is (Christian).

Coordinator: Excuse me, Jeff Neuman has joined.

Man: Hello.

Man: Hi, Jeff.

((Crosstalk))

Liz Gasster: Jeff, it's Liz and we have Mike Rodenbaugh and Kristina Rosette and Robin (unintelligible) and Alan Greenberg and Christian Curtis, Jeff Neuman and Liz Gasster and (Marilyn Vernon) helping us (unintelligible).

And did I miss anybody?

(Okay).

Man: Are we expecting anyone else?

Man: (Unintelligible).

Liz Gasster: (Unintelligible) was one possibility. Anyone heard from (Tim)?

Kristina Rosette: I have not.

Man: Been trading email today, so I'm assuming he's going to be here.

Jeff Neuman: So what do people get when they click on that link?

((Crosstalk))

Woman: Which link?

Jeff Neuman: Apparently there was a link sent out to this meeting.

Mike Rodenbaugh: (Meeting View)?

Yeah. I think, just you and I got it, Jeff. (Unintelligible) sent it to me.

Man: When was it sent out and by who?

Mike Rodenbaugh: Glen just sent it to me and to Chuck (unintelligible) somebody - some people had info on how to get into (unintelligible), but it doesn't seem to be working for me anyway. I don't think we really need this.

Man: Okay.

Liz Gasster: Hey, Mike. I'm finding it hard to hear you. I don't know if others are?

Mike Rodenbaugh: Oh, I'm sorry.

((Crosstalk))

Mike Rodenbaugh: ...that better?

((Crosstalk))

Liz Gasster: Yeah, that is better.

So why don't we get started? I don't know if we have a host. Who wants to volunteer?

Mike Rodenbaugh: Well, you know, I'll volunteer. I think I received a lot of email on this and, you know, (with this) let's try to move it along today. Jeff has sent along a proposal. (Unintelligible) think (it goes), you know, part of the way to where we want to be. I'd love to hear, you know, Kristina and (Alan's) views on it.

Liz Gasster: And do we need to just confirm that we're being recorded at this point?

Coordinator: Excuse me, this is the conference coordinator. Today's conference is being recorded. If you have any objections, please disconnect at this time. Thank you.

Mike Rodenbaugh: Yeah, Liz, why don't we confirm we're being recorded?

Liz Gasster: (Whew), let's get that out of the way.

Man: That's a good idea, Mike.

Liz Gasster: That's my one big contribution today.

Mike Rodenbaugh: (Unintelligible) and I think that would be a good place to start unless anybody has anything else. I don't want to rehash what we've been talking about on the (list) and...

Man: Well I'd also like to hear from Jeff what he thinks the steps (forward are) because there seems to be some confusion whether we indeed need a new workgroup or this is the workgroup and we're going to go out for comment with what we come up with.

Mike Rodenbaugh: Yeah, I'd like to do that, too. I mean, ideally in my mind today, (unintelligible) not ideally, but I would accept if, you know, we can essentially hash out this motion as Jeff has modified it and I know others (unintelligible) might want to change it, and then put that out for a 21-day comment period and then have council take action.

You know, then also I guess (unintelligible) - as (Avery) suggested, we should at the same time allow a constituency to update their impact statements with respect to the motion.

Man: Right.

Mike Rodenbaugh: And of course, after the 21 days, we take a look at what, if anything, has been said and can decide whether to make the motion to council at that time.

((Crosstalk))

Man: Yeah, I mean, I think that sounds like a work of a plan forward. Let's just leave in enough time at the end of the 21-day comment period to have that, you know, one or two meetings or whatever we need to make sure that we've reflected the public comments and, I guess, I mean I don't know how procedurally it would be viewed. I guess it's kind of updates to the final report or I don't know exactly...

Liz Gasster: That's what I would suggest we do is an update to the final report where we have a comment period in a few days for staff to integrate the - both the updated constituency statements and any additional public comments or, you know, received and relevant on the specific proposals and then have that sent to the council and posted, you know, that updated final report for further action.

Kristina Rosette: Can I - this is Kristina. If I could just jump in with two things that aren't clear to me.

First, do we have a final yet or is it still a draft final report? And if it's still a draft final report, are we anticipating it (unintelligible) made final and then update it or we're not going to update it until we get through the 21-day period and then the outcome of that? I feel like I'm talking in circles. Will be the final report?

Liz Gasster: So I think you're asking a good question and I think it was, you know, it can be the final report because technically, you know, you can have a final report following that initial report and then the public comment period that was general but in this case, I think, (Olof) left it - and I don't know if he's on the call. I know he's in (Tie Bay). So, it's (unintelligible) right there.

But I believe he left it as a draft final report...

Man: I thought it was left as draft pending the registrar's comments.

Liz Gasster: That's right. That's right.

Man: We now have...

((Crosstalk))

Liz Gasster: ...we now have...

Man: I thought there was a discussion in Delhi that given that we now have the registrar's comments the de facto is final.

Liz Gasster: It is final.

So...

Man: It's still not called the final report.

Man: No, no. I understand it hasn't been printed that way.

Liz Gasster: That's right.

Man: But I thought that was the discussion we have.

Man: No, no, no, but I thought actually not a final report until - I thought the final report was after the council voted on some thing.

Liz Gasster: Well then you do a board report...

Woman: Right. That's...

((Crosstalk))

Liz Gasster: You do a board report and the board report would also like - in this case, it would have to have gone out for public comment post, you know, final, but post-council (action).

Woman: (Right).

Liz Gasster: But I think what we are proposing alternatively is before finalizing the report that it go out for a specific comment on, you know, a specific question that we can draft today or finalize today or over the next few days or however you choose...

Woman: All right.

Liz Gasster: ...to proceed.

But then those would be the question or questions that would be relevant for the purpose of the public comment and for updating (unintelligible) statements and staff could then take that and finalize...

((Crosstalk))

Man: I just want to make sure that whatever we go out for comment on, it's crystal clear what we're asking for comments on, and not obscure it so

much with the other rest of the report that we can, you know, be accused of (unintelligible).

Kristina Rosette: Right.

Man: I agree with that.

Kristina Rosette: Yup. And as a housekeeping matter, could we arrange for the final report or whatever it is to be posted on the (GNSO) site, because I'm not - it's on the list if you dig through all the email, but it's not on the issues page and it's not in the draft documents page.

Woman: Okay. Let me check on that.

((Crosstalk))

Kristina Rosette: Or at least the draft documents link wasn't working when I check it last night.

((Crosstalk))

Kristina Rosette: And now it's working, so never mind.

Woman: (Really)?

Kristina Rosette: Yeah.

(Unintelligible) always happen, it's like calling the help desk.

((Crosstalk))

Man: Not being expert on any of this process, I guess, I would really like to see the document we have now with the constituency statements finalized and something else that we produced come out so it's really clear that it's - that we're not asking for comments on the comments.

Man: Right.

Well I think we could limit it to comments on this motion, I guess.

((Crosstalk))

Woman: Right.

Man: We can certainly refer people back to those links but basically...

Man: Yeah.

Man: ...we're asking, you know, for comment on this particular motion which the council is considering for potential adoption.

Man: And focus on impact, you know, and like Mike said, get the constituencies to update their impact statement...

Man: Exactly.

Woman: Right.

Man: Right. Because I don't think this - there are certain constituency that I know who want to have a statement in there.

Woman: So I'm just go ahead and back to - actually to try to find that original language to assess what we would want to use. So we view and assess the impact of the attached motions. Just whether the impact justifies implement taking these measures to impede domain tasting and if yes, then consider the potential impacts of that measure on the constituency.

Man: Right. I think that that address the three questions Chuck raised...

((Crosstalk))

Woman: Yeah. Well, it's an attempted modification of those which may not be exactly smooth.

Man: But I think...

Woman: Because I think the original terms of reference was a little bit broader because it presumes that you would review and assess the activities that have been identified, judge whether (unintelligible) affects, justify measures to be taken to impede domain tasting so again, more general. And if the answer to that is affirmative then consider the potential impacts of various measures on the constituency.

(Unintelligible) we're not talking about various measures. We're talking about a specific measure that you would want to have constituency statements based on.

Man: Okay. I think then we'll go along (unintelligible)...

Man: I guess, I'm a little concerned that we could run into a process argument again, at least, in (Chuck's) mind...

Woman: Well the easy way to have that off is to just get him to sign off on this first.

Man: Okay.

((Crosstalk))

Man: ...joining (unintelligible).

Man: I think that is better than the alternative which is to allow people to comment on any other potential remedies.

((Crosstalk))

Liz Gasster: So everyone is comfortable using Jeff's as the proposed or is that to be discussed further on this call today?

Man: I think to be discussed.

Liz Gasster: Okay.

