ICANN
Transcription
New gTLD Subsequent Procedures Geographic Names Webinar session I
Tuesday, 25 April 2017 at 15:00 UTC
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understanding the proceedings at the meeting, but should not be treated as an
authoritative record. The audio is also available at: http://audio.icann.org/gnso/gnso-new-gtld-subsequent-25apr17-en.mp3

https://participate.icann.org/p7sqo2a1kv4/

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Jeff Neuman: Okay, thank you everyone. Welcome. This is Jeff Neuman. I'm one of the
co-chairs along with Avri Doria of the subsequent procedures policy
development process dealing with the procedures for the introduction of new
gTLDs.

And I wanted to welcome everyone to this first Webinar. There will be a
second Webinar that will be a little bit later on today for those in the West
Coast and for the Asia Pacific so that they could - so everyone has access to
these presentations.

Just there have been over 180 RSVPs for these calls so it seems to have
generated a good amount of interest. And before I go on to the next couple
slides I just wanted to clarify that on this Webinar we are – and in the face-to-
face sessions that will happen at ICANN 59 – we are going to be dealing with
geographic names at the top level.

So we know that there may be some issues that a number of people may still
have with geographic terms at the second level, but although those will be
addressed at some point in the future, those will not be the subject of this

Webinar or in fact the face-to-face sessions that will happen at ICANN 59 in Johannesburg.

So just to move on – I'll move on to the next slide – that this is really our agenda for today that I will give a brief introduction into the topic of the geographic names issues. But most of our time will be really spent with presentations from a number of individuals and groups that have expressed in the past certain aspects or certain viewpoints on geographic terms at the top level.

And after each of those presentations, we will then go into a Q&A session. And I'll be going over some of the ground rules as to how to get questions submitted in a couple of slides.

So just moving on, I'll move on to the next one here. As I note though I have control over the slides. I'm not sure if it's unsynced but I have control over here.

So the purpose of this Webinar is really to just coordinate different efforts that are going on separately, each of them focusing on different aspects of the geographic names at the top level issues.

And so for example there's an effort underway right now that has just finished its initial comment period that's Cross-Community Working Group on the use of Country and Territory Names at the top level. There's also a separate effort going on right now with geographic names in the Governmental Advisory Committee.

There's a subgroup that's created just to deal with these types of geographic issues. And of course there are issues that are being dealt with in the GNSO's policy development process on subsequent procedures. This is clearly a topic that needs to be addressed prior to the introduction of new gTLDs.

Before we go on any more, I notice that the slides are moving relatively quickly. Each of the presenters have access to moving the slides, so I would ask that the presenters not actually move the slides and let whoever is speaking at that point in time control the slides, so for now that's me. And so I would ask that none of the presenters please move the slides.

I will go back to the slide that we're on. This is one of those Adobe Connect issues that we sometimes have where there's multiple presenters. So just trying to move up slides here. Someone seems to be also trying to fight me on this one.

So I'm actually going to go to my own copy of the slides while perhaps ICANN staff if you can work on the slides.

So a number of these issues – just for some background – began out of the IDN Working Group that was created in 2007 which really was the first one to recognize that a group, a cross-community group, needed to be set up to handle geographic terms at the top level.

And shortly thereafter - this was a topic that was addressed by the Governmental Advisory Committee in 2007 when it in its communique drafted several principles. And one of those recommendations from the GAC was number 2.2, which said that ICANN should avoid country, territory or place names and country, territory or regional language or people descriptions unless in agreement with the relevant government or public authorities. Again in 2000 -- or later on that year, 2007 -- there was a Reserved Names Working Group that was created by the Generic Names Supporting Organization to look at the topic of reserved names including geographic names.

Their recommendation to the GNSO Council which was ultimately adopted and sent to the board states that the proposed challenge mechanisms

currently being proposed in the draft new gTLD process would allow for national or local governments to initiate a challenge. Therefore no additional protection mechanisms are needed.

So the GNSO essentially recommended that there would be no geographic reserved names but only a challenge mechanism.

After that time period and before the Applicant Guidebook was created, there was language that was included from the Reserved Names Working Group in the initial draft of the Applicant Guidebook. That went through – as many of you know – a number of revisions and ultimately culminated in 2012 – early 2012 – with the final Applicant Guidebook which incorporated a recommendation that said that strings must not be a reserved word.

And the way that was interpreted was that -- in terms of geographic terms -- was that two characters should be reserved at the top level for only ccTLDs and that ultimately certain country names and territory names that were included in very specific lists – ISO lists in some occasions and a couple of other lists that were referenced in the guidebook – those were specifically reserved from being applied for in the 2012 round.

Since then the GNSO has not developed any additional recommendations but what we have happen in 2012 was that there were 66 self-identified geographic names that were applied for pursuant to that section in the Applicant Guidebook.
And an additional – those geographic names were required to go through a panel. And six of those names that were self-identified as geographic did not actually fit the geographic names criteria. And those are listed in the slides. Three of the applications did not self-identify but actually did meet the Applicant Guidebook criteria. And those were .Tata, .Bar and .Tui. And of the 63 remaining, 56 of them had acceptable documentation of support or non-objection from the relevant government authority. And of those 54 have so far been delegated.

Now there were additional strings that were the subject of one or more GAC early warnings, and those strings are listed in the slide on the 2012 round. Those were not contained within the specific lists in the Applicant Guidebook. However, many of them were either subject to GAC advice or were terms that were worked out with relevant governmental authorities as to how to proceed.

So in moving just to the next steps, what we hope to do with this Webinar and with the face-to-face sessions really is to share information to collaborate such that we can then publish these transcripts and translations in the UN languages and have supplemental materials provided by the presenters to the extent that there are questions and then announce further details about the formats of the ICANN 59 sessions including the structure of those sessions as well as the anticipated outcomes.

Just a quick overview of the ground rules. Really I ask that everyone be mindful of the ICANN standards of behavior which are listed at that link. We will try to address questions during the Q&A portion at the end of the Webinar, recognizing that we will likely not have enough time to address all of the questions.

We will then address those questions to each of the speakers to see if they would like an opportunity to present written responses and then publish those responses.

And the way we're going to ask that questions be presented is by typing into the chat using the open parentheses question and then the closed parentheses so that we know and can track what questions you want to present to the presenters.

Of course we encourage you to use the chat function on Adobe to give us your thoughts and perceptions. We're really asking for mostly clarifying

questions at this point in time. We recognize that people have very different viewpoints.

So although you will have plenty of time during the face-to-face sessions and between now and then to present those, what we're really trying to collect now are clarifying questions.

So with that, we have a great slate of speakers as you can see on the right hand side of Adobe. And I want to not waste any more time and get on to those speakers. So I will ask if Heather Forrest is on the line – which I know she is – to get started on the first presentation.

Heather Forrest: Thanks Jeff very much. This is Heather. Can you hear me?

Jeff Neuman: Yes, loud and clear.

Heather Forrest: Fantastic. Nathalie, for the purposes of – I know Jeff had trouble with the slides – is it easier for you if I just let you run the slides? I only have three, so - or would you rather I do it?

(Emily):   Hi Heather. This is (Emily). We're going to actually control the slides for all of the presenters I think at this point just to keep things simpler. So just let us know when you're ready to turn them.

Heather Forrest: Good. That probably seems like a good idea. So thank you very much Jeff for the introduction and the background material. And thank you to everyone for attending the call.

I think this is a marvelous opportunity in my mind a bit tragic that it's coming now and not in 2007 or even sooner. But the phrase better late than never comes to mind.

I am not here to present a position in the sense of a suggestion of what we do. I suppose I'm here to offer some background and context. And before I do that perhaps I'll give a 30-second context to the context.

So in 2006, I was a practicing lawyer in London and watching the policy development process gearing up towards new gTLDs. And I was finding it interesting that comments that were made that would ultimately form policy were based on assumptions in relation to geographic names or at least what I suspected were assumptions.

There was no demonstrated analysis of the legal aspect of positions that were seated then in relation to geographic names. And I actually left private legal practice to undertake a doctoral thesis on this question.

