

**Transcription ICANN Dublin
GNSO session Sunday 18 October 2015
GDD Update**

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Jonathan: Okay, so welcome again everyone to the GNSO weekend sessions. These are sessions facilitated and organized by the GNSO Council and we have a series of updates on the various policy activities and other items going on within the GNSO.

And this morning we turn our attention more to interactions with key staff and we lead then on through to a meeting with the board later in the day. When we do have our meeting with the board we'll have to be quite tight on seats around here so I'll probably have to ask that only the current councilors sit around the table so we can accommodate our board guests, but we'll come to that later.

Let's give the time over now to Global Domains Division and I'll hand straight over to Akram to introduce himself and how he's going to walk us through - and then we can come to a Q&A at the end. Over to you, Akram.

Akram Atallah: Thank you Jonathan and good morning everyone. Beautiful Irish morning. I have next to me here Cyrus Namazi and also (Kristine Woollet) and (Alan Grogen) who is the Head of our compliance. So let me backtrack just in case

there are people that don't know us very well. (Kristine) is in charge of our operations, Cyrus is in charge of our engagement and services and Karen Lentz is in charge of our strategic - basically market research and does some of our initiatives within GDD.

And GDD is focused basically on implementing the policies and the resolutions that the board gets from the contracted party from the GNSO and the (S-SACK), (R-SACK) and some other organizations within the - within ICANN. With that I would turn it to - who is going to present? I'll turn it to Cyrus who is going to walk us through the slides. Thank you.

Cyrus Namazi: Good morning everyone. I'm Cyrus Namazi a part of the Global Domains Division. As always, it is a distinct pleasure to be here with the council and the colleagues. We have - if you could go to the next slide please - you went - go back one please. Oh, okay - yes, this one. Thank you.

So we wanted to give a quick update today on program reviews and the status of where we're at. Karen Lentz is going to lead us through that. As you know we have published a policy implementation and status webpage. There are four or five services within the implementation phase we'd like to give you a quick update on those. And then hopefully have a discussion on the status of the work that's going on and I know that the council had also given us a few topics that you wanted to discuss.

So with that let me hand it over to Karen to walk us through the program review status.

Karen Lentz: Thank you Cyrus. Good morning everybody. Can we go a couple slides forward? Thank you. So I will just - I'll just highlight the key activities that have occurred since the last meeting in Buenos Aires to refresh everyone's memory. A lot of the work has to do with the preparation for the review of competition and consumer choice and consumer trust that's called for under the affirmation of commitments.

And so the activities can kind of be structured under three different areas, which contribute to the areas of review. There are a set of metrics including some surveys and economic study that relate to the few competition in choice and trust. Also, we've looked at the rights protection mechanisms, which is part of what the review team will be asked to look at and also the implementation of the program. So looking at the effectiveness of the application evaluation processes - next slide.

So we've published quite a number of deliverables in the last period. The first being an update to the rights protection mechanisms review paper that we got feedback on during the public comment period earlier this year. So that's been revised and updated. That will be an input to the review team. There is a draft program implementation review report, which is an extensive report discussing the various parts of the evaluation process and the broader process of handling all the applications. That is out for comment now.

There's also a registrant survey report, which was published - that's a compliment to the earlier survey that was done of consumers in general. And so this is a sample of domain name registrants - so the findings are relevant to that particular group of people.

And there was also an economic study recommended as part of the SCC metrics recommendations. That's now been published and that is open for comment. The calls for volunteers for the CCT review team is also open now and the submissions are being accepted to the end of - approximately the end of the month - the 30th of October.

And two other reviews that you've heard me and other talk about are the Trademark Clearing House Independent Review and the Stability Study. Both of those we've been going through the procurement process having published RFPs and are close to being able to kick those off. Next slide.

So this is the review timeline. It hasn't changed much since the timeline that I showed previously. The program implementation review is out a little bit to account for the public comment period and the updating of the paper based on that. And then the Trademark Clearing House Review is extended a little bit as it hasn't started as we're pending the procurement process. Everything else is pretty much still on track. Next slide.

And this is just to highlight - because I've been very quick here - all of the sessions during the week where you can find out more about these different elements. Thank you.

Jonathan: Why don't we see if here's any questions or specific comments on that before - so all of this will be covered in quite a lot more detail in the various sessions - it's striking that's it's a huge amount of work. That's what - and, you know, to get the community involvement and commitment and feedback on it. That's the challenge. Any comments or questions? I've got Brett followed by (James).

Brett Fausett: Karen, could you just give me a quick overview on where these studies are going to feed into? What's the bigger picture view of how these studies relate to the work we're doing?