Woman: Uh-huh.

Man: Yeah. And I think my - and I think it was updated since (Alan) pointed out, any inconsistency that needs to be...

Liz Gasster: Okay.

Man: ...changed and that, Liz, you sent me a note on the typo that needs to be fixed.

Man: Yeah, I've got a few...

Man: Yes, there's also - I also...

((Crosstalk))

Man: ...(talked about).

Man: But...

Man: I have one substantive question for Jeff.

This - as it (worded) right now, it talks about 10% of the ad, so assuming we make the correction, we're moving renewals.

Man: (Right).

Man: I'm somewhat worried that every - in most other documents surrounding ICANN, when you talk about 10% of ads, it's gross ads, not net of AGP ad - of AGP deletes, whereas your funnel request and affiliates and (unintelligible) request is a net.

Now without the surrounding words and the funnel request, this becomes somewhat unclear.

Man: I think the...

Man: I think it's easy to fix, so if we want to map to the funnel request, but it doesn't - it...

((Crosstalk))

Man: Yeah. I think...

Man: ...it stands right now, it isn't.

Man: I think if you want to do that, you just need to create a definition for net ads and then put that somewhere.

Man: Okay. I'm happy with that.

Man: Right.

So - because when people use the term gross and net, it's not always...

Man: (No), I wasn't trying to use capitalized words but...

Man: How about net new registration...

((Crosstalk))

Woman: Yeah.

Man: Yeah. We just need to define it as new minus AGPs. It's done in the funnel request. I think we can find some words.

Man: Right, right. I'm good with that.

Man: (Good).

Man: That was the intent.

Man: Let's talk about the section at the end that you added.

On...

Man: Yeah. I thought this was kind of...

((Crosstalk))

Man: You know, it's interesting that this never kind of came up, but, you know, everyone is focusing on the technical - what we can do technically to stop tasting but we should also kind of make a policy statement that it's not a good thing.

And to add a requirement in the registrar accreditation agreement for registrars to follow the policy.

Kristina Rosette: Well we tried to do that before.

Man: Yeah. We tried to but - and got into the mess of whether speculation belonged in this and I think you're correct. It doesn't belong in the

consensus policy but it may well belong in the registrar registry agreement or in the registrar ICANN agreement.

Man: And so what I did - basically what I tried to do is say, okay, well, for the purposes of that section, this is going to be included.

So (unintelligible) that's pretty much what I've tried to do is basically say this prohibition would be included in that section, 3.7.9 and then as such, you know, registrar that engages in domain tasting and violation of this policy, (unintelligible) demonstration of extraordinary circumstance, to find (unintelligible) material breach to the registrar accreditation agreement.

Man: I'm not sure the term "domain tasting" is ever defined anywhere. So we may have to think about putting some words in for that. But I certainly agree with your concept.

Kristina Rosette: We've got a definition from the issues report if we want to define it.

Man: Okay.

Liz Gasster: Yeah, I think there's been a definition that we've used in both the issues report and the outcomes.

Man: Okay. We just may need to include some reference to it here.

((Crosstalk))

Man: Do we even need to use the term there? Couldn't we just say, a registrar that violates the agreement absent the demonstration of

extraordinary circumstances shall be done in material breach of this accreditation agreement?

Man: I can live with that.

Kristina Rosette: Yeah. That's a cleaner way to do it.

Man: Well I say that (unintelligible) say it again, a registrar that...

Man: That violates this policy absent the demonstration of extraordinary circumstance. Actually since the extraordinary circumstances are already in there, (unintelligible) going to really need that...

((Crosstalk))

Man: Well what's the policy, the policy is that they're not allowed more than 10%?

Man: Right.

Man: So if (unintelligible) what we're saying is if they (unintelligible) more than 10% and they're willing to eat the 6 bucks, we still don't want that still a violation of the policy.

Man: That was my understanding of the purpose of that addition at the end.

Man: Correct.

Man: It adds something on the gaming factors, so people don't later on say it could be gamed.

And also make sure registrar has to be a little bit vigilant and also keeps ICANN in the game, too, by, you know, it should eventually does actually enforce its accreditation agreements. It gives them one more vehicle to do that.

Man: Yeah. I mean, just as the registrar is (called), you know, it's - I mean personally, I mean, you know, we're all for it. But - yeah, and I'm not sure - there were some concern about that language, some registrars in the last time.

So I can't say that that's not going to come up again, but...

Man: Yeah. (Unintelligible) that would be my concern, too, that, you know, do we really need this and is it going to possibly cause us registrars, you know, that motion.

Man: Well it - I mean, we're really talking about, are there registrars out there who want to (pay) dollars for a five-day registration?

Man: Obviously...

((Crosstalk))

Man: I'm not quite sure the logic of why one would want to do that.

Man: That's why I personally like it because it sort of closes that potentially loophole and it would seem to address a lot of concerns that others have had about gaming and that kind of thing.

Man: Right.

Man: But again, it just not...

((Crosstalk))

Woman: Well if we need that in...

((Crosstalk))

Man: ...to come down on it.

Woman: If we leave it in and take public comment on it and the public comment is resoundingly against it...

Man: Then...

Kristina Rosette: Then we act on the public comment, we take it out. We kill two birds with one stone. We get a motion that people can live with, and we're actually responding to public comment which I can't (unintelligible) doesn't do.

Man: You sound like a politician.

Kristina Rosette: Well, you know, I am 12 (unintelligible) in Capitol.

Man: And remember the policy is that you only have to pay the percent that's above the 10%. So if a registrar routinely does 11% they're only paying for the 1% above the 10%.

So it can be - I don't think it's likely to be gamed, but in theory it could be.

Man: Do we have a strong feeling - I know there is this likely come out in the comment period, do we have a strong feeling that the 10% is an appropriate number for (COM and ORG)?

Man: Well we haven't gotten any data for COM and NET and ORG. Well COM and NET anyway.

Man: Yeah. I was just asking for sort of a gut feeling that looking at the...

((Crosstalk))

Man: ...statistics that are published.

Man: I mean, I, you know, look, BIZ and INFO compared our numbers and sent it out the list. I was told verbally by Chuck that the percentages are pretty much the same. And what we see - and as what I said to Mike, we see registrars that do not engage in tasting, you know, have variable numbers up to, you know, about 7% or 8%, you know, possibly on any given month, 9%.

And these are reputable registrars that do not engage in tasting.

Man: Yeah.

Man: So, you know, we gave - we rounded it up to 10 recognizing that when tasting does occur, you're not talking about, you know, 11%, 12%, 13%. You're really talking about a thousand percent.

Man: Uh-huh. Ten thousand...

((Crosstalk))

Man: Or 10,000.

Man: Ten thousand actually if you look at the numbers.

Man: Right.

Man: Yeah.

Man: So, you know, is 10% the right number?

Man: Okay.

Man: I think it is.

Man: If the bottom line comes out there's strong comment that we really needed to be 15% or 12%, so be it. We'll look at it at that time.

Man: Yeah.

Kristina Rosette: Well, you know, and this is a question I get from my constituents all the time, and maybe you guys can answer this for me. What is going on and I don't mean specifics, but generally such that a registrar would have kind of consistently like a 25% deletion rate, is the first question.

Because people just don't get that, and I don't have the foggiest idea how to answer that. I mean is it just possible that in the normal course of business, you're going to have 25%...

Man: No, I...

Kristina Rosette: ...(unintelligible)?

Man: No, 25% is pretty high. But I would say that it is normal to get a 5%, 6%, or 7% (and up). For all the reasons that the registrars indicated in the presentation, it is quite normal to see between 5% and 8% routinely.

Man: (I mean), part of this is indeed to counteract fraud, you know, and, you know, someone registering a thousand domains overnight on a Saturday with, you know, (with stealing) credit cards.

And part of it presumably are various things the registrars do to do validity testing and software testing and that's going to end up being self-limiting if the number is 10% then they'll make sure it's under 10% to cover that.

Man: Some of the registrars have resellers that they, you know, have agreements with, but they can't necessarily control all of the activities.

Woman: Uh-huh.

Man: Yeah.

Man: So they have to, you know, if we find that registrars that have a reseller unit are - have higher deletion rates that those that do not.

Kristina Rosette: So for example, and I'm not going to name a registrars, if you have a registrar that's going from a 28% deletion rate to a 0.85 deletion rate in the course of over 1 month, would it be based on your experience, would it seem that, you know, either the previous months there were some big problem or conversely, there's a particular reseller that may have been troublesome that is no longer affiliated.

I'm just trying - because there are the questions I'm getting, because people are looking at these numbers and saying, "Well if somebody can go from 28% to 0.85%, why do we need 10%?"