So what you are seeing today is a summary of my doctoral thesis which was completed in Switzerland. And as you might imagine it's rather difficult to summarize a 500-page thesis in three slides, but I'm going to gamely try and do that.

In order to facilitate that process I have provided a background document which again is quite high level. It's certainly no replacement for the body of my research but I hope that it would be much more helpful in this context. I've written it for non-lawyers so the lawyers may find it perhaps lacking.

But I have written it for the ICANN context as opposed to the precisely legal context. So with that, may I ask (Emily) that you turn to the second slide for me please?

In my mind there are several questions to be asked. And I think that the primary question that needs to be asked is whether governments have what we call in the law sovereign rights in geographic names. Sovereign rights is a pretty difficult concept to define.

It's a concept from international law, and it's really a concept that has to do with whether a country is treated as a country by other countries if you like and what that country can do within and without of its own borders.

What I found on this was that there really isn't any connection in international law between sovereignty and country names. In other words, a country does not have to have a name to be considered a sovereign country. And being a sovereign entity, being a sovereign country, doesn't give it any rights in relation to names.

There are some provisions within international law that talk about sovereign rights in relation to symbols but names are not mentioned there. And what I would say to that let's say perhaps the suggestion would be an easy solution as to add names to those provisions that deal with sovereign rights in international law.

My answer to that is those provisions are really very limited. And even if country names were added to those provisions of international law, it would really only deal with their use of trademarks and it wouldn't actually do anything in relation to domain names or TLD strings.

So the answer that I have reached after quite extensive - several years of analysis on the question of whether governments have rights, have sovereign rights in geographic names, the answer is no on the international law. Next slide please (Emily).

So I suppose having asked do governments have these rights in -- specific kind of rights, sovereign rights in geographic names – the next question logically means to the - do other people have rights in geographic names under international law? I'm dealing strictly with international law.

And the answer to that question is yes. It's actually a fairly easy question to answer in a sense that international trademark law does not stop folks from having trademarks that are comprised of geographic names.

Some countries choose to do that but they're not required to do that. And in fact very many countries allow governments and others – companies, individuals – to have rights in geographic names.

In some countries – and this would be a matter of their domestic law, the law within that country – there's also recognition of something we call geographical indications, which has to do with the name of a product. And it's specifically referring to its origin in a particular place.

The challenge with that is that protection's actually only available in 28 of the countries of the world whereas trademark protection is much more widespread and is available in most countries of the world.

So the answer is yes. There are others who have rights in geographic names. So what does that mean, let's say, for the DNS? And if I go to my final slide, I'll wind up.

While that's on its way - there we go. Thank you (Emily). So what that means to the extent that we have others with rights in geographic names, what that means is it's simply not possible. It's not logical. It's not correct to say that governments are the only parties with rights in geographic names.

And what that means is we simply can't – at least in international law – justify any sort of exclusive reservation or priority because if governments aren't the only folks who can use these names then that means we're possibly trampling on the rights of others to the extent that we give them exclusively to government.

And we also need to be very careful of refusals. We can't simply have policy that allows refusal of a geographic name simply because whoever has asked to use it is not a government. And likewise the same conclusion applies for a geographical indication holder, someone who has use of the names of these products.

I'm conscious that I started three minutes late so I'm ending three minutes late but I am on time. I will wind up there. I apologize that I'm not able to join you for the Q&A at the end because of the time zone. It's very late here in Tasmania.

But I'd be very happy - I know that the folks running the Webinar will take questions and I will follow up with those by writing. So thank you very much Jeff. Back to you.

Jeff Neuman: Next we have Jorge Cancio from Switzerland, so Jorge if you are on if you could please start.

Jorge Cancio: Hello, did you hear me okay?

Jeff Neuman: Yes, thank you Jorge.

Jorge Cancio: Hello Jeff and hello everybody. Just as context for my intervention here, first would need to say that I'm jumping in for the chair of the GAC Working Group on the Protection of Geographic Names in New gTLDs, which is Ms. Olga Cavalli from Argentina. She asked me a couple of days ago to jump in, so I'm doing this a bit on an – (inproficient) basis, but I'll do my best.

As a matter of context I can also say that the presentation you are seeing has been agreed by e-mail by the GAC working group. But that as you will see on the GAC working group and the GAC (unintelligible) for sure is still a long way from having a consensus position on this topic.

Next slide please. The basis of the startup of the work of this working group began at the Durban meeting in 2013. And it started also focusing almost all the time during the last two years at least on those geographic names which are not covered by the Applicant Guidebook rules of 2012.

So what this presentation will be about is about those terms with geographic significance which are not under the rules of AGB of 2012 which are for instance the country and territory names, the capital city names or city names which are all covered by the AGB of 2012.

But that's - also Jeff mentioned before the 2012 round showed that there were a number of applications which had a string which could have a geographic meaning which resulted to be somewhat problematic.

Next slide. The terms of reference of the GAC working group are here. If you have interest you can look at them in more detail. But I think that it's more interesting to go to the next slide.

And this is really what has been the heart of the discussion within the GAC working group is how to deal with those strings that were not covered by the 2012 AGB but nevertheless showed to be problematic.

And on Page 7 of the background paper which has been developed by the co-chairs of the GNSO PDP Working Group on Subsequent Procedures there are various lists of those problematic strings. I think there were 18 at least during the 2012 round which could qualify as such strings with geographic meaning which didn't fit into the categories on the Applicant Guidebook of 2012.

And in many of those strings we finished or we ended up with some problems and some of them are still pending. So really the focus of the GAC working group was to discuss a future agreed framework for terms with geographic sequence accounts falling beyond the route of the 2012 Applicant Guidebook.

In Copenhagen we had a full discussion of a proposal that was presented in September 2016 and the GAC working group – as I said before – didn't reach any consensus. But it is going to follow up with discussions and hopefully to make an input to the wider community on this topic.

To sum up a little bit this proposal which is being discussed in the GAC I could say that it's in addition to the Applicant Guidebook rules of 2012 it provides for the individual's search obligation for the applicants who would need to look into whether the string they are planning to have geographic significance.

For this to be made more easier one of the ideas was to create a repository of terms with geographic significant to be maintained by ICANN and which would be fed by relevant international lists and also by community feedback, also the inclusion of terms by relevant government.

This list would include also the contact details of the authorities and a brief justification of the claim they have on the relevant term.

Another principle which was included in that draft proposal is that there is some consultation requirement that there is also an opportunity to raise any concerns about any such strings.

Contact obligation in case of a match or confusingly similar name. The applicant would get in touch with the relevant government or public authority.

And a non-objection requirement by that government or authority with the special provision that in case that the applicant wasn't agreeing with that position, with the negative position from the government, there would be a dispute resolution process established by ICANN before an independent panel which would decide according to (unintelligible) information, so on and so forth.

Next slide. And excuse me if I'm being slower but as a non-native speaker, this is a bit more difficult I guess than for others.

This slide really summarizes the divergent views within the GAC working group on the draft proposal. Those divergent views are centered around the instrument of repository. There are some more in favor, some against, so we can look into the details of this.

And last slide. If you are interested in following the work of the working group, these are (unintelligible) and I guess that the chairwoman of the working group would be more than happy to have an active participation also from people which don't belong to the GAC. Thank you.

Jeff Neuman: Thanks Jorge. This is Jeff Neuman again. Thanks for stepping in and presenting on behalf of Olga Cavalli. I know she's traveling today and I think she will be able to present for the second Webinar. So thanks for stepping in.

The next speaker we have is Alexander Schubert so I'm going to throw it over to Alexander.

(Andy Ventner): Yes hi. This is (Andy Ventner), co-founder of (unintelligible) and founder of a company that will apply for the (GSA) in the next round. My presentation is rather short so I am making some time up.

It's a subsegment of the rather wide field of geographic names. I'm talking about the treatment of the country and territory names and ISO that you want (unintelligible) recalls. If you could move to the second slide.