Karen Lentz: Thanks Brett. You mean to the work that the GNSO is doing? That ICANN is doing? Well as - can you go back Lars to the timeline slide? So a number of the activities are intended to go into the - be inputs to the CCT review team. And that's - you know, that review team will come up with recommendations that will be provided to the board who will determine whether to, you know, implement them or go forward or consider what to do with those recommendations.

The other two - the Clearing House Review and the Stability Study are a little bit sort of independent. The - we see the Root Stability Study being delivered to the board for consideration in terms of any steps that need to be taken as a

result of that study. The Trademark Clearing House Review we see was primarily informational. It will - it was something that was recommended originally by the (GAC) and so we think it will be provided to the (GAC) as well posted for comment and considered by the broader community.

You know, because of the timing we do also see that, you know, feeding into the discussions of the CCT review team as well as potentially some of the work that is occurring within the GNSO and that's one thing that's not on this timeline is any potential policy development processes that are undertaken and we've been, you know, following the discussions that have been occurring so that if there is, you know, if there is a formal PDP initiative that we can account for that here in our planning.

Jonathan: Thanks, (James)?

(James): Thanks and thanks for the update. And I presume some of this will be covered in the Wednesday workshop on the CCT review team, but I was curious - two questions, one is why is this particular review team an entire cycle four years or plus behind the other review teams, which would - the ATRT is on its second cycle. I think we're talking about a second cycle - who is review team and the second cycle of some of these others? But CCT - this is the first instance of this review team.

So is there a reason that I've missed of why this is okay? You're nodding your head so there's a big reason that I've missed there. And then the second one is since it is the first time around on this one I assume that it's going to follow pretty similar model for composition and selection of the previous team in that there will be submissions and endorsements from various parts of the community and the President and CEO will select some outside experts and advisers as well and then that those would then be selected by the board and the chair of the (GAC) are the two that - the two selectors for that. I mean is it going to follow the same script here or is it going to be something new?

Karen Lentz: Thank you (James). To the first question, as to the timing of this - of the CCT review - the affirmation of commitment actually provided for this one - the language was when new GTLDs have been in operation for one year. So we're past that, obviously, but that's why it didn't start at the same - on the same timing as the rest.

(James): It's still late.

Karen Lentz: It's later than a year after the new GTLDs, yes. But there's also, you know, a lot more experience and information available to informant. The second question was on the composition and the process. And the answer is, yes, it will be essentially the same as the language that's in the affirmation now. There have been, as a result of the, you know, experiences from the previous reviews some recommendations as for how to, you know, how to optimize some of the processes and those are referenced in the call for volunteers.

Man: (James), your question - it's not to be delayed. It's actually - I believe it's on time. And the reason for this is that the review team needed a - the consumer surveys and the economic studies and that calls for a year in between also. So a year - do the two - at the, you know, at one period and then a year later (VSS) is also again and this needs to feed into the review. So - and we wanted - we didn't want to start from a year from the first TLD that went active.

We, as you remember, we were not expecting all of these domain names to come in. So we didn't want to wait until the last one was active either. So we picked a period in between where we saw a bunch of different kinds of TLDs already in operations. So we wanted to make sure that there are some IDNs, there are some GOs, some community and, you know, all different sorts of the GTLDs in place before we did studies and called it a year after. So that's how it would happen.

Man: Thanks and just to be clear, it wasn't an accusation or anything. I was just kind of confused. I thought I was missing a previous review team somehow that snuck under the radar somewhere, but - so it makes sense that you would wait a year and then if you had to collect some data that you would wait even longer than that. So I get that. Thanks.

(James): Yes, we're good. So I just wanted a quick question. I suppose it goes to -yes, it's on - okay. It goes to (GTLD) staff and possibly some of the support staff as well.

Where is the interaction between this estimated timeline that we have on the screen, the public comment period that we had on the interactions between the various AOC reviews and the workload analysis that was hopefully - we assumed coming out of that because we noticed that we've went into the CCT review without getting, I suppose, feedback from staff on how that staggering is going to be performed and how we are actually going to stagger the various AOC reviews and the workload coming forward.

So I suppose the interaction on how that public comment process that we had interacts with now that we're actually starting some of these review teams and how we're going to manage that going forward from a community and a staff perspective.

Karen Lentz: This is Karen. So I think what you're asking about, (James), was kind of initiated by a different group within ICANN, the Strategic Initiative Group who manages all of the organizational reviews - for example, the GNSO, (ALAC), etcetera.

As well as the AOC processes and so they did do a paper and public comment on scheduling. And I think what came out of that was - after some discussion differing some of the reviews that were contemplated, but not this particular - the CCT review one was not recommended to the change. It's still as scheduled.

Man: Can I have a quick follow up? If we could see, I suppose, some more substantial output on what that staggering is going to be and how we're going to manage that. That would be very useful for us on the community side.