((Crosstalk))

Kristina Rosette: And these are the questions that I need answers to.

Man: I think you really need to look to specifics of, you know, are they doing 28% every second month or is it one month that of 24 that they...

((Crosstalk))

Kristina Rosette: Well it's like - consistently like 25%.

Man: I would...

((Crosstalk))

Kristina Rosette: You know, because why then get is, well if they can bring it down that much, why can't everybody.

Man: Yeah.

Kristina Rosette: And again, these are questions I don't have answers to and I don't expect that you guys do, but you have a better (places for)...

((Crosstalk))

Kristina Rosette: ...possible execution.

Man: (You know), well I don't think we've - I don't think anyone has looked at closely at the numbers or as close as you or your members would like, but I think (unintelligible) we take a step back and if we all agree, that hey, if what we're doing and tasting, shouldn't we be satisfied?

In other words, there may be reasons that we don't know of for an excess deletion rate...

Woman: Uh-huh.

Man: But do we care if it eliminates tasting?

Woman: No.

Man: Right.

So, I think that's more the message then, you know, trying to justify whether 10 versus 11 or 12 or 8 or 9, I think if we can all agree

because most of us will agree that tasting - when tasting - when there's a registrar that primarily engages in tasting, you will find the percentage is so far out of whack that it's obvious.

If it's - but if it's 9, 10, 11, 12, 13, I just don't think that - because it's not tasting and it's something else, it's not really a problem that the consumers need to combat at this point.

Kristina Rosette: All right. Well that actually raises my next point, which is the one issue that my constituents have a concern with is what happens if this isn't enough.

And I've been getting a lot of pushback about trying to get some language at it that would basically create an opportunity for council to go back or perhaps even an obligation to revisit the issue in a year or, you know, 18 months to see whether the policies had an appreciable impact on tasting. And if not to take further action at that time.

Because the concern that my folks have, you know, given that they are starting that just get rid of the AGP, so this motion is a pretty significant compromise from their perspective. And their concern is what if we compromise on this and it doesn't get us where we need to be.

Man: Well I mean I can already (unintelligible) - well let me say first that I think building in our review mechanism is a good idea. So I think we could add that to the motion, add like, you know, in a year or if that's enough time, a year and a half at a review.

But I will tell you, Kristina, there are other ways - tasting is still going to occur, well - no, I shouldn't say that.

Man: If the registry wants tasting to occur, tasting can occur.

Kristina Rosette: Yeah - no, no, no, you're right.

Man: Well it's (very) - it's not tasting. It's something...

Man: No, no, it's not tasting, but it's - there can be a mechanism by which one can try domains and not have to pay a lot of money for (those).

Man: Right.

Man: If all parties decide this is what they want to happen, it's going to be also hard for us to fight it, you know, other (unintelligible) putting in place completely new rules that have nothing to do with the AGP.

Woman: Right.

Man: Right. That's correct.

Woman: You know, what kind of mechanism do you think make sense or...

((Crosstalk))

Kristina Rosette: I mean I'm almost thinking that along the lines of just (unintelligible), that with that - would impose on the council an obligation to a year after the policy goes into effect or 18 months from its passage, whichever happens first to review the information that's provided in the monthly registrar reports and to consult with the communities to see

whether the problem is tasting as (matter-of-factly) eliminated through this mechanism.

Man: I think, Liz, I think, you can borrow some language from the final transfers report from a few years back.

Man: Right, right.

Man: Just borrow that - almost borrow (unintelligible) exact language although it may be a shorter time frame. I think they had two years or three years or something.

But they have - there's a review mechanism in that final transfers report.

Kristina Rosette: Yeah. I mean in a year obviously, might be too long, but, you know, trying to be reasonable here.

Man: I think a year - well, much less (unintelligible) years is going to be hard given that there's a three-month lag.

Kristina Rosette: Right.

Man: I'm not sure we're going to recognize tasting from the numbers given that the numbers will be so different.

Man: We won't - I mean, that we - at least it should be - I mean you'll know there are names, there's still lots of names and lots of search engines out there, but you're not going to know.

Man: Well we're not going to rid of monetization.

Kristina Rosette: Right, right. And that's not what this is about.

Man: All we're saying is people...

((Crosstalk))

Man: ...people have pay for the right.

Kristina Rosette: Right.

Because if I can find them I can assume. It's just when they are moving target that I can't get them.

Man: So, Kristina, you think with - if there is the review language added, which - (I mean) it would seem to make sense - I mean we present with other policy? And then, with the - if the language that Jeff was suggesting about the registrar accreditation agreement is added, does that address the concerns do you think (additionally)?

Kristina Rosette: It goes a really long way and I say that because there, you know, frankly there are some (unintelligible) my constituency that just not going to be happy until the AGP goes away and I kind of, you know, at a certain point, I kind of have to say, well that's never going to happen.

So it goes a really long way. But there, you know, there's another issue in this motion that I know that you've raised questions about that I think we probably also should talk about and that's the reporting.

Man: Yeah.

Man: (Correct).

Man: And I think...

Man: Yeah, I'm just - yeah, what I'm concerned about is trying to garner registrar support because, well, in reality I mean the registrar has all voted against initiating the (PVP) in the first place, right?

So there is the potential that no matter we come out of with this group that it could be difficult to get the registrar counselors to vote in favor of anything.

But if, you know, that - and that was my concern about the speculation language, although I will personally (unintelligible) whether that will fly and then, the same with the reporting that that would raise similar concerns given that, you know, if the registrar legitimately had an issue and, you know, so that reason and why would that need to be made public...

((Crosstalk))

Man: So I was very - (Tim), I was very careful on the language I crafted.

All I said is that we need to report it to ICANN and it kind of leaves open whether that is made public or not. I had to agree with you, (Tim), that I don't think it should be made public unless, you know, unless there are some repeated pattern or, you know, and that's - by that way, that's another reason why I - why I put the language in for the

accreditation agreement too is because that would be public if a registrar - if there's a material breach alleged by ICANN against the registrar.

But I think - so I left it silent as to whether it's confidential because remember there are reports that registry do submit every month to ICANN that are confidential.

Man: Right.

Man: If I understand correctly though, we're already reporting the number of AGP deletes per registrar. So if people exceed the 10%, it's going to be visible. All we're not seeing is whether it was a (unintelligible) an exemption or they paid the price for them.

Man: Correct.

Man: And the reason why it was an exemption if it was an exemption.

Man: Correct.

Man: You know, so we're not advertising that, "Hey, I'm prone to fraud and, you know, I got an exemption for some other reason." But we're still going to be documenting that there - that any given registrar is over the limit.

Man: Yeah, I don't...

Man: Do we really care a lot about whether they paid six bucks apiece or got an exemption that was accepted by the registry? We're still highlighting the registrar.

Man: And I think if the intent is that that just gets reported to ICANN for their information and, you know, it - whether, you know, any issue about it becoming public is a matter of, you know, compliance issue or whatever, then that's another story. Because you're right, it's just going to be part of the registry report.

Man: Well I know PIR reports, AGP is on a per registrar basis. I'm not sure VeriSign does currently.

Man: Yeah...

((Crosstalk))

Woman: Yeah, they do.

Man: ...with the new reporting thing, do they?

Woman: They do.

Man: Okay.

Man: Yeah. Well...

Man: So it's effectively going to be there. All we're going to do is - we need someone is to highlight the report.

Kristina Rosette: The rationale just so that if this helps and all, the rationale that I - that was behind the original suggestion was - and it's twofold. One, and, Jeff, don't this personally. I don't mean it this way, but just to kind of keep the registries on it, you know, if they're handling - handing out, you know, 50 extraordinary circumstances exemption every month to the same registrars, and that regardless of what they said, then I think people need - there needs to be a mechanism to know that.

And second that if there is kind of on the flip side a registrar that is repeatedly seeking extraordinary circumstances exemption to be perfectly candid, personally that's not a registrar I would want to do business with and I would think that the registrant community should be entitled to know that.

Man: So on Point Number 1, I don't think (unintelligible). I think that's right. I think - and it was - but it was ICANN staff that I would put in that role to kind of now, whether you trust ICANN (staff doing that) that's another question.

Man: Yeah.

Man: But I mean, you know, that was kind of what I was envisioning for ICANN's role that you need to disclose that to the community necessarily, but ICANN as part of their compliance process could look in into it and may be summarizing the generic way for what's going on without naming registrars.

The second point about not wanting to do business with the registrar, if there's a registrar that we find that's abusing the extraordinary circumstance, that was kind of another reason why I wanted any

accreditation agreement, so that ICANN can come in and step up and take some action.

Man: The funnel request has language saying that repetitive use, you know, repetitive request for the same exemption are deemed to be not an exception.

Man: Right.