So I'm looking into the past to make country and territory names and (IFIS) recalls available as TLDs. As you have heard in the first presentation of Heather where she explained that there is kind of an absent of rights for government to those names, naturally the governments have been a little bit

confused about what is going to happen with their names because they maybe don't have rights to their names.

They're still - they wish to protect them. So (unintelligible) in the 2012 application round these names have been simply made ineligible. So you couldn't even apply for them. And I'm afraid it will stay like that if we don't find some path for what - which would be seen as acceptable by the governments.

So what I propose is that - there was provision in the Applicant Guidebook in 2012, the 2.2.1.4.1, that simply said okay you cannot apply for a country name or a three-letter code for a country.

So that anti-provision should simply be deleted from the future Applicant Guidebook. But naturally it had to be replaced with something so the governments can fulfill their duty to make sure that there is no unfair (unintelligible) views as Heather explained.

So they of course want to see who is going to apply for those names. What are they going to do with those names? How can we be sure that they are treating our country name nice and are not going to abuse it or act as if it would be by the government but it is not?

So there is already in the Applicant Guidebook another provision, the 2.2.1.4.2, and Paragraph 3. It already grants protections to governments in regards for for example city names. So the government has to issue a letter of non-objection of you want to apply for a city (unintelligible).

That Paragraph 3 could be simply amended so that it includes the country and territory names. And the 3166 ISO (three) country codes.

They are currently not included because they were not available for application. So they could be listed there. And as a result, if someone

wanted to apply for Dot Spain for example they would have to go to the Spanish government and present their plan how they want to do it and who they are.

And the Spanish government could make an assessment whether they would trust that group and their policies and then they give an (unintelligible) objection or not. I agree with Heather that it should not be that the Spanish government says, "Well, it's our name Spain and we will give it to no one."

They would probably have to explain why they are not issuing a letter of non-objection. And additionally there have been a number of GAC members who said that they would rather not rely on their own government because they are not really trusting their government.

They would like themselves to be presented with such an application and issued letter of no objection. So that could be another provision that the relevant GAC member had to issue a letter of non-objection. That would be an option.

And then if you talk to ccTLD managers, they are not really keen on competition. And they don't like the idea that there's someone running a three-letter code at the TLD because they think it's - yeah, it's kind of like a gTLD as a ccTLD with three letters.

So there could be the option that also the relevant ccTLD manager would have to issue a letter of non-objection so he is presented with the plan. And he makes sure that there is no conflict with his ccTLD.

The third slide, next slide? So if we look at the two-letter labels because it seems that the ccTLD managers are some of those who are really blocking three-letter code TLDs.

John Postel in his 1994 RFC 1591 had a clear vision of how ccTLDs and gTLDs look like. And I think that the entire two-character label name space should stay reserved for the ccTLDs.

So even if there are a few labels like Dot AA or Dot ZZ that can never be assigned to a country because they are public users – the same like with the IP range 192/168 and so on, so forth – no one can use that in the Internet. It would not root. It would stay within your own net.

So even those (unintelligible) like Dot AA which would fit to American Airlines which have AA.com, I think it should still stay reserved for the ccNSO. And the same with mixed kind of numeric and – alpha characters like N3 or F1 because if there would be two-letter codes assigned as the gTLD, we would kind of harm the order.

So gTLDs should have three or more letters and everything that is two letters should stay a ccTLD. And this shouldn't be one way. It should be the same way the other around. So if something has more than two characters, it should be a gTLD and not a ccTLD. I'm finished.

Jeff Neuman: Thanks Alexander and thanks for presenting a proposal. I think there may be a couple other proposals that are presented during these sessions along with the one that was presented by Jorge and so these are going to be very helpful going into the sessions at ICANN 59.

Next we have Flip Petillion from MARQUES. Flip if you can hear me, we're ready for you to get started.

Flip Petillion: Thank you Jeff. Do you hear me well?

Jeff Neuman: Great, yes, thank you.

Flip Petillion: Thank you. Thank you Jeff and the ICANN community for this opportunity for MARQUES. I'm indeed speaking today on behalf of MARQUES, which is the European association representing brand owners' interests.

MARQUES unites European and international brand owners across all product sectors. It addresses issues associated with the use, protection and value of IP rights as these are vital to innovation, growth, and job creation.

MARQUES membership crosses all industry lines and it includes brand owners and trademark professionals in more than 80 countries.

MARQUES' position on the protection of geographic names in the new gTLD process is actually as follows. We have consulted widely amongst our members and nearly four years ago we wrote to the chairman of the board of ICANN on the subject of the protection of geographic terms. And our position hasn't changed over the years.

Please (Emily) yes move to this slide, thank you. There are currently thousands of brands registered in Europe which share geographic or cultural meanings. Examples are on this slide here. You will probably recognize many of them actually to the previous slide.

They included well-known brands in the fields of communications like Nokia, a town in Finland; beverages like Amsterdam, a city of the Netherlands; cosmetics -- Avon, a county and the river in the United Kingdom; pharmaceuticals, Milan a city in Italy and insurance even; Zurich, a city in Switzerland. And there are many more.

These brands or established trademark rights that have been obtained lawfully by trademark owners in numerous nation-states. Please move to the next slide (Emily).

Over the years ICANN's Governmental Advisory Committee has consistently supported lawful IP rights protection mechanisms in the new gTLD program and MARQUES strongly appreciates that support.

When it comes to the use of names which may have a geographic meaning as a top level domain however, well MARQUES recognizes that this can be a sensitive subject for some governments.

It's important that those governments act in accordance with the international treaties to which they are signatories and respect globally recognized legal principles. Those international treaties such as the Paris Convention and TRIPS Agreement, they grant longstanding rights to trademark owners to be able to use and register terms which in another context might be considered geographic.

They impose jurisdictional limits on any national interest in such names. Even in the case of a conflict between an existing trademark right and client national interest in such term international jurisprudence, international case law, informs us, it learns us that such terms may coexist but not to the detriment of trademark owners' rights.

Please move to the next slide (Emily). It follows from this internationally accepted legal foundation that nation states should not act through ICANN to arbitrarily restrict trademark owners' rights to make lawful use of their trademark when international agreements to which they are signatories would not allow such restriction.

Current and future new gTLD applicants which potentially include many trademark owners, need the certainty that when they follow the rules set out in the or an applicant guidebook, they will not later be subject to objections to their selected TLD based on non-objective criteria.

It's important that the new gTLD program provides a predictable fair and consistent application process that conforms with general principles of law and laws protecting trademarks in particular.

As I said before MARQUES appreciates the historical support to IP rights that the Governmental Advisory Committee has given. And it appreciates that these are complex and difficult issues. But we firmly believe that these difficult issues will not be overcome by the different parts of the ICANN community working independently from each other.

And just to finish my intervention, on the predictability, fairness, equal treatment and due process, I would suggest that you have a look at the book that I've published recently and that is on the market since last week and that's entitled Competing for the Internet. It's published with Kluwer International. Thank you very much. Back to you Jeff.

Jeff Neuman: Thanks Flip and maybe you can - if you could put a link to that book in the chat then we can make sure it's reflected in the record. Thanks Flip. Next on to Sebastien Ducos who is the chairman of the Geographic TLD group that's an interest group in the Registry Stakeholder Group. Thanks.

Sebastien Ducos: Thank you Jeff. So I am Sebastian Ducos. I represent the geo TLD group and we represent about half of the geo TLDs from the previous rounds. We represent also TLDs like Dot Cat and Dot Asia who might not be full members but are participating in our discussion.

I'm having a beep back. I don't know if I'm sharing that with everybody else.

Jeff Neuman: Yes thanks Sebastien. Sebastien this is Jeff. We're going to try to find that line and isolate it. Sorry about that.

Sebastien Ducos: That's all right. That's all right. Could I have the next slide? So first of all as we've gone through this process of geo TLDs in the previous round, we wanted to share a few learnings that we had from it.

Indeed as you mentioned Jeff originally there was a number of people that applied for geo TLDs weren't able to get it mainly because their names either because they were abbreviation shortened or in case of Las Vegas for example was only a part of a name, didn't fall into criteria of existing lists of TLDs.