Marika Konings: Yes, so this is Marika. (Theresa) should be coming a little bit later this morning and I think she'll be addressing that and, if not, I'd encourage you to speak up then.

Jonathan: Yes, that's right. So that's the next session in fact. All right, so let's hand it back to you guys to go to the next point.

Man: One more.

Cyrus Namazi: Okay, so usually when we come and present to the council we also provide you with an update on the status of policy implementation work that's going on. As a result of the conversations and the good feedback that we've had from you, as you know, we actually implemented actually an implementation status page on ICANN.org.

This is a sample of what you see there, which really highlights the framework - the general framework that we follow - next slide please. There are five services within various phases of implementation and I asked Fabien and (Katelynn) who are responsible for various pieces of these to provide you with an update today. So, (Katelyn)?

(Katelyn Chuburgin): Thank you Cyrus, this is (Katelyn Chuburgin) speaking for the transcript. Next slide please.

I'm going to give a quick update on IRTP Part C. As a reminder, there were two recommendations, the first recommendation dealt with a change of registrant policy. The second recommendation dealt with the time limiting of FOAs. So FOAs now expire after 60 days. IRTP part C was announced

September 24 and will be effective on all ICANN accredited registrars starting August 1, 2016. Next slide please.

IRTP part D deals primarily with amendment to the transfer dispute resolution policy or TDRP. Specifically it deals with eliminating the registry level of dispute resolution under the TDRP. It also extends the statute of limitations under the TDRP from 6 months to 12 months.

The current status is that the implementation review team began meeting in July. We've now discussed all the recommendations that deal with amendments to the TDRP and the transfer policy. And the proposed draft of the TDRP and the transfer policy will be going out for public comment next week. Next slide please.

Fabien Betremieux: Hello, my name is Fabien Betremieux from the Registry Services team. Regarding (unintelligible) policy implementation the adoption of the policy recommendation by the board dates back to 7 February of 2014. There are two expected outcomes from the policy recommendations and that are the transition from (unintelligible) who is for that (unintelligible) and the jobs as well as a consistent labeling and display of (unintelligible) for all GTLDs per spec 3 of the RAA 2013.

As part of the implementation considerations of the policy the working group final report there was a suggestion that the implementation of those two outcomes be decoupled. Next slide please.

So this is why in our work we have two streams of work. The consistent labeling and display and the transition from (unintelligible) for the jobs. So with respect to consistent labeling and display for all GTLDs we've worked with the IRT on an impact assessment as well as an agreement to synchronize the implementation of consistent labeling and display with the rollout of (RDAP). During ICANN 54 we will be discussing draft consensus policy language with the IRT. And at this stage we assume that the policy

effective date would be February 2017 for this part of the implementation - for consistent labeling and display.

With respect to the transition from the (unintelligible) for .com, .net and .jobs we've released the legal review memo as per recommendation three. In June 2015 we've started discussed with the IRT on the implementation details. And we are currently working to draft implementation proposal for discussion with the IRT. Next slide please.

Regarding the IGO, INGO identifiers protection policy implementation the board adopted the GNSO recommendations - part of the recommendations on April 2014. We are in alignment with this resolution from the board. We are currently working on the implementation of protections at the top and second level for a subset of the identifiers that are identified in the policy recommendation and those are the ones listed here.

You may recall that in that resolution the board made a distinction between recommendation that were consistent with (GAC) advice, which we are implementing right now or working towards an implementation right now. And the recommendation that were not consistent with (GAC) advice and which are part of a reconciliation effort that is underway between the board, the (GAC) and the GNSO. Next slide please.

So the status of the implementation work - we have gathered in IRT an implementation review team. We have, I believe, four volunteers from the - four registry representatives and we have six IPC representatives right now. We will be continually seeking additional volunteers. Our work right now is focusing on the - on drafting procedures for the protection at the top and second level.

We are also working together additional identifiers data, in particular for the international government organization and we're working to gather data, including contact data, for the international non-governmental organization.

We will be meeting with the IRT during the ICANN 64 meeting and at this point our assumption in terms of policy effective date is February 2017 as well. This completes the update.

Jonathan: Questions, comments? Phil?

Phil Corwin: Yes, good morning Philip Corwin, representing the Business Constituency. I just wanted to comment in my capacity as co-chair of the working group on curative rights protections for IGOs and INGOs. Just basically to give a status update our group has been holding in place since Buenos Aires while we identify and contract with an expert legal advisor on the current consensus (unintelligible) sovereign immunity for IGOs.

We've now identified that expert and we expect to have a report in about a month. We were briefed this past week by Chris Disspain and others, Jonathan was there, others that there has been some agreement in principle reach by the members of the board of the (GAC) and then the IGO small group on a new CRP for IGOs. I don't know - I cannot say yet whether our working group will endorse that concept.