Man: Maybe we need to put some of that language back into this one again to reinforce the fact that it's not purely up to the discretion of the registry. It's up to the discretion of the registry to refuse, but it's not purely up to the registry to accept if there's a pattern developing.

Man: But isn't that an enforcement issue or...?

Man: Well not really because the words in the funnel request say that repetitive uses is deemed to not be an exemption, you know, which is not - at some level it's not a discretionary decision anymore. You simply cannot do it.

And yes, you have to enforce it ultimately, but that gives strength to the fact that it's less of a judgment call and less opportunity for registry to be perceived as gaming.

Man: Yeah, I'm looking for the language right now.

Woman: I mean, just to put this in context for all of you, I mean the other thing that I keep reminding myself is that, you know, 900 TLDs coming down the pike.

Man: Well I think we need to address that. (Kurt) simply - (Kurt) certainly said that he was amenable to making sure that all new contracts have a similar provision in it to whatever we come up with, and I think we need to think that part of our recommendation.

Woman: But if it's a policy, why would it need to actually go in the contract?

I mean, you know...

Man: It is - you're right. It's...

((Crosstalk))

Woman: ...beat the horse till it was dead, it's fine with me. But...

Man: If they have an AGP, then this consensus policy would apply.

Woman: Right, yeah.

Man: So it probably doesn't need to be exclusively there, but on the other hand it may not (hurt).

Woman: Right.

Man: Again, we're talking about - something about the ICANN lawyers can discuss.

Woman: Right.

Man: So here's what the language says in the funnel request says, "The exercise of the exemption mechanism will be at the full discretion of new start - well the registry, however, 'extraordinary circumstances' which reoccur regularly will be deemed to not be extraordinary."

Man: You want me to send that on the list?

Woman: Yes, please.

Man: It sounds like we're coming to closure on this that we want to do is clean up this resolution with the changes we've made and the typos. And I presume have another meeting next week to sign off on it, that sound about where we're going?

Man: That's fine.

Woman: Yup.

Man: That works for me because then we - (as long as we) get it before the next council meeting, obviously we're not going to do it by Thursday, but the one after that.

Woman: Are we having a council meeting on Thursday or is it just asking read the question?

Woman: It's just the (unintelligible).

Man: Okay.

Woman: Okay, all right.

Man: Because I - yeah. I saw there was a rescheduling of the meeting (unintelligible).

Woman: So the next council meeting is March 6 and the following is the 27th.

Man: Oh, that might sound okay. So I guess...

Woman: So depending on when you wanted to...

Man: I wanted for March 6 then, obviously, so let's try to get...

((Crosstalk))

Woman: Well, but...

Man: Do this council need to send it out for comment or can we do that?

Woman: I would suggest you get the council to vote on this with the dates in it, so...

Woman: Oh, that's a good idea.

Woman: Right. So, just looking at the calendar, I need the motion - (some period of time).

Man: When is the meeting after April? When is the April meeting?

Woman: Seventeenth.

Man: There's also - (then it was) March 6, then I take it there must be one like March 28?

Woman: March 17.

Woman: No, 27th.

((Crosstalk))

Woman: Oh, sorry 27th and then the 17th of April.

So if you wanted to do this 21-day comment period, for example, you could have them both on the 6th to launch the 21-day comment period, do the 27th, have the summary of the comment basically the final reports by the 3rd and have the council vote on the resolution by the 17th.

Man: I don't think that leaves enough (unintelligible) to modify if we need to.

((Crosstalk))

Woman: Well, and that and the fact that it's got to be on the council list for a week before we can learn on it.

Man: Right, but we still would, so let's say we brought on it on the 6th...

((Crosstalk))

Woman: No, we can't. That means it would have to get posted...

Man: (Let's take) it's posted on the 10, 21 days that closes the 31st. So we still have 8 - 17 days from that point to get it finalized and a week for council, 10 days to get it finalized.

((Crosstalk))

Woman: You know, Liz is talking about, if I'm understanding you correctly, putting a motion out (saying) this is what the design committee has come up with, these are the dates that we wanted to move this forward on.

Woman: Right.

Woman: But pass the motion that basically...

Man: Right.

Woman: ...put (unintelligible) (in and cement).

Man: Correct.

Man: Okay.

Woman: But you'd need to do that at the front end.

Man: I agree.

Man: But we're not going to have that a week before the meeting of the 6th?

Woman: Correct, that's my point.

Man: So that's Thursday, that's two days from now.

Man: Yeah.

Man: Well we don't have to have it a whole week ahead of time, especially this one. I'm sorry that (unintelligible) around.

Woman: Honestly, I would rather just take the extra time because, you know, and maybe someone needs to reach out to Chuck (off with) and see where he is on this because that - what I don't want to do is have us, you know, bend over backwards and do somersaults to get this signed off that we would need to all get internally from our various constituencies in order to come back on - by Thursday and say, "Okay, it's a go," only to have Chuck then say, you know, I'm not comfortable with this or, you know, whatever.

Man: So then you're basically saying...

((Crosstalk))

Man: My impression is Chuck isn't going to be...

((Crosstalk))

Man: My impression is Chuck won't be comfortable with it, unless we have a working group.

Woman: Well in that case...

Man: Well...

Woman: Well I think we (should talk with them).

Man: And maybe just getting - have a different impression from Chuck (unintelligible).

((Crosstalk))

Man: ...if we don't vote on this but everybody - if we don't vote on this on the 6th, then we're not going to vote on it until the 27th. That's a month from today.

Man: I think all you're voting on now is to send it out for comment.

Man: Exactly.

Man: I don't think anyone can oppose that.

Man: Exactly.

Man: But do we need council to have the motion - the final motion a week before the meeting of the 6th to get them to do that?

Man: No, that is not a rule of the council. That's a wish of Avri, that I'm sure in this case, it's not going to be a problem even for Avri given that this motion is already been circulated, there's been plenty of discussion about this in council.

Woman: Right, and the new - right - I mean the only thing that's really new in this is the warehousing speculation language, which was kind of already in there in the first place.

Woman: So the motion should restate the agreed language of this group on Jeff's proposal. It should set forth a schedule for comment and constituency statement with proposed questions for public comment and constituency impact statement, which would be basically crystallizing what the impact of this proposal would be on each stakeholder group.

And as for those comments, we provided within a 21-day period to conclude on the 27th and to direct staff or ask staff to summarize those statements by the 3rd or the 7th and...

Man: Yeah, I would say the 3rd so that this group could get together and parse through them and come up with something hopefully...

Woman: By the 10th that the council can consider at its meeting on the 17th.

Man: Okay. So we need to serve notice to Avri that we want something - we want a slot on the agenda on the 6th?

Kristina Rosette: Yeah.

Man: And basically what it is even though we don't have the wording of the motion ready at this point.

Man: (And) don't you think we could maybe get the motion, the wording of the motion done today? Obviously, we've got it circulated around the

review, but I mean we should definitely hash out any issues that we have with it.

Man: I don't think we have any disagreement. I just suspect each of us are going to have to send in some comments to whoever is going to redraft the next version and shouldn't take more than theirs to do. I hate trying to do things on - especially on a conference call when can't see things.

Man: Okay. Well I mean I think at least any substantive issues other than just "wordsmithing..."

Man: We're having remarkably few differences at this point.

Man: Right. I'm going to make sure we don't have a bunch more unnecessary delays, (but)...

Liz Gasster: Okay. So if Jeff can finalize the changes that you all wanted to see that you discussed earlier in the language of the motion itself, I'm going to run by Chuck to propose for lack of a better word, "term of reference" for the public comment, which is going to request specific impact for each constituency of the recommendation requested in the motion and then someone just needs to crack that additional language of that spells out the date that to put in the motion itself. The dates for when you would want public comment initiated, terminated the staff reports and then...

Kristina Rosette: You know, Liz, realistically...

Liz Gasster: Yeah.

Kristina Rosette: ...if the council votes on the 6th...

Liz Gasster: Uh-huh.

Kristina Rosette: ...that would basically mean that, you know, before the end of that calendar day, this would have to get posted for public comment. Does that give you guys enough time?

Liz Gasster: Yeah, I mean ideally...

Kristina Rosette: Okay.

Liz Gasster: ...you know, we would have an extra day to propose yet, and we can certainly send it to the, you know, confirmation...

((Crosstalk))

Liz Gasster: ...the council, but yeah, you do want ideally 24 hours especially since - I can't remember which - I think that call is a later call.

Man: So, Liz, will you also going to make that change that was discussed about in a registrar language?

Liz Gasster: No, I need someone else to make the changes -- to the subsequent changes that you all discussed early on in the call.

The only thing I was going to try to insert was the language that would basically direct constituencies to describe the impacts to their - of this proposal on there entered in if Chuck is fine with that.

