

**Cross Community WG discussing Recommendation 6 of the new gTLD process
(Rec6 CDG-WG)
TRANSCRIPTION
Monday 15 November 2010 at 20:30 UTC**

Note: The following is the output of transcribing from an audio recording of the Cross Community Working Group discussing Recommendation 6 of the new gTLD process (Rec6 CDG-WG) meeting on Monday 15 November at 2030 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at:

<http://audio.icann.org/gnso/gnso-cwg-20101115-en.mp3>

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Coordinator: I'd like to remind all participants today's conference is being recorded, if you have any objections you may disconnect at this time. You may begin.

Gisella Gruber-White: Okay.

Chuck Gomes: Gisella, for those who may benefit from this would you please just list who's on the call very quickly?

Gisella Gruber-White: With pleasure. Good morning, good afternoon, good evening to everyone. On today's call on Monday the 15th of November we have Chuck Gomes, Cheryl Langdon-Orr, Danny Younger, Sebastien Bachollet, Elaine Pruis, Konstantinos Komaitis, Frank March, Steve Pinkos, Avri Doria, Robin Gross, Stuart Lawley, Liang Wong, Krista Papac, Stefano Trumpy, Mark Carvell, Jon Nevett, Heather Dryden, Carroll Dorgan, Richard Tindal.

From staff we have Margie Milam, Liz Gasster, David Olive, Marika Konings, Kurt Pritz, Heidi Ulrich, Jamie Hedlund and myself Gisella Gruber-White. If I could also please remind everyone to state their names when speaking for transcript purposes especially with such a large group. Thank you, over to you Chuck.

Chuck Gomes: Thank you very much Gisella, I appreciate that. Welcome to everyone to this call. And it's good to get together with all of you again. We spent a lot of meetings together there in a very short period of time so welcome back. And hopefully everyone has had a chance to take a look at least parts of the Guidebook related to the recommendations of the community working group on Recommendation 6.

If you have not logged into the Adobe Connect room I certainly encourage you to do that. And it makes it a lot easier to manage the queue. But if there's anyone who is unable to do that please let me know so that I can recognize that and then speak up please if you want to get in the queue.

All right thanks, Margie, for sending around a little agenda. The first thing on there really other than the administrative matters that I just covered is to allow the co-chairs to make some introductory comments and then we'll turn it over to Kurt and we'll start with Cheryl and then Heather and then I'll make just a couple remarks. Come on in.

Cheryl Langdon-Orr: Okay thank you. Cheryl Langdon-Orr here for the transcript. And for those of you who have their lines open it's star 6 to mute and star 6 to unmute for this call. Very, very briefly I wanted to note for the record that the privilege of working with the cross-community work group on Recommendation 6 for the new gTLDs has been one of the high points in the time I've spent with ICANN and that's not just within the wonderful world of At-Large and the ALAC.

It has been one of the most productive, proactive, frank and fearless conversations with I think puts the best example of a most successful bottom-up consistently well debated and yet still moving forward piece of work. And it's a pity that it'll be done in such short time that I believe we should be very proud of what we've done.

And I'm certainly looking forward to the opportunity to explore some next steps today and indeed I'm sure a lot more work right through the Cartagena meeting. Thank you Chuck.

Chuck Gomes: Thank you Cheryl. Let me turn it over to Heather.

Heather Dryden: Thank you Chuck. I'll allow Frank March to pipe in if he wishes to because really Frank was leading these efforts from the GAC side. But just one observation from me is that I had expressed a openness to holding this call and having a session in Cartagena because I think it's important for the community, for the working group, to maybe have a better sense of what's happening on the board side and the treatment of the report that the working group came out with.

I know there were some questions and so this I see as a really good chance to clarify some of those understandings and allow us another opportunity when we're face to face in Cartagena. So that was really the benefit that I saw.

Frank, did you want to add anything as an introductory remark?

Frank Marsh: Thanks Heather. No I'd just like to echo what Cheryl was saying was I thought it was an incredibly productive working group and very, very excellent model for trying to pull together complicated outcomes in a short time. And a great deal of credit to Chuck for the way that he chaired that throughout.

But, no I just share the same comments as Heather. I'm looking forward to have face to face discussions in Columbia.

Chuck Gomes: Thank you very much Frank...

((Crosstalk))

Chuck Gomes: ...and thanks Heather. And I also want - again want to compliment everybody that participated in this working group because it really was a great group of people and all the participants are what made it a success. So thank you for that and good work.

What I would like to do is to suggest, Kurt, that because we've only got this scheduled for an hour that I think it would be most productive if we could focus on the recommendations that were not included in the Guidebook or maybe were only partially included and then, you know, give you a chance to explain to the working group why - what was the source of that decision and so forth.

And possibly have a little bit of discussion in case which was my understanding that you really wanted to make sure that we're communicating between the working group and staff in terms of what the recommendation meant. Is that okay with you Kurt?

Kurt Pritz: Yes Chuck, thanks very much.

Chuck Gomes: And Margie, is it possible to put the recommendations up on the Adobe Connect screen? Or Marika is probably doing that. Are you doing it Marika?

Cheryl Langdon-Orr: Chuck, do you mean the recommendations or the schedule with the staff responses to each of the recommendations that were included...

Chuck Gomes: Actually either one would be fine. I just want us a lot be on the same page when we're looking at those. The schedule with the staff responses is fine if that's easier.

Kurt Pritz: Yeah, this is Kurt. I think that, you know, the initial - the first table in the paper we provided might be the best because it's the most condensed version and then we can go back into the other documents if we need to.

Chuck Gomes: Thanks that sounds good to me. So...

Margie Milam: Chuck it's Margie. If you scroll through the document that's on the screen you have as Appendix A the recommendations and the ICANN response and rationale.

Chuck Gomes: Okay.

Margie Milam: Okay?

Chuck Gomes: Okay very good so there we go. So I'm there; hopefully others are there as well. You have the control of the scrolling on your screen. So let's turn it over to Kurt.

Kurt Pritz: So thank you very much everybody for getting on the call. I'm somewhat daunted by the number of people on the call and whom they represent so I'm not standing here but I'm sitting here thankful that everybody is finding time for this.

And, you know, to the extent staff hasn't again I think they have; we too acknowledge the hard work on going through a bunch of issues here that are really complex and trying to distill it down to provide, you know, this implementation advice for the new gTLD process.

And, you know, where I think we are now is that to echo what's been said before is, you know, we've had, you know, we received the report and have had a change of - an exchange of documents.

And now we're to where Heather mentioned and that is that, you know, more of a discussion rather than exchange of documents will get us to finding out all our possible areas of agreement and implementing as much of the recommendations as possible or understanding the spirit of the

recommendation and satisfying that intention in some way is most economically achieved through a discussion.

So sometimes discussions are harder but I - thanks for your participation. I think this is the right way to go about this. So what we - what we undertook as staff was that we received the report from the working group and, you know, along with, you know, descriptions and explanations furnished by Margie and other staff who attended the calls. Different staff were on different calls; Margie was on them all though.

And then looked at the extensive report and were trying to figure out how to put it in shape for the board. So we got the - we actually sent a report to outside counsel to distill it down to a table. So we got the 50-some odd page report down to 21 pages. Decided that was still too long so then we undertook the six page summary and this first table that takes the - all the issues and distills them down into six major areas.

So that's - so we took essentially the 14 issues that were developed by the working group and put them in these six areas. So, you know, we think for ease of discussion this is the best way to consider them. But it was a complex organizational problem and I'm sure there's ways to improve upon how to distill these issues down and best describe them so any - before we ever get to substance, you know, if along the way you have comments as to form that would be terrific.

And then - so what we shared - what we're sharing with this group in this paper is, you know, essentially the board paper that we - that we presented for the October 28 meeting which was a teleconference. Remember the - this - the working group report was furnished the day before the meeting in Trondheim so we - the discussion in Trondheim really went to going through the report and reading it, describing it and then making recommendations.

So I think - I'm trying to think of any differences between this report and the board paper. And essentially there are none except, you know, the heading is taken out. And there were some more documents that are, you know, background documents, previous letters and the like that were published as part of the paper.

So with that unless there's a preliminary question my suggestion would be that we take each one of these - each one of these issues, there's six of them right, and - or is there five of them? Let me - I can't count to five - five. And so we can spend say 15 minutes on each one.

Chuck just as a point of order did we settle how long the call is? I...

Chuck Gomes: Well, you know, I don't know that we did. I had thought it was for an hour but I'm okay with an, you know, going - giving 15 minutes to each issue if there are no objections. Heather and Cheryl, you want to comment on that?

Cheryl Langdon-Orr: My diary is for two hours; I've got 120 minutes put aside.

Chuck Gomes: Okay. Heather?

Heather Dryden: I have nothing to add, Chuck. I'm content to take the time it needs to - we need to go through the recommendations.