We in our group still consider them as geo TLDs. They still have exactly the same synergies as the rest of us. And we might make our position a little bit later on how to fix that.

The second comment that I wanted to make is on that government letter of support. We believe that it was a difficult tool to achieve, difficult letter to obtain from governments that weren't always sure what we were talking about. The AGB was rather vague about what sort of authority was a relevant authority and that may have caused a bit of confusion.

But in the end, looking at it a few years later, it seems to us as a very relevant mark of our geographic credential, the fact that you have government backing and not all governments are of the same level and of the same – or letters are from the same level of government.

But having that elected authority, that federal government authority, backing gives us some credibility on geographic names that we would like to make sure that we keep. Next slide please.

So again in our own definition, to be a geographic name and have what we suggest afterwards, you need to be a geographic name. The fact that (unintelligible) are not in the list is less relevant to us.

The fact that you're backed by government whether your name is relevant, and the fact that the TLD is used as a geographic TLD as a localized open TLD for the better of the public either used directly by governments to - for the benefit of the public to advocate whatever locality they're using or actually publicly available to people within that locale. Next slide please.

We would encourage a waiver on limitations in the same way Alexander suggested earlier. Again government backing, the fact that a government is backing us -- the fact that a government says this is the way we would have pronounced our name here locally regardless of any international list – is significant and sufficient for us to consider that name as being geographic.

Next slide. There, yeah. We would also ask for some kind of a priority to geo TLDs. Now I need to make this very clear. In our minds, there is no such thing as reserving geo names for eternity.

We look at every round or every, you know, permanent round, whichever way we're going to do it in the future, as a first comes, first served. Of course as we are having rounds and there are dates to go through, different applicants might come through the same gate at the same time with the same name.

And all we're suggesting here is to find ways to rule these out. If a government acquires a round earlier than the brand that may have the same name, we consider this first in, first served. If a brand comes first, then the brand will be - it is only in the case that in the same round at the same time two applicants come with the same name that we suggest having ways of sorting it out.

In this particular case, we would regard geos with a priority. And this is not just because we're geos but also based on this idea of being for the benefit of the greater good. This doesn't impede finding ways with a competing brand to find a way to also cater for their needs if need be.

But we would like to see -- much in the same way you had community priority – some kind of a panel to judge on geographic priorities. And this panel would judge again according to the criteria that I stated before, having a government letter, having a geographic name, regardless of it belonging or not in an existing list and be there for the benefit – so be there as an open TLD for local (unintelligible) used.

Next stage. Now we understand also the GAC's worry and actually whilst we are vehemently against the idea of a community managed list for many, many reasons including probably the learning beyond the (TMCH) and all the changes (unintelligible) that we have had around us, the cumbersome aspect of it, this is not a simple matter of having an Excel sheet running around. And the fact that it can be gamed in so many ways that there would be no way to actually have a clean way of running it in our view.

But we do like the idea of this fair warning that the GAC is advocating, the idea that if you know that you are registering a name that might be a geographic name, that you should approach the government in question.

For the government to then decide that they may or may not want to apply, again they can't veto a TLD just because they feel like it. But they can apply against it if need be.

Now there's obviously a clear problem for brands here because that would not allow brands to apply and wait until some kind of a reveal to show their cards. They would indeed have to preempt that and forego that.

But at the same time, it would give them the assurances that they're going on a clean path, on an open path by seeing the relevant government and up if not ask permission actually show cause and say, "Here, this is what we're going to do." Now I'm at eight minutes exactly and I will stop my presentation.

Jeff Neuman: Okay thanks Sebastien. I would also note that your slide on the priority is also relevant to a different work track as well that's on how to deal with contention sets. So I'm going to ask that ICANN staff capture that point not only for the geographic names but also -- for this topic – but also for how to deal with contention sets. So we'll capture that as well.

Next we move on to Martin Sutton, who is the executive director I think is the title, Martin if I've got that right, with the Brand Registry Group.

Martin Sutton: Thank you Jeff and thank you for the opportunity to speak today. Quite right, yes, I run the Brand Registry Group, which is the trade association for Dot Brand registries. And that's for current and future applicants.

I'll start by saying that these are very different registry models. They were introduced in the 2012 round and as opposed to the familiar open commercial registries that we've been used to in the past. Essentially the Dot Brand registries are not used for selling domains but third parties to use.

Their purpose is to support and promote their brand with improved control – improved control and security over their online presence and also safeguard customers. Next slide please.

So with this in mind, the BRG has formulated clear position regarding the use of geographic terms at the top level whereby we do not support any restrictions to the use of geographic terms. But applicants that hold matching trademarks whereby the use of the TLDs to identify the brand are not to represent the geographic term and also where there's no conflict with national law or international law.

And the rationale behind this I'll go through now. So it's about six points that I just want to run through for everybody. So if I could go to the next slide.

So firstly a dot brand registry significantly reduces if not eradicates the risk of bad actors taking advantage of domain names for malicious use. They create a trusted space in protecting consumers from many of the problems that we've experienced in the past with traditional open registries.

And secondly words can have multiple meanings or uses, and I think that's been reflected in some of the previous presentations. Therefore it's the actual context which is relevant and most important. And I'll run through that in a bit more detail.

And following this line of thought further to where there's branded terms that coincide with geographic terms, we can't find any justification really for geographic related use to take priority over a brand related use.

That's not saying one leads to the other. What I cannot see is that there is no justification for one taking priority over the other. So I've got a couple of examples on the next slide please. If you go to that, just for relevance to context and use.

So earth is a planet in its geographic sense, soil in its generic sense and also a trademark for an amusement park service in the U.S. All of these coexist without any confusion because they are used in different ways which people easily understand and associate with.

Cleveland is an example of a trademark that matches a geographic term, but there's no relationship between those two.

Manufacturing golf clubs in California, the Cleveland brand has no relationship with the city of Cleveland in Ohio. And interestingly, the city's name originated from its founder Moses Cleveland. We don't believe either that names of individuals should take priority either. So if I could just move on to the next slide.

So this is also important. There's no evidence to suggest that the use of a geographic term by a trademark owner creates any confusion or risk to users. And without this evidence it does not make sense to apply restrictions.

We should remember that a dot brand registry limits the registrants to being the brand owner and related parties vetted by that brand owner. And then this trusted Dot Brand space then provides greater control over the entire registry by the trademark owner, safeguarding the end users from any risk confusion or risk.

Okay next slide. And this is being covered again in the number of points but we've no sovereign or other ownership rights that governments - no restrictions should be applied.

But based on historical practices, two-character country codes -- which are premium online real estate – are already reserved for use by the applicable country and governments.

Any further restrictions imposed should therefore be minimal. They must also be clear with reference to defined lists providing predictability. And move on to the next slide.

So lastly there is already a suite of protective measures in place. During the application phase there are the vetting and objection processes. Post-delegation remedies are also available through challenge and dispute procedures together with the ongoing contractual obligations and applicable national and international laws that remain in force.

Next slide please. This brings us back to the BRG position which I just need to restate that we do not support any restrictions on use of geographic terms at the top level. But applicants that hold a matching trademark where that use of a TLD is to identify the brand and not to represent the geographic term and also where was no conflict with national or international law. I'll wrap it up

by just saying that the BRT's framework with this particular opportunity looks forward to continuing these important discussions with the ICANN community

Ultimately we would like to see the BRT position reflected in any proposed amendments to the 2012 applicant's guidebook in support of brands registry interest and also to safeguard consumers. Thanks again for the opportunity.

Jeff Neuman: Thanks (Martin). Next we'll go onto Petter Rindforth from Center. So Petter, if you can hear me.

Petter Rindforth: Yes, I can.

Man: Great. We can hear you as well. Thank you.

Petter Rindforth: Good afternoon. Good morning. My name is Petter Rindforth, the General Manager of Center. Next slide please. For those of you who do not know Center, we are the European (unintelligible) organization totaling just over 50 CCTLDs.

Many Europeans and then in the associate membership we have a few from other regions combined members, roughly more than 17 million second level domains. Very importantly for this short presentation, we are only commenting on the use of country territory names, top level. Nothing else.