It depends on what legal advice we get, but we do expect once we get that advice to move forward rapidly the conclusion and hopefully have a final report by the Marrakech meeting. So I just wanted to - for everyone's information to give an update on the status of the working group that's involved with this matter. Thank you.

Jonathan: Thanks Phil. Thanks Fabien. Any other comments or questions? (James)?
Sorry, (James), I did have you. Go ahead.

(James): Thanks Jonathan, (James) speaking. I actually have a comment or question on two of the subjects that we were just updated so maybe I can ask one and then stop and see if there's any - so the first one is relative to the thin to thick transition. I think that, you know, like a lot of us participated in this policy

development and we're happy with the outcome. The implementation, however, the more we look at it is posing a bigger challenge. Perhaps it's a legacy problem. We probably should have done it a decade ago and now we have decades worth of domain names that need to be fixed.

So the question to the folks who are involved in the implementations review of this policy, are they examining different approaches perhaps that would not try to swallow that problem all in one go and would instead take each domain name either at expiry or in a go forward cut in or when domain names are renewed or transferred that there's some trigger event rather than trying to convert hundreds of millions of domain names, you know, in one phase and is that something you're looking at? Because I can tell you that internally our conversations on this are causing developers eyes to pop out of their heads quite a bit when we talk about the, you know, the implications of this change.

Man: So as part of the discussion with the IRT we've agreed to recruit what we called experts from effected parties. And we exactly seek these type of discussions with those experts and I think currently in the discussion we've heard suggestions that the implementation timeframe be as long as possible to allow to us such natural events in the lifecycles of domain name to transfer them into the thick model. So I just want to confirm that we are indeed trying to get that discussion going in evaluating the options we have.

(James): And then I had a question on another topic, but did you want to follow up (unintelligible)? Or was there another queue?

Man: I've got (unintelligible).

(James): Okay, so then on the main topic of IRTPC to (Katelyn), you know, thank you for all of your work on this as I'm sure this hasn't been fun. I was the chair of that working group back in - I don't know, 2012 or whenever that wrapped up. It's been a challenge and I think when we got into implementation we uncovered a lot of edge cases that we did not consider as part of the PDP

and I think that that is something that we need to be a little bit better at, You know,

I think for example we completely whiffed on the - and that probably don't translate well. We completely missed or overlooked the case where the registrar would be implementing, for example, implementing the UDRP decision. Obviously you don't need the previous registrants consent to do something like that. I mean just - and there were lots of little situations like that. So my question is to the GDD folks is what can we do, working together, recognizing the experience of the RAA and that verification issue and the confusion that that caused amongst millions and millions of registrants? What can we do to not go down that path again?

To be - to engage in a little bit more of a proactive notification - hey, this change is coming. You're going to start getting different emails now from your registrar. Don't ignore them. Don't trash them. They're not spam. You know, we really need you to start paying attention to these because they could effect, you know, whether or not you can keep your domain name. And I think we would really be looking for ICANN's help in carrying that message out to the world and doing so in such a way that it has some credibility behind it and doesn't look like another fishing campaign. Thanks.

Jonathan: Any thoughts or comments? Just a reminder to everyone please just state your name before you speak. Any comments or thoughts? Cyrus, go ahead.

Cyrus Namazi: This is Cyrus. Thank you (James). I think those are really valid comments that you made and at least our takeaway in the past couple of years in terms of how we can best actually engage in the policy making process from a staff perspective - as you hopefully have seen we've addressed it by trying to plug ourselves into it early upfront when the policy development actually begins - the conversation begins.

So that we can actually bring in the implementation - or potential implementation issues in upfront to hopefully be able to actually impact the final policy and make it actually more executable implementable realistic. To your second point, I think it's a slightly different thing. I think when it comes to interpretation of contracts, especially the RAA and the rest of the contract - if I understood your question correctly - it's just uncharted territories and in spite of all the effort that we put into it to verify - clarify everything I think we've come up with some areas that there his some perhaps lack of consistent interpretation. And we're working through that - maybe I misunderstood your second.

(James): Yes, I think we may be talking about different things. If I could clarify, when we are pushing out something that has a dramatic change to the experience of just a general registrant, what role can ICANN and industry - you know, what can we do together to communicate that out in advance so people are blindsided by it and that they don't - I wasn't criticizing the policy. I'm saying that we're, once again, we're going to do - we're going to change the way people interact with their domain names and their registrars and what can we do to make them aware of that in advance so that they don't get tripped up or confused?