Chuck Gomes: Excellent.

Kurt Pritz: And is that - just as a preview, you know, I'm sure everybody has read this but I think, you know, the last issue is not as media or substantive as the first one so, you know, if we spend more than 15 - say we spend 20 minutes on the first few I think that we'll still finish within the timeframe.

Chuck Gomes: Thank you Kurt.

Kurt Pritz: Sure, no thank you. And so, you know, the first issue is a key one and I'm sure one that, you know, we want to spend a lot of time on and that's the role of the board. And in - so you'll read that in, you know, Trondheim separate from this paper the board undertook a discussion on what its role would be in the new gTLD process.

There's been a lot of discussion about what the role of the board should be given the ability to scale up to consider a lot of applications and the areas of expertise necessary to evaluate new gTLDs. And so the - so I'll just tell you some of the basis of why what is written here is written here but I think, you know, I hope it's kind of clear to you but there's a few issues.

One - the first one is board capacity; the board being able to, you know, having the capacity to deal with a number of - the large number of gTLD applications we expect. The second issue really goes to expertise and, you know, just as in the evaluation process it's fairly well settled that we want independent evaluators evaluating the applications from a technical and operational and financial standpoint.

Similarly disputes should be decided by individuals that have expertise in deciding disputes; expertise in taking criteria, making them as objective as possible, measuring facts against them and providing a determination or a decision as to whether the facts - how the facts match to the - match to the standards.

So expertise in a disputed adjudication is not a - is not a small scale it's honed over a career. And that's why, you know, some of us are advocates and some of us are jurists. And so we think that expertise does not, you know, reside in the board.

And third there's subject matter expertise so that, you know, it's been - the question has been answered many times why should the ICC make these

decisions? And in fact they're not. The ICC is good at finding panelists with correct expertise.

In this case, you know, as been said before these will be people with some gravitas; retired justices from international tribunals which is one of the reasons why these dispute resolutions are kind of expensive, and that have adjudicated international disputes before and disputes having to do with usage of language.

So we think, you know, the board with all due respect to the board who have a lot of skills in a lot of different areas don't possesses, you know, weren't retained with the idea that they had the requisite skills in this area. So that's why, you know, it's also - this was also developed during the GNSO's work where one of the implementation guidelines had to do with establishing dispute resolution processes.

And so it - so this idea of - so my last statement is this idea of independent dispute resolution is really a cornerstone of the whole program and how to make decisions on these corner cases and is a prime, you know, it's a - by cornerstone I mean a key piece in how ICANN and - the big ICANN, all of us, are managing a complex area and managing the risks associated with volume capacity and the right expertise to make these decisions.

Chuck Gomes: Kurt, this is Chuck. Do you want me to manage the queue or do you want to do it directly?

Kurt Pritz: Oh I would love for the chair to manage the queue.

Chuck Gomes: Okay. Well I'm just one of the chairs but Cheryl has her hand up.

Cheryl Langdon-Orr: Thank you Chuck. Kurt, restricting my comments specifically to the work group issue, Number 1, that is the board role and just picking up on a couple of the things you just said remembering that what we spent as the work group

- and I need for the record to be very clear that I'm speaking here in my individual capacity as an AP RALO rep and as an ALAC member; not representing the ALAC and certainly not just speaking as an uninterested party but someone who has looked at this certainly back since 2007.

So I also wanted to just make clear that my board experience is fairly extensive having got director jobs in for profit, not for profit, fortune companies here, I've done a lot of board training.

I recognize how and why boards are selected and for what sort of expertise but they're selected for responsibility. And whilst we recognize that they must indeed, should and if they're doing their job properly have to take all the appropriate independent and in-house advice they can get on these things.

When it comes to objections being submitted to the board - and that was all we were discussing - we would have thought that we weren't looking at diluting any of the importance independence or validity as external counsel from wherever it comes.

And dispute resolution, yes, is an absolute art form. And it would be as a result of a failed dispute resolution process, the objection would be in continuation I'd have thought. So can you help me understand the staff, you know, points, just on those issues?

Chuck Gomes: Kurt?

Kurt Pritz: I, you know, there was some noise on the line and I didn't hear the very last sentence Cheryl said so could you...

Cheryl Langdon-Orr: Sure. I said certainly if the objection was to continue to be even considered to be a maintained objection then a dispute resolution process has in fact not resolved your commercial dispute process with all the

expertise you've summoned has not got a result if it's an objection still continuing to the board.

Kurt Pritz: So I'm really sorry I don't quite understand your point. So if a - so if there's a - so if there's an objection then the independent evaluators make a decision and then the board will in every case note the reports that are done around each application.

So each application goes through a process there will be some objections; nobody knows how many. And they'll be decided. And then the board will see that 1, the process was followed, 2, that, you know, there's an independent agency kind of overseeing the process to see that the process was followed and report on that.

So I guess what I don't understand is how the objection continues. I mean, the parties could still - the parties in the dispute could still differ. Every time I lose a dispute resolution process I still think I'm right.

Cheryl Langdon-Orr: Well someone...

Kurt Pritz: But I don't know what you mean by continuing objection.

Cheryl Langdon-Orr: Move to Robin, she'll probably be more articulate than I clearly am.

Chuck Gomes: Okay Robin.

Robin Gross: Hi, can you hear me?

Chuck Gomes: Yeah.

Robin Gross: Great. Yeah, so there was three points that I wanted to make on this section. And the first is that I'm concerned that the staff report that came out over the

weekend significantly misrepresents the report that the working group did particularly the proposals and recommendations that we came up with.

For example we see over and over again in the staff report that the board can't possibly manage all the applications and vote on all the applications. But that was not what we recommended.

What we recommended was that the board only look at those objections that have been sustained. Those would be the TLDs that the board would look at; not each and every single new application that comes forward. But that's the way you guys presented our recommendation in the report.

So there's a concern that you guys misrepresented what our recommendations actually were in order to create straw men that you could then knock down as being unworkable. So that's a serious complaint that I have that goes throughout all of these recommendations that came out over the weekend. So that's the first point.

The second point is I'm concerned that there's a new policy goal, a new primary policy goal which is risk mitigation strategy for ICANN. I don't remember us ever deciding that that was going to be a policy goal. But it seems that now what's in the best interest for the Internet is irrelevant. The policy goal that rules is what's in the best interest for ICANN the corporation as decided by corporate officers.

So, you know, this is a really big shock for a lot of us to hear that risk mitigation strategies as in cheap insurance policies and trying to avoid litigation are now the primary policy goal. Forget about all of the community interests that went into negotiating these texts. So that's the second point I wanted to make.

And the third is I'm concerned about this clear attempt to fob off responsibility from the board to some outside unaccountable third party to be making

decisions. We are all in agreement that we want these independent experts to evaluate the legal standards. Don't try to say that the group doesn't want that because that is what we wanted.

What we wanted then was - were for those objections that have been sustained to have to go before the board. And clearly here this is just a fobbing off of that responsibility trying to again avoid litigation, avoid responsibility rather than take responsibility and take accountability.

So these are my three main concerns; they go throughout all of these proposals that came out over the weekend. And you'll probably hear about them over and over again. Thank you. If you could explain how that happened I'd appreciate it.

Chuck Gomes: Thanks Robin. It's back to you Kurt.

Kurt Pritz: So thanks for your comments. Just to take them - just to take them in a line, you know, I certainly understand what you're saying about capacity. And we understand that too. I think that, you know, I don't know how many morality and public order objections there will be and how many will be - how many would be sustained.

But my - so maybe you can help me but my understanding is that if an objection is sustained then the board would have to vote by 2/3 to, you know, approve the upholding of the objection. And so when this was discussed, you know, this is essentially - the board would undertake hearing that objection, you know, all over again.

And in other words it would take the same amount of deliberation in order to determine whether that objection should be sustained if it's a board vote on that issue with the attendant, you know, homework and study that needed to be done.

So even in low numbers given the capacity of the board I would think, you know, each objection would easily take a board meeting's worth of work to prepare and work toward. So that's one.

And second then it lifts the - again it lifts the - it lifts the expertise out of the hands of the independent evaluators and into that of the board. And when we talk about risk we're just talking about risk to the - to ICANN's policy and process; it's not the director's risk or its insurance policy it's whether we have a predictable transparent process that the GNSO asked us to implement.

And we see that injecting this uncertainty into it. And the extra burdens - is something that works against what the policy recommendations are. And we see in - we do see a risk - a higher risk of litigation. And so that's not, you know, the - I'm not the one being sued, right, it's - we're trying to protect ICANN, the ICANN model and the new gTLD process.

And it really has nothing to do with the staff. So it was really all about that, having a process where the decision makers aren't trained as dispute resolution providers or trained in restrictions on words or have prior experience here in cases with international participants leads to a - leads to a, you know, uncertainty for applicants and, you know, poses a risk to the process for ICANN.