So we are only focusing, we only have an opinion to share a small part of a much broader geographic indicators discussion. Next slide please. So I'm sure it's not a surprise to anyone on this call.

Our main concern is with regard to two letter CCTLD codes, two letter codes in general. We strongly advocate a status quo on the matter. They should not be delegated unless they are derived from the ISO.

One (alpha) two, three 166 lists. There is a sound basis in the (RSC1591) and I fully support the logic that's been shared by some of the previous presenters on this matter that it avoids confusion.

And reserving all two letter codes other than just those lists reserves the rights of any future countries. South Sudan with its .SS codes, not fully delegated yet if I understand correctly but still it allows those countries to still get a two letter code.

Next slide please. So on a slightly more, slightly broader topic of country and territory names, we refer to the conclusions from the cross community working group on the use of country and territory name wherein their interim report one of their conclusions that they all seem to agree on was that future policy development must facilitate an all-inclusive dialogue.

And so we strongly believe that not only based on strong cross-community consensus, we'll have a workable, sustainable solution that is also from a legal perspective risk free.

As a last point, on three letter codes, in particular those on the ISO 3166 alpha 3 lists, I think it's well being brought forward as a possible solution by some of the previous presenters but we subscribe to the protection mechanisms as they're defined under the current rounds, the African guidebook.

And for those who are not familiar with that particular reference, this is the level of protection that for instance (cities) have already benefited from. And which seems to have worked quite well in the previous round.

As a final remark, I'm almost, and this is not something that is reflected in any of the current Center positions on the topic, but I think it's also important to remind us of the larger context of this.

If you combine Facebook, LinkedIn and Google accounts, we're easily up to 4 billion identifiers. Currently GTLDs, news and incumbents plus all CCTLDs in the world will reach up to probably over 300 million domain names now. Sure somebody has more accurate figures than that.

But that comparison that should make us realize that one of the strengths of the domain name system, it's a uniqueness. It has been developed as a clear and unambiguous naming system. And we need to make sure it remains exactly like this.

And I think this is where the ICANN community has a crucial role to play and this is part of the reason why we strongly believe that we are not part of the stakeholders which also takes onboard the views of technical parts of that community will be workable in the end. Thank you. That's it.

Jeff Neuman: Thanks Petter. And thanks for that presentation from Center. Next we have Thomas Lowenhaupt. Hopefully Thomas, I pronounced your last name right, who's going to present his view from the organization, connecting.nyc. Thomas, are you on?

Thomas Lowenhaupt: Yes, you pronounced it just perfectly. Thank you Jeff. You hear me?

Jeff Neuman: Yes, great. Thank you.

Thomas Lowenhaupt: Great. Okay, great. So again, I'm Tom Lowenhaupt with connecting.nyc which is a New York State non-profit that's connected to the development of the .nyc top level domain as a public interest resource where connecting is also an at large structure with ICANN and we hold special consultative status at the U.N.

Personally I've been involved with ICANN since 1998 and with the operation of NYC as a planner and public official for more than 40 years. Next slide please. I'll tell you a little bit about cities.

More than half the world's population live in Cities. That's going to 75% by 2050. The needs of cities are complex, vast. Our complex and vast – management, ideas technology.

A little point of information, that New York City existed before the United States, London, before the United Kingdom and Paris before France. Cities where people are, where innovation of the future emerge. Next slide please. This is sort of a little introduction to my next couple of slides which you could just go to the first one which is an alligator eating a snake or a snake eating an alligator. I'm not sure. And this deals with invasive species. We're familiar with that. This is a Burmese python battle with an American alligator. And I want to go to the next slide and talk a little bit about invasive technology. And to do so I need to introduce three people.

That first guy there, that's Mayor Koch. He was New York City's mayor from 1978 to 1990, our 105th mayor. I wasn't in City Hall that day to see that the mayor was thinking about but I'm gathering he was probably pondering how do you solve the multitude of problems presented by governing a great city? Next slide please.

Now those two guys many of you might recognize here. That's Vinton Cerf and Rob Kahn, two of the founding fathers of the Internet. Next slide. Now what might have been a deal in a perfect world would have been that, you know, in 1985 or thereabouts, they would have stepped on the steps of City Hall and said to the mayor, Mr. Mayor, we're inventing this brand new technology that can solve a lot of your problems. We'd like to work with you in that regard.

And regrettably, if you go to the next slide, that never happened and the first thing that did happen, the first opportunity the city had to influence .NYC, to influence the internet invasion, if I may use that negative term on the city, was, and there are positive things as well obviously but the top level domain.

And so in 19, I'm sorry, 2012 the city got the .NYC top level domain but to this day the city's not had a meaningful public hearing about the role of .NYCTLD. Today, unbeknown to the general public the city's selling off city treasures like real estate and fashion.nyc to the public bidder. There are no public interest requirements.

So the city really hasn't grasped what this is all about. The next slide please. Actually it doesn't show up well so if you just go to the one after that. So this slide sort of derives from the previous one and the city which has a city government which has a few hundred metrics of how the city runs.

So to me the five top areas where you would use a city top level domain is like a brand. Make it user friendly. Add identity and trust. Very much brand like. Service delivery for the city government giving names to everything, making it an infrastructure.

And this final one, number five, this intermediation is, relates to what's happened with the internet in previous developments such as, we know what happened with downtowns when Walmart arrived, the bookstores when Amazon arrived. To my mind there is a possibility here that down the future a Google or search engines could wipe out cities.

And the cities need TLDs to be found on the Internet. Moving to my final slide. I think there's a good way to approach cities so that they're not brought into this complicated world without any experience and that is to engage the populists in the application development.

This didn't happen the last time so I would like to see informed consent going forward, that the city administration, individual Internet users, businesses, academia and others that might be in the case of a ski resort city and maybe the ski industry and maybe in New York City, labor unions, but they need to have informed consent.

And this informed consent and the development of the application can also be part of your ongoing management or governance of this city TLD to form a multi-stakeholder governance body that develops the TLD and governs it as we move forward. That's the end. Thank you so very much for listening.

Jeff Neuman: Thanks Tom for your presentation on cities and I think that's definitely relevant and one important component for geographic terms at the top level. Next we have, and hopefully I'm pronouncing it right, (Joanne Afulin) Hopefully I pronounced that right. If not, if you could please correct me, who's doing a presentation representing the International Trademark Association. Thank you.

(Joanne Afulin): Thank you Jeff. This is (Joanne) and you pronounced it perfectly.

Jeff Neuman: Great. Thanks. And we can hear you very well.

(Joanne Afulin): I'm here presenting on behalf of the International Trademark Association presenting the statement of the Internet and Geographic Indications Committee on geographic names and the domain name system. We are very thankful for you allowing INTA the opportunity to speak today.

So the International Trademark Association is increasingly concerned about development of a reserved name list and government objection mechanisms for consent requirement with regard to the use of geographic names at both the top and second level domain of the domain name system.

Any objection to the use of the geographic terms that is determined to be of either national or cultural geographic or religious significance to a particular country or region has no legal basis whether under agreed principles of international law or national sovereignty.

The expressed recognition of private legal ownership rights in trademark, trade names and geographic indications by sovereign states and by international treaties contradicts any governmental claims to exclusive rights in the geographic domain name.

No interpretation of the public interest as it relates to ICANN policy justifies disregard to the established international legal framework as it applies to trademarks and geographical indications of origin. In particular, such an approach is inconsistent with the legal obligations of the 176 member states of the Paris Convention under Article 6.

And in disregard, would not be upheld by the national courts of those countries. A thorough analysis of international law and legal principles on this issue must be undertaken and must be given proper difference in relation to the proposal of the governmental advisory committee working group to examine the protection of geographic names in any future extension of the GTLDs for a reserved named list or government objection mechanism or consent requirement.

Protection of geo names in international law. Geo names are names which have some geographical significance. They are not protected or protectable per se under international law unless they sit in a specific legal category of protection, for example, trademark law, geographical indications.

