

ICANN SAN JUAN, PUERTO RICO  
GNSO Working Session  
28 JUNE 2007

(Meeting already in progress.)

(Break until 3:07 p.m.)

>>AVRI DORIA: Okay. Let's get back to it. The adrenaline rush of a scare has woken us all up.

I want to point out we have two more hours scheduled and we haven't yet gotten to the other topics on the table, 3, 6 and 20. And I think this is important work, is what I'm trying to say.

>>CHUCK GOMES: We are getting back to a point where again we are going to get back to controversial and geographic which we are going to (inaudible). We're done.

So we actually -- even though there are 38 slides, we should be able to move quickly.

>>AVRI DORIA: We were in the middle of a discussion that was initiated by Bertrand. And I want to make sure that I understand it, and maybe everyone else already understands it, but I wasn't understanding it.

So I'm going to try and say it and then Bertrand can tell me.

That the way this is currently worded, it creates a disparity in that the new gTLDs will be able to release these single letters and single digits from the beginning, whereas there is no proof yet that since they have not been released in the current gTLDs, because there hasn't been a new appropriation allocation framework decided yet; therefore, it creates a disparity because they are free in one place and they are not free in another. And Marilyn then wanted to comment --

>>CHUCK GOMES: Okay.

>>AVRI DORIA: Is that essentially what you were trying to say? And then Marilyn and then Philip.

>>CHUCK GOMES: And me.

>>MARILYN CADE: What I would like to do is because I think -- I want to be sure we are thinking about this in the context of the discussion that's gone on in the past.

I don't think that actually -- So the way the recommendation came out, and there was a lot of debate about this, the way the recommendation came out was that the -- this is kind of code word, "appropriate allocation frameworks," were intended to generate ideas on appropriate allocation frameworks that could be considered.

And so the release is contingent upon the use of appropriate allocation frameworks.

I don't think there's any assumption that the appropriate allocation framework for the new gTLDs would necess- -- let me say this differently.

I'm not sure there's a firm assumption that allocation frameworks couldn't vary.

So hypothetically, for instance, let me use the sponsored TLDs that we are familiar with now in contrast to the open gTLDs or the IDNs in contrast to the ASCII gTLDs.

It might be that appropriate allocation frameworks would look different.

So it might be that given that the sponsored TLDs have responsibility for developing certain policies that they would be asked to recommend how they intend to deal with single letters.

It might be -- I'm just being hypothetical.

I think that's why the phrase "appropriate allocation frameworks" was what the reserved name working group finally centered on.

The other thing that I would say is, it is, I think, important to remember that although there are 26 letters, the reality is that the names in some gTLDs are going to potentially have different value at the second level because they have been on reserve than those same names in new gTLDs.

And that was the other reason that the reserved name working group wanted to see the development of appropriate allocation frameworks that could be considered.

And there was no effort to center on a single allocation method, framework.

>>AVRI DORIA: You had a question on what Marilyn said?

>>BERTRAND DE LA CHAPELLE: Actually, it's one grammatical question.

>>AVRI DORIA: No, then I would prefer to go through the list of Philip and Chuck and then back to you.

>>PHILIP SHEPPARD: Although I agree with the theory of the question in front of us, I think there are some differences we need to think about first.

My understanding of the whole philosophy of the reserved names listing that we are going through was either to do with technical instability, and potentially reasons of consumer confusion. We have now drifted on to an issue to do with competition, which is a separate issue.

So we need to be aware we are moving off on a philosophical basis for debate. That's my first point.

Second, I also just think there is a huge difference in the perceived value in the market of a single-letter dot com because of the established value of that TLD versus the current zero value of any new application.

So I personally have no problem with the recommendation as written.

>>AVRI DORIA: Thank you.

Chuck.

>>CHUCK GOMES: First, just a quick response to that.

At the same time, it's probably not unreasonable to predict that with new TLDs, chances are that a single letter in ASCII would be more valuable than some others.

That may not be always the case, but it probably is. But that's just a comment.

My point with regard to the inequitable treatment of existing versus new, let's keep in mind the time frame that we're talking about. We're looking at a year from now for applications for new TLDs. I would guess that we probably ought to consider that issue further down the road when we see whether or not maybe it's solved for the existing TLDs, and hopefully it is, and so that is not the case.

>>AVRI DORIA: Okay.

Bertrand. Bertrand and then Mawaki.

>>BERTRAND DE LA CHAPELLE: Going exactly in that direction, my grammatical question was, which release does the last sentence, "This release should be contingent upon the use of appropriate allocation frameworks," does that refer to the second line, "In the future ones," or the second part for the existing TLDs?

Take out second quotes.

In the first case -- I think it is the latter. This means that appropriate allocation framework should be defined for the old ones.

>>AVRI DORIA: Mm-hmm.

>>BERTRAND DE LA CHAPELLE: And in any case, the new ones are open.

>>AVRI DORIA: Mm-hmm.

>>BERTRAND DE LA CHAPELLE: The point I am making is as Avri rightly said, the present formulation establishes a de facto unbalance. That is completely viable in economic terms given the different values of the two things.

But on the occasion of opening up for future things, by creating this imbalance, the very formulation takes the opportunity of making a decision that basically an auction mechanism or other mechanisms are going to be used to open the old ones.

And I'm just wondering if the reserved names group is the appropriate place to raise an absolutely valid question, which is the valorization of the existing, the first-letter, second level domain in the existing gTLD.

It is much more natural to say for the moment, no decision has been taken at the general level to open up the existing, unless I'm not aware of it.

>>AVRI DORIA: No, nothing has been done.

>>BERTRAND DE LA CHAPELLE: So if no decision has been taken today on a global decision level on ICANN to open up the existing TLDs for the one letter, this is, for the value of equal treatment between the different TLDs, the old and the new, prejudging the fact that the new -- the old ones will have to open.

And I think the formulation should be reverted, or that the release --

>>AVRI DORIA: So you are saying basically these shouldn't be released in the new until they are released in the old.

>>BERTRAND DE LA CHAPELLE: Exactly. There should be a single procedure for opening up if we decide collectively it should be open.

>>AVRI DORIA: I understand.

Jim. I thought I had it right? By the way, I just wanted to mention, we have got people scribing this now, so that's why I am trying to get names said.

>>JIM BASKIN: There has been talk on a number of these slides we have looked about, well, we don't have to make a decision on this now; we'll do it a little bit later. I am getting confused on when that "later" is because now -- not with what you were suggesting, Bertrand, but what I just heard before that was maybe this can be taken care of a year down the road, and I'm not sure that's appropriate because we are talking about things that would be in the contracts for the new TLDs. And it could be a very big issue for them in their proposals.

>>AVRI DORIA: Right.

>>JIM BASKIN: And how they do their proposal.

We really do have to get this taken care of before the public -- before the advertising stage starts.

>>AVRI DORIA: Most definitely, that's true. It's not a year down the road. It's the half-year. Right.

>>JIM BASKIN: And there may not be a resolution on the existing TLD single-letter domain issue by that time.

>>CHUCK GOMES: And we are fully on board on that. That's something we have agreed to as a committee on those kinds of things.

So it's a good point, but you will find no objection here, I believe.

>>AVRI DORIA: I had Mawaki and then Edmon and then basically we have to deal with the fact that there is an alternate proposal to basically make the new, which is the topic today, the release of the new contingent upon the eventual release of the old.

But anyhow, Mawaki.

>>MAWAKI CHANGO: Yes, thanks.

I'm not sure whether I understand fully what Bertrand said, but maybe what I'm going to say will be -- will relate to that.

First, in the first sentence, in the first phrase, I would prefer "in future gTLDs, we recommend that single letters and single digits be available," rather than "be released."

>>CHUCK GOMES: Be what?

>>MAWAKI CHANGO: Available for registration.

>>AVRI DORIA: That's semantic, but that's what the "be released" means.

>>MAWAKI CHANGO: And then I kind of understood that the purpose of this work is to recommend whether we agree to ask for the single, or the reserved -- or some reserved names to be released or not.

>>AVRI DORIA: What we are doing now with the exercise is basically trying to figure out what goes into the base contract for new gTLDs.

We're not doing the second part of that, which is looking at the appropriate allocation mechanisms and the decision about releasing single letters in existing.

Now, the decision that we have based on Bertrand's recommendation is, do we want to release them anyhow in the new gTLDs or do we want to say it's contingent on resolving it in the old?

>>MAWAKI CHANGO: In the existing one.

>>AVRI DORIA: Right.

>>MAWAKI CHANGO: Okay.

So yeah, we need to resolve first, at least logically, not necessarily chronologically but logically we need to address first whether we ask for the release of single-letter under the existing gTLD.

And then if you agree to release single letter in the existing gTLDs, then we will assume that for the new gTLDs, those single letters will be available.

>>AVRI DORIA: That, as I understand it, is Bertrand's suggestion. That is not what's written up there.

>>MARILYN CADE: Can I actually just comment on that when you get around to it?

>>AVRI DORIA: Are you asking a question --

>>MARILYN CADE: I am.

>>AVRI DORIA: -- or did you have a comment?

>>MARILYN CADE: I am.

>>AVRI DORIA: So Mawaki, if you are finished, I'll let Marilyn ask you a question.

>>MAWAKI CHANGO: And then if we address the appropriate allocation framework issue.

>>AVRI DORIA: Not in this meeting. Not in this meeting. What we will have to address in this meeting is whether we are making release of the single letter or digit in new gTLDs contingent upon later making that other decision or whether we're just releasing them or making them available.

So Marilyn.

>>MARILYN CADE: Yeah, I'm not sure I understand the word "later" here, and just going back to the reserve name working group, which I think, being in it, intended to recommend that -- and we -- sorry, you made the change "be available." Thanks. I was trying to remember.

That the Reserved Name Working Group was recognized that -- so part of our job was to determine whether words on refresh should continue and how it applied to both -- I'm talking about the broad word.

>>AVRI DORIA: Yeah.

>>MARILYN CADE: Whether the names on refresh should continue in existing names, and whether they should also apply to new.

So not just on this category, but broadly.

>>AVRI DORIA: So you had a question for Mawaki?

>>MARILYN CADE: So I think -- I thought what -- I want to be sure I understand what Mawaki said.

I read this. And I understood from being on the reserved name working group that the intent of this statement is to release the names in both old and new, but -- and then to discuss what appropriate allocation frameworks were, which I thought could apply to both categories. And that that wasn't yet defined.