We're just trying to launch a, you know, we're trying to launch a new gTLD process that works good and lasts a long time. And we see providing as much certainty into the process as that.

Robin Gross: Can I respond real briefly?

Chuck Gomes: Go ahead, Robin.

Robin Gross: Page 21 of the staff memo under ICANN Response and Rationale it says, "The existing process does not provide for the board to consider and approve

individual applications for new gTLDs which there may be hundreds in the first round."

Again this is a straw man argument. This is not - this statement doesn't talk about objections which have been sustained. This is a statement that tries to imply that our recommendation was that every single application for a new gTLD is going to go to the board.

So it's, again it's different - it's a different answer on paper than what we're getting now. But what we're getting on paper is the - apparently the official one and it's a straw man; it's not the recommendation of the group.

Amy Stathos: Robin, this is Amy Stathos. If I might respond Chuck?

Chuck Gomes: Yes go ahead Amy.

Amy Stathos: Thanks. So, Robin, I just have a question because I'm - if you can point me to the recommendation where it says only the objections - because what I'm trying to understand is if the process would be what you're saying is that people would file objections with the dispute resolution provider and then if they are - if the objection is sustained then it would go to the board. Is that what you're saying? I'm just a little confused so I just want to get that clear.

Robin Gross: That is what I'm saying, exactly. And, you know, if there's...

((Crosstalk))

Robin Gross: ...that has a different understanding than me just, you know, let me know. But that was my understanding.

Chuck Gomes: Let me jump in there. This is Chuck. I'm looking at the report that we submitted.

Amy Stathos: Chuck, we're having a real hard time hearing you.

Chuck Gomes: Okay is that better?

Cheryl Langdon-Orr: Not much.

Amy Stathos: A little bit.

Chuck Gomes: Okay, not sure what's going on. Let me get the volume up. All right what I'm saying is in the report that we submitted Recommendation Number 4.1 says, "The ultimate resolution of the admissibility of a TLD subject to a Rec 6 objection rests with the board alone and may be not be delegated to a third party."

Now let me just ask is there any - I think we're all in agreement that was a full consensus recommendation that the ultimate decision is with the board. But what we're talking about right now is does that mean that every decision for a name going into the roots has to be delegated to the board?

So certainly that particular wording doesn't specifically say that it's just those that are, you know, that for which there was an objection sustained. Does anybody in the working group - is there - do you recall language in our report - I know we talked about this and talked about the idea that Robin is talking about. But does - can somebody point to a place in the report where it actually - we used the language that Robin is using?

Cheryl Langdon-Orr: For Recommendation 4 and 5 both use specific reference to objections going to the board. It's Cheryl speaking. So 5, Page 21 specifically - where Robin was referring to - the ICANN Response and Rationale indicating an argument that says the board couldn't possibly deal with hundreds of applications. That text is next to the work group recommendation that clearly states objections. That is one example.

Chuck Gomes: Okay. Thank you Cheryl. Anyone else have some language that might be helpful here in terms of getting mutual understanding?

Cheryl Langdon-Orr: Four point two, under - it's Cheryl again - under its authority to obtain independent expertise as stated in Article 11(a) of the ICANN bylaws the board shall contract appropriate expertise resources capable of providing objective advice in regards to objections received through this process.

I can continue reading the report but, you know...

Chuck Gomes: No, I mean, is that helpful Kurt and Amy?

Amy Stathos: Well let me just clarify...

((Crosstalk))

Amy Stathos: ...because to me, Chuck and Cheryl and Robin, that seems different what Cheryl is pointing out - and recognizing that the report says objections I think Robin's point is different than what, Cheryl, you're clarifying because Robin said that only objections that have been sustained would go to the board.

The report itself, as I read it, means that every objection would go at first instance to the board. And then it would be up to the board to hire and contract with experts not just when something is sustained.

Cheryl Langdon-Orr: Yeah, Amy, I see where yours read that way. I'd ask the rest of the working group to perhaps indicate with, you know, ticks or crosses that my memory of it was that we - our sustained language is how our conversation went. I think it's an issue of the compressed time and the inability for us to have had dialogue between the report going on and the report being analyzed.

Chuck Gomes: Yeah and that could very well be the case. Olivier has had his hand up for quite a while. Let me go to Olivier.

Oliver Crepin-LeBlond: Thank you Chuck. I'm sorry if I'm going to take us back by a few minutes. I wanted to respond to some of Kurt's mentions of the argument that risk mitigation is one of the primary reasons why a number of - you're talking about a number of decisions are taken.

Ultimately the responsibility for the new gTLD process lies with ICANN. I don't think it lies with any outside resolution provider whatsoever. So the argument that's saying that an outside resolution provider would be used specifically to avoid lawsuits and litigation is in my belief a straw man argument because ultimately it might be that not only the outside provider will be sued by ICANN might be sued in the same way. That's one point I wanted to make.

The other point was the fact that if you're going to give the control for a process, for a core ICANN process to a outside organization you really open yourself to capture. And we know how all of ICANN is structured and all ICANN processes are structured so as to avoid capture.

And I see the - giving the yes or no answer to an outside organization which will be independent of ICANN as being something dangerous. Thank you.

Chuck Gomes: Thank you Olivier. Kurt or Amy, do you respond to that? It's not required I'm just giving you opportunity.

Kurt Pritz: Yeah, I don't get the capture argument; can you - I want to understand it.

Chuck Gomes: Olivier.

Kurt Pritz: For example, you know, this is not as strong as a example but UDRP is an ICANN consensus policy where we rely on people that understand intellectual

property law to make determinations between two outside parties. That's a core - core, you know, policy implementation of ICANN.

Oliver Crepin-LeBlond: I agree with you, Kurt, that's fine for smaller processes, UDRP for specific domains and so on. But we're dealing here with new gTLDs. This is a major chunk of ICANN's business. It's a major process.

Chuck Gomes: Okay. We can come back to that if we need to. Margie has had her hand up for a while. Margie.

Margie Milam: Yeah, I just wanted to provide some information on your prior question as to whether there were other parts of the report that address this issue. And I just wanted to draw your attention to Section 5 of the report that talks about the threshold for board decisions to reject an application.

We have 5.1 that says that there should be a higher threshold for the board to uphold an objection. Five point two says that threshold could be 2/3. Five point three says that approval of a string should only require a simple majority of the board regardless of the input from the experts.

So I think this is where some of the, I guess, gray area as to whether our report talked about, you know, all applications going to the board or just the ones that involved an objection.

Chuck Gomes: Thank you Margie that - I think that's helpful to point out. Notice there was not unanimous consensus on these things but there was consensus or at least strong support for making the differentiation between upholding an objection versus just putting a string into the root. I appreciate that. Alan.

Alan Greenberg: Yeah, Margie said part of what I was going to - I was going to point to that. I think part of the issue is this was a very compressed process. And along the way there were many different opinions ranging from the board should not have any involvement at all to the board must make every possible decision.

And the tone of the discussion certainly at the end is exactly at Cheryl and Robin said; that the crucial thing of import to the people was that rejections should not be done on a delegated basis without the board ratifying it in some way.

That was the very clear message which may not have been represented as clearly in the report as it should have been which I think goes back to the issue of things that are this complex cannot be necessarily represented well in a very short concise report that there has to be some level of conversation on the crucial issues.

But certainly that was the intent I believe of the discussion at the end of the group's actions that the critical issue was the rejection process. And there were people who said, you know, essentially no application should ever be rejected unless the board takes action. And that was certainly the intent even if it didn't get represented well. Thank you.

Chuck Gomes: Thank you Alan. Sebastien. Sebastien?

Sebastien Bachollet: Yes.

Chuck Gomes: You have your hand raised?

Sebastien Bachollet: Yes I...

Chuck Gomes: Go ahead.

Sebastien Bachollet: Can you hear me?

Chuck Gomes: Yes.

Sebastien Bachollet: Okay. I just wanted to say that my impression here is that where will a process broken because we are trying today to rebuild something that must be done prior to the board meeting. It seems to be that it's very difficult when the community is making a lot of work if staff take one position without any discussion with us as a community prior to give something to the board. It's a broken process.

And we see that - I see that within the At-Large arena; I see that now; I see that in other working group. And I think we need to - we will need to fix that because it's too difficult. Thank you.

Chuck Gomes: Thank you Sebastien. And my understanding is one of the purposes of this meeting is to do exactly what we've been doing and that is to see if there's a misunderstanding between what we said in the report and how staff interpreted it and so forth.

And so I would just like to ask Kurt is this clarification of the - of this particular issue in terms of the board's role helpful? Does it give some more insight in terms of the intent of the working group in that regard?

Kurt Pritz: Yes so not quite. Let's - so let's talk about the goals of, you know, we all have the same goals so let's talk about the goals of this recommendation for a bit, all right?