Man: So who have comments on typos, maybe that person can put that language in along with the typo changes.

Man: What language is she talking about exactly, Jeff?

Jeff Neuman: Someone that said in the warehousing language...

Man: Yeah.

Jeff Neuman: ...that - because if - well there's no definition of domain (unintelligible)...

((Crosstalk))

Man: Okay, I got it. So when I've already edited that to see if there's things that (unintelligible) the last sentence now reads, according to me, as such a registrar that deletes in excess of 10% net new registrations in a given month, absence the demonstration of extraordinary circumstances as defined above, shall be deemed in material breach of the RAA.

Kristina Rosette: How about something that actually ties closer to the language that says as such the registrar that violates the above prohibition on abuse of the Add Grace period, absence of demonstration of extraordinary circumstances, blah-blah-blah-blah-blah.

Man: That's the problem. We don't call it as (unintelligible) not necessarily an abuse. There's no specific violation. The violation is at least more than 10%.

Man: Yeah, that was kind of my issues, that we don't come out state, it's a policy that this shouldn't happen. It's just registrar should only allow the Add Grace period to be - a registry should only allow...

Woman: Oh, I see where...

((Crosstalk))

Man: ...registrars to delete a certain percentage.

Kristina Rosette: All right.

Man: So that was my difficulty, too. That's why domain tasting, and if you put...

Kristina Rosette: Why don't we just say in conduct in violation or in registration activities?

Man: Well technically, they can't violate the policy, right, I mean unless less the registry (let's the)...

Man: Well the registry are - a registry will let (unintelligible) (set to pay).

Man: Yes. So what I'm, you know, if the registry - if the policy is (unintelligible) something that clarified if the policy is that, you know, you can only have - you can only delete up to 10% of your net registration without paying, (unintelligible), you know, as long you're willing to pay or you're not in - or you...

Man: Oh, you know what, I was - I'm sorry, I got to go back a second. I'm never now what I was thinking as to why I put domain tasting.

You know, what we're saying is in essence, right, we're saying that domain tasting is a bad thing. I'm oversimplifying it, right?

And that we're saying that in order to keep the AGP or try to eliminate domain tasting while keeping AGP, registries to only allow X% by registrars blah-blah-blah. But that still doesn't make the act of tasting a domain name a violation of...

Man: (Unintelligible).

Man: ...an agreement.

Man: I like that.

Man: Right? So what I was saying - well the reason I put domain tasting in there is we're saying, "Look, registrar, whether you taste the one name or five names, the act of domain tasting is itself a bad idea."

Man: If the...

Kristina Rosette: But that's not what they said.

Man: No, I know. But if we actually take the trouble to define tasting as the ability to use the domain name live without having paid for it, then if we actually use term "domain tasting" here, we're not only talking about this particular 10% AGP process, but we're saying if you're smart enough to come up with another one, it also was in violation.

Man: Right. So what is the definition we used as domain tasting in the final report?

Kristina Rosette: Hold on. I'll pull it up.

Man: Now, I'm actually remembering why I did what I did.

Man: I mean if we can pull that up, we ended with a much stronger statement than anything we've talked about.

Kristina Rosette: Well in the issues report, it's defined as using the Add Grace period to register domain names in order to test their profitability. Let's see what the outcome of report has a different...

((Crosstalk))

Man: We need a more generalized one then (unintelligible).

Kristina Rosette: (I'm not seeing)...

Man: Well a more generalized - actually I'm okay with that definition.

A more generalized one would hurt, you know, .NAME doesn't experience any tasting and they haven't. But they do have a free trial period for 30 days, and people could test out whether they like the name or not.

Man: Okay.

Man: They haven't had tasting it to be a problem.

Man: Yeah.

Man: They've sold a number of names. It's been a very successful marketing program for them, and they don't want to limit the ability to do that.

((Crosstalk))

Man: Yeah, can you read that one more time?

Kristina Rosette: Yeah, we said it was - oh, God (unintelligible) where is that?

It's on the - Page 3 of the issues report, the practice of domain tasting and then the parenthetical to the definition, using the Add Grace period to register domain names in order to test their profitability.

Man: Okay.

Man: I'm fine with that definition.

Man: Okay, I can live with it and...

((Crosstalk))

Man: I don't know that that really prescribed in all the conduct would we want to get though because the practice of typosquatting for short periods of time for - hard to identify infringement. I don't think that would actually fall within that definition.

Man: Well I think you're basically covering your basis. You're getting a registrar to delete no more than 10% and then you're talking about if they register up to 10% for tasting, you're kind of getting at it.

I mean, you're only getting at the AGP. You're not getting into normal typosquatting, but I think that's...

Kristina Rosette: Right, that's different. I mean a definition that I have used is the systematic exploitation of the Add Grace period to test the monetization potential of domain names at no cost to the registrar.

Man: I still - I like the original issues report.

Kristina Rosette: That's fine. That's fine.

Man: I think yours is loaded with terms that people may object you.

Kristina Rosette: All right, that's a surprise.

Man: Well I'm trying to make it as...

Kristina Rosette: I know. I'm just teasing you.

Man: ...a little (unintelligible).

((Crosstalk))

Man: I put in and defined that using the AGP to register domain names or to test their profitability. We strike out (absence) the demonstration of extraordinary circumstances defined above or leave that in?

It doesn't seem to be relevant.

Man: Well the extraordinary circumstances implicitly are not for tasting.

Man: Right.

Man: So I don't think we need...

((Crosstalk))

Man: I don't think we need (unintelligible) to mention it.

Kristina Rosette: Yeah. Here, you know, the one thing I'm having trouble with, and I don't want to upset the apple-cart here, but it seems to me that what we're saying with this language and I like this language, I want to find a way to keep this language in or something like it.

But what we're overall saying is, "Registrar, here is the threshold, if you want to exceed it, you're just going to have to pay for it." And registry, you can charge them for it, but then it goes on to say that registrar, you know, you've paid for it and it's a material breach. So I'm just not sure that we're being consistent there.

Man: Well this new language was aimed at the gaming as well as (exceeding), so...

((Crosstalk))

Man: ...even if they don't exceed the 10% that are systematically abusing the AGP.

Man: Right.

Man: And then also from two different parties, right? One is the registry enforcing using its technical means to do so. The other is ICANN stepping in and doing its own enforcement program.

Man: You know, what we're doing now is attempting to define one example of speculation. We're not necessarily saying you're in violation of the 10% rule just that you're trying to take advantage of the AGP.

Liz Gasster: Right.

Kristina Rosette: Okay.

Man: And that's what a much wider statement.

Man: Right...

((Crosstalk))

Man: ...kind of has been about the statement of the intent in the definition of domain tasting though, though we want to prevent any systematic exploitation of the AGP regardless of whether its design to test profitability or somehow other - some (unintelligible) through some other means profit systematically off of the AGP?

Man: Maybe but you're going to get too much opposition on that (unintelligible) too controversial. You got...

Kristina Rosette: Right.

Man: And I don't know what systematic means, and I think we need to take baby steps at this point.

Kristina Rosette: Well let's use - I mean, we have a different definition in the outcomes in the issues report. The issues report has a slightly different definition. Well not that (unintelligible). Monetization practice employed by registrants to use the Add Grace period to register domain names in order to test their profitability.

Man: Yeah.

((Crosstalk))

Man: Yeah, and I would take out - I mean not take out profitability, but add, if these profitability or marketability or profits kind of loaded term, too.

Man: Yeah.

Man: Would this language apply to the practice of putting a domain on hold where the customer had merely looked it up?

Kristina Rosette: Sorry, I didn't mean to laugh.

Man: Say it again.

Kristina Rosette: The hypothetical practice.

Man: Of what, say that again.

((Crosstalk))

Man: Putting a domain on hold for five days if someone looks it up.

Man: I don't think the registrar would be able to do it because there - the (unintelligible) should register the name in order to do it. (Unintelligible) these networks solutions would not be able to do that and (unintelligible) after our proposal, right, because they're actually registering the name for five days.

Woman: Right.

Man: It depends how many they look up, but in theory, they could do it selectively if someone asked them to, for instance. They just have to manage the number.

((Crosstalk))

Man: I think that falls into the area of why I'm not thrilled with this catchall language because I don't think it actually catches everything.

Man: It's not going to catch everything, but it - network solutions won't. They would be too expensive for them to build a system that fits that and randomly picks out less than 10% of their names a month, plus takes into consideration their normal deletion rate, right?

So their normal deletion rate is, I'm making this up, I don't what it is, but if it's between 3% and 5% a month, they may have to randomly pick only between additional 3% or 5%. It just wouldn't be worth the time or effort. I can't imagine they would do that.