But I'm not sure that that's what I heard Mawaki say.

>>J. SCOTT EVANS: That's not what that says. As someone who's not been involved, Bertrand, if you read the way it's grammatically written, what it says is --

>>AVRI DORIA: Contingent.

>>J. SCOTT EVANS: -- we think the single letters should be released in all new gTLDs; right? They should be free and available. And with regards to the new ones, we think -- the old ones, we think they should be, too, but there have to be allocation frameworks developed because there's a scarcity issue there.

>>CHUCK GOMES: Well, it's not --

>>AVRI DORIA: I'd like to continue going through the list. But, yes, that's -- it's the word "contingent." I'll put you on the list. Okay. I had Edmon next.

>>EDMON CHUNG: I'm interested to know, the group that came to this conclusion, what was the argument there and what was the thinking there? And the other point is, Bertrand, if you say that this is in some sense unfair -- actually, I don't agree that it's as much unfair -- then we also have to go back to the two-character ones to do the same thing, 'cause, currently, the -- you know, the contracts also bar registrations for two characters. So it's not only single-character names you're talking about.

>>AVRI DORIA: But no one was recommending releasing the two characters.

>>EDMON CHUNG: No? The digit plus -- digit and --

>>AVRI DORIA: Okay. The two character -- right, the two letters were not. Right.

>>EDMON CHUNG: Sorry, two character. So have to revisit that one as well, according to your line of thought. But I'm more interested in knowing the -- sort of the argument from --

>>AVRI DORIA: Actually, I don't think so, because there was no contingency put in the release of the four Fs and the three As for either. That was -- it would be equally released in either with no -- it was not contingent on finding a new allocation mechanism for those.

>>EDMON CHUNG: It's just because dot com has already allocated those.

>>AVRI DORIA: Right. So there was no contingency in there. It was releasing them in all places. Ray, I had you next.

>>RAY FASSETT: Well, as Chuck knows, I've long been -- had my concerns with this particular output from the Reserved Names Working Group, and I'll state it again, in that I think this committee and the working groups need to stay on point, which is, it's about new top-level domains. And this particular one reached into two areas. It reached into existing top-level domains and then it also reached into an allocation method. So my point is, I think we need to stay on point. I'm not against, overall, the concept. But when we start saying, "Well, we've got to do existing ones first and figure that out before we can -- the committee can move forward on its recommendation for new TLDs," I think that's an error in our -- in the judgment, and we need to stay on point first, which is how to make a recommendation to council on new top-level domains.

>>AVRI DORIA: Okay. Thank you. The next person I had was Jim. Did I just see a hand go up for the list?

>>JIM BASKIN: I don't think I was trying to get on the list when you saw me waving. So you can take me off.

>>AVRI DORIA: Sorry. Okay. I'll add you to the list. Then I have Cary.

>>CARY KARP: Yeah. There's only going to be 34 of these things in any TLD. So it's sort of an automatic auto scarcity. Self-scarcification. And at some point, either it's okay or it's not okay. A stratified introduction just seems to be (inaudible) even thinking about. So why don't we start by getting the lead out in terms of releasing the things in the current situation, and then the people who are contemplating (inaudible) will be aware of the fact that this is the way it's implemented in the current space, it's likely to be the way we're going to see it in (inaudible) application rather than the perpetual, I hope what I'm about to pay \$75,000 to apply for is going to end up being permissible at all.

>>AVRI DORIA: Were you asking a question?

>>CARY KARP: Yeah.

>>RAY FASSETT: We can't lose sight of existing registries do have the funnel process. Each registry has its own model, if you will. They're not all one and the same. One size does not fit all. That was one of the reasons why the funnel was created, to proposed, it all has to go through public vetting and processes.

So I just want to make that, you know, particular point. There are existing contracts in place. And when we go down this road, we're really going down a slippery slope in terms of contractual conditions, et cetera.

>>AVRI DORIA: Okay. Thanks.

>>RAY FASSETT: That's my view.

>>AVRI DORIA: By the way, I really want to try to keep things in order. And when someone really says they have a question to ask, it's more of a clarification question of what someone said and I'm letting them break in for that. But the argument stuff, I'll put you back in the queue.

So I've got Chuck next. Then I've got Marilyn. Then I've got J. Scott. And then I've got Ray again.

>>CHUCK GOMES: The first thing I want to do is I want to respond to Bertrand's suggestion. And I think it addresses one of the points that Ray made. And that is is that I don't think we need to tie these two things together or put some sort of a condition in there. Let's move ahead on both counts and see what can happen.

And the timing itself may take care of itself in the whole thing. By putting a contingency, I think we just put something in there that we don't need yet. We could find out later on that that's needed. But that could be dealt with.

With regard -- I want to call everybody's attention, if you were in the GNSO Council, when I raised the issue of the additional work on this category yesterday, as long as the -- along with the IANA and ICANN names, that staff, Liz got up and indicated that staff is -- they're going to have some input into that shortly.

We've got some things in motion. Let's not turn back the clock. That happens too often in the GNSO.

Certainly I don't think we should let those kind of things interfere with our top priority, which was in the statement of work, and top-level domains, and the contracts for that. But let's not go backwards.

>>AVRI DORIA: Okay. Marilyn.

>>MARILYN CADE: Yeah. I was just going to say -- and I support what Chuck said. But I was just going to say that, actually, the question of what we were going to address was in the terms of reference and was approved by the council, and that it did address both existing and top level. Because of the special status of reserve words, which -- reserved words, which might have to be -- you know, take the WW -- you know, many of the things we've already agreed to have implications of continuing to be reserved in existing TLDs, but also the question of whether they would be continued in the new gTLDs.

The other thing, and I just wanted to respond to something that Ray said, actually, the working group took into account that point that Ray raised about appropriate allocation frameworks and suggested that consideration should be given to a variety of allocation methods, which might include, for instance, the RSTEP or other things that might exist, among others.

So I don't think, Ray, there was any discussion at all on the final output of that concept of appropriate allocation. But I would support what Chuck has suggested, advancing the work from the staff and seeing what's put forward.

>>AVRI DORIA: Okay.

J. Scott.

>>J. SCOTT EVANS: My suggestion is you take out all the language after the parenthetical and you don't tie them together at all. You just say, in future TLDs, we recommend that you don't reserve one letter. And --

>>AVRI DORIA: It could be available.

>>J. SCOTT EVANS: I understand that's your problem.

But the reality is, it will take forever to come up with allocation methods that the community is going to agree on, because the reality is, there have been people pushing for seven years for dot com to do this and there's going to be a blood bath to get those 34 characters.

So we are going to be sitting around forever waiting. And our job is to offer differentiation into the market through new models. And this is one suggestion that we're recommending on forward to make new TLDs different. And they will have this. And so my suggestion is take out all the wording after that. Don't tie it together.

If the council then wants to look at how we're going to do it in existing because it's now been recommended that it's available in new, then that process can start, and staff can assist in that.

That's my suggestion.

>>AVRI DORIA: Okay. And that's essentially the consideration that we started at.

Okay. I had -- Okay. I had Chuck, and then Ray.

>>CHUCK GOMES: Well, actually, let me just very briefly, I think that Marilyn kind of hit on what I was going to say after I put my name back on.

But just with regard to looking for an allocation method doesn't -- does not preclude what that could be or what various alternatives that could involve, including the RSTEP process or something like that.

>>AVRI DORIA: Ray, and I'd like to give you the final word on this one.

>>RAY FASSETT: And that's a very good point.

My point was is, what should -- I understand the statement of work from the reserved names group had its own statement of work. But my thing is, is what is the committee, the PDP committee supposed to be accepting from that work? I think our scope is new gTLDs.

>>AVRI DORIA: Right. Exactly.

>>RAY FASSETT: So I just wanted to make that point.

And that's -- and that second part is sort of going off in a different direction that this committee can't accept. Now council might want, can accept this, because they commissioned this group. But that's different than the committee.

>>CHUCK GOMES: Ray, that's why I brought this up at the council yesterday, and before today, because I thought the same thing.

>>RAY FASSETT: Okay. Thanks.

>>AVRI DORIA: So I think at the moment, we basically have the proposal that's here as -- and, yes, basically, not reading beyond what is the sort of remit of this PDP group, which is new gTLDs, is that single letters and single digits be available at the second and third level, if applicable.

>>J. SCOTT EVANS: Period.

>>AVRI DORIA: Period.

And that's essentially what was there before. The rest of it did not pertain to this particular committee. We had, you know, one person basically -- or at least one person, I'm not sure of any other -- believing that that's not -- and what I'd kind of like to check is, I guess, since we've had a lot of discussion on it, and saying that there should be a dependency, and not be a period, I'd like to basically check and sort of see where the level of support is for in the future -- in future gTLDs, we recommend that single letters and single letters be available at the second and third level, if applicable.

>>CHUCK GOMES: Can I comment on that? Because I realize that the language could be interpreted either way. I actually made an adjustment based on the change we made with availability in that last sentence.

It was my understanding -- and I -- if other people in the Reserved Names Working Group thought of it differently -- that the contingency applied to both, because the word "release" was used in both.

So the way I fixed it was the availability release should be contingent upon the use.

Now, if my understanding of the Reserved Names Working Group is incorrect on that, I ask people to set me straight.

So, basic decision then becomes do we want it to be that way. I think that's what was meant in the Reserved Names Working Group.

That doesn't mean that we can't treat it differently.

>>J. SCOTT EVANS:I guess my question would be, in the new TLD, how does the allocation of a one letter (inaudible) XYZ, different from any other allocation? Are you saying --

>>CHUCK GOMES: Well, I think Cary answered that question.

>>AVRI DORIA: Okay. It looks like I was unsuccessful at cutting conversation on this one. So I've got Mawaki. Who else do I have who wanted to say more on it? I had Philip.

Anyone else in this one more pass before we move on from here? Even if we're going to need to come back to this at another time?

Yeah.

So I've got Marilyn. Mawaki, please.

>>MAWAKI CHANGO: Yes. First, my understanding was that -- my personal understanding was that the consideration of appropriate allocation frameworks was due to the fact that you are dealing with existing gTLDs, and further, that those single-letter and single-digit names have been reserved for a long time, it creates some kind of scarcity.