You know, I think all of us want to launch a smooth-running process that makes the right decisions. And this - the objection processes were among the hardest to implement. So by interjecting the board role which we think, you know, there's difficulty in them having adequate time and they don't have the correct expertise.

So, you know, I don't want to take up that line of thinking. But what we think - what's the goal? What are we solving for? What are you solving for in this recommendation? And because I'd like to get to, you know, maybe we can

get to a solution space if we understand - you know, it's not just that the board votes or, you know, we're all trying for some higher purpose; we're all trying - than who gets to decide and what the role is.

You know, from our point of view the board has the ultimate responsibility over the new gTLD process. And, you know, putting myself in board member's shoes, you know, I would want these decisions in the new gTLD process to be made consistently by those the best suited to make them.

And then I would like to, you know, watch the process and say this process, you know, this process is running as we predicted or, you know, this process is not running as we wanted and we need to make adjustments. So, you know, in putting this vote to the board what's the goal?

Chuck Gomes: Well first of all are we on the same page, Kurt, with regard - and this is Chuck - with regard to the fact that there was quite a bit of support in the group - strong support and even consensus support on the idea of a string being rejected requiring a higher threshold from the board to approve it going into the root than just any other string that might go into the root.

Was that understood by staff and ultimately the board?

Kurt Pritz: Yeah so it wasn't - yeah it wasn't clear from the paper but if - but I understand what you're saying and can accept it.

Chuck Gomes: Okay.

Kurt Pritz: I don't see how that, you know, if you lose in an objection, if you're a government and you lose in an objection why you can't go to the board where, you know, a private entity that loses at an objection does get to the board.

Chuck Gomes: I don't think I follow that in terms of losing. What we're talking about...

((Crosstalk))

Kurt Pritz: The report says that only losing applicants can go to the board for review.

Amy Stathos: No.

((Crosstalk))

Kurt Pritz: No?

Man: (Unintelligible).

Kurt Pritz: Right. That's what I'm trying to understand.

Chuck Gomes: And I'm not sure, somebody help me out here on the working group but I'm not sure that the intent of the working group was that all losers get to go to the board. With regard to Recommendation 6 issues if a string is denied - and I think this is what Robin said - and in the language that Margie referred to in the actual recommendations the idea was is that there be a higher threshold of a - of denial of a string then just approval of a string.

So if I have stated that incorrectly please correct me. And I see Amy's hand is up, go ahead.

Amy Stathos: So, Chuck, I - thank you, appreciate that. I think I've tried to clarify the language with Robin earlier. And so maybe the group can weigh in on this so just so I understand what we're trying to say.

So the working group agrees that objections can be filed with a dispute resolution provider. That dispute resolution provider makes a determination. If the determination is in favor of the objector, meaning an application is

rejected, then that would be brought to the board for resolution or consideration?

Chuck Gomes: That is my understanding. Does anybody have a different understanding? Please raise your hand if you do.

Alan Greenberg: I think the term we used at some point was for ratification.

Chuck Gomes: And I don't think - and again I don't want to be the spokesperson for the group because I may misrepresent so keep me honest, everybody. But...

((Crosstalk))

Amy Stathos: Go ahead, Chuck.

Chuck Gomes: Yeah the idea...

Amy Stathos: All I wanted to say is that that's not the way the report reads. And so if that's the - what the intent is I certainly appreciate that clarification but that is not what the report says.

Chuck Gomes: Okay and several people have commented on that and that's quite possible. But I do believe that that's an accurate - what we're saying today is accurate. And it wasn't unanimous support; it wasn't full consensus but it was strong and at a consensus level.

And the idea was not that the board is expected to have all this expertise and make a - and have to get the expertise themselves but rather to rely on the information from the expert provider and to require a higher threshold for denying the string than just - so in other words a little more due diligence is going to be necessary in reviewing the data but not necessarily to be the experts.

Amy Stathos: Okay so then I read 4.2 - then I get a little confused with 4.2 because it says that the board shall contract appropriate expert resources. So would that mean after the dispute resolution determination is issued the board would then go find other experts?

Chuck Gomes: That's not what I recall - what I recall. And I'm doing too much of the talking I think so help me out especially if I'm off base. My recollection was that that was a recommendation that we support the idea of an expert recommendation panel but I don't recall us talking about, you know, the board going out and getting new experts on each - on these particular cases.

Let me call on some other people. Evan, please.

Evan Leibovitch: Hi everybody. I think part of the thing - part of the reason we're going around the block so many times is because you'll notice that the term dispute resolution service provider exists nowhere in that document. Kurt, you mentioned that this is a cornerstone of the way you were planning to do this.

And I think part of the real big issue, you know, 30,000 feet point of this, is that there is a fundamental problem in big parts of the community with that cornerstone. And the fact that the DRSP is so central to things; it is at the - it is the - it is at the center of all sorts of problems about who is going to be picked. It's at the problem of creating huge amounts of expense for both the objector and for the applicant.

It's about a very easily system to be gained or to have an applicant spent into oblivion. There were all sorts of problems with this. And it wasn't, you know, it either wasn't seen or it was shoved off or whatever. The community essentially had said this cornerstone of what is in the Application Guidebook was not acceptable.

And what is so astounding is that except for what seems to be almost cosmetic changes there isn't a whole lot of fundamental change even though

the report has been calling for fundamental change. There is no DRSP mentioned anywhere in the report and there's a reason for that.

And I really want you to tell us - first of all why are we having this call the weekend - the day after the release of the Application Guidebook instead of before? If there's so much confusion as you're seeing happening - you knew this was coming; you knew that there would be community feedback.

You knew that there would be a lot of issues where you weren't quite sure what the working group was getting it. Why wasn't this done before the release of the document not after and putting everyone in a really much more difficult state to be able to deal with this and fix it?

Chuck Gomes: Yeah I'd like to suggest that we don't spend time going down that path and rather we look at trying to be constructive in terms of mutual understanding and possible changes in the Guidebook. Is that okay? Anybody object to that? So any questions of Evan, Kurt or Amy?

Kurt Pritz: Yeah I do, I have three things to say. One is that this dispute resolution policy and procedure have been in the Guidebook since Guidebook 2 just about exactly the same. So...

Evan Leibovitch: And At-Large we've been calling for its abolition since the summit in Mexico City just because it wasn't listened to doesn't mean the objection to that process isn't almost as old as its being there.

Kurt Pritz: Two, it's in the GNSO's policy implementation guidelines so it was voted on then approved by the GNSO as part of the policy to have external dispute resolution providers who will give decisions on objections. So that is the policy we were given to implement. And we implemented it.

And third, with respect to likelihood of gaming, that is exactly why dispute resolution providers, internationally renowned dispute resolution providers

such as the ICC developed rules for how to manage dispute resolution processes in a way that gets to a fair fact-based result and not one that is ad hoc and susceptible to lobbying or public comment but rather is subject to a clear proven set of rules administered by a set of experts.

Evan Leibovitch: What about the ability for one side to outspend the other?

Kurt Pritz: There is rules and in the - in the dispute resolution procedures about what documents are required, the timing of the documents and what's included. So there's - participants in that procedure can get a clear idea before launching into the process of what it's going to take to participate in that process as...

Evan Leibovitch: That's not what I meant. I meant an objector that's very, very well funded could basically launch objection after slightly different objection after slightly different objection and essentially spend an applicant into oblivion.

Kurt Pritz: Well, you know, there's consolidation of hearings. There's an open and closed period for objections. So again the rules were meant to take that into account. And I think that's different from the ability to lobby board members repeatedly.

So you know what? You know, Evan, you know, you and I have talked a lot. And, you know, we want exactly the same result. And I don't - I'm just trying to get to an understanding of why we think the board might be better suited to make a decision on an objection.

You know, we've spent, you know, and I know there's been a lot of denigration on this but honestly we, you know, we've made investments on essentially the best expertise in the world in this area to implement this policy recommendation.

And when it was first done, you know, I looked at it and, you know, I guess I'm wrong but I thought it was, you know, some of the best work and research

that ICANN has ever done. And so I'm just looking for something to hang my that on to say, you know, why we'd want to the board to make this call because I want - I want the same result - I want the same result of this process as you.

I want a, you know, I want us all, you know, everybody in this virtual room, you know, worked on this darn thing. And, you know, it's something we all want to reflect back on and say we did a good job.

Evan Leibovitch: That's why I'm asking why didn't we have this conversation last week instead of this week?

((Crosstalk))

Cheryl Langdon-Orr: Evan, we didn't so let's just...

Evan Leibovitch: Yeah.

Cheryl Langdon-Orr: ...move to what we can do and make...

Evan Leibovitch: All right.

Cheryl Langdon-Orr: ...maybe going back to Amy's question at some point, Chuck, would be a good idea as well.

Chuck Gomes: Yes let's go to Alan.