Despite assertions of various governmental sources, a mere statement that a trademark is owned by a country or region does not establish legal rights in a geo name. And finally determining whether a geo name is legally protectable or not depends in part on how the term is used. The same term can have different functions.

A good example is the term Swiss with watches. Here Swiss is a geographical indication which indicates its origin in Switzerland. Swiss cheese, here, Swiss is generic for a type of cheese although in some

countries it is a GI. With airlines, here Swiss is a trademark for an airline company.

Despite popular belief, geo names are not GIs. GIs have very specific meaning in the GI TRIPS agreement namely geographical indications are for the purpose of this agreement indications which identify a good as originating in the territory of a member or a region or locality in that territory where a given quality, reputation or other characteristic of the good is essentially attributable to its geographic origin.

GIs are very small subsets of all GO names. How does this relate to domain names? In order for GO name or a GI to be included in the trademark clearing house, it must be protected under the legal framework of trademark law as a certificate (patent) mark or a collective mark and registered as such.

In order to object to a proposed geo name GTLD, therefore recognizable, verifiable, legal rights should be submitted as is done with trademarks, such objections not being based on an open ended list of every term which may have a geographical significance with no possibility to verify or challenge such claim.

To give geo names which are not legally protected, such rights would create uncertainty and confusion in the domain name space. Thank you.

Jeff Neuman: All right. Thanks (Joanne). And thanks to the INTA for participating in this. And our last speaker before the Q&A period is Paul McGrady.

And Paul before you go on, just let me remind everyone, if you want the question to be addressed either during the Q&A period of afterwards, please remember to include those brackets around the word question so that we know it's just not something in the chat but something you want to address specifically to one or more speakers.

Paul, if you're ready, we're ready for you.

Paul McGrady: Thanks Jeff. This is Paul McGrady. I first of all would just like to thank everybody on this call, the presenters so far for just an interesting discussion on a difficult and complex topic.

I really enjoyed hearing all the various points of view and a special thank you for the co-chairs for putting together such a robust panel representing various facets of this important topic.

The idea that I submit today should be or is meant to be as a compromise between the various viewpoints expressed. To borrow a frame from (James Bladel), our GNSO Council Chair, what I'm hoping to do is identify an idea that will ultimately bring this in for a landing.

And so (James), we'll give you full credit for your famous phrase. The goal here is to address something that can be viewed as a compromise between the various points of view expressed today. It's really important that it's not viewed as a new starting point for negotiation by any particular point of view but rather as something that is designed to meet in the middle.

And so with that I'll jump in and just talk about the proposal. So today I'm proposing a public interest commitment against the confusing use of geographic protected terms or what I call the geo PIC. The geo PIC is applicable only to geographic and territorial terms protected under national legislation from what I call geographic protected terms.

The purpose of the geo PIC is to address the governmental concerns at an applied for stream at the top level which is identical to a geographic protected term might be used in a manner that falsely suggests to the public that a connection exists between the TLD or its operator and the geographic protected term.

Or, and/or, that the use is otherwise of a nature as to mislead the public as to the existence of a connection between the TLD and its operator and the geographic protected term. We can have the next slide please. This is a fairly streamlined idea.

So the proposed procedure as you can see by ICANN standards is fairly minimalist. The first part of the procedure would be that in the event an applicant applies for a TLD in any geographic protected term, then, number two, if there are governments that are concerned about this, a timely objection to that application would need to be received by ICANN from the GAC.

I, we're working on various options of what that might look like. I have three options for all of us to consider. The first option is GAC consensus advice. The second option the GAC could use to object perhaps is an objection from five or more GAC members or perhaps an objection from three or more GAC members.

I do think that there is some room for discussion on where to set the particular thermostat on that one. Proposed procedure number three, the TLD applicant agrees to the public interest commitment and that PIC will require that the TLD applicant not use TLD in a manner that falsely suggests to the public that a connection exists between the TLD or its operator and the geographic protected term.

The TLD will be included in the registrants application agreement should that agreement be executed by ICANN and that's at the end of the evaluation period and other things that we all have to deal with in new applicants.

The geo PIC will be enforced and processed is the same process currently contained in the registered agreement of other PICs. As most of us know, PICs are enforced through either complaints to ICANNs contractual compliance department which may result in ICANN compliance action or

there's a formal PIC DRP mechanism and to the PIC European standard which can make a formal ruling of compliance and noncompliance.

We have a recent example of that having been used so we do know that, you know, the process is in place and is up and running. So that is the idea behind PIC enforcement. If we could have the last slide?

The benefits of the geo PIC would be, it generally doesn't require larger additional expenditure of time or money from any party to implement. It does not require the development and maintenance of a depository. Some of us are currently involved in RPM's PDP and we are looking at the trademark clearing house.

And we are learning about all kinds of issues that pop up with repositories. So the geo PIC would require another one of those. It doesn't create any new legal rights for any party. It offers come predictability for TLD applicants. I think at the end of the day that's probably the most important thing for TLD applicants while respecting individual government's concerns.

Next, the geo PIC is consistent with the permission list's evolution of the Internet that has been a fundamental philosophical groundwork of the last 15 years. And lastly, it contains a familiar enforcement mechanism of the PIC which I noted is already in place.

So that is the idea behind the geo PIC and it was designed hopefully to spark discussions around compromise and I am looking forward to any questions in the Q&A session. Thank you Jeff. Thank you Avri.

Jeff Neuman: Thank you Paul for your proposal and thanks to all of the presenters for presenting their positions and a number of the presenters also presented proposals for moving forward.

In a minute I'm going to turn it over to Avri to go over and moderate the question and answer period. I do want to take a minute, there was a question that was asked about who was invited to speak and how they were invited to speak in this Webinar.

And I just want to reiterate that the process we followed was an open call for anybody that wanted to participate. We got a number of proposals to participate and I'm happy to say that everyone that volunteered was able to participate in these Webinars.

So there were no specific invites that were sent by any of the co-chairs or any of the members of the working group. It was truly an open call and I'm happy with the number of people and groups that responded and certainly encourage full participation which is open to anyone that wants to participate in the future.

So with that I will turn it over to Avri Doria, the other co-chair of the subsequent procedures PDP to start with a Q&A period. Okay.

Avri Doria: Okay, thank you. This is Avri Doria speaking, assuming I can be heard because there's an open mike somewhere. What I wanted to do first while hands are going up is to take the questions that were submitted as questions during the various conversations.

I also wanted to make a point that there was a lot of discussion, some of which may have actually been implicit questions. And what we'll try to do is afterwards we'll mind the chat for various questions and issues that were brought up there but won't necessarily bring them up as questions.

So if you had a question that wasn't sort of demarcated, you know, once we get to going through the hands, you know, please feel free to bring them up. At this point we have basically a half hour left for this Q&A section.

So during (Heather's) talk, we basically got a question from James Bladel on, are there case studies where the rights of non-government parties have prevailed over a government?

Now I don't know if that's an answer that anyone has on the top of their heads or it's something that we would need to do further study on. But and while I see your hand Kavouss, I'm wondering if there's anyone, whether it's (Heather) or someone else that has an answer to that or whether I should move on and leave that as one to be answered at a later time.

((Crosstalk))

Avri Doria: (Heather) is no longer on and, right, okay, yes.

Jeff Neuman: Yes, Avri. (Heather) is in the next time zone and she's going to present on the next Webinar as well. She is probably taking a well-deserved nap.

Avri Doria: Okay, great. Okay. And there had been, so thank you. We'll move on. Similar to that question had been one from Kavouss asking Dr. (Heather) to provide all references to the international law she referred to. So we'll pass them on.

                   During Jorge's discussion, there was a question from James Bladel. In practical terms for an applicant, is it a requirement for, is it a requirement for non-objection the same as obtaining permission? So Jorge, did you want to respond to that or someone else?

Jorge Cancio: Hello, if I may.

Avri Doria: Please.

Jorge Cancio: Hello, this is Jorge for the record. And basing my response on what is on the draft proposal which is being discussed in the GAC working group and as I

said before, it's not a consensus in the working group or in the GAC, I have to say that for those geo names that are outside the protection of the 2012 AGB, the provision in the proposal is that to really speed up the process. The applicant would have to (file) a non-objection from the relevant government or public authority.