So I'm not sure whether the appropriate allocation framework issue applied to the new gTLD.

But if we were to strike the second sentence, then I would like to propose or suggest this compromise, like after it should be released -- after the end of the first sentence, we add that space, more work may be needed, including the consideration of appropriate mechanisms for the existing gTLD.

>>AVRI DORIA: Okay. Which is essentially what -- no, it's not. That's a third proposal now.

>>CHUCK GOMES: Not really. It's what's there already.

>>MARILYN CADE: I think we should --

>>CHUCK GOMES: It's basically what's there already.

>>AVRI DORIA: Okay. I had Philip next.

>>PHILIP SHEPPARD: I think this is an example, and we have had others which we've already decided upon, such as the reference implementation model in sunrise, et cetera, where I think we've identified potential areas of work that we agree council should be doing in some form or another but which are not part of the critical path in terms of completing our report. And I think the simplest way forward here is just to clearly identify all those on a separate list so that we're not confusing the sort of wrapping together of some of these separate items. In that sense, (inaudible) easy to do and probably could be done in ten minutes if we asked them to do. And this is clearly one of them.

So let's just try to be clear as to what is part of the critical path of these things and what is delaying us making a decision on the report, and what is identified as future work that can be done after that.

>>CHUCK GOMES: And there is one point that is on the critical path in that last sentence, and that is whether or not the recommendation to make single digits available to second level should be contingent upon development of an allocation method. That is part of the critical path.

The existing ones is not, I agree with that. But I think we do need to decide that.

>>AVRI DORIA: Okay, Marilyn.

>>MARILYN CADE: Well, I was just going to say that, you know, based on what I heard yesterday, it seems to me that it is possible to also hear back from the staff work that was going to be done on the kinds of appropriate allocation frameworks.

You know, I want to be sure that people are saying, okay, in the new gTLDs, we're assuming that a first come, first served approach to single letters and single numbers is acceptable, because they will not be on reserve. So that's an affirmative decision. And then the assumption is that there's no implication for the award of those names that is driven by the existing situation for those names.

By the way, in the single letters, five of the names in the single letters are -- were released and are active. And when the group looked at this work, they suggested there's no rationale for continuing the reservation, but that a -- but an allocation approach would be needed. They didn't specify what that was.

So since we talked earlier about the staff doing an examination of allocation frameworks for the existing ones, it sounds like we are trying to separate the work, make a recommendation that says, release the names in the new gTLDs, don't treat those as any different. So, hypothetically, an applicant could -- because they can in their bid create different allocation methods for different categories. So they would do whatever they want to do. And then, secondly, the council would look at whatever staff work came back to them on the allocation in the existing TLDs.

>>AVRI DORIA: I guess where I think we're at now, since I have finished the list of people that wanted to talk, is that we do not have consensus on making these available anywhere at the moment. I think there's too much discussion. And where I'd really like to see -- and I think this is sort of following what Philip was suggesting -- is that several people get together that are interested in this, have a separate discussion, see if we can come up with a consensus position that can be accepted, and leave these in the reserved. We've got a status quo in reserved names in general. And this was talking about a change to reserved names. And as Philip says, it's not critical path for this week's work, for next week's work, or even the week after's work. It doesn't necessarily need to be resolved in the policy recommendations that we make so we can ask for it to be more work, ask for more staff recommendations, but move on until we have something that we can get consensus on!

n.

Is that -- what I would really like to do. Because we have now gotten to that position where we are stating and then we're counter stating, you know. And so I'd like to sort of get a couple people who care about this issue to sort of work together and see if you can come up with a consensus position on it.

Yes, Ray.

>>RAY FASSETT: I don't know. I thought there really was consensus agreement that the recommendation from the group's work was that single-character names do not need to be reserved. I don't think there's disagreement on --

>>AVRI DORIA: Well, but then it was -- if that was -- first I thought so. But then it was contingent upon an appropriate allocation framework.

>>RAY FASSETT: Right.

>>BRUCE TONKIN: But that's kind of "of course," isn't it? What are you going to -- I mean, you make a decision that it's okay to release them, and then, obviously, the method of managing of release, don't you?

>>AVRI DORIA: On the future gTLDs, we're not requiring an appropriate allocation framework for other names.

Existing gTLDs, there's a whole different topic. But I'm saying on future gTLDs, it -- if it was just that they were available, it was easy. If they're

available contingent on an appropriate allocation framework, then I don't -- so I don't know which of those we have consensus on. And if we have consensus on the second, more work is required in either case.

>>BRUCE TONKIN: Let me just go through the logic here for a second, because I'm getting lost here.

The release of any name is contingent on appropriate allocation framework. I don't see -- it's just a string. What's the difference between A.6 or B.6; right? Or example.6 and -- you know.

The point I'm trying to make there is the string. Maybe I've used the wrong subscript there. But it doesn't matter; right? So now when you release a new gTLD, you need a method for allocating the strings when you turn it on; right? And so whatever method you use, it's the same issue. The fact that whether they're single or double or three or four or five or 63 letters long, there's still an allocation method.

The issue for existing gTLDs, and let's be quite specific, dot com, you are talking about single-letter names that are worth millions of dollars each. That's a hell of a lot different to a new gTLD starting up when they're probably worth six bucks each.

So, you know, that's why I think you're very much confusing the concepts here.

>>AVRI DORIA: I guess -- but we're not requiring that people provide a -- we're certainly not explicitly requiring anywhere that people provide an allocation number for four-letter strings.

>>MARILYN CADE: But wait a minute. We do.

>>BRUCE TONKIN: (inaudible) because you need an allocation method for second-level names, full stop.

>>MARILYN CADE: Yes. Avri, that's the thing that I'm confused about. We ask every applicant for a registry to tell us how they're going to allocate names. And let me give you an example.

In one gTLD, dot mobi, they decided to allocate some names on first come, first served and refresh others to have a special business program. So that's one variation. In addition to that, we have dot travel. We have (inaudible) sponsored TLD that actually doesn't have a first come, first served for allocation. We have to be qualified to be in the sponsoring community, and then there's a dispute.

So every registry proposes allocation methodologies. That's why I was having trouble with the why people were so -- you know, it's like there is no allocation framework. Because there is, even in the new ones.

>>AVRI DORIA: No. Well, I guess I'm still confused, because we say "use of appropriate allocation."

>>BRUCE TONKIN: For existing gTLDs.

>>AVRI DORIA: That's where I'm -- When it was just the proposal that J. Scott was saying, is that after the parenthetical, it was period, and then, yes, it was the same as any other string, et cetera, that's one thing.

If it contains the appropriate allocation framework, then it is differentiating it somewhat from other strings.

>>BRUCE TONKIN: Yeah. So just separate the issue about new versus existing. So new is pretty straightforward; right?

>>AVRI DORIA: That's what I was trying to understand.

>>BRUCE TONKIN: If future recommend that single letters be available at the (inaudible).

>>AVRI DORIA: Do we have consensus on that, without going on, do we have consensus or broad consensus on saying that? In the future, gTLDs, we recommend that single letters and single digits be available at the second and third level, if applicable, full stop?

>> Yes.

>> Yeah.

>> Yes.

>>BRUCE TONKIN: I haven't heard anyone say otherwise.  
>>AVRI DORIA: We have one -- we have one --  
>>BERTRAND DE LA CHAPELLE: I just wanted to raise a flag.  
>>AVRI DORIA: Right. And I think that flag should be notated in the --  
>>BERTRAND DE LA CHAPELLE: I don't want to occupied the work too much. But everything in the discussion has confirmed, in my view, that this was a valid flag.

The thing that I'm worried about, and I will finish with that, is the logical consequence that seems to be implied here that because we wanted to open it for the new TLDs -- and I fully agree that it is desirable -- then that necessarily means that there is a consensus also to open it in the existing ones.

>>AVRI DORIA: Right. We're not talking about the existing one now. We're only talking about the first.

>>BERTRAND DE LA CHAPELLE: The implicit logic will be that logic. And I exactly know that in the future, the debate that has been going on about whether one single digit and one single letter should be open or not in the existing ones will take argument and legitimately so, of the fact that in the new ones, it is available. If there is a sentence -- and just as a suggestion, to keep in mind, that for the future it should be open, it doesn't prejudice of the possible release of those that are currently reserved, depending on the use of appropriate allocation framework, I think it solves both problems.

The link -- The problem I have is the link and the natural argument. The problem it is open in the new one is no problem. The problem I just flagged is that if this implies a decision by this group, implicitly or explicitly that the new ones have to be open, I think it's getting out of the purpose and the necessity for the new ones.

It doesn't prejudice and it cannot be used as a --

>>AVRI DORIA: I think I'd like to take note of your impressions on this, except that we had essentially rough consensus on it, and move on.

>>BERTRAND DE LA CHAPELLE: I'm fine with that.

>>AVRI DORIA: Marilyn.

>>MARILYN CADE: Look, I think it's important for the council to take note that we -- there are implications -- we're focused on one example of reserved names because people are having an emotional reaction to it.

We need to step back as the council and realize that, again, you are trying to make decisions about the treatment of reserved name categories that are beyond just this one.

So you're going to make decisions about the treatment of reserved names that have implications for both existing and for future gTLDs. And I don't think we can ignore that. I'm not saying we should debate that right now, but we are ignoring changes.

>>AVRI DORIA: And I think that's something the council will have to look at when it's looking at the full recommendations. But I think at this point in this committee, we have sort of got a consensus on it, and we should move on, I think.

I think the views got pretty well stated, and they have been scribed and I'm sure Liz has caught them also.

>>LIZ WILLIAMS: Yep. Corporate governance Chuck Gomes now, for just one point of clarification, and I am not advocating one way or another.

So if the recommendation just stays with the first sentence minus the "existing" part, then essentially it will be up to the applicants to decide how they would allocate those.

And I'm not opposed to that, but is that what we're intending?

>>AVRI DORIA: That's -- yes. >>J. SCOTT EVANS: (Inaudible) competition in the market.

>>CHUCK GOMES: Like I said, I'm not opposed to that. I just want to be sure we are clear.