Alan Greenberg: Well timing is good. I was going to go back to Amy's question. I think one of the issues - and it was alluded to by what Evan was saying is there was a feeling among at least some of the people in the working group that they didn't want this to be an external dispute mechanism but just expert services.

So we uniformly used the term expert panel in the document instead of dispute resolution. So and if there's anything unclear it is the same...

Cheryl Langdon-Orr: Yeah.

Alan Greenberg: ...part in the process not two consecutive ones. There were differences among the people on the group. And most of them got reflected well in the report on the measure of consensus; not all of them probably did. This was one which may not have made it as well into the report.

There were certainly some people on the group who felt it was acceptable for the external body that denies an objection to let that stand without board action. At that point it effectively is a dispute resolution mechanism because it isn't going to another party to ratify it.

But there was a strong feeling and pretty much unanimous that the board must take action if a TLD is going to be refused. And the rationale for it I think was a matter of perception that ICANN - that the people felt that ICANN should be perceived as a group which is open to letting things into the root and has to take extraordinary action to bar it as opposed to you have to go through some result to get something into the root, you know, other than application form and stuff like that.

So it was a matter very much of perception that the board should have to take action to reject it not because they're smarter than the outside panel but because it's something that we don't want - we don't want to encourage censorship of the form that some people saw in this type of objection.

And by asking for the board to ratify it, rubber stamp if you will, that put a measure of importance on it. And I may not be using the right words but I think that was the tone that I got from the meetings. Thank you.

Chuck Gomes: Amy, did you get the answer to what you were looking for?

Amy Stathos: I think from what Alan just said and from what I've heard previously is that the intent is different than what the paper said. And - but I do believe I understood what Alan said in terms of the fact that it would be a dispute resolution process all the way up until the point where an objection is sustained or in other words an application is rejected by the dispute resolution panel.

And then at that point there'd be a next step. What I'm still unclear about though is that if at that point the next step if the board is required to take a - I know Alan said possibly ratify or rubber stamp or whatever the case may be are they supposed to do an independent evaluation of the objection papers and all of those things? That's what I'm still unclear about what the board's role would be in that regard.

Alan Greenberg: I would assume that they're supposed to read the judgment if nothing else which presumably gives a rationale for why that judgment is made. By the way I would point out there are some - some people on the group who really didn't want it to be a dispute resolution mechanism at all. And that was certainly reflected in what Evan was saying.

And that may be indicative of why the wording is somewhat confusing. But I think certainly the most important issue among most of the people on the group or all was that how rejections are handled and that's why the differences come in.

Chuck Gomes: Okay I think we're going to need to move on from this and go to the next issue; we're way over time on this one although it's I think one that...

Cheryl Langdon-Orr: It's a biggie.

Chuck Gomes: It's a biggie for the working group I recognize that. So...

Kurt Pritz: So Chuck?

Chuck Gomes: Yes Kurt.

Kurt Pritz: So is a takeaway to look at a - I'm afraid to say anything. Is a takeaway to - first of all I want to say that when I read the report, you know, I read that the board is supposed to look at every application. And applications that - applications that are so called normal or not rejected by an objection process just require a majority of the board and applications that are rejected by the dispute resolution provider require a 2/3.

But - and then - so I understand we're getting - there's some clarification of the report which is really dangerous over the phone. So we kind of have two different...

((Crosstalk))

Kurt Pritz: ...two different interpretations going on at the same time. But I'm understanding that at least starting to look at some sort of board review of the rejected applications is a step towards, you know, what this group is looking for.

Chuck Gomes: Yeah I think that's accurate.

Cheryl Langdon-Orr: Correct.

Chuck Gomes: So and Frank, since you're the other - you really filled in for Heather would you concur with that?

Frank Marsh: Yes I think so. There was - I recall a concern from the GAC about expert - external experts taking over responsibility for decisions in critical areas. And I think that the wording of the report as it came through accurately reflected that concern.

So it may not be as clear as it should have been but certainly there had to be a balance between the work load of the board and the need for the board to recognize and take full responsibility. I think we achieved it.

Chuck Gomes: Thank you. Okay let's go on then to working group Issue 2 which is terminology, criteria and references. Kurt would you like to just do a quick overview on that?

Kurt Pritz: Sure. I was talking into the mute. So regarding changing the name and other language we reviewed the group recommendations for the name. And, you know, you know, as already been pointed out in email the name might not really even matter.

And it's - but nonetheless we looked at the different names and didn't pick any of them but tried to pick something that we thought public interest objection might be too broad so we put the word limited in front of it and picked that as what we thought the best. But it's clearly bracketed in the Guidebook.

And then the bracketed language with the change is more an intent to flag that, you know, we're interested in discussing what the name of it should be. And the name of course affects other things in it so we think it's important. And - but - and it's our best try on it so far but an indication that we can talk about it and change the name.

To - with regard to the treaties we added the terms in the treaties. And that - and then gosh you're going to have to help me with this one, Amy.

Amy Stathos: Yeah.

Kurt Pritz: Change in terms in standards such as broaden the discrimination. So we started that. And I think this came up later. So we - we didn't - we did not

change the name of the standard having to do with discrimination. And I'll say a couple things about that.

One is, you know, one is what it said here that, you know, the standard for discrimination was really based on what countries that limits such words, what the collective opinion of what discrimination is in those jurisdictions.

Two is that the working group recommendation broadened that. So it broadened the definition which means that more names would be kept out. And, you know, especially given the discussion we just had last time we saw a lot of discussion in the working group about that morality and public order objection should be limited in scope and narrow.

And there are many advocates for not, you know, very vocal advocates for making the objection narrow and not broadening it. Yet this change in recommendation really got full consensus. So it's something we wanted to talk to you about because the result of this will be in fact to keep more names out.

And then third in changing the name of the standard we included - and this is in a later issue -but included - am I screwing up?

Amy Stathos: I don't know, keep going.

Kurt Pritz: Okay.

Amy Stathos: I'll stop you when you are.

Kurt Pritz: All right so included discrimination based on political beliefs which we think would be an incredible broadening of it because all political beliefs essentially discriminate against some other political belief.

And then finally the last thing we talked about was the quick look procedure and there were clarification requests for language, you know, language in that so we provided more definitions.

Chuck Gomes: And let me open it up for a queue please. Somebody want to respond here? Comments? Anybody want to comment on the limited public interest objection term? Anybody have a problem with that? I mean, does that - is that okay?

What about this idea on discrimination? Robin.

Robin Gross: Okay. Yeah so on the limited public interest name I think we need to change the name. We took a poll through the group and that public interest objections was among the lowest that was polled. So it seems to me that that's probably not the name that should be selected since it was the one that received the smallest amount of support from the community.

It looks like the one that received the strongest support was objections based on general principals of international law. So that would be my recommendation there.

What was the - oh the other issue was...

Chuck Gomes: Discrimination.

Robin Gross: Right, yeah, I found that the examples that were given to justify that didn't really seem to make sense; that, you know, to say ICANN can discriminate giving a domain to somebody because of their political opinion.

And then they cite a bunch of examples about how political parties are allowed to not give people jobs but, you know, that's not really even in the ball park of, you know, people getting - or companies getting domain names.

So I think the examples that are cited for why ICANN should be allowed to discriminate based on political or other opinion really don't match at all the reality. I mean, people getting domain names is not like trying to apply for a job in a political party of - you've got to have the political view.

I mean, we all have to have the ICANN view in order to get a domain name? I mean, this just doesn't make any sense. So, you know, I just felt like it was a little sloppy in terms of some of the analysis that was put forward, the justifications that were put forward. So those were my points on those two issues that you mentioned.

Chuck Gomes: Now first a general comment, just a second, Kurt, if you. Make sure everyone that you participate in the public comment process; don't just rely on this session to make your points. Please submit your comments to the comment session.

And secondly it's a clarification question. Either I misunderstood Robin or I misunderstood Kurt but I thought Kurt was kind of saying the same thing you were, Robin. Did I miss something there?

Robin Gross: Well that would be nice. But the impression that I got was that - we'll let Kurt tell us what he means.

Chuck Gomes: Okay, okay, that's good.

Kurt Pritz: So first of all I want to point out that our suggestion for the name got zero votes. And so, yeah, I was going to ask Robin the same question. So aren't - we were thinking that the - and I kind of messed up where we talk about this in a later issue.

But the discrimination standard suggested by the working group would keep out more names. It would keep out names based on discrimination of political belief. So we are advocating keeping it narrow.

The narrowness we have is based on our survey of restrictions in different countries. A slight broadening along the lines of some of the suggestions of the working group would broaden in somewhat. And then including discrimination based on political belief would broaden in a lot. And we are not for broadening - accepting an objection based on discrimination for political or other (unintelligible).

So I think we're - I think - well knowing your past position on these issues, Robin, I think we agree on that.

Robin Gross: Okay so I appreciate that clarification. So you're saying you would not allow objections based upon political views or opinions?