Akram Atallah: (James), this is Akram. That's very important. I think it's - it behooves us to put our heads together and see what can be done and we are more than willing to sit with you and, you know, look into areas where we can be effective or we can do something to help. I don't know - this is the first time I considered such an issue. I look mostly towards the registrars or the frontline with the restaurants on ideas of what can be done to help the restaurants move through these changes and in more predictable easier way. And if there's anything that ICANN can help with let's put it on the table.

So maybe if you want to have a few registrars come together and meet with us and give us some ideas and let's debate the subject and see what we can do - absolutely.

(James): Thanks, we'll get it on (McKelly)'s to do list since he's not here - oh, hi, (McKelly).

Jonathan: So I've got Donna then (McKelly) and Phil.

Donna Austin: Thanks Jonathan, Donna Austin. So I think it's an interesting point that (James) has raised and I think it goes more to consumer awareness campaigns. I think in the past we've had, you know, discussions about ICANN's responsibility in terms of communicating the new GTLD program, but I think what this his is - it's consumer awareness of the industry as there is an understanding how the policy is made and understanding how those impact on the registrants that don't necessarily get involved in these processes.

So if we look at it as the consumer awareness campaign, you know, similar when you move over from analog TV to digital TV - those kind of campaigns that happen for awareness of the consumers. I think that's probably what we're talking about. It's not anything more than that. Again, we're trying to do it on a global basis so it's going to be a challenge. Thanks.

Jonathan: Thanks Donna. (McKelly)?

(McKelly): Good morning, (McKelly Hayden) for the record. Actually following up - it's very similar to what Donna said. I think this goes back to a fundamental issue that we all have, which is communication. The - a lot of the polices that get made - that get discussed are hidden behind in-comprehensible acronyms, terminology, words that probably have a wonderful meaning to those of us in this room, but don't mean anything to your average domain registrant and average user. Policies are discussed, there's the option for the public to engage, but it's only in very very rare narrow instances that you get that engagement.

If you look back over the comment periods that have been opened over the last say four years or so, which ones have attracted more than 50 or 60 comments? You can probably count them on one hand. You've had - so the .xxx, you've had proxy privacy, you've had maybe one or two others. And it's only been when there's been an attempt by various people within the community to raise awareness outside the ICANN circus that you've actually had that kind of engagement. And part of that is down to the terrible language that we all use to communicate around this.

If you look at a comment period it's not clear in many cases who it impacts, why they should care, why they should engage. And often the decisions are made and are too far down the tracks in order for somebody to actually say, well, hold on a second this is going to break, you know, an existing process. This is going to have a detrimental impact on a whole lot of other things. So I mean while it's fine to look at some of the issues we've had with specific policy development processes, we need to relook at doing a better job of communicating this out wider to get more people engaged earlier and more often. Thanks.

Jonathan: Thanks (McKelley). Phil?

Phil Corwin: I wanted to speak a to a different issue - are we done with this issue discussion? I don't want to intrude if there's...

Jonathan: Yes, let's just try and capture that. I mean it does sound to me like - I mean I'm quite significant changes that impact on end users and the effect of communication of that, but I think Akram and (James) collectively suggested something quite (unintelligible). It sounds like in and around the implementation cycle there does need to be some work done. I mean I think this is a real challenge. Personally, I find it really hard to believe that ICANN can reach out to end-users.

I mean these are the customers of the registrars, if you'll forgive me saying. I mean that's what (unintelligible), but I could see ways in which - I mean an immediate idea springs to mind that you could put up a web link to a dedicated ICANN page that says, you know, you've received a change because this policy has been done. But, again, I wouldn't try and do this on the fly. I think that the interaction between a particular registrars possibly contracted parties in implementation - make sense. (James), did you want to come back on that?

(James): Just briefly and just to put a button on this because I know Phil wants to move on. When we started this - when ICANN was born, you know, this was kind of an insiders game technical, you know, thing for advanced users in specific situations, but this has become very mainstream - this industry. The changes that we made here effect hundreds of millions of people who don't follow this. Who don't know about ICANN. Who don't want to get, frankly (unintelligible) don't care about policy development. They just want to use their name and use it properly.

So when changes come through like this we just need to make them aware. So maybe it's as simple as put up an FAQ that we can link to when we notify them that these changes are coming so they think this is not something that GoDaddy arbitrarily or that Black Knight or Web.com - that we didn't just wake up one and decide we're going to torture people with this. You know, this is - and it's very simple as just kind of doing that, but I agree with you Jonathan. It's our customer. It's our responsibility. We own the relationship. We're just looking for some help in adding credibility to that message.

Jonathan: I mean Donna made reference to the digital TV - I just received a bank - we have a European compensation - financial compensation scheme and the value just changed. It's that kind of thing where you get these - you can look back and see this isn't a fishing mail. This is actually from some authorized or industry wide body that's making a change and I agree with you. It's that connection. Cyrus, you want to comment on this?