>>AVRI DORIA: That seems to be the consensus.  
Okay.  
So have we....  
>>CHUCK GOMES: Is that right?  
>>AVRI DORIA: Yep.  
Okay.  
Do we have --  
>>CHUCK GOMES: Let's go on. Look, we got to 25.  
Okay.  
>>LIZ WILLIAMS: Do you mind if I ask a question. Avri, are we finishing at 5:00 today? Was that your intention?  
>>AVRI DORIA: That was the intention, yes.  
Unfortunately, we have not started on the second topic yet.  
>>CHUCK GOMES: Liz wanted to go longer but --  
>>LIZ WILLIAMS: I did.  
>>AVRI DORIA: I'm fine with it if people want to stay longer.  
>>CHUCK GOMES: I was teasing.  
Okay. Second, third level recommendations, two character combinations of a digit and a letter. And the recommendation here is registries may propose release of those as long as there are measures to avoid confusion with any corresponding country codes. And this is not unlike what dot name did recently using the RSTEP process.  
>>AVRI DORIA: Cary.  
>>CARY KARP: A question. How is this illustrated with BA and UB?  
>>AVRI DORIA: I don't understand the question.  
>>CRAIG SCHWARTZ: That's not a letter and --  
>>CHUCK GOMES: No, no. Again, the -- that's a very -- short abbreviation up top.  
Any combination of digits and letters, that could be two digits, two letters, one of each --  
>>CARY KARP:  
>>CARY KARP: That's not what it says. It says of a digit and a letter. That means one of each.  
>>MARILYN CADE: (Inaudible) corresponding country codes. You are saying that the ba.aero --  
>>AVRI DORIA: Of digits and letters.  
In the report, it's more explicit and written --  
>>CHUCK GOMES: Is that okay?  
>>AVRI DORIA: And/or, right.  
>>CARY KARP: And/or means the same thing as or.  
>>AVRI DORIA: No, you have two "or's."  
Does everyone know what we're talking about here? No? We're talking about two character -- oh, you were just making a joke?  
>>CHUCK GOMES: Thanks, Jon.  
>>AVRI DORIA: Don't confuse me with humor, please.  
Okay.  
>>CHUCK GOMES: Tag names?  
>>AVRI DORIA: Tag names. I don't think there's an issue on this one. Is that fairly clear, there's no issue on this one?  
>>CHUCK GOMES: There was a little change in the wording of the requirement. Notice it says in the absence of standardization activity and appropriate IANA registration. Because some things -- hopefully we don't need to go into that. It's in the report; okay?  
>>AVRI DORIA: Move on.  
>>CHUCK GOMES: And same thing. It just -- okay. Same thing. As if they are using -- okay?  
NIC, WHOIS, www.

Just like the top level, don't try to translate except in a case-by-case basis as proposed by registries.

And then we're to geographic.

Now, geographic is different here. There's not going to be any. Not even -- You know, at all. In, like, five or six registry agreements there's a category here called geographic and geopolitical names, and the reserved names working group did not recommend that that requirement be continued as a reservation category.

Most registry agreements do not. The most recent ones negotiated do not.

Is there's no controversial category as well.

So the only thing we have -- I think we have covered the ones for additional work already, so I think we are done with reserved names. At least with the exception of the couple ones that we need a little more work on.

>>AVRI DORIA: Thank you.

>>CHUCK GOMES: You're welcome.

>>AVRI DORIA: Really, thank you.

So I think --

>>LIZ WILLIAMS: (inaudible) so much time, Chuck.

>>AVRI DORIA: It needed to be done. We had basically been letting it -- letting ourselves -- Okay.

We have got an hour left, and basically the three topics we had are 3, 6, and 20 in the recommendations. And perhaps I should pull this up and find 3, 6 and 20 so we can look at the wording.

And what I'd like to do in the next hour, we only have a certain amount of time for debate on it, but I'd like to actually find out where we are on the approach to consensus on it, how much agreement do we have on the wording that exists.

Do we have any proposal for changed wording that might give us greater consensus?

And then basically I'll figure out where the issues are, perhaps get small groups of people who have differing views on the consensus to work together to see if they can come up with a recommendation of consensus language before our next meeting.

And yes, Chuck, while I'm looking for --

>>CHUCK GOMES: Yeah, while you're looking, I would like to suggest something before that step, because I suspect we're going to spend quite a bit of time on 3, 6 and 20, or 19.

But I think it would be really helpful based on some of the discussion on the list if we identified if there are any other of the recommendations that anyone is uncomfortable with so that we can put to bed this issue of whether or not we have to, you know --

>>AVRI DORIA: So you are saying you would like me to walk --

>>CHUCK GOMES: No, I am not requesting that you walk through. I'm suggesting that anybody -- That we give opportunity for people to identify if there are any others --

>>AVRI DORIA: So we can put them on a work list.

>>CHUCK GOMES: Exactly. That's all. And if they are not on a work list, then let's -- then we have basic agreement on those.

>>AVRI DORIA: Well, yeah, unless they get brought up by, for example, other --

>>CHUCK GOMES: Sure, sure.

That's always --

>>AVRI DORIA: So, if we are going to do that, and I'm ready to pull up this, but does anyone want to declare another numbered recommendation that they have an issue with.

>>CHUCK GOMES: And I apologize to Philip because I respect his concern that it's a whole package.

But hopefully, you can accept that, just so we can kind of put to bed a lot of these so we can know where we are at.

>>PHILIP SHEPPARD: I would like to reserve my right to return to recommendation 1.

>>AVRI DORIA: One. Okay.

>>CHUCK GOMES: And that makes sense based on what you said.

>>AVRI DORIA: Okay.

>>LIZ WILLIAMS: Avri, would you mind waiting one second. When you are going through this, remember that we've had constituency impact statements from every constituency about the registrars, and it's already been drafted, apparently, according to Jon and Adrian. So he can speak for himself, but remember that the constituency impact statements are the most recent statements per 7th of June already indicate support for those things.

So I realize that this is an important exercise to undertake, but the constituency impact statements in the main are very comprehensive and, in general, supportive, but they have identified the ones that we have already identified as needing further work.

So we don't have --

>>AVRI DORIA: 3, 6 and 19.

>>LIZ WILLIAMS: 3, 6, 19.

>>AVRI DORIA: But we can't do 19 until we have a new list. Otherwise I will get confused.

>>CHUCK GOMES: You know what I am trying to do. Because of the discussion on the list, I think it's important.

>>AVRI DORIA: So are any other numbers on the list of things that we need to work on other than 3, 6, 20, and reservation on one?

>>ADRIAN KINDERIS: So 20 being registrars?

>>AVRI DORIA: 20 being --

>>LIZ WILLIAMS: I'm sorry, 19.

>>AVRI DORIA: No, 19 is registrar.

So 19.

>>ADRIAN KINDERIS: Yeah.

>>AVRI DORIA: Any other numbers? Any other numbers?

Okay.

>>CHUCK GOMES: Thank you.

>>AVRI DORIA: Thank you. So we've got 1 and 19 --

>>LIZ WILLIAMS: We haven't got one.

>>CHUCK GOMES: Contingent on the final package.

>>AVRI DORIA: Philip put on 1 if --

>>CHUCK GOMES: Depending on what happens to the rest.

>>AVRI DORIA: Right.

>>LIZ WILLIAMS: So Sheppard I'll deal with you later.

>>MAWAKI CHANGO: So at least we have all the others with consensus. That's great, right?

>>AVRI DORIA: It does not mean there may not be outside things that force us to reconsider, but we are saying within the committee at the moment, we have 3, 6, 20, plus 19, plus possibly 1.

>>MAWAKI CHANGO: And I would like to also ask Philip if he is okay with the idea that --

>>AVRI DORIA: We are not going into debating these at the moment.

>>MAWAKI CHANGO: No. If other recommendation from the set you just numbered, from a set of recommendations that we can carry forward as policy recommendation on this issue.

>>AVRI DORIA: I don't understand the question and I prefer to --

>>MAWAKI CHANGO: No, because of his insistence that it's a package and we need to treat all the recommendation as one package. That's why I'm asking.

>>LIZ WILLIAMS: Avri, can I just also --

>>AVRI DORIA: I prefer to defer the question.

Yeah.

>>LIZ WILLIAMS: Avri, I don't want to cut the debate in any way, because it's really important to get it right.

It's all right. I am handing out money here.

One thing I would like to do before we start with this discussion is, for 3, 6 and 20 -- not 20. For 3 and 6, the drafting of 3 and 6 has been as it stands for quite a while, and I wonder if it isn't a good start point to say who actually supports that as it stands, and then deal with the elements that are not supported. Yes?

>>AVRI DORIA: As I said, I had mentioned earlier either doing that at the beginning of our discussion or at the end. But since we are at the end of the discussion it seems like a good way to start to me.

Does anyone object to taking it that way?

>>LIZ WILLIAMS: On a constituency basis, yeah?

>>AVRI DORIA: On a constituency basis or on the committee basis of -- okay.

So looking at 3, who does not support that as written?

I've got Robin. So Robin doesn't support that.

Okay.

So otherwise there's general consensus on that one. Oh, and Mawaki.

Could you basically just sort of indicate what -- is the issue and what sort of change you would make to it that would make you --

>>ROBIN GROSS: Did you see what I sent?

>>AVRI DORIA: Yeah, but I don't know that the rest of you.

>>ROBIN GROSS: I sent it to the whole list.

>>AVRI DORIA: I have it and I can show it if you want.

>>ROBIN GROSS: So for number 3 the issue was it was the process we wanted to change that the string doesn't violate rights but the process for strings doesn't violate -- or doesn't infringe existing legal rights.

So that's kind of a minor change.

>>AVRI DORIA: Right. You had basically recommended that the process for selecting strings must not infringe existing legal rights that are enforceable under internationally recognized principles of law or the applicant's national law.

>>ROBIN GROSS: Yeah, so it was just changing it in the beginning to the process and at the end we changed freedom of speech to freedom of expression.

>>LIZ WILLIAMS: The latter change has already been made in the updated draft I am holding. So that's not an issue.

>>AVRI DORIA: So in this one you are saying the strings must not infringe but the process of selecting strings must not infringe.

And you also added here "or their national law."

>>ROBIN GROSS: That's right, that's right.

>>AVRI DORIA: Now, how do others react to those particular --

>>J. SCOTT EVANS: That misses the whole point. Absolutely misses the whole point. In other words, you just take out the recommendation or leave it as written.

>>PHILIP SHEPPARD: Absolutely.

>>J. SCOTT EVANS: We are not talking about processes here. We are talking about letter and number combinations behind a dot that would be similar to other letters and combinations in the real written-order world or in other parts of cyberspace. We are not talking about a process.