Kurt Pritz: Right. But the...

Robin Gross: Okay.

Kurt Pritz: ...full consensus on the working group said we should.

Robin Gross: I appreciate your clarification on that.

Chuck Gomes: Thank you. Let's go to Avri.

Avri Doria: Yeah I think what the - thank you, this is Avri. I think what the group said was talking about restricting for incitement against various groups. And so it was dealing with as long as you were going to have a clause that said inciting against people on a certain basis then you should broaden that, for example, to include incitement against the disabled or include incitement against a gay or incitement against the minority population or a political opinion.

It was not saying that we think you should exclude people because of their political opinion or exclude people because they are disabled. But rather that

you should exclude - if you're going to have an incitement clause at all and if you're going to say that a valid basis for excluding a name is a name that incites against a certain class of people that class of people should include the disabled, should include gender variance, should include minority populations and political opinion.

So it's not quite the way you just interpreted that we were suggesting that you - and I understand the implications that came out in Paul's note that sort of looked at the political condition and said you could twist that to perhaps say that a certain name was incitement against a political cause and misuse that.

And perhaps there's something to be discussed in that area. I didn't quite understand Paul's point but I did, you know, I could see something. But there was nothing in his comment that said that the same thing goes for the disabled or the same thing goes for (LGBT2) people.

So I think that you threw out quite a bit. I was going to say if you want to get rid of an incitement clause then there's nothing for us to argue about. But as long as you have an incitement clause you should include all the categories of people that are currently being included in more and more of national standards. Thank you.

Chuck Gomes: Thanks Avri. Let's go...

((Crosstalk))

Chuck Gomes: Let's go though the queue here just a little bit and then we'll come back to Kurt and I see Amy has her hand up so we'll go there. Konstantinos.

Konstantinos Komaitis: Yes thank you very much, Chuck. I would like to raise the issue of incitement in litigation with things not sort of being taken on board. And if I recall is the replacement of the term incitement with - incitement and

instigation. That was the consensus of the working group. And it was meant to say it wasn't to protest.

Because of the difficulties that the group identified in finding gTLDs simply words that would incite anyone to do something we thought that it would have been beneficial and in compliance with international criminal law to add an extra prong.

And it is quite concerning to see that staff is willing to replace the and with a not basically broadening again - once again the standard instead of making it more specific which was the original intention of the group. Thank you very much.

Chuck Gomes: Thank you Konstantinos. Carroll.

Carroll Dorgan: Yes thank you Chuck. This is Carroll. I was going to return to the point that Avri that was just making about discrimination. And you have to remember here what we're looking at are the grounds on which a - an applied for string might be successfully objected to, in other words what are the grounds for an objection that would be sustained.

And so every additional ground, you know, expands the possibilities of blocking an applied for string. In the work that we did with ICANN we looked at laws around the world and tried to identify certain basis for discrimination, that is where there is - there are commonly accepted rules, commonly accepted norms. In other words it's widely accepted that discrimination on the basis of race is barred under international treaties and national laws.

There are other types of discrimination, other types of distinguishing among people that may be barred under one country's laws but not others.

Man: Hi there my name...

Carroll Dorgan: And so the idea in pursuing the notion of norms that are widely accepted under principals of international law. In other words individual states which all tend to agree that there should not be discrimination on the basis of race, for example, you can identify that norm.

You cannot identify a similar norm for all the other grounds of discrimination that have been suggested by the working group. And in fact the example that was given in the chart there is the discrimination on the basis of political opinions is in fact perfectly acceptable in many instances.

Certainly among private parties, media companies for example or other companies are entitled to select whom they hire or select whose views they express or whatever on the basis of political opinions. And even in the examples given in the chart there governments have a certain scope for doing that.

So it does not seem that a string which incites or promotes discrimination on the basis of say political opinions is worthy of an objection under principals of international law or even most national laws.

So that's the underlying rationale for maintaining the standards, the criteria, that were originally set out and not expanding them to bring in new grounds for possible objections that would block applied for strings.

Chuck Gomes: Thank you Carroll. And thanks again for participating in one of our calls and being very helpful in that regard.

Carroll Dorgan: Oh you're welcome.

Chuck Gomes: Any other comments on this category, the Issue 2? Okay...

Cheryl Langdon-Orr: Chuck, Cheryl here...

Chuck Gomes: Yes, Cheryl, go ahead.

((Crosstalk))

Cheryl Langdon-Orr: ...Konstantinos has put in a question to the chat that might be worthwhile at least having a question with notice if not discussed in the call.

Chuck Gomes: So the question is can we have an example of a string that incites or promotes anyone to do anything? Anybody want to respond to that? Carroll, go ahead.

Carroll Dorgan: I would. Sure. And first of all remind you that strings can run up to 63 characters. And so, you know, a complete extensive (sentence) would be possible. I mean, in the call that I participated in...

((Crosstalk))

Carroll Dorgan: ...last time we talked about some examples. The example that was...

Amy Stathos: Oh Carroll can I - this is Amy, can I jump in just for a moment please?

Carroll Dorgan: Sure, sure.

Amy Stathos: I'm just going to caution everybody of using specific examples. I'm just, you know, I just don't think that's a very good idea. I think you can put blanks in places if you'd like.

Carroll Dorgan: Sure. Well then I'll just put in kill the blanks and you can supply various options. And there were, you know, there has been actual - there have been actual trials of people - individuals for incitement to genocide. And people have been tried. There have been appellate proceedings into those and they've been imprisoned for inciting to genocide.

And I think the point here is that you can certainly incite a person to do some act with words. And the question is how many words? What do they say? What's the context? It's certainly a possibility.

And, you know, whether or not any eventual string will incite to violent lawless action or some of those other categories is - remains to be seen. And if it turns out that it's difficult to find an example then I think we could all celebrate and be pleased that there isn't that problem.

But as far as the theoretical possibility incitement is certainly a - incitement to certain crimes exists. It's something that can be done. And it can certainly be recognized as a category for barring a string.

Chuck Gomes: Thank you Carroll. Anyone else have a comment on this area before we move on?

Kurt Pritz: Yeah this is Kurt. I just want to indicate too that the panelists may consider the purpose of the TLD too that there's a - in the application form the applicant is asked to provide the purpose.

Chuck Gomes: So that would deal a little bit at least with the context that Robin mentioned on the chat.

Carroll Dorgan: Certainly you can consider a context. We discussed that last time. And the context would be one of the things that an expert panel could hear submissions on and make a decision upon. And you can certainly look at individual words and words themselves can incite action. And that's - in my mind there's no doubt about that if you can consider also their context.

Chuck Gomes: Thank you Carroll. Avri.

Avri Doria: Yes thank you. I just wanted to ask a quick question. So if I understand what you said while it may be reasonable from what you've stated for someone to

be accused and eliminated because they incited someone to kill or damage or maim because of one's race and at that you see as reasonable to damage or kill or maim because they were disabled or because they were gay wouldn't be a problem for you and shouldn't be something that...

((Crosstalk))

Avri Doria: ...is seen as equal to race.

Carroll Dorgan: What you're describing there is incitement to violent lawless actions. And that settles it right there.

Avri Doria: But it's not in one of the categories that you're protecting.

Carroll Dorgan: Yes it is, it's in the category of incitement to violent lawless action. And on those grounds alone the string would be objected so successfully.

Avri Doria: So, okay, then - and then I'll shut up on this one because I know people need to move on. So you're saying that if it was a string that translated in - discriminate against someone because of their race that would be wrong but discriminate against someone because of their disability, not lawless action just discriminate, that would be a significant difference to you?

Carroll Dorgan: Well what we're suggesting is there are certain categories of discrimination that have been recognized very widely as norms in international practice and in national states - laws as being prohibited.

Avri Doria: Okay I suggest you're not looking far enough - that you're not looking at changes that are happening in the world now in terms of their discrimination laws and that you're discriminating in that case. But thank you.

((Crosstalk))

Chuck Gomes: Okay. Kurt, is it okay to move on?

Kurt Pritz: So I put up that, you know, I kind of put up three choices, right, A, B and C. And even though the report says full consensus, you know, I understand from this call that there's not.

So, you know, Choice A essentially is the - is the one standard for discrimination by staff. Two is a slightly broadened one that doesn't include discrimination for political beliefs. And 3 would be the very broad one that includes discrimination against political beliefs. So I don't know, you know, I don't want to make a decision on this call.

But, you know, I - from listening to the call I really understand that there's sort of a - there's sort of people on - for each one of those.

Chuck Gomes: Okay Carroll did you still have your hand up?

Carroll Dorgan: Oh no I'm sorry.

Chuck Gomes: That's okay. That's okay.

Carroll Dorgan: I'm a little new at this system here. I'll take it down if I can figure out how to do so.

Chuck Gomes: Okay. Olivier.