Man: I'm concerned that if I'm making this (big) in using the, you know, the profitability definition, that we're just going to run in to more problems and hassles. I kind of like the way Jeff had it originally or actually as it was a suggestion to tie it back to the 10% or 50%.

Man: (Unintelligible).

Man: And just say if they do that, then that is domain tasting and shall be deemed a material breach.

Liz Gasster: Maybe this is a good candidate for tying back to that annual review that you suggested before, Kristina, with - and specifically what the number should be.

Man: I mean, I'd really like us to basically come out with a policy that says that domain tasting is a bad thing, right?

And the only way I can think of to do that is to put a prohibition to the registrar accreditation agreement against domain tasting. And that's why I put the language I did and if you define it as the way Kristina was starting to, I think we're good. It's not going to catch everything.

Man: No.

Man: But I think it's a good start.

Man: I support that.

((Crosstalk))

Man: ...you didn't like it because of that test profitability in there?

Man: No, no, I said we should include other words in addition to profitability. So it's like - I forgot exactly what it was, do you say marketability or profitability.

Woman: (Unintelligible) is this value may be?

Woman: Profitability or value?

((Crosstalk))

Man: (Unintelligible) remember what the words (unintelligible).

Woman: It's all been recorded.

Man: If we're using expression like to evaluate the business potential, that doesn't say it's profitable but it comes back...

Woman: That's pretty good.

Man: ...to the basic measure...

((Crosstalk))

Man: I don't know business potential because I could - an IP owner can register a name for a few days.

Man: How about just test this...

((Crosstalk))

Man: And so...

Woman: Evaluate their potential value?

Kristina Rosette: How about utility?

Man: That's a bad one, too, right? Think about, I've registered names as an IP owner, so just put them on hold to evaluate whether that's the name I want and I've ended up deleting them after a few days because we're not going forward with the business model to do that.

Kristina Rosette: Within the Add Grace period?

Man: Yeah. You should have thought of that, Kristina...

((Crosstalk))

Kristina Rosette: Well, you know, honestly it's cheaper for my clients to keep the registration than to pay for me to go back and (sweep them).

Man: And maybe you could (unintelligible) show if - tie it directly to what they're looking out when do this that it's pretty much, you know, how

much click-through traffic you'd get, you know, how many hits or whatever to evaluate the traffic or something to that nature.

Man: (Unintelligible) traffic, it's (resale value). What's wrong with in order to evaluate their potential value?

Man: To evaluate the domain names - what did you say, what value...

Man: (Define) - so domain tasting defined as using the AGP to register domain names in order to evaluate their potential value, evaluate their values...

((Crosstalk))

Woman: Business value.

Man: How about analyze (unintelligible)?

Man: So it's not business value. It's really monetization or traffic.

((Crosstalk))

Kristina Rosette: Right. But we also want to keep it general enough...

Man: (Net value).

Kristina Rosette:so that we're not locked in to just this reiteration of it.

Man: You know, we might as well throw it out there with value and see what we get back from the comments, rather than us trying to struggle with it.

Man: Okay.

Man: So if even the registrar stays within - and so just I keep coming around on this, you know, putting this into the (tiniest few) things together because they almost seem separate just putting in in the registrar accreditation agreement and what we're trying to do to limit the way the AGP could be abused.

So if we say value, then someone could do a justice saying and that could be considered value, that would be a violation of the registrar accreditation agreement even if it doesn't cost them money based on the AGP limitation.

Man: Sorry, I've lost you there.

Man: Well, you know, we're saying there's a 10% limit on the - of deletes, right?

Man: Uh-huh.

Man: And we pay otherwise - then, you know, there's no refund, but then we're saying also that tasting, however we define it, is a violation of the registrar accreditation agreement. So if we defined it as (unintelligible) find value, then it doesn't matter what's your percentage of deletes are if we can pick out even what Jeff just described (unintelligible) occasionally, that would be a violation of how we just define tasting.

Kristina Rosette: No, we've got tie it back to the 10%.

Man: Sorry. Why?

Kristina Rosette: Why?

Man: Uh-huh.

Kristina Rosette: Because I think, Tim makes a good point. Because I think Tim is right.

Man: But if we tie it to the 10% it's serving a very different function than if it's not tied to the 10%.

Man: If you're tying it to the 10%, basically you're tying a policy to a technical implementation, which I think is not really the - you should come out with your policy statement that you think domain tasting is bad. The domain tasting in and of itself is a violation of the agreement.

And what registries are coming forward and saying is in order to help implement that policy, but in - while at the same time keeping in Add Grace period for those that legitimately need it, we're putting an automated solution in to charge or to not issue a refund after 10% is hit. I think there are two different things. And I actually prefer to keep them separate.

Man: I support what you're saying. We may not be able to make the (slide) that says domain tasting is evil and you shouldn't do it. But I think we should try.

Kristina Rosette: Well maybe there's another way to do it and say that domain tasting as maybe evidenced by a violation of this provision. So that you're basically saying that if you're violating this provision that would be indicative of or suggestive of, whatever. But that's not solely the only way you could go about it.

Man: And then not - define domain tasting?

Man: (It kind of needs)...

((Crosstalk))

Man: I like keeping the practice of identifying the practice as something which is a violation of the RAA.

Kristina Rosette: No, no, no. I'm sorry. I'm not being clear, that you would keep "domain tasting" word, you would define it.

Man: Uh-huh.

Kristina Rosette: And that instead of tying it exclusively to this AGP restriction, to have the AGP - the violation of AGP restriction be an illustration of that type of activity.

Man: So you're not really violating it by going above 10%, (just pay it).

Man: You're just paying?

Man: Right.

Man: There's no violation of...

((Crosstalk))

Kristina Rosette: Right. And that's what I was saying before, is that's why I was having a hard time reconciling.

Man: So how about (unintelligible) registrar engages in domain tasting defined as using AGP to register domain names in order (unintelligible) potential value as may be evidenced by excess deletes of 10% or 50%, whichever is greater (unintelligible) be deemed material breach that work we have all (unintelligible)?

Man: I don't think we need it.

((Crosstalk))

Man: Yeah, I don't think you need it either.

Man: I don't think you need it either, but (let's try and)...

Man: Let's keep it simple and see who objects.

Man: Yeah.

Man: (Yeah, that means) - yeah, that's fine with me, but it just means could be, you know, (unintelligible) registrar's perspective even (unintelligible) it doesn't do tasting, all kinds of things are going to my mind about we could violate that.

And, you know, I just want to make sure that something is clear and understandable and specific that registrars can, you know, put their hands around and say this is a violation, this is (unintelligible).

Man: Uh-huh.

Man: So that there's not (unintelligible) that exist in so many different things out there.

Man: (Unintelligible) I would have the same issue if I were you and the registrar and that's why I felt like it's better to just quote the rule above and I don't think we really need to go that much further if we all agree that's going to - and tasting anyway.

Man: I can live with what you're saying, but I like Jeff's idea of identifying the concept of tasting as the thing we're trying to prohibit.

Man: Right.

((Crosstalk))

Man: And not...

((Crosstalk))

Man: ...with how we're recognizing it.

Man: (Unless we do that and aware of) (unintelligible).

Man: It's not going to be enforceable.

Remember, there's words in the registrar accreditation agreement like speculation and warehousing that ICANN has never been able to enforce because they don't know what it means.

Man: Well actually they - it says that they're only illegal if policy (adoptive) and policy is never been adoptive.

Man: Yeah.

Man: That's why I want to make this the first.

Man: I agree.

Man: I am with you on that.

Man: That's why we say the active domain tasting, which is defined as using the AGP for the purpose of...

Man: The registrars are going to throw up all (over there).

Man: Well, of course, they're going to throw up on (unintelligible) because they want the registries to do all the work. No, because...

Kristina Rosette: I'm just glad that I'm not the one who suggested it this time.

((Crosstalk))

Man: Yeah, me either for that matter. Jon Nevett, are you reading this?

Man: I think it (unintelligible) - I mean I take the point but the - right now just say value (unintelligible) - I mean it almost guarantees they're going to get...

((Crosstalk))

Man: Then keep...

Man: ...total registrar objections to it. And I think it's going to be tough anyway and I'll be honest with you, you know, to say, yeah, you know, some of the (unintelligible) be able to live with this thing. I really hope that's true, but it's - but when you start putting this stuff (unintelligible) I'm not saying we shouldn't have it in there. I'm just saying that it needs to be fairly defined and if we just leave it and, you know, (open and see) what happens, I know it's going to happen.

Man: So then why don't we just keep the same language that's in the issues report, which is the profitability language. We just leave it in there (unintelligible) to the issues report, you know, when people ask why we put that language in there. (I mean) really that was supposed to be the work of the group anyway is to discuss domain tasting and you have to make the policy statement that if it's not a good thing.