>>ROBIN GROSS: But a string isn't going to infringe rights. The process for selecting the strings would infringe.

>>AVRI DORIA: Let me take a list so that we can have a few minutes of discussion on this before we move on to the next one.

And I'm not necessarily trying to resolve this now; just to identify the positions.

So did you have more that you were --

>>J. SCOTT EVANS: No, I --

>>AVRI DORIA: And then I saw Philip.

>>J. SCOTT EVANS: My point is that's unacceptable to the intellectual property constituency. There's no way we are ever going to agree to it, period.

>>PHILIP SHEPPARD: Noting first that the straw poll you just took, Avri, we do have consensus. We don't have unanimity.

Secondly, I would say that change is indeed also fundamental to my mind, wrecking amendment to the whole spirit to what this is intending to achieve. All it says if you are changing it to process is it means ICANN is going to have something there. And it's all to do with ICANN's liability. It's nothing to do with the rights of others.

>>J. SCOTT EVANS: Exactly.

>>AVRI DORIA: Okay. Anyone else want to comment?  
Okay.

>>ROBIN GROSS: The point is trying to protect the -- in terms of the freedom of expression rights, a string isn't going to infringe somebody's freedom of expression right but the process for the selection of the string may infringe their freedom of expression right.

That's the point.

>>PHILIP SHEPPARD: If the string were to infringe freedom of expression rights, Robin, you would have won your game, haven't you?

>>J. SCOTT EVANS: I disagree with that because there is massive case law in the United States where free speech advocates have said that trademark owners can't prevent me from saying Wal-Mart sucks because I have a First Amendment right to say Wal-Mart sucks.com. And that's freedom of expression. And case law says if the string has a communicative message, then it does not infringe trademark rights.

It's your right under the first amendment in the United States to express that Wal-Mart sucks. There's no confusion with you and Wal-Mart because who is going to believe you say you suck.

>>ROBIN GROSS: I'm glad to see you are taking such a pro free speech method but our concern is the process. That we want to make sure that the process for the selection of the strings doesn't infringe the free speech rights.

>>J. SCOTT EVANS: Then I would suggest that we say strings and process, or something. You can add "process" in there if that would make you feel more comfortable.

>>ROBIN GROSS: yeah, absolutely.

>>AVRI DORIA: Okay. So there was basically a proposed that it would be strings and the process of selecting strings must not? Is that an acceptable change?

>>LIZ WILLIAMS: Just a question, Robin.

>>PHILIP SHEPPARD: Yes, we can accept the "and" change.

>>AVRI DORIA: Excuse me?

>> Make it or.

>>AVRI DORIA: So you are saying strings or the process.

>>J. SCOTT EVANS: Yeah, it does.

>>AVRI DORIA: Are people generally comfortable --

>>PHILIP SHEPPARD: No, "And." Significant difference.

>>AVRI DORIA: Okay. Wait a second. I'm trying to understand where we are. So we have a "strings" and then we had either "and" or we had "or." I'm not saying we had and/or.

>>J. SCOTT EVANS: I'm going with "and." I'm going with "and."

>>AVRI DORIA: Strings and the process of selecting strings.

>>PHILIP SHEPPARD: Avri, to be clear, this is only a friendly amendment if there's "and." It is a wrecking amendment if it's "or."

>>ROBIN GROSS: Yeah, we don't have a disagreement on this.

>>PHILIP SHEPPARD: Robin just agreed. Come on, move on. This is good.

[ Laughter ]

>>AVRI DORIA: Now, I just wanted to give a chance for people to -- Move on.  
>>CHUCK GOMES: Don't give too much chance.  
>>MAWAKI CHANGO: I totally support Philip.  
>>PHILIP SHEPPARD: Have it while you can.  
>>AVRI DORIA: I'm just trying to give everyone a chance to think.  
>>LIZ WILLIAMS: Avri, I just wanted to -- I owe you one, Philip.  
I just want to double-check, in recommendation number 9 it says there must be clear and (inaudible) published application process using objective and measurable criteria.  
Does what you propose in your change have any bearing on 9? No? Roberto Gaetano Robin Gross I don't think so. Is there something --  
>>J. SCOTT EVANS: It's conceptually different.  
>>CHUCK GOMES: There is a connection. But because we have --  
>>PHILIP SHEPPARD: They aren't contradictory so it's fine.  
>>CHUCK GOMES: They are connected to (inaudible) connect unto so that's the objective.  
>>AVRI DORIA: Now, the other thing, and I ask because you had two recommended changes or requested changes in this one, was under generally accepted and internationally recognized principles law, and then you have "or their national law"?  
>>ROBIN GROSS: Yeah. Let me just find what --  
>>AVRI DORIA: You basically had under (inaudible) principles of law or national law.  
>> Is this 3?  
>>AVRI DORIA: No, we are still on 2.  
There were two, so we have already gotten past the first one. So principles or the applicant's national law would be a phrase added on there.  
>>LIZ WILLIAMS: So should we make it accepted national law and (inaudible).  
>>AVRI DORIA: That's probably better phrasing but it's adding applicant's national law" as a.  
>>J. SCOTT EVANS: Well, in reality, you are either going to comply with your national law or you are going to have to find another country to do business.  
So I have no problem doing that. We've got the problem right now because we have a string that didn't have this principle in front of them and they found out at the 11th hour that they have a huge data protection problem, dot TEL so I think you should put this in.  
>> Yeah, that's the issue.  
>>J. SCOTT EVANS: You have to check national law to make sure your business model is going to work.  
>>CARY KARP: Isn't there a subtle difference between that and saying you have to follow law? Because it's actually a (inaudible). So calling attention to the fact that there may be non-obvious (inaudible) legislation could be useful.  
>>AVRI DORIA: I have Jon on the queue. Anyone else? I have Robin in the queue.  
Okay.  
So at the moment we've got the addition of and national law properly phrased.  
>>JON BING: Thank you, it is obvious that the applicant has to check national law. But it is not obvious to me who is doing the checking in this phrasing. The responsibility to check the selection of the string does not infringe the applicant's national law, seems to be on those checking the string, not the applicant.  
>>J. SCOTT EVANS: It seems to me in the application process --  
>>AVRI DORIA: I want to take a queue. So I have got Robin and then Mawaki and then you.  
>>JON BING: My suggestion would be to strike the reference to applicant's national law.  
>>AVRI DORIA: To not put it in. Okay.

Robin?

>>ROBIN GROSS: That's exactly my concern, is striking the "or national law," because we want to be sure if you are in a country that allows you to use certain words, you are able to, even if the international community doesn't recognize those rights.

So if you are in the U.S. where you have more freedom of expression rights, those are the rules that apply to you, not the agreed to international laws. That's the concern.

>>AVRI DORIA: Okay. I had Mawaki.

>>MAWAKI CHANGO: Yes. (inaudible) Jon's concern.

I think it's still relevant to keep these at the policy level, and who is going to check that (inaudible) implementation guidelines.

There is a need to assert the value of recognizing those who already enjoy some rights, to keep enjoying those rights under ICANN policy, and those whose law prevent them to do something, to respect the law.

>>AVRI DORIA: Okay. I have J. Scott.

>>J. SCOTT EVANS: I think that -- in answer to your question, I think all you would need to have in the application process as a process point is for ICANN to say, "You need to represent and warrant to us that your string that you've applied for is okay with your national laws." I mean, it's sort of implied that you're going to do that anyway. But you could just have that as one of the data elements that an applicant must supply ICANN.

So, in answer to your question, who's going to do it, it's going to be self-identifying by applicant.

>>AVRI DORIA: Liz, did you want to respond?

>>LIZ WILLIAMS: That's how it would take place in a process. That's how it should take place in the SOB process where many other elements (inaudible) and this is the simple check box that puts the onus on the applicant to warrant that what they're proposing is legal where they are.

>>MAWAKI CHANGO: That is implementation.

>>AVRI DORIA: Okay. So I had.

>>J. SCOTT EVANS: I'm done. Again, I think that check the language, it's already there. It's a reality. So go ahead and change it. It's a reality. You're going to have to do that.

She wants to put clarification for her constituency, I'm fine.

>>AVRI DORIA: I have Chuck, and then I have Edmon.

>>CHUCK GOMES: I think we have to be careful here with regard to our dispute processes. As soon as you -- and I think Mawaki was hitting on this a little bit, or at least that's what I understood.

If you put "national" in there, he asked the question, who's going to check it.

Now, in the dispute process that's going to be worked out, the idea is is that there would be criteria, and it would be based on internationally recognized principles of law that would be checked, and then a decision made.

As soon as you insert "national law" -- and we all agree, we've agreed this on the committee many times, that national law has to apply for the jurisdiction involved. There's no disagreement, I don't think, in the group, there shouldn't be any disagreement there.

But if we add the "national" part here, then I think we're going to have to qualify it that it's up to the applicant to be responsible there.

I don't think it's going to work very well. And, unfortunately, Dan's not here. But, Craig, maybe you can respond to this, or Liz.

If this -- whoever the panel is that makes this decision, if it's WIPO or somebody else, and then they have to check all these different national laws, it confuses the challenge process a little bit, I think.

>>PHILIP SHEPPARD: Not only will they have to check with international laws -- just a clarification on Chuck's point, which I support -- you're assuming, Robin's assuming or hoping that national law would trump those international

norms. And that just leads you down a whole rat hole you don't want to go. I just find this complete hostage to fortune, and I'm not even sure it achieves quite what you want to achieve.

>>CHUCK GOMES: Right. At the same time, we're recognizing that the applicant is going to have to follow their national law. No one is disagreeing with that.

>>LIZ WILLIAMS: Can I get back in the queue, please.

>>AVRI DORIA: Okay. You have a question. And then -- so I have -- it was a question on what Chuck said or a question in general?

>>LIZ WILLIAMS: Both.

I have to --

>>AVRI DORIA: Okay. Let me get the list. I've got Edmon. I've got Robin. I've got Liz. I've got Olof, I've got Mawaki.

Okay I think.

>>EDMON CHUNG: Generally, I don't think it adds to -- I think as Chuck and most people have said, it doesn't really add to what we already have.

But the other part is, I just would like to caution the use of the word "national." In fact, I'm looking through some of the other parts as well to make sure that it's not in there, or at least try not to be in there, especially when you talk about national law, because there are situations with jurisdictions where national law can be interpreted differently. I mean, it may not apply.