Olivier Crepin-LeBlond: Thank you Chuck. I just heard that ICANN would be looking at the content or context of a gTLD application. Does that mean that ICANN will then track the content of a Website and so on under a gTLD after it's allocated this gTLD...

((Crosstalk))

Chuck Gomes: I suspect there's a real easy to answer that. Do you want to give it Chris - Kurt, excuse me.

Kurt Pritz: The answer is no unless - what ICANN will track is - or what ICANN will enforce is registration restrictions based on a community application.

Chuck Gomes: Okay thank you. Anything else, Kurt, before we move on?

Kurt Pritz: No.

Chuck Gomes: Okay thanks. Let's go to Issue 3 and I'll turn it back to Kurt.

Kurt Pritz: Okay this recommendation has to go the IO. So I think here's the big picture idea for this one is that here's our reading of the report and a possible way to go forward on this.

When the role of the independent objector was developed it was developed in response to community questions about, you know, who would object if nobody objects and to a clearly objectionable string. And so the narrowest way we found to answer that, you know, in a way that would keep the scope of objections narrow is put these - put this in the hand of a single individual with accountability back to the process that was clear and measurable.

And reading the report the report specified other tasks for the IO different than the one that's envisaged. So, you know, what this - what maybe we could discuss to kind of get right to the heart of this issue is that, you know, maybe discussing - looking at the goals of the working group, you know, as far as, you know, providing information or advice to potential objectors or, you know, helping them through the objection process.

We could talk about how to accomplish some of those goals through an individual that, you know, is either an augmented IO or probably more

appropriately separate from the IO role that should be kept separate from other things.

And so that was my first take at this was that we were looking for a way to preserve the role of the IO but also find ways of accomplishing, you know, some of the working group recommendations.

Chuck Gomes: So in this particular case no changes were made in the Guidebook. Is that correct Kurt?

Kurt Pritz: I'm sorry what did you say Chuck?

Chuck Gomes: There were no changes made in the Guidebook on this one, is that correct?

Kurt Pritz: Yeah, I think so, yeah.

Chuck Gomes: Okay. Evan.

Evan Leibovitch: (Unintelligible) who's unfortunately not on the call, her name is (Huang Schwei) from AP RALO. And she is sort of our expert on the IO. And she said she had some comments. So there might be some issues but I don't think they can be raised adequately on this call because she's not here.

Chuck Gomes: And I - please encourage her to submit those in the comment forum as soon as possible. Robin.

Robin Gross: Yeah, I'm a bit puzzled about the insistence on having an IO in the original vision that the staff created it. I mean, it's worth pointing out that the IO was not something that the GNSO recommended; it is entirely a creature of staff creation as a way of managing risk as it says in this document.

So I'm a bit concerned when the community says well we really don't like the shape of this IO; we're concerned that it's an unchecked gun. We're

concerned that without actually requiring a complaint to be tied to a particular individual or company or somebody, an entity that claims to be harmed that it's dangerous.

But then it just, you know, you just said well too bad this is - it's not consistent with what we had originally planned so we're not going to go forward with it. I mean, how can you justify that and say that this is a bottom-up policy making process when this create that's entirely staff created in the first place isn't allowed to be altered in any way by the community based upon the community's concerns about its potential for abuse?

Chuck Gomes: Let's go ahead and go to Richard and then we'll let Kurt or Amy or anyone else respond.

Richard Tindal: Thanks Chuck, this is Richard. I just wanted really to comment on Robin's observation. I don't think that there's uniform community view that what's in the Guidebook about independent objector is wrong. I think there were multiple comments in favor of the independent objector. Certainly in several versions of the Guidebook I've personally indicated that I think that the independent objector is a good idea.

So I think there is probably a diversity of opinion in the community about whether the IO in the Guidebook is a good thing.

Chuck Gomes: Thank you Richard. Carroll.

Carroll Dorgan: Okay yes I just wanted to maybe it's clear enough and I don't want to overdo things here. However in listening to some of the comments and criticism of the IO I think there may be some misunderstanding of what it really is - the status is and that's how it would operate.

It would not be correct to say that the IO is unchecked in his or her actions and is a sort of a loose cannon or exercises some sort of untrammled

power. The IO - in connection with Recommendation 6 proceedings would have no greater or lesser status or power than any other objector.

And if the IO starts throwing his or her weight around and making completely frivolous or unfair objections they will be dismissed the way any other abusive or unfounded objection could be dismissed under the quick look procedure.

And if the IO submits an objection that is unfounded on its merits it'll be dismissed. And the applicant would recover its costs. An IO that makes repeated unfounded objections would probably lose a lot of credibility and certainly would be unlikely to be reappointed.

So it's really not such a wild and dangerous institution; it has a fairly limited purpose which is explained I think well enough in the memoranda and is not really such a great threat to the smooth running of the system that I think some of the critics have suggested.

Chuck Gomes: Thank you Carroll. Robin.

Robin Gross: Yeah, thanks. It seems like we've got sort of statements that don't make any sense. On the one hand we're saying if nobody's objected to a string yet it's clearly objectionable - well let me get this straight it's clearly objectionable but no person in the world, no religion in the world, no country in the world, no company in the world has objected to this string yet somehow it's supposed to be clearly objectionable.

I mean, obviously these are contradictory statements, contradictory goals. One of the important criteria for this whole process is that it's supposed to be transparent; it's supposed to be objective. You're supposed to know going in when you apply for new TLD what the rules are. You're supposed to know what kinds of objections can be laid.

But you're telling us that even if no country, no person, no religion, no company, nobody in the world objects that there's still supposed to be some kind of expectation that there could be an objection based upon this IO? I mean, this - it seems like you're creating a solution that doesn't have a problem.

Chuck Gomes: Carroll.

Carroll Dorgan: Well just briefly - and it may well be rare that the independent objector objects but there are also sometimes some - there could be various reasons why countries or institutions, individuals, would choose not to object even though they may consider it objectionable. And that's one of the situations where the IO may well be moved to file an objection.

So the paradox of the highly objectionable string to which no one files an objection is possible; it could come to pass for very specific reasons relating to politics, finance and other factors which inhibit or, you know, discourage individuals or institutions or states from filing objection.

Robin Gross: But keep in mind this is a governance process, an open and transparent process. We're not supposed to be having governments filing, you know, secret requests somewhere to block something. This is supposed to be an open transparent process.

We're not supposed to be creating secrecy sorts of mechanisms so people can object to other people's domain names without having to come forward and say that they're objecting. I think your goals are off in this case.

Chuck Gomes: Now one of the suggestions that is in this - with regard to this issue is the idea that the IO must submit an objection if the GAC or ALAC requests it.

((Crosstalk))

Chuck Gomes: Anybody from the GAC or ALAC want to comment on that?

Cheryl Langdon-Orr: I had my hand up, Chuck, simply because it was quite amazing; it was a psychic connection as I was about to say Chuck I've got my hand up. I just want to bring the attention to 10.2 which was a consensus point in our report where we did make the point if requested in writing by the GAC or ALAC the independent objector will prepare and submit a relevant objection.

The independent objector will liaise with the GAC or ALAC in drafting such an objection. Any objection initiated from a GAC or ALAC request will go through exactly the same process as an objection from any other source and must meet the same standard for success as an objection from any other source.

And to a great extent to reply to what Carroll was just raising that was how the work group from a GAC and ALAC point of view felt we were addressing some of what you're alluding to in your statements. And I would guess that the GAC in particular and their representatives need to weigh in now because most of us live in a highly politicized environment and are well aware that there are things that can be done in more than one way.

So we were actually proposing a change which we thought would strengthen and yet give greater transparency to the processes as well as accountability. Go ahead.

Chuck Gomes: Thanks Frank. I don't have to call on anybody general for the GAC. Not that you're necessarily speaking for the GAC but please go ahead.

Frank Marsh: Let me be absolutely assuring that I am not speaking on behalf of the GAC. But in terms of the GAC being involved here there's a lot of debate I think around the question of whether the governments were going to pay for objections or not. And this is a mechanism for governments being able to object without compromising principals about how would pay for what and under what circumstances.

It was using the facility of an independent objector to place an objection into the system and not to bypass anything other than the standard procedures for lodging a payment in order to have an objection on the floor so to speak. That's my recollection. I don't think it was anything more complicated than that.

Chuck Gomes: Thank you very much Frank, appreciate it. Kurt, Amy, any questions with regard to this issue?

Cheryl Langdon-Orr: Well the statements of course - Cheryl here - the statements of course seem to indicate that the IO would serve at the pleasure of the GAC or ALAC and that this mechanism would somehow infringe on their independence in a mandate to act in public interest.

I think it would be remiss of the ALAC and I suspect GAC would be at least in some member countries of similar mind that our role in ICANN is very much in the public interest. And so to do anything counter to that would be unthinkable.

Chuck Gomes: Thank you Cheryl. Any other comments on this area? Kurt any clarification questions you have?