But if this non-objection is not obtained because the government or public authority don't respond because they don't want to (give) it, then the applicant for these geo terms not covered by the 2012 AGB could trigger a dispute resolution process which would be panel, independent panel established within the ICANN framework.

So it's not really an absolute permission or it's not an absolute requirement of a non-objection in the GAC proposal but it's a way for really speeding up the process and if you don't get that non-objection, you can go to the dispute resolution process.

Avri Doria: Okay, thank you very much. Is there any follow-up question on that? Kavouss, is your hand up with a follow-up question on this topic? No, okay.

Kavouss Arasteh: Not on that topic. Another topic selection. Thank you.

Avri Doria: Okay, the speaker left. But we've already spoken to that but thank you. Okay, then if there's no more comments on this one, we'll move onto the next one. And we had two questions during (Sebastien's) talk.

One from, and I think they're sort of similar so I'll read them both out now. So Ashley asked, what is a legitimate claim? What is an acceptable basis of objection? This is the crux of some concerns with a letter of objection approach. Also at a minimum any approach should not contradict international law.

And Susan Payne had a question for (Sebastien). Can you please expand on how you envision the obligation for applicants to check for potential geographic conflicts working in practice? How do they identify the relevant authorities?

So I'm not sure if the first question may also have been partly to flip but I think it was mostly (Sebastien's). So any answers to those at this point?

Man: Yes, so just a quick point with like (unintelligible) law and international law and these things, well first of all I'm not a lawyer so I'm not going to speak about it in detail. I think that there's one thing it takes into account and it doesn't exist (DNF) which is plurality.

You can have a brand in different markets for different products shared between different players. In our particular case, that doesn't exist. There's only one option. Now I'm seeing (unintelligible) discuss the possibility of co-existence sharing. That's a different debate. But my point here is, in terms of geos, there one is represented by brand. Many are represented by geography and not to throw that completely out the window.

In terms of deciding who and what, again, my point of view is again very much around a first come, first serve. So again, if a locale should decide not to apply, that automatically forgoes their rights to discuss afterwards.

We're strongly recommending plans here to handle collisions in the same round. In the same way, if a plan decides not to apply to a brand in a given round and an identical name, geo graphical name applies for it then the geographic name goes and there's nothing else.

You apply. You play the game and of u play the game then you have a right so it. Then of course if there is a collision, as geos, we would like to see some priority given to geos and some indication. Again, it is not an automatic answer either.

The suggestion, answering to Susan, the suggestion of having that conversation with the relevant geography before is to avoid afterwards standoffs where we (unintelligible) because neither, because the application's basically linger for years and are left on the shelf. So the idea is to discuss that before.

Now of course if your name happens to be a tiny village in a tiny place, I'm not saying that smaller places don't have (lights) but the chances of that locale applying are very, very slim, of that locale even having the need for a TLD is very slim.

And by not applying, they automatically disqualify themselves. So of course if your name happens to be a large capital, a large concentration of people, go and see them. Go and talk to them.

If your name happens to be something that is, you know, just the name of a village somewhere, yes, you may have to play your chances and not talk to them or you may decide that you want to display open cards, go and talk to them. Give them a chance to answer. Give them a chance to give their grievances. And handle it from there.

Avri Doria: Okay, thank you. Does anyone want to comment/follow-up on that? Okay, I'll move onto the next one that I have. Okay, Paul, and I was just going to ask you a question. So I'll ask you the question and then let you come in bot for the comment you wish to make and then you can move into your question.

The question I got for you from (Ana Beth) was, what about governments not represented in the GAC. So I'll offer you the floor now to make your comment you wish to make and then, if you could, continue onto the question that was asked by (Ana Beth). Thank you.

Paul McGrady: Thanks Avri. Paul McGrady here. So I guess my, I have a question about the small village and who you would go to see. You know, Toledo, Ohio has 221,000 resident and Toledo, Spain has 83,000 residence. Who would you go to under the scenario of the speaker before me? Thanks.

Avri Doria: Okay, please, if you want to answer it?

Man: Yes its (unintelligible). Yes, we had the same problem with applying for the city of Melbourne in Australia versus Melbourne in Florida as to who is the biggest.

                  And well the reality is there is no biggest or smallest. Both entities would had had the right to apply. Again, we're only talking about trying to resolve collisions before they appear. I would suggest actually talking to both. And if that list happens to be 50,000 names then probably there's a way of prioritizing them.

                  And maybe not all 50,000 need to be addressed again because small, some are not liable to apply or are very unlikely to apply.

Avri Doria: Okay, thank you.

Man: Okay, thank you.

Avri Doria: Paul, would you like to provide an answer to the question asked by (Ana Beth)?

Paul McGrady: Sure. This is Paul McGrady. And if I answer the question, within the context of the geo PIC, how do we handle I guess objections or the potential for objections from countries that are not members of the GAC?

                  And, you know, two comments on that? One is, you know, the first is suggestions on how to enhance the geo PIC you know to address that issue.

Of course you're very welcome. But secondly, there's sort of a bigger question than the geo PIC can answer.

I think that non-participation with the GAC is something that ICANN staff especially at the highest levels worked hard over the last decade to try to bring more people into the GAC. And I think that ultimately at the end of the day the GAC does act even though not everybody is in the GAC.

I mean after every meeting the GAC issues a communique. As far as I know it doesn't consult with people who are not, with countries who are not active members of the GAC. And so, you know, while I would love to hear solutions, I don't think there's anything particularly novel about the geo PIC that would make it any different than any other issue that the GAC faces. Thanks.

Avri Doria: Okay. Thank you. Did anyone wish to comment on that response? Or ask a follow-up? Okay. All right. I got three questions submitted as questions during this Q&A period. So I'll go through those and then I'll open up to hands. From Martin Sutton, BRT, question to Petter Rindforth.

Your presentation focused on the terms already in the AGB. What would be your position regarding names not covered in the AGB? Petter.

Petter Rindforth: Yes, thank you Avri, this Is Petter speaking. The, I already responded to (Martin) on the chat but the position that Center took refers only to the three letter codes in ISO 366 so that we do not have a positon on (unintelligible) in that respect. Thanks.

Avri Doria: Thank you. And apologies for having missed the answer there when we were looking for questions. All right, (Jackamol) had a question which may have been addressed and I don't know if anyone wants to go further on it was why nobody was thinking of co-existence of more than one entitled entity under one roof. As to sharing the TLD, with search engines, search problem will be solved.

I don't know if anybody want to comment on that? I don't see any answer. Okay and the last one I have, I see there may be more and I'll go back and see them while we're going through hands. (Marvin Gross) asked on the GAC proposal.

How does the GAC proposal count for the free expression rights of others to use words coveted by the government to use geo name and thus restricted. Is there some semblance of rights or other model for accounting for other right to use words? Would anybody like to provide a response to that question? (Jorge), it was addressed to you so you have first crack at it.

Jorge Cancio: Hello this is (Jorge). Can you hear me?

Avri Doria: Yes I hear you.

Jorge Cancio: Hello again. This is (Jorge) again. As I said in the chat and to clarify, this is not a GAC proposal. It is a draft disposal that is being discussed in the working group of the GAC. So that is important to note.

And second thing on the substance of the question and I can only give my personal opinion. I think in the end you have a dispute with (unintelligible) on various (items) based on freedom of expression. And on the other side you have a very week frame from a government I guess that a dispute with little process would weigh more than the first one. a dispute with little process would weigh more than the first one is the claim of the government, is strong on that term.

I think this will be handled like other possible conflicts. I guess also that conflicts could be there between brand names and (expressions). So I guess there would need to be some balancing. Thanks.

Avri Doria: Thank you very much. Any follow-up comment on that question? Okay, I'll open it up to hands at the moment. I put off hands for a while. I see a hand from (Martin Greenberg). Please.