For example, in the case of Hong Kong. Would you call the Hong Kong law as a national law? Or would you call China law as a national law?

>>ROBIN GROSS: So I think we're sort of disagreeing on the wordsmithing here, but --

>>EDMON CHUNG: That's fine. Before I said that, I don't think it really adds much. I think what is already there provides the -- as Chuck has mentioned.

Thank you.

>>CHUCK GOMES: Thank you, Edmon.

Robin, you're next.

>>ROBIN GROSS: Okay. So I think we -- Okay. So it's like this.

So say U.S. law would give an applicant, or international law would give an applicant this much freedom to use a word, whereas national law maybe different, maybe a greater bucket, if you will, of words that you would be allowed to use.

So my concern is that a word that would not be acceptable under international standards but acceptable in your own jurisdiction would -- could be -- this could be interpreted as prohibiting those words, even if you live in that country and even if it's lawful in that country.

So what I'm trying to build in here by including something along the lines of "or national law" is that it's not just those volume of words that are internationally agreed to, but in your country as well.

Does that make any sense?

>>CHUCK GOMES: Well, I think that this may not be the place to deal with that. I think that it's probably dealt with in the contract that requires them to abide by the -- you know, they're going to commit to abiding by their own laws.

>>ROBIN GROSS: Right. But what I'm saying is, this could be interpreted as only those words that be internationally agreed upon are the words that are allowed.

>>CHUCK GOMES: But keep in mind that we're trying to keep this very clear and specific and related to some international standard that's recognized rather than making it more subjective.

It's the recommendation 9 again. And it's very important that that be well bounded and clear. And what does adding the "national law" do here?

>>ROBIN GROSS: So it clarifies that it's not only those words that are internationally agreed upon, but the words that actually you are -- in your jurisdiction --

>>J. SCOTT EVANS: I absolutely --

>>CHUCK GOMES: But doesn't that --

>>J. SCOTT EVANS: Does anyone know of a list of internationally accepted words?

>>ROBIN GROSS: No, there is no list.

>>J. SCOTT EVANS: Or list of nationally accepted --

>>ROBIN GROSS: But the point is, there's a difference.

>>CHUCK GOMES: Hold on. We have a queue here.  
Clarification point, yes.

>>LIZ WILLIAMS: Last -- I'm trying to get to where we have a balance between -- this is going to turn into an objection process. If I just want -- I want to propose just a little tree of logic here.

Last night we had a very helpful discussion on a number of examples. And you provided the example to me that, for example, you would prefer that an applicant from China would be allowed to --

>>ROBIN GROSS: No. That was just brainstorming. It's not a position. We were just coming up with potential hypotheticals.

>>LIZ WILLIAMS: Let me go through the process. Because what it actually describes is a diminution of freedom of expression based on national law. So, for example, (inaudible) wants to apply for dot human rights and they happen to be in China. But the example you gave me last night said that would be prohibited and the Chinese government, would have a case to object on the basis of the objection-based process we have. And so that applicant would be disadvantaged by the use of a national test, not advantaged.

>>ROBIN GROSS: But I suggested "or," which would mean "or national law." So either one would give you the ability to --

>>LIZ WILLIAMS: But the applicant is no better off.

If your goal is a freedom of expression outcome that enables anybody to be able to say within reason what is illegal, on this test, then what you've described by including the national jurisdiction in many cases where freedom of expression is a concern, it dilutes the right.

>>ROBIN GROSS: Not if it's an "or."

>>J. SCOTT EVANS: Yeah, but who gets to decide what applies?

>>AVRI DORIA: No. Actually, Robin, then -- was that your slot? Okay.

>>LIZ WILLIAMS: That was my question.

>>ROBIN GROSS: Again, the concern here is that the -- the words that are internationally agreed to be used is a smaller set of words than, for example, the words that you could live -- you could use in the United States. And so our concern is that you are still permitted to use -- if you live in the United States, you're still permitted to use words that are lawful in the United States, even if they're not on this -- call it a list, even if there is no list -- even if they're not in the bucket of words that are internationally recognized as lawful.

>>AVRI DORIA: Okay. Olof. And just so you know the list, I have Olof, Mawaki, John, Philip at the moment.  
And Craig.

>>OLOF NORDLING: Two very small sort of grammar concerns here. First of all, national law, as you have just (inaudible) specified doesn't jurisdiction --

>>ROBIN GROSS: The applicant's national law.

>>OLOF NORDLING: I would presume it was for the applicant.

>>AVRI DORIA: That was the recommended phrase.

>>ROBIN GROSS: What we proposed up there --

>>OLOF NORDLING: Secondly, what you say when you have an "or" and you have the sort of statement in the negative, "Must not," well, doesn't that rather than reduce the (inaudible)?

>>ROBIN GROSS: So what I'm trying to propose here is that the words that are internationally acceptable are usable, and the words that are lawful in the applicant' jurisdiction are acceptable.

I think we all have agreement on that. Is that right? So how do we find the right words that can capture that agreement.

>>MAWAKI CHANGO: Maybe you have a (inaudible).

>>AVRI DORIA: Okay, Mawaki, it is your slot.

>>MAWAKI CHANGO: Yeah. I think we can't be saying at the same time that we -- or it's a redundancy to say the applicant has to follow their national law and say if we put national law, that will be hindering.

If you agree that the applicants need to abide by their national law, the problem here, as Robin pointed out, is to ensure that a maximum of freedom be guaranteed or enforceable in this process, as much as acceptable.

So maybe we could say something like existing -- is it this one?

The rights of others that are recognized and enforceable under generally accepted and internationally recognized principles of law, and the alternative formulation is the applicant's national law, whichever -- whichever ensures more freedom, or something like that, along those lines.

>>AVRI DORIA: That's a difficult one to put in there. But it --

>>MAWAKI CHANGO: I mean, we don't -- do you agree that -- we all agree that in the applicant -- the applicants must abide by their national law; right? And we don't want restrictive rights regime in a specific legislation be imposed on the others.

So we -- our preference is to be on the side of the maximum of, you know, freedom; right?

>>AVRI DORIA: So what you're basically trying to say, under A or B, whichever gives you the greater freedom. And it's difficult to understand how it would be phrased.

Let me go through the list. Just so you know, I have John, Philip, Milton, Craig, Chuck.

John.

>>JON BING: Thank you. This is not to be difficult, and I'm hesitant to bring this up. But our discussion seems to be revolving around the phrase "national law." And I think you think that the argument is that you have an applicant and this applicant has a national law that applies to the business of this applicant. This applicant needs to be a legal person. What is the national law of a legal person varies. It may be in the country of the registration. It most often would be the country of establishment. Establishment is a rather difficult concept, at least in Europe. They have used several volumes of case law to decide it. So my point is that the applicant's national law is really not a reference to current inter (inaudible) law. There is a law -- and there will be a law to be applied in each case. But that law is not necessarily the law of the registration of the applicant. And the applicable law may also be different from the establishment of the applicant!

. For instance, in targeted marketing, where the trademark is protected in the market different from the market in which the applicant is established.

And it is, of course, not up to us to (inaudible) decide whether a court or any court or person in somebody in a jurisdiction decides that there is an infringement and they take the matter to a court. That is up to the courts of the country in which there is somebody who feels that there is something to react to. And most countries have extraterritorial application of their laws in these cases.

(Inaudible) some of the countries I -- I know my own, United States, France.

So this -- I tried to preface this by saying that I didn't want to make it difficult. And I think we can leave it with the reference to national law, but perhaps use this confusion to make us less interested in how we in detail phrase this. Because nevertheless how we are going to phrase this, it won't capture the richness and the confusion and the sophistication and the surprises of interlegal law. So rather keep it simple and make it clear what is the intention, and then let the law, in its full complexity, be as it may be.

>>AVRI DORIA: Okay, thanks.

>>CHUCK GOMES: So, Jon, were you recommending that national be left in there?

>>JON BING: Yes.

>>CHUCK GOMES: Or put in there?

>>JON BING: I don't think I'm too concerned whether it is left in there or not.

>>CHUCK GOMES: Okay, thank you.

>>JON BING: But I'll be happy to rephrase national law is technically quite correct, it doesn't really matter. Because I think it's clear what this meant. But, for instance, to prepare the vocabulary which national law permits by what is permitted by some other regime, that becomes rather vexatious, I think.

>>AVRI DORIA: I just want to say I have a fairly long list ahead: Philip, Milton, Craig, Chuck, Jim. And what I'd like to do is sort of cut the list at that point, and then we can continue the conversation later, seeing where we end up. But just so we can get to the other one while we're still here.

So, sorry. Philip.

>>PHILIP SHEPPARD: First observation is, I don't think ICANN should be in the business of ensuring applicants comply with their national law, I think be applicants should be in the business of ensuring they comply with national law. So that's the red herring.

Secondly, I'm not convinced that this phrase as written including national law will achieve anything that the NCUC want, because, to my mind, you have just factored in every national trademark list going. So J. Scott and I may be supporting you in a moment, but, actually, (inaudible) is a good idea, because that wasn't the objective that we were pursuing in the first place. So I think it's not quite the wording that you want.

And, thirdly, if what you're trying to achieve, as I understand it, basically, is to say if you've got law, (inaudible) national law, that would trump anything else, that will overcome anything else, then I think also -- and you were right in trying to achieve that -- I think it's impossible to achieve it, frankly, because you are always going to have different national laws, as you pointed out with the China example -- but even if you were right, then I think this would have enormous concerns for contradivarsity of where registries were located.

So I think there's an implication in that, if you were successful in pursuing the goal, you (inaudible). But I don't believe your wording even does that for you.

>>AVRI DORIA: All right. Milton.

>>MILTON MUELLER: I think you can -- by the way, never play volleyball with the GAC team.

>>LIZ WILLIAMS: Cheats?

>>MILTON MUELLER: I was playing with the GAC team. And we were terrible. So I'm back up here.

Here's the basic structure. Number 3, recommendation 3 is about protecting rights that already exist in claimants to TLDs. Number 6 is about recognizing limits to what TLD applicants can claim, okay?

Within that framework, what we're saying is that if you have a right -- if you can claim a string under your national law, it's not illegal under that, there's no reason that ICANN can impose on you or should be able to impose on you legal standards that come from another jurisdiction.