Kristina Rosette: Well then let's put that in the "whereas" clause as well. I realized that the "whereas" clause is not enforceable but - and that it's the - just recommendation (that gives the team). But, you know, we don't actually come out and say it anywhere.

Man: Yeah.

((Crosstalk))

Man: Well that's, again, that's why I put the registrar accreditation language in there because that's the only way to say it.

Kristina Rosette: Well, no, no, no. No, I agree with you and I guess my point is, you know, let's put it also in the "whereas" clause and define it in the "whereas" clause, so then we don't have to mock up the policy recommendation with this.

And I don't know if anyone see it but Chuck has weighed in on our proposed course of action.

Man: (Unintelligible) (saying)?

Kristina Rosette: Basically that it's the job of the - (we needed) a total benefit compared to the total impact and that you can't have each constituency do it on phone and add them all together.

Man: And what that means?

Kristina Rosette: Well whoever it was that said he wanted to (work in group), I think they were right.

I mean, you know, maybe one thing that we do need to do is think about once we get public comment back, we then have to have the council kind of going through the exercise of doing the review and assessment based on what's in the report.

Man: Well, a council or a working group.

Kristina Rosette: I don't know.

Man: I just don't feel like - I feel like this is throwing at the end is going to end up doing more harm getting this done than good.

((Crosstalk))

Man: I agree that we should say domain testing is bad. So let's say it upfront in the "whereas" clause. But we haven't gone to a policy recommendation on anything else so then it's 10%, 50% (unintelligible). So to say that something else is a violation enough (unintelligible) this is not going to work for anybody.

Kristina Rosette: I mean, the other option is that when we send this out for public comment that we basic - that we make it very clear that we're looking for public comment on the motion in its entirety as well as to each of its component parts.

Man: It is like a true (lawyer).

Kristina Rosette: No, I'm completely serious because if somebody really doesn't like the language in the second bullet point with extraordinary circumstances and they actually give us new language, which is also something I would encourage us to solicit if people have a complaint, you know, give us something that you like better. You know, that we may end up with something that works better for everyone.

Man: Yeah. I like the idea of keeping the RAA (part in). We can always ditch at the end. It sends a really strong message to the community that, you know, that we don't want ICANN to treat this seriously.

Man: And then when we post this for public comment, there's no problem with, you know, (asking) some specific questions, certainly welcome (unintelligible) comment, but that specifically we have these questions or (unintelligible) comments on the parts, right, the...

Man: No...

((Crosstalk))

Liz Gasster: Oh, I think in particular, we should do that.

Man: Yeah.

Kristina Rosette: Yeah, yeah, and it's been done before. It was in the original issues report, actually.

It's like laid out all the questions that, you know, weren't answered.

Man: I mean, the last paragraph right now is quite - is not part of a recommendation to the board to establish a consensus policy. It's a separate statement linked in concept to what we're talking about, but it's really destroying from it. And I - you know, I think it can live or die separately.

Kristina Rosette: And maybe ultimately that's how we have to vote on it.

Man: Perhaps.

Kristina Rosette: That we have two iterations. We both with, you know, the first one being this whole thing and if that fails then we delete...

((Crosstalk))

Kristina Rosette: ...the RAA part, we vote on that.

Man: ...or separated in the council motion that we do the consensus policy and then we do this one.

Man: (Doing) the different (goals) anyway, so...

Man: Yeah.

Kristina Rosette: I don't know. I just I'm concerned about this process issue that...

((Crosstalk))

Kristina Rosette: ... (you're raising in).

Man: Yeah, (unintelligible) like open this can of worms right now and we're kind of close or can see the end of the tunnel.

Man: I'm not quite sure I can parse Chuck's comment in any case.

((Crosstalk))

Man: But I understand the concept of the whole maybe different from the sum of its parts, but I'm not quite sure how it applies in this case.

Man: Yeah. I just - I think Chuck is more referring to when we analyze the comments, and we have 21 days to do that, you know, to figure that out.

Man: Uh-huh.

Liz Gasster: Well unfortunately, we wouldn't (know). The analysis would only be the week in between and once we get them back and...

Kristina Rosette: Well then give us more time.

Man: And...

Kristina Rosette: I would rather have us take more time to read the public comment and see whether we need to do - you know, whether we need to think and get something that we have a better chance of getting through than just only give us a week to read the public comment, incorporate them.

Liz Gasster: I think that's really smart, Kristina, and I...

Man: Right.

Liz Gasster: ...we really agreed using that I'm not sure about it even, for example, part of what Chuck may be referring to (unintelligible) the macroeconomic impact that it would be saying that it can't just - not simply a matter of adding it all together. I think it begs the question of

even how that analysis would occur and what expertise might be required to conduct it.

Man: Yeah. I don't think you're going to satisfy every single registry.

Liz Gasster: (But they did it as well).

Man: Right. And I don't think - I'll try talking to Chuck, but there could be other things that work here.

I think the plan that we've laid out is a good one, and we should stick to it. I think the goal would be to get the board to vote on in Paris.

Man: Yup.

Man: And we should work backwards from that in order for the board to vote on it in Paris...

((Crosstalk))

Woman: They have to have it in a month ahead of time.

Man: They'll have to have it in a month ahead of time and they'll probably send it out for comment, too, I think.

Man: Yeah. I think that has to be our end target and trying to save a week along the way, which may jeopardize getting a super majority support in council I think is unwise.

Man: So when is the Paris trip, June...

Woman: No, the end of June.

Man: The end of June?

Kristina Rosette: Yeah. Starting - I want to say the 21st, the Saturday.

((Crosstalk))

Kristina Rosette: The board meeting is going to be on Friday the 27th.

Man: So you should count - okay, 30 days before the board meeting...

Kristina Rosette: Right.

Man: ...is May 27.

Kristina Rosette: No. May 29.

Man: Oh, I was doing the proverbial - a month before.

So the staff need to have it by the 20th - May 20. When is the council meeting in May?

Liz Gasster: I need to check.

Kristina Rosette: Well the 6th - the 27th, the 17th, the 8th and the 29th.

Man: (So we should)...

Kristina Rosette: We would to vote on the 8th.

Man: ...8th, that's the goal is May 8.

Man: Does the month include the time that the board may want to (oppose) (unintelligible)?

Man: Well if the GNSO council votes and approves it May 8, then the board has got a month and a half to get it up there and post - to post it.

Kristina Rosette: Why would they do that? They didn't do that for new gTLDs.

Man: Consensus policy and changes to contract (aid). We were talking about changes to contracts here and that...

((Crosstalk))

Man: ...(vote) it on gTLDs yet, have they technically?

Kristina Rosette: No, no, no, but my point is, is that, you know, they didn't send it out for public comment and in terms of they didn't send our recommendation out for public comment after we voted on them.

Man: Yeah - no, but they would need this because they need to (unintelligible) input from the (GAC) and the other supporting organizations, remember their consensus policy recommendation. They need to throw it out there for their advice and input.

Kristina Rosette: Liz, could you impose on you to sit down with the calendar and figure out what the milestone dates have got to be?

Liz Gasster: No problem. Let's see.

Man: I think sometime in mid to late April is probably a wiser time frame to try to hit but...

Kristina Rosette: I mean, there's no reason we couldn't call a special council meeting.

Liz Gasster: And you're right about the date, 17 April, 8th of May, 29th of May.

Kristina Rosette: I mean, we moved to three - every three weeks because the view was that we didn't have as much to do, and so we didn't need to have them every two weeks.

I mean, I wouldn't let - yeah, I can't imagine any counselor refusing to have a special meeting to vote on this in order to get it to the board for Paris. I mean, maybe I'm (unintelligible) but...

((Crosstalk))

Man: ...(unintelligible) one.

Kristina Rosette: What?

Man: I could (unintelligible) at least one, if it doesn't involve a working group...

Kristina Rosette: Well you know what I mean.

Liz Gasster: So Paris is the 22nd through the 27th.

Kristina Rosette: Uh-huh.

Liz Gasster: (Unintelligible) meeting (they're to give) in order to...

Kristina Rosette: I think we've had agreed read that the board has to have it by May
29...

Liz Gasster: Yeah.

Kristina Rosette: ...in order to have their 30 days. It's everything before that...

Liz Gasster: Right.

Kristina Rosette: ...that we're not real clear on.

Man: Right. So why don't we just let Liz take that away and come back to us
with the proposed calendar.

Kristina Rosette: All right.

Man: And meanwhile...

Liz Gasster: I think the 8th - the 8th is the preceding council meeting. So if the
council voted on it by the 8th, the issue is just doing the board report in
time to - and I guess there may need to be another public comment
period. I'll check that while you all - who's got the pen on writing that
language at this point?