Cyrus Namazi: Yes, just one last quick comment. I just wanted to make sure that everyone knows that there is actually a communication piece for the project implementation - even IRTPC, which just went into implementation phase has a communication component attached to it that we just haven't rolled out. So maybe the takeaway here is that we need to work closely - more closely with you to just make it more effective. So it's not like we're just sort of announcing it, throwing it over the wall. There is that element to it and like I said maybe there is room for improvement here for us to work together, upfront and we'll take that as an action to work with you on that.

Jonathan: Okay, let's draw a line under that then and move onto the next related subject.

Phil Corwin: Thank you, once again, Phillip Corwin, representing the Business Constituency and also acting as interim chair of the Business Constituency. When we last met with you in Buenos Aires we had a full and frank exchange of views regarding the decision of global domain division staff to - in the case of the renewal agreements or .cat and .pro and .travel to request that they include most of the new TLD RPMs staff having decided that should be done for the sake of consistency. Subsequent to that discussion the business - there was a comment period on the three renewal contracts.

All of the comments, including the business constancy, but for two opposed the inclusion of the RPMs. Not on substantive grounds, but on procedural grounds that it was inappropriate to create defacto consensus policy through contract. Notwithstanding that comment the board on September 28 approved all three contacts and their consent agenda and completing the circle this past Tuesday the Business Constituency and the non-commercial stakeholder group filed a joint request for reconsideration with the board of that decision in regard to all of those contacts.

The one other background fact I'd like to bring up and then I have just two simple questions - is that recently policy staff issued this very thick preliminary issue report on a policy development process to reveal all rights protection mechanisms and all generic top-level domains, which will probably kick off at PDP early next year. And on page 22 to 23 of that report in section 3.2.2.3 it identifies many many secondary issues that might be addressed in that PDP, but identifies that all of those are in addition to the more general overarching issues and identifies just two overarching issues.

One is whether the RPMs have been effective, which is certainly worth considering and the second relevant to this discussion is whether any of the new RPMs, such as the URS, should like the UDRP the consensus policies applicable to all GTLDs and the transitional issues that would have to be dealt with as a consequence of that decision. I don't believe those - there was any transitional issues dealt with in the renewal contracts that raised some (unintelligible)

So my two questions were, one, in light of the fact that this preliminary issue report has identified whether the new TLD RPMs should be applicable to legacy TLDs does global domain division staff plan to continue proposing that they be included in renewal agreements for legacy TLDs and while this PDP is pending?

Akram Atallah: So thank you Phi, this is Akram. When a renewal or a (unintelligible) comes to us for renewing their contract we suggest - we would like to get everybody on the latest contract. That's a common practice. It's not only us that does this, any corporation would do the same. We have not had any pushback requests to take out the URS or anything like that from the parties that we said we would like, you know, we would like to move to the new contract.

They negotiated other issues that they cared for. We agreed with them and we moved on. Now I want to be careful about taking the - these issues and switching them around like staff is forcing the (unintelligible) to take on this

obligations. There was non of that that's happened and we will continue to offer when a renewal will be requested. We will continue to offer the new form.

If the registry has issues with certain things we will discuss it with them and we will accommodate the needs as needed. Now the minute that there is a policy on these issues these will not be negotiated. So, which means that they will have to - if the policy says you have to abide by the URS and include the URS then we will not be negotiating these items. These will not be negotiable items anymore because of the policy. So I hope that clarifies our approach to it.

Phil Corwin: Just to further clarify that and I appreciate the answer. And I note in the board's approval they put out a lengthy explanation of why they did approve those contracts and they said accordingly the board's approval - the renewal registry agreement is not a move to make the URS mandatory for all legacy TLDs and it would be inappropriate to do so.

So just hypothetical, if I was a registry operator for legacy TLD. I needed my agreement renewed. I sat down with you at some point in the discussions staff proposed that we adopt the new TLD RPMs and my response was thank you, but we're not interested in that until it becomes a consensus policy that we're bound to adopt. Would that end the discussion or would you continue to press for that in the final agreement?

Akram Atallah: This is exactly how we negotiate, but...

Phil Corwin: Well I'm just trying to find out how you negotiate.

Akram Atallah: I noticed that. Let's be clear that this is a renewal that the registry has the right to. So it's not like we can tell them no. You know, you take this or we're going to tear up your contract. So let's be clear on that. This is - the registry has the right to renew their registration. If they decided they don't want to

take on the whole new form they can say I'm not going to take on the new form. I want to stick to my old form.

That is - we need to be careful here. This is a negotiation. What's good for the registry, what works in - for ICANN to manage its processes and continue to make sure that the registries are meeting their obligations and we tried to walk a fine line - it's a negotiation. So there is no way we're going to force a registry to do something that's going to hurt them because they won't agree to it. Let's be clear. They don't have to renew on the new form. There is no obligation that forces them to do that.