And I would hope that we would recognize the same thing with respect to trademarks. In other words, are you saying that anybody whose trademark is going to be protected under this has to have a globally recognized and internationally recognized trademark? That's what you're saying?

>>CHUCK GOMES: No. It's saying that under generally accepted and internationally recognized principles of law, so if there's some basis in international law. But the committee -- and I'm jumping ahead because it's directly in response to your question -- we intentionally as a committee, quite

some time ago, evolved to this notion of the internationally recognized principles of law to avoid the uniqueness of national law that varies so much and creates a lot of gaming, et cetera. And so -- now, does that -- that doesn't mean there's an internationally recognized list of trademarks. But there are some -- my understanding, and you know I'm not the expert on that -- there are some internationally recognized principles of law that would apply that could be used to make a decision on whether a particular complaint was (inaudible), but definitely related to those principles of law.

>>MILTON MUELLER: Okay. Based on that explanation and speaking only for myself, not for my other colleagues, we might be able to do without the word "national" there. But there's another point if that -- it just vanished. Okay. Strings in the process of selecting strings I think is part of the grammatical problem that you're dealing with.

>>AVRI DORIA: That was something that was just put in while you were playing volleyball, in agreement with Robin's request.

>>MILTON MUELLER: Oh, it was Robin's request.

>>AVRI DORIA: Yes. Just letting you know.

>>MILTON MUELLER: Can we just say string selections, isn't that more what we're talking about?

>>AVRI DORIA: In the process of string selection. That works for people.

>>MILTON MUELLER: A string cannot infringe rights. It's a character set.

>>AVRI DORIA: We had that discussion, and, basically -- I mean, we're going back to it --

>>MILTON MUELLER: You don't want to do.

>>AVRI DORIA: I don't really want to do. And, basically, Robin and the rest of the group did come to a consensus that strings and the process of selecting strings or string selection -- I don't think people would care whether it was selecting strings or string selection, grammar can be corrected -- but that that was the sort of consensus point that people came to, was including both strings and the process of selecting them.

So that was just a sort of consensus that we reached before you came in.

>>EDMON CHUNG: I guess if you don't believe strings would infringe anyway, then it doesn't take away from what there is in terms of what your concerns are. But if there are people who do believe it, then it adds something. So --

>>MILTON MUELLER: The term "string selections" would cover both.

>>EDMON CHUNG: I understand. But there are certain people who do not believe so.

But adding it doesn't take away anything that you're trying to get at; right?

>>AVRI DORIA: Okay. Going back to the list. Were you -- Okay. I had Craig next.

>>CRAIG SCHWARTZ: And, actually, I did want to go back to that very same phrase that Milton was just talking about and the process. I know you said we reached consensus, but I feel like we went over that really quickly to get right on to the next thing. And pardon my ignorance, but I'm not sure what value that has, those additional few words, adds.

If someone could explain it clearly, then I'm cool with it.

>>J. SCOTT EVANS: Why don't we have Robin explain what she's looking for. She's the one that's been around -- I don't mean to jump in --

>>AVRI DORIA: Yeah, that's fine. We can ask Robin.

And, of course, the staff does get to sort of interpret all of this in the implementation. But, you know --

>>MAWAKI CHANGO: What additional words?

>>AVRI DORIA: Basically, it's a staff objection to "the process of string selection" being included in the statement.

>>CRAIG SCHWARTZ: Actually, I'm not objecting. I just asking, what does it mean and what value is that?

>>AVRI DORIA: Okay. Robin, did you want to respond to Craig's request?

>>ROBIN GROSS: So, again, it's like a string isn't going to violate anyone's free speech rights. But the rejection of a string will violate their free speech rights. So that's why we want the process the string selection there. And we're -- I'm fine with strings. I just want to make sure that we include the process of string selection.

>>AVRI DORIA: And that seemed okay with the --

>>MILTON MUELLER: Should be an "or" rather than --

>>CRAIG SCHWARTZ: They debated that, too.

>>AVRI DORIA: There was -- there was a strong insistence that it be "and" and not "or." And --

>>MILTON MUELLER: Oh.

>>AVRI DORIA: -- we're not getting into the two definitions of "or" which is or -- inclusive "or" and exclusive "or." So (inaudible) from anyone who cares.

>>CHUCK GOMES: I wasn't --

>>AVRI DORIA: Philip was, I think, quite strong on not "or."

>>CHUCK GOMES: Strings or string selection must not infringe?

>>AVRI DORIA: Strings or the process of string selection.

>>MILTON MUELLER: In other words, neither one of them can -- that's what "or" means. It doesn't have to be both.

>>CHUCK GOMES: Yeah, one -- only one of them could be a reason, not -- you don't have -- if you say "and" it's got to be both.

>>J. SCOTT EVANS: Let's do the old cheeky lawyer trick and put "and/or."

>>AVRI DORIA: That works for me.

>>MILTON MUELLER: Why does anybody want "and"? I just don't understand.

>>EDMON CHUNG: Because "or" would mean that if it's okay with the process of selecting a string, it's already okay. The string itself doesn't have to not infringe anything. If you say "or."

>>J. SCOTT EVANS: That's our concern.

>>MILTON MUELLER: Then you say "neither strings nor the process" is --

>>AVRI DORIA: Right. You could have done it quite fairly, but it objects -- but it infringes someone's legal rights.

>>MILTON MUELLER: So neither/nor would do it much more elegantly than --

>>PHILIP SHEPPARD: The whole (inaudible).

>>MILTON MUELLER: Is neither/nor better?

>>J. SCOTT EVANS: I like it as it is. It's simple and it seems to (inaudible) and we had consensus on this 25 minutes ago.

>>AVRI DORIA: We did. And as I say, if -- kind of -- it's not that consensus can never be gone back to when one discovers something that was forgotten and not understood. But just to reopen it, I would prefer not to.

And have we finished -- we had Chuck and Jim still on discussing the addition of national. And at the moment, we've only got 20 minutes left, where I did want to get to at least 6.

>>CHUCK GOMES: I'm done. Because I didn't find any response to --

>>AVRI DORIA: Okay. So, then, Jim.

>>JIM BASKIN: Couple things, is it really string selection or string approval? I think string selection is up to the person -- the applicant. It's the approval process, I think, that --

>> The evaluation.

>>AVRI DORIA: String evaluation. Do people mind me changing it to string evaluation?

>>MILTON MUELLER: Approval would be better.

>>CHUCK GOMES: It's not approval that's infringing.

>>AVRI DORIA: It's the process of string evaluation? Going once --

>>JIM BASKIN: If the approval process denies somebody their rights, then that's bad. I mean, I think that's what they were going for.

But I don't think "selection" is the right thing, whatever word you put in there.

>>MILTON MUELLER: Well, we meant selection by ICANN.

>>JIM BASKIN: Not selecting.

>>PHILIP SHEPPARD: The approval hasn't happened, which is why the whole thing is difficult.

>>JIM BASKIN: Approval of the application, but not approval -- not selection of the string. String is selected by the applicant.

>>MILTON MUELLER: Okay.

>>ROBIN GROSS: I'm fine with "evaluation."

>>AVRI DORIA: You're fine with evaluation? Is everyone else fine with evaluation?

>>MAWAKI CHANGO: Yes, evaluation.

>>ROBIN GROSS: To me, it's the same thing as selection, it's just --

>>AVRI DORIA: Are there people who agree to the consensus on evaluation?

>>CHUCK GOMES: Works for strings.

>>EDMON CHUNG: It's not strings, evaluation of the applicant, or evaluation of the application. It becomes --

>>CHUCK GOMES: Approval.

>>AVRI DORIA: Okay. We had -- we're wordsmithing and that may be something that we come out of here to wordsmith and then make sure that what we come back with is something that still has the consensus.

>>JIM BASKIN: I did have one other item.

>>AVRI DORIA: Yes, okay.

>>JIM BASKIN: The "or" in the national law I think we've got the same problem we had with the other discussion.

>>AVRI DORIA: Yeah. That hasn't gone in there yet. That's just a -- that's -

-

>>JIM BASKIN: So we're not going to deal with national law?

>>AVRI DORIA: Okay. One thing.

Excuse me. This is being transcribed, so as many of us talk at the same time, nothing gets transcribed.

Okay. So let Jim finish.

>>JIM BASKIN: So we did not accept the adding of the words "national law."

>>AVRI DORIA: Not yet, no. There has not been a consensus acceptance of that.

>>JIM BASKIN: But we are still discussing that?

>>AVRI DORIA: You were the last one on the list in that discussion.

>>JIM BASKIN: No, I thought that there had been a consensus about national law.

>>AVRI DORIA: Maybe I missed it. No. No, we are not at that --

>>JIM BASKIN: I thought maybe I missed it.

>>AVRI DORIA: One person said they might be okay with it, and we had several but we don't have consensus from those who said they were against it.

>>JIM BASKIN: Since it's not in there, I rest.

>>AVRI DORIA: Okay.

I don't know if you wanted to say one more -- I really wanted to end this one at the moment in that we have gotten this far, we may do some more wordsmithing and we don't have consensus yet to add the "national law." So --

>>ROBIN GROSS: I'm okay with not necessarily phrasing it as national law, because I take these concerns. But remember, we agree on a general principle that if you live in a particular country that allows for use of that word, you should be permitted to use it. So that's why we have the "or national law" there but it doesn't have to be the "or national" part.

I think the point and I think we all agree on the point that if you live in that country you can still use that word even if it's not part of the internationally acceptable words.

So we agree on that, so how do we find the right words to capture that idea that we do agree on.

>>AVRI DORIA: What I would like to suggest is we are now at a quarter to 5:00. We are not going to achieve the wordsmithing that gets there in the next 15 minutes.

What I'd like to recommend is -- and I'm going to go and talk about schedule in a second -- is that some of the people here sit together while we're still here or do it on the mailing list and see if you want come to a wording that meets the concerns that people have and meets your concern. And see if we can get there on the list over the next days, leaving this as it is for the moment and continuing the discussion on it.

>>PHILIP SHEPPARD: On which issue? The process wording or the national law?

>>J. SCOTT EVANS: National law.

>>AVRI DORIA: National law. If people want to suggest other wording than the strings and the process of string selection evaluation approval read more rationally then they can propose it as long as it's within the spirit of the consensus.