Man: Well I've got a (draft here). I think the only suggestion for language change that's been made is in that last sentence (unintelligible)?

Man: No, there's the issue of (next ads).

Man: Oh, yeah.

Kristina Rosette: Right.

Man: I do have that change as well and that I call it 10% of its net new registrations in that month.

Man: Right. And we need to define that somewhere...

Man: Right.

Man: And we need to define that as what exactly?

Man: Total adds - total new registrations minus...

Man: AGP (delete)?

Man: Right.

Man: (Less domain) (unintelligible) during AGP.

Man: And I think we wanted to incorporate the words from the funnel request on the...

Kristina Rosette: On the second bullet.

Man: ...deemed speculations or deemed extraordinary circumstances.

Man: Right. I just sent that language around...

((Crosstalk))

Man: ...you got that, Mike, right?

Mike Rodenbaugh: (Unintelligible) it was pretty long, so...

Man: And then there's general typos and stuff, let's assume we can get - if (Michael) is taking the lead on writing, we've got (unintelligible) within 12 hours or so.

Man: All right, that'd be great.

Man: (And you took out) the - you would need to take out the (flash) renewals.

Woman: Right.

Man: (Flash) renewal, I have to pick that out, yeah.

Man: Okay.

Man: (Unintelligible) extraordinary circumstances language goes just basically cut and paste over the last sentence to the second bullet, right, (probably some changes) (unintelligible).

Man: No, it doesn't replace it. It's...

((Crosstalk))

Woman: It gets added in.

Man: The sentence may include that already.

Man: (The) registry operators' determination of whether or not the grant and exemption shall be at its sole reasonable discretion and then we put the second part to that...

Man: Yeah.

Man: ...provided that, (blah-blah).

Man: However...

Man: Right.

Man: ...extraordinary circumstances would reoccur regularly will be deemed not be extraordinary.

Got it. Got it.

All right, anything else?

Woman: So what are you going to do about the constituency statement and what you've already asked for?

Man: I - we do need to ask for the impact...

Man: So it's different - obviously, it's a different motion that we make for our next meeting, which is a timing motion and can include basically the notion that we want to ask for updated constituency (and fact) statement and for public comment on this motion.

Man: Yeah, essentially, the council is considering passing this motion. We need comments on it.

Man: Right.

Anyone want to stab at that?

Kristina Rosette: I will but I can't get to it until after Thursday.

Are we going to try and vote on this next Thursday?

Man: Yes.

Kristina Rosette: Oh, all right.

((Crosstalk))

Mike Rodenbaugh: That mean you could do it today. Oh, it's 5:30...

((Crosstalk))

Kristina Rosette: No, I've got like 5 hours of license drafting.

Mike Rodenbaugh: I'll tell you what, I'll do it.

((Crosstalk))

Kristina Rosette: Excellent, I'll buy you drink in Paris.

Mike Rodenbaugh: All right, make it two.

Kristina Rosette: All right.

Mike Rodenbaugh: You've got the (expensive) (unintelligible).

All right.

Anything else?

Liz Gasster: So, Mike, they're going to do that language plus the dates, and so I owe you dates that...

Mike Rodenbaugh: Yeah, you owe me dates (unintelligible).

Woman: (And we're) just looking at the bylaws and I'm pretty clear on the first part, but I'm not clear on the second part after the council.

Mike Rodenbaugh: All right. Well you and I could (unintelligible).

Woman: Because I can't just - I can't (unintelligible) will do another for the comment period that's required (unintelligible). I can see clearly that, you know, when (unintelligible).

Man: I think there's a public comment with our final report to the board, I'm pretty sure there is a public comment...

Man: Yeah.

Man: ...21 days.

Woman: And I think it should depend on how the council acts.

Man: Oh, okay.

Woman: (All right)?

Man: I'm not sure.

Woman: The (unintelligible) the board reports certainly (unintelligible) - if there's super majority vote versus...

Man: If we don't have the super majority vote, we're doomed to begin with, I think.

Liz Gasster: Well - and...

((Crosstalk))

Man: I think that have to be our target.

Liz Gasster: This actually - what I'm looking at the information about submitting to the board, it actually specifically talks about the financial impact to each constituency, the analysis of how the issue would affect each

constituency including any financial impact. So I think clearly whether you want to ask that question now...

Man: Yeah, ask that question.

Woman: Yeah.

Man: Yeah.

((Crosstalk))

Liz Gasster: It needs to be in your language.

Man: You cut and past that language (unintelligible).

Liz Gasster: It announces how the issue would affect each constituency including any financial impact on the constituent.

Man: In your email with the dates, just (unintelligible).

Man: Is that wording from the bylaws?

Liz Gasster: From the bylaws related to the council report to the Board Section 11 under the agenda, so...

Man: (Unintelligible) a couple of minutes. (Unintelligible) on the text to the motion, well I think I got it.

Man: Yeah, I mean, I wouldn't add anymore "whereas" clauses or anything. I think that's just raised this further for objection.

Man: And then to add anything more...

((Crosstalk))

Kristina Rosette: Well weren't we going to add something that domain tasting is bad?

Man: Well, no, that was because we - where we've decided to leave in the thing at the end.

Kristina Rosette: Oh okay, all right.

Man: Yeah.

Kristina Rosette: All right.

Am I correct in thinking that we have a pretty tight timetable on this?

Liz Gasster: Yeah.

Kristina Rosette: Well, I guess where I'm going with this is that and I know that my constituency would have an issue in terms of getting its (IRT) statements and - but do we want to say ahead of time what the plan is going to be for those constituencies that, you know, cannot meet the deadline?

I mean, I don't want to have a situation where the inability of one constituency or two, I guess, you know, if you get to more than three then you have a problem but, you know, the inability of a constituency

to get a statement in on time could really just, you know, stop the whole thing in its track and I'd like to avoid that.

Liz Gasster: That's been a problem in the recent past.

Man: Yeah.

Man: I mean, that's always a broader and just this issue, although we can...

Man: We really have no control over this.

Man: Right. I don't know what we can do, you know, in advance, other than tell people, you know, we really, really mean it. It's going to be up to the council to decide to act with or without information that...

((Crosstalk))

Woman: ...we're going to have a motion then put it in the motion that basically this is the date that your statements are due and, you know, that in short that the report will continue to the process even if their constituency has been unable to submit its report by that time.

Man: Okay. I'm fine with that.

Liz Gasster: So you're trying to get this motion passed on - or pushing on this (unintelligible), right, for...

Man: Yeah.

Liz Gasster: ...for (all postings) - all comments to be in by the 27th or 28th and then summary to be prepared for - by the 3rd and then (council selection) on the 17th of April.

So, I (unintelligible) motion being just a motion then any other activity...

Man: To the 10th...

Liz Gasster: ...the final action by the council, the targeted action by the council on the 17th of April.

Man: (Unintelligible) which group needs to get its promotion finalized ideally by the 10th...

((Crosstalk))

Man: I think actually Avri said it was five days (unintelligible) seven, (unintelligible).

So we (stop). We go ahead and get another meeting of this team, get it on our calendars for, you know, right there on April 4 or 5, whatever works.

Woman: And then working that in Paris I just need to figure out what the board is going to need, assuming that the council act by the 17th.

Man: (Unintelligible) and we need to make sure we're on the agenda for the next council meeting.

Man: I'll take care of that with the...

Man: Okay.

Man: ...(because) Avri is on our list here so (unintelligible).

Man: (True).

Man: All right, (I'm in).

Woman: So do we also capture it in that Mike's notes about all the changes to the language of the annual review?

Man: That I don't have. If somebody send - someone's going to send that around, right, some or...

Liz Gasster: (Unintelligible) the specific thoughts, Kristina, (unintelligible).

((Crosstalk))

Man: I think my thought was just copy within the transfer...

Liz Gasster: Oh, on the (transfer) (unintelligible).

((Crosstalk))

Kristina Rosette: Yeah, and I have no idea what that is, so I'll just go with it.

Man: Hold on, I'm looking it up.

Mike Rodenbaugh: All right. Actually, I got to run here, folks. I think I've got mark
(unintelligible) if someone sends you that language and Liz will send
me the dates and some other language and I think I got it.

All right.

Man: Thanks, Mike.

Mike Rodenbaugh: Thank you, everybody. Bye-bye.

Man: Thanks, Mike.

Woman: Thanks.

((Crosstalk))

Man: Bye.

Kristina Rosette: Bye, everyone.

Man: ...be in a great meeting, we may actually pull this off.

Man: Yeah.

Man: (All right). Bye.

Woman: Bye.

Man: Take care.

((Crosstalk))

END