Phil Corwin: Okay, well thank you very much for that clarification.

Akram Atallah: Thanks.

Jonathan: Thanks Phil. (Jeff), I sense you've got a follow-on so let's take that follow-on point and then we have at least one or two other questions as we agreed yesterday we'd like to come to. So, (Jeff, go ahead and then we'll come to the...

(Jeff): Yes, I feel like this is deja vue here. It seems like we had the exact same conversation in Buenos Aires, Phil. And while I appreciate your views I think I just want to leave the GDD staff with Phil's views and the BC and maybe the NCSG. That's not the consensus view of the community necessarily. So I appreciate the fact that Phil you're raising it again and you'll probably raise it again in front of the board, but like I said the last time in the meeting, I actually agree with the way GDD staff handled this and I just don't want to leave you with the impression that the entire community agrees with the BC approach. Thanks.

Phil Corwin: Well I appreciate your views (Jeff), but once again I'd point out that the consensus view of those who commented on the three contracts was in

opposition to the inclusion of the RPMs through this method. And that's the best evidence we have of what the consensus views were. Thank you.

Jonathan: All right, I think it's pretty clear what the history and current position is. I want to move us on. We've got five minutes of these guys and so, (David, do you want to make a brief comment on (unintelligible)?)

(David): My only brief comment - you said (unintelligible) you said like any other company - every other company does not have an enormous community developing consensus policy for them. So the idea that like any other company you'll just make decisions without consulting that community seems to me extraordinary. So I'm with (unintelligible).

Jonathan: Okay.

Akram Atallah: Okay, that's not really what I said, but I think that - I think everybody understands what I meant by that. So I'll pass on that, thanks.

Jonathan: Good. Well the fortunate thing about this particular environment is that what you did say is available for everyone to go and check and it so it should be pretty clear. We had another question to understand what, if anything, you were doing to deal with the court of justice of European Union ruling of data transfer and what (unintelligible). I didn't know if you were in a position or if you were forewarned of that. I think you were.

And if you can give us any updates on how you're dealing with that data transfer, USA (unintelligible). It would be very helpful just even if it's you're initial work or thoughts on you're dealing with that and the impact of that or how we should collectively be dealing with that.

Cyrus Namazi: Yes, this is Cyrus. I thank you Jonathan. This is something that, as most of you know, just popped up really about 10 days ago. That the Court of Justice

invalidated essentially the safe harbor framework that had been in existence since 2000. So naturally we've been following it very closely.

We've been investigating what, if any, impact this ruling might have on the services that ICANN provides or actually monitors for compliance through our contracted parties. I actually asked (Allen Grogen) to come sit at the table because he's sort of leading that effort for us. A lot of this information is still very fresh. There's still a lot of questions, but let me hand it over to (Alan) to perhaps give us some answers of where we're at.

Jonathan: Thanks Cyrus. Welcome (Allen). Go ahead.

(Allen Grogen): Thanks. Yes, recognizing we're pressed for time I'll do just a quick overview. So the US - the EU Court of Justice ruled the Safe Harbor framework invalid. That doesn't mean that all transfers of data outward bound from the EU to other jurisdictions like the US are per say illegal. It just means the Safe Harbor is no longer a justification for that.

So there are potentially other grounds under which data could be exported from the EU. Data protection authorities in the EU, the article 29 working party, the European Commission are all expected to provide some further guidance on this.

ICANN never registered with - or relied on the Safe Harbor provisions for transfer of data to ICANN. So there's not an immediate impact on ICANN per say. There may be impact on some other parties that ICANN deals with - registrars and registries, escrow agents that have relied on Safe Harbor and we're in discussions with some of them to try to determine what that impact might be and how we might mitigate the impact of the ruling.

Jonathan: I've got - (Lars), did you want to - I've got (Thomas) coming - go ahead. Okay, go ahead.