>>JIM BASKIN: We have no consensus on any other thing on the international (inaudible).

>>AVRI DORIA: We do.

>>JIM BASKIN: That's why --

>>ROBIN GROSS: I thought we did have agreement that if you lived in the U.S. you could still use words that are lawful in the U.S.

>>J. SCOTT EVANS: No, I think the agreement we had --

>>AVRI DORIA: Excuse me.

As I said, I don't believe we have consensus. If we've got people shaking their heads when I ask if there's consensus, then we don't have consensus.

We may have a general feeling and that needs to be talked about more, but we don't actually have consensus on it yet, if we're going to get there.

Mawaki, as I say, I really want to end the discussion on this one now. So were you going to mention something on this one or something on schedules or how we approach things?

>>MAWAKI CHANGO: On this one.

>>AVRI DORIA: I prefer to take the discussion outside --

>>MAWAKI CHANGO: About the string selection.

>>AVRI DORIA: I think we can talk about that outside.

We can work on the phrasing outside but we really need to start bringing this meeting to an end where we can continue the work later.

>>MAWAKI CHANGO: I just wanted to make a remark for people to keep in mind. Maybe I won't be in the group that will work on this.

In the evaluation process in general, there is evaluation of the string since some provision or recommendation inside the string can be denied.

So we can still put string evaluation there. That doesn't mean the evaluation of the application. Just the decision about accepting that string or not.

>>AVRI DORIA: Okay. So people can --

>>J. SCOTT EVANS: I got it. I understand.

>>AVRI DORIA: Do people want to change that word now? Was there agreement now? No.

Okay. So we won't.

>>MAWAKI CHANGO: And one last note.

>>AVRI DORIA: No, please.

Thank you.

>>ADRIAN KINDERIS: Avri, if I may, in the spirit of moving along, I have just got a statement I would like to read with respect to recommendation 19 and then I can leave.

Very quickly.

Registrars constituency currently reviewing the draft --

>>AVRI DORIA: This gets transcribed.

>>ADRIAN KINDERIS: The registrar constituency currently reviewing the draft of the impact statement based on the discussions stemming from this meeting we apologize for not having delivered it in a timely manner; however, we will provide it to the group shortly.

Having said that we want to comment specifically on recommendation 19. Whilst the wording is somewhat ambiguous with respect to the statement; i.e. registries always use ICANN accredited registrars, registries must use one or all ICANN accredited registrars, the registrar constituency would like to state for the record that we are currently engaged in discussions with the registry constituency around this point and may wish to suggest or make a change in the future.

We are happy to keep the wording as it is right now based on this premise.

>>AVRI DORIA: Thank you.

Okay.

So I would like to suggest that people that want to work on rewordings, and Robin who has left the room also had some rewording on 6 so perhaps some people can talk to her about that, or we can float it on the list and can continue discussions.

As things stand at the moment, seeing how far we got today, I would like to suggest that people plan on a meeting a week for the next at least four weeks, all the way through July.

>>MARILYN CADE: Avri, can I ask a question before you make that decision?

My observation --

>>AVRI DORIA: We can barely hear you.

>>MARILYN CADE: I know, it's so unusual.

Generally, our experience is people make a lot more progress when they work face to face, generally. And in the intersessional meetings, because that's all you do.

Have you thought about whether you need an intersessional meeting?

>>AVRI DORIA: We most definitely have.

And when I originally brought it up at the beginning of the meeting as a possibility, I sort of gave some tentative date for such a thing. There was certainly a groan in the room about, "Oh, my, an intersessional."

There was an initial feeling when we started the day that two meetings would definitely be enough. In fact, there was one person who sort of said we'll be done by the end of today!

[ Laughter ]

>> Who was that?

>>AVRI DORIA: So -- Which would have been lovely, but I was never quite that optimistic.

I would like to -- Liz gave four possible dates, or basically a meeting each of the next four weeks.

I don't know if any of them conflicted with the planned council meeting but --

>>LIZ WILLIAMS: One.

>>AVRI DORIA: One of them did, so we have to move that one to somewhere else, and we'll talk about that.

But that we plan on meeting weekly for the next month. We plan on working on the list in the next month.

Now, we did posit -- Where did I put it there?

Um -- um, um, um.

Glen and I started talking about the possibility of a face to face in -- for example, possibly the beginning -- in other words, we need to complete the work by August 10. In other words, as I said here, you know, deadline to meet our goal -- let me make it bigger again -- deadline to meet our goal is August 10.

So the notion is that if we haven't met our goal, then we need to meet face to face.

Now, we need to make a decision on that meeting very soon. I'm not exactly sure, Glen, when we would actually need to make the decision on a meeting on 5 to 7 August and where we would hold it, though I happen to be in Europe at the time and I happen to be in Europe the week before and the week after, so coming back to the U.S. would be really a pain.

But....

>>GLEN DE SAINT GERY: I think one of the things we probably need at that meeting is the legal staff and the operational staff.

So L.A. might be a good place. What do you think, Liz?

>>LIZ WILLIAMS: It's impossible for me to come to the U.S. on those days.

>>AVRI DORIA: But could you meet --

>> Brussels?

>>LIZ WILLIAMS: Absolutely, no problem, in Europe is fine and Brussels is great. However, what I suggest we do is, Glen is absolutely right, we need to include Craig's guys and Dan. So if you wouldn't mind, should we not make a decision now, should we just kick off the rest of the discussions for this week and meet first time next and in the intervening period we will work out what is doable and needs to be done. Is that all right?

>>AVRI DORIA: That's what I would have suggested.

>>MILTON MUELLER: Avri, why don't you just he can tend this meeting for an hour.

>>LIZ WILLIAMS: I have a meeting at 6:00 I must attend.

>>AVRI DORIA: And we won't finish in another 20 minutes.

>>MILTON MUELLER: We won't finish but we can make progress on one of the tougher issues like number 6.

>>AVRI DORIA: I certainly think that anyone who wants to continue work, and I will sit here, too, we can continue working.

>>ROBIN GROSS: I'll stay.

>>AVRI DORIA: But other people have to leave. It stops being a formal meeting.

>>LIZ WILLIAMS: The cohesion of the group is really important. It's really important to have. We are already missing the ISPs. It's really important to have the --

>>AVRI DORIA: What I suggested is people who care about the language could sit and bat it back and forth, and then they can't reach consensus but they can reach consensus among those who are disagreeing.

>>LIZ WILLIAMS: Avri, can I just ask you a question of clarification. Just coming back to the very first question I asked at the beginning of the meeting, and I said -- I asked the question with respect to 3 and 6 and 20, what level of consensus was there on the existing --

>>AVRI DORIA: Okay.

>>LIZ WILLIAMS: -- drafting. And I --

>>AVRI DORIA: We only got it on 3.

>>LIZ WILLIAMS: I'm looking for a way to problem solve the disagreement there is on the existing text. And having a default position that brings us back to what was already drafted and has been drafted before.

I'm trying to seek a way through the -- I just don't see how we are going to resolve it all so I am just looking for a way --

>>AVRI DORIA: We did it on 3. And then instead of moving on we kept working on 3, and I think we made a lot of progress.

>>LIZ WILLIAMS: Okay.

>>AVRI DORIA: And I think that perhaps in the next meeting, we'll have finished up 3. We can then move on to 6 and see where we go with 6 and 20.

At the moment, I'm not -- Yes.

>>J. SCOTT EVANS: Can I just -- Why don't you do it on the list? Post that question on the list and have each constituency tell you what they feel about

those three so when we go into the next group we know where we have consensus and put it on the list. Because the ISPs aren't here, it's unfair to ask that question right now without them being present. But I think it's something you could post to the list that would give you some basis to begin discussions at your next meeting.

>>AVRI DORIA: I think that's a good suggestion.

>>LIZ WILLIAMS: Just so you know, I couldn't find any of the ISPs. Glen and I tried to find them somewhere and they disappeared off the face of the earth. They are not connected.

>>AVRI DORIA: Okay.

So --

>>LIZ WILLIAMS: I had one more suggestion, Avri, if you don't mind. I am trying to limit -- I am trying to get us to meet the goal, which is a bloody hard stop date on the 10th of August.

I just wanted to pose a question before the end of the meeting.

On 20 --

>>AVRI DORIA: On 20 what?

>>LIZ WILLIAMS: On 20, on recommendation 20 which is our objection one --

>>AVRI DORIA: There has been a lot of rewording.

>>LIZ WILLIAMS: A lot of rewording, and I haven't seen a coalescing of opinion about that.

And I just wanted to pose for the group whether it would be helpful to deal with 20 as an implementation guideline.

If you finish the wording on 3 and 6, whether -- Chuck has a different view, I think?

>>CHUCK GOMES: I do. I'm not there yet.

>>LIZ WILLIAMS: Okay.

>>AVRI DORIA: Okay. But I think it's one of those suggestions we can add to the list of things that we go through as we proceed.

>>PHILIP SHEPPARD: One of the key issues on 20 is definition of "substantial" and I think there's some confusion around whether that's quantitative or qualitative, and I think we need to clarify that point.

>>AVRI DORIA: Substantive or are substantial or both.

>>PHILIP SHEPPARD: And once we do that, that might help us on --

>>MILTON MUELLER: And Avri, I want to add if we get the statement we would like to get in number 6 about people not being knocked out of contention simply because their views are controversial or unpopular, then certain things about 20, maybe we can --

>>AVRI DORIA: I think that will be a good topic for the 5th of July meeting. I propose floating your proposals on the list instead of just to us.

And perhaps while people are still here, you can have conversations with some of the other group members and see if we can't come up to the beginnings of consensus.

I think that's it.

Next meeting is the 5th of July, and thank you for all the hours of sitting here and talking about....

What time? Do we know? It 11:00?

>>LIZ WILLIAMS: Sorry, Ray. It's moderate time for Los Angeles. You are in the middle of the...

>>RAY FASSETT: Eastern time.

>>LIZ WILLIAMS: Okay. So it's fine for you. About 11:00 in the morning?

>>AVRI DORIA: Is it for sure?

>>LIZ WILLIAMS: Yeah. We did UTC 2:00 in the afternoon Brussels time, which is 11:00 for Ray.

>>GLEN DE SAINT GERY: 2:00 Brussels?

>>AVRI DORIA: In which case, thank you.

>> Thank you.

(4:56 p.m.)