(Martin Greenberg):   Thank you. I'm actually asking a question that was posed in the chat but wasn't answered at the top of the list. The question was for Paul. I presume the geo PIC is, would be irrevocable. Is that, would that be the intent? Whoever's taking the notes, (Julie) that question's already there at the top.

(Julie):   Sorry, I missed it.

Paul McGrady: So this is Paul. I'll just jump in and say, yes, it would be subject to all the regular rules of how a registry operator could negotiate to amend their agreement with ICANN I suppose although that, you know, amending something like that to me seems extremely unlikely that ICANN would agree to that.

So the short answer is yes, it's not meant to be something that you game the system with where you put it in, get your registry agreement signed and then you got some magical switch you flick and you're able to kick it out of your contract without there being any process, without, you know, some sort of unilateral action. I just don't think it's anticipated to be that. It's meant to be a binding part of the agreement. Thanks.

(Alan):   Thank you. The reason I ask is that there are some PICs that explicitly include within their, within the PIC we reserve the right to change this, so.

Paul McGrady: Yes, so (Alan), there are, for example, I think they get into the Specification 13 for .brands, something that's anticipated that in the event that the .brand ceases to want to, you know, operate as a .brand, you know, that there is a way, there is a mechanism to convert that and expose that brand to a higher level of compliance issues contained in the, I think it's Specification 9.

And so we, but this is the least and again, if people have other views on this but in my mind the geo PIC is not something that you (either would be happy with or we get rid of. Thanks.

Avri Doria: Okay, thank you. I've got Kavouss next. Please, Kavouss.

Kavouss Arasteh: (Unintelligible). You said something about the way that presentation organized already was (dealing) with some of these but I think I have not explained it quite clearly.

Avri Doria: Then please go ahead.

Kavouss Arasteh: In all of the discussion, usually there should be opponent and proponent of the subject. Proponent that this condition of the lead or views of (unintelligible) names and opponents of that. (Unintelligible) and because of so many other things.

There was no presentation that supported that such conditions exist whether (unintelligible). This is your (unintelligible). That's all. Thank you.

Avri Doria: Thank you very much. We did not set this up. Let me give an answer one again. As was said by Jeff and rated by me both in the chat and online and now I'm reiterating it again, we offer the opportunity for all those with a position to sign up to be presenters.

In some cases we had a couple that were very similar and we asked them to work together to produce a single one. And that did not happen. We did not think to set this up as a debate of known positions that could indeed be an interesting follow-on activity at some other point, on another call or what have you.

Now that people have identified the position that they want to argue for, whether we ever wanted to setup something that was more debate style,

opponent and protagonist and that was not the intent in setting-up this particular Webinar. This was a Webinar for people with positions to have an opportunity, their eight minutes as it were, timing that was figured out based on the number of people who wanted to present.

So, you know, that's the best answer that I can give and that this is the way that it was setup. Anyone that had a position was invited to come make it. The next hand I had, I see (Alan) yours is still up but I know that (Alex) is, (Alexander's) rather hand was up as well. And I'll come back to you, if you still have a pending question from before. (Alexander).

(Alexander):   Yes, hi, this is (Alexander). I have noticed that during the presentation there were a number of individuals to argue that governments have no legal right to the names. And when people apply to the brands, there would be no brand name that is identical to country, territory, city name or whatever.

And that if the brand owner would only permits to a certain use of the TLD, everything would be fine and there would be no confusion and would be almost better than how currently city (samples) I used.

But I think such a presentation misses the point because, and I'm finishing this as a question. Because it's not about city governments or governments and that entity that wants to keep (rights). Those are cities or countries and they belong to their people, to the citizens of their country or to the inhabitants of that city.

They cannot have certain rights on their own identity because they're identifying with their country (as their) city. And the reason that the government has a say is that you can't ask 3.5 million (unintelligible).You need to ask their representatives. And that's the government.

So the citizen elected a government and that government should be us on behalf of the citizens of that city. So in some way, I'll now come to the

question. In some way we have to make sure that if someone is going to apply for a city or a country or whatever name, that the people who have a vested interest to that name for the citizens of that city are looked in and can make sure that there's no abuse or misbehavior of that name.

And especially that the names may be used in a way that creates a resource for those citizens. For example, like Thomas Lowenhaupt said, and I see that should be a resource. The businesses and citizens of New York City and (unintelligible), yes, a brand promotion vehicle for (unintelligible). That's super great for (unintelligible).

But that's a waste of (TD) space, of name space for the (unintelligible) and how do we make sure that the rights of the people who live in that geo territory are heard? Finished.

Avri Doria: Okay, thank you. Did anyone, we have six minutes left on the session. Did anyone have a comment or response to (Alexander's) question? Just let me know by voice if you wanted to respond to (Alex's) question. If not, I'll move down the list.

Martin Sutton: Avri, its Martin Sutton. I'll hopefully respond.

Avri Doria: Okay, please do.

Martin Sutton: Just a couple of points I think there is to flag more than as a definitive response is the fact that, you know, there are different terms that co-exist so I think I explained that within my presentation. We've heard that from others as well.

And there's also the point that there is no evidence that suggests running a .brand registry which is a graphic term causes any public harm. So that does beg the question as to where do we call in the issue of what are we trying to protect here? So is there a public interest and which one to protect.

So evidence in the past would suggest that actually some of the geo terms haven't been able to protect the public interest. So there is evidence in the past and you can go to things like the anti (unintelligible) working group for stats and many others.

So I think there is really the point that I was trying to make earlier within the presentation is that there are really co-existing terms. And there is no prioritization which should be afforded at any particular time.

So with anybody that's applying they should be given the right to access the term that they are applying for based on their application and it going through the application process as defined.

So I hope that just gives a flavor of some of the reasons why this is an important issue and that, you know, brands are looking at this very specifically with the idea that there shouldn't be any contention for them, to actually apply and run a .brand that matches a geographic term. Thank you.

Avri Doria: Okay, thank you. I'll move to Paul McGrady next.

Paul McGrady: Thanks Avri. Paul McGrady here. Just wanted to say thank you to everyone for your great questions about the geo PIC and the great comments and the chat. As I mentioned, it should be viewed as a proposed exposition, an idea, a sketch, not necessarily a set of promises but certainly a proposal.

Well certainly not a set of promises but a proposal for a way forward. I realize there are some parts of it that need some input and work and I just wanted to encourage everybody to reach out by email with any ideas they may have and I look forward to talking about it to you all more in Joburg. Thanks.

Avri Doria: Thank you. The only thing I'd like to add to that is we don't need to wait until Joburg. Good to have conversations on the list and elsewhere. Yes, Kavouss.

Kavouss Arasteh: This does not get us anywhere until we try to see if there are any common grounds. (Unintelligible). It is linked with the identity of many countries in Latin America. (Why do they put that on the identity of the African people)? Why do they put it in the so and so? (Unintelligible). We need to find something that is mutually agreed. (Unintelligible). Thank you.

Avri Doria: Okay. Thank you. I'm sorry it was not helpful to you. I'm hoping it was helpful to other people. I think our purpose …

((Crosstalk))

Avri Doria: Excuse me. Excuse me. I waited until you finished. The point is …

Kavouss Arasteh: The point is that you are saying that it was useful to other people. Thank you.

Avri Doria: I'm not. I'm saying I'm hoping that it was useful to other people and I apologize to you if we have indeed wasted your time. But to us it really did seem important to find out what the initial positions are so that then we can start working on finding the common ground. And we did indeed have at least one if not two possible ways forward, possible proposals.

It is now one minute before the hour and at this point I would like to thank everyone that contributed both as presenters and with questions and said that we will try to mind the chat for all the comments and points of view that were expressed so that none of it gets lost.

And there will be another one of these sessions later today that will be very much the same presentations that will be at 22 UTC. And us being on the hour, I thank you all and wish you a good next hour and beyond. Thank you.

Jeff Neuman: Thank you. Great session.

Woman: Thank you. Once again the meeting has adjourned. Thank you very much for joining. Operator, can you please stop our recording.

Coordinator: Please remember to disconnect the rest of your lines and have a great rest of your day.

END