- Man: Sorry, it's a question for (Maxine). Who is just back on the RPMS, sorry.
- Jonathan: Maybe let's hold that then. Let's not change - switch topics. Let's stick with this one for the moment. Does anyone want to respond directly to - (Thomas)?
- (Thomas): Thanks very much and since this is the first time that I'm sitting with you let me just say that I didn't neglect you to do some sightseeing, but I was tied up with CCWG related work and I thought that I would say that you only have to suffer from me until Thursday when I'm term limited, but I took away more than one day of your pain already by just not showing up.
- So with respect to your point, there are many who already perceive that ICANN is the data controller for the information gathered. So whether ICANN has followed Safe Harbor or not so far it doesn't necessarily remove the issue. So has ICANN considered using the standard classes?
- Man: So, yes, we're looking at other alternative mechanisms that would justify the transfer of data. Those might include model contract clauses, consent potentially. We're looking at those issues both from the compliance firm perspective and legal department perspective and following closely developments in the EU as additional information is made available.
- Jonathan: (Unintelligible), it strikes me - is this topic going to be covered any where else during the next few days? Is there any other - if people are interested in pursuing this is there any other forum in which it might be discussed?
- Cyrus Namazi: Thank you, this is Cyrus. We don't have one pre-planned. Predominantly because it really just popped up as we were packing our bags to come into Dublin. If there is enough interest to have a roundtable about it, which I think might not be a bad idea to just get your perspective on what's going on. We'll be happy to find the time and a place for us to just get together and have the chat. I think that would be an effort worth (unintelligible), personally.

Jonathan: Okay, so we're just about onto the next session now in terms of timing. Let's hear from (Stephanie) and (James), ideally in relation to that question, but - or related points.

(Stephanie Paren): Yes, indeed it is - (Stephanie Paren), for the record. I just wanted to put on the table that if ICANN is coming up with a workaround for say the Safe Harbor failure, this is kind of central because ICANN is data controller. It's a policy development issue as far as I'm concerned. When I hear you suggest for a moment that we would ask users to consent I - that raises alarm bells because there are certain provisions in ICANN's work as a data controller that are really not suitable for a consent (unintelligible) data escrow, for instance.

So I think it's really important that there be a full debate and discussion and, yes, it was a - the judgment was only released a week ago I guess now, but it's been coming for the last 15 years I would say. So it's not something that I - that isn't high-time for ICANN to look at. Thanks.

Jonathan: Thanks (Stephanie). I'll go to (James) and Volker then we're going to draw a line under this. (James)?

(James): So, thanks. (James) speaking and I don't pretend to be an expert on this, but I had heard, or at least my understanding is that there were some talks going on at higher levels between the US Department of Commerce and the EU to establish some kind of a replacement framework for the Safe Harbor that was just invalidated. Can ICANN maybe as a different approach get involved in those discussions and maybe reach out to NTIAA and see how you can contribute? Thanks.

Jonathan: Thanks, (James). And then Volker.

Volker Greimann: It also seems to me that in some cases the solution is very easy. I mean there - just look at data escrow. There's options out there that are not (unintelligible) that are not based in the US. If you made those available as choice to, for example, registrars to use other options where the data escrow would happen in the EU therefore eliminating the need for any safe harbor because the data would never leave the EU that would be appreciated. That would be a very easy solution. It might cost a little bit of money, but I don't know - worth considering.

Man: So just to be clear, there's nothing that would prohibit our register from using a data (unintelligible) in Iron Mountain. The - yes, it's an issue of money. But if you believe you need to use another escrow agent that's certainly an option available to you and we are considering ways to either address the Iron Mountain situation or make alternative escrow agents available.

Man: I just want to make sure that we are clear. This is not an issue for only Iron Mountain and the data escrow agent. We're looking at it from the whole perspective and we're trying to understand it as a whole and we will be working with the community on our briefs and what we get so that it's all transparent and everybody would be able to participate in that. And then if it is actually - if there is implications to policy, of course, it would be a policy - development process for that.

So we're just trying to put our arms around the issue and to see if there is anything that we need to do or that we can do to help moving that. At the same time I think it's very important that you understand also that there are two aspects to it from our perspective.

There's the aspect of what ICANN has to do with its contracts with its own data, you know, which is like the - our own thing that we have to do internally and then what happens in the - with the contracted parties and their obligations and what's in the contract that they have to do. So there's multiple facets to the problem (unintelligible) trying to put our arms around it and as

we have more data to share - information to share we will share it and we will figure out how to move forward. Thank you.

Jonathan: Okay, so we've got some scheduling issues here. It's pretty clear that ICANN's got a role to play, both in terms of explaining what, if any, impact there is on EU and perhaps being a facilitator in a round. And this is - this must be on the agenda between now and Marrakech and or at Marrakech. So, (Markus), do you have something you - in addition, supplementary to add? We really have to close this (unintelligible).

(Markus): Yes, (Markus) I'm with Global Village and ICANN credit to registrar in Germany and we are trying for almost two years now to have an agreement with the non-US or non-Iron Mountain registrar escrow provider and so far that has not been possible. And I know that it's the only European alternative and that we would be their first customer. So right now I don't think there's a choice for European registrars not to escrow to Iron Mountain.

Jonathan: Okay, I would suggest that - let's take it offline. Exactly, I think that's - it's on record that that's of substantial concern, but we have (Theresa Swinehart) ready to join us now. So let's stop the recording on that session and thank our colleagues from the GDD for interacting and providing us such a useful update.

END