Kurt Pritz: Yeah, so we've had a lot of discussions about how would the - how would ALAC or how would the GAC object to what mechanism in order to - so the independent objector is supposed to be an independent objector so he's - he or she is supposed to be independent.

But if - so - but this discussion really isn't about that; this discussion is really about ALAC or GAC being able to object to a TLD string that they wouldn't have to pay and that they'd have lower - that they would just have to meet lower standards.

So I don't know what lower standards but, you know, I'd be cautious of a veto. And third is, you know, by what procedure? So, you know, before we would - before we'd be able to proceed on something like that, you know, we'd have to know the answer to those three, right?

You know, what constitutes an objection by the GAC? Is it a vote by one country so it's essentially a veto by any country of a name? Or does it require some sort of vote or, you know, the GAC really doesn't vote, right, it arrives at consensus positions.

Same thing for the ALAC, the ALAC is - well not ALAC but, you know, At-Large is, you know, the broad representation of all - of all Internet users, right. So is the ALAC, you know, a star chamber for lodging objection and how do they get to where they would object to a name?

And then - so then what's the, you know, we have to provide clarity for applicants. That's, you know, one of the first two policy recommendations. And then, you know, and I know it sounds parochial but then, you know, we have to pay for it despite the protestations of many it's a zero sum game and, you know, I've looked at numbers and it's right on it, it's zero sum.

And so, you know, the way - and I'm just saying the way to pay for this is to increase fees by some unknown amount so that, you know, we're sure the cost is covered in what's a very uncertain area. And we thought the most economical way to do that would be to attach the cost to the transaction itself.

And, you know, it being a loser pays deal then, you know, those lodging successful objections really don't have to pay anyway. So it's three questions then, right? What's the mechanism? What's the cost? And, you know, who does it?

Chuck Gomes: Okay, Frank.

Frank Marsh: Yeah can you hear me?

Chuck Gomes: Yeah.

Frank Marsh: I wasn't sure quite (unintelligible). Yeah, look I'm having some difficulty with this because I'm trying to interpret issues that I think the GAC put on the table. But also I don't necessarily fully understand myself or necessarily have any sympathy for (unintelligible) government point of view.

But so please any other - Stefano or Heather leap in and contradict me if I've got it wrong. The issue here is that the GAC would not necessarily be unanimous of course about an objection. There may be an individual member of the GAC, an individual government, that had concerns.

And the discussion was around the issue of whether under those circumstances the GAC would put in an objection or not. And there was the issue of governments paying or otherwise. And I do recall many conversations in the GAC about concerns about governments paying to lodge objections and objections to that procedure.

And so this is an attempt to forestall those sorts of arguments. So the answer to your question, I think, about when the GAC would put an objection would be if any member of the GAC had a concern that would be the mechanism for putting it forward.

Now as I say I'm very happy to be contradicted on that point but I think that was the issue. And it's not one that's been discussed in this context within the GAC of course because the GAC has not had an opportunity to respond to the report of the group and has not discussed it. That's about all I can say at this point. Thank you.

Chuck Gomes: Thank you, Frank. Alan.

Alan Greenberg: Yeah just to address the point that Frank was just making. A conversation I had with individuals gave me the impression - but it was nothing more than an impression - that a GAC objection could not be based on a single GAC member objecting but would require some number or, you know, not necessarily a majority but some reasonable critical mass. But that's just an impression I got from individual conversations.

I wanted to point out that if there is a fee associated with a GAC objection or an ALAC objection you're essentially saying there will be no GAC or ALAC objection. These bodies don't have any large amounts of money and certainly not one that could be unlimited if the dispute went on into an expensive position.

So I hate to say there are - they can object but they have to pay for them but that effectually says they can't object. So...

Cheryl Langdon-Orr: Going to make budgeting and strategy meetings interesting.

Alan Greenberg: Well it does indeed. And I'm presuming ICANN is not going to give both advisory committees an unlimited budget in case we choose to object. And it's rather moot to begin with even if they do.

The related thing is I understand the concept of zero sum game. My recollection is the independent objector though was going to be funded by ICANN, that it's not some benevolent source in the world who's decided to put an unlimited amount of money into the gTLD process.

So we're already violating the zero sum game with the concept of the independent objector. Now we're just quibbling over how many objections there are and who has the right to say there are.

So unless I'm mistaken and there is a source of funds independent of this whole project for the independent objector then we need to use the same

rationale and reason for filling one concept as opposed to the other. Thank you.

Chuck Gomes: Thank you Alan. Amy.

Amy Stathos: Thank you Chuck. I just wanted to point out though that one thing that I don't want to get lost is the fact that through public comment the GAC, the ALAC, any individual member of the GAC, any member of At-Large who believe that there is something that would be in the public interest will be influential on the independent objector.

The concern that is out there is that by allowing the GAC or ALAC to require the independent objector to file something is that it will lose independence. And so I don't want it to get lost that there's going to be, you know, public comment that the independent objector will review and will take seriously if there is significant public interest out there for an objection I suspect that the independent objector will take that very seriously.

Chuck Gomes: Thank you Amy. Evan.

Evan Leibovitch: I just wanted to say I agree with you there but there's a big distinction between requiring the IO to consider something and requiring the IO to put it forward. So as long as there's some specific guidelines that the IO can use as a filter to get rid of things that don't meet the criteria I don't have a problem with obligating the IO to at least look at stuff as long as the independence is there to not have to put things forward that appear frivolous or not meeting the criteria.

Amy Stathos: Chuck may I?

Chuck Gomes: Yes.

Amy Stathos: And, Evan, that's exactly the way it is. The IO, as I believe Carroll had indicated earlier must comply with all of the requirements and cannot file frivolous complaints just like - and no one else can.

They will be subject to the quick look procedure like everybody else. So I think we - actually we're in agreement on that Evan.

Evan Leibovitch: On that particular, yeah, like I say there's others on which I'm not really totally qualified to talk about. And so I'd have to defer to (Huang) probably - I'm going to encourage her to send her comments in. On that particular issue, yeah, I think we're in agreement.

Chuck Gomes: Thank you. Well, you know, we have two more issues to cover. If there are no objections let's move onto Issue Number 4. And, Kurt, over to you.

Kurt Pritz: Yeah I just want to - I think it's already been said but I just want to answer Alan's comment about money more specifically. I think that for reasons Carroll described earlier the independent objector is incented to get her or his objections correct, in other words only object in cases where the objection will be upheld.

And his or her performance will be more or less judged based on that as Carroll described whereas a single government or how the At-Large community decides to file objections is really based on a lot less. So I think it really - there really is a discussion to be had about how it's funded.

So anyway - so I'll cut Alan off from any response to my comment and go on to Issue 4 which is really about the procedures. So that was broken up into several recommendations some of which have already been incorporated into the Guidebook. And we might not have to discuss; some have been discussed already and others we can discuss.

So regarding notification from governments we've - that's been included in the Guidebook. Requiring a super majority of the board votes to uphold an objection; we had quite a discussion about that earlier and I think our takeaway is to look at ways the board might review objections as part of the overall process.

But, you know, it might not reach the 2/3 vote and, you know, it - you know, so a point I didn't make earlier that I should have made is, you know, what you're reading is really the result of a board discussion as much as anything. So there was clearly a board discussion around the role of the board even without the consideration of the work of the Recommendation 6 working group but overall the board discussion of their role.

There is a recommendation about objections - Recommendation 6 objections should be resolved earlier. So, you know, we want to resolve them as early as possible.

And on the other hand we see no need to undertake the process that's somewhat lengthy and expensive if an application hasn't met certain other requisite criteria first. So we want to encourage early resolution but also do it economically for the parties. So it's sort of, you know, we see it as a recommendation to strive for.

Regarding the use of the community objection we certainly see and have already - often said that the community-based objection is a way to address concerns raised in the GAC principals on new gTLDs that issues that governments have with cultural, linguistic or place - certain placed strings can be resolved in the community objection process and in fact in the policy development discussions and the formation of these objections that was one of the key reasons for implementing the community objection.

Again the methodology by which the GAC or ALAC can lodge an objection we still see as kind of problematic, you know, what are the rules around

there? So, you know, we think that there shouldn't be individual veto or veto of applications. And so we see as, you know, it's important to build a predictable process around that.

And, you know, it's certainly, you know, a community objection standard is, you know, to lower those - to lower those standards means - to, you know, after some evaluation lowering the community standards means that, you know, a TLD string that really doesn't create harm to communities can be, you know, objected to and lose out.

And the standards were fairly carefully crafted with a lot of community input to arrive at those standards and have it, you know, have - I don't know, different set of standards we see as sort of unprecedented.

These we've already talked about as, you know, we think, you know, the fees are really - we're just trying to pay for what we're doing. And that - to us that are implementing the process although you may not believe it but \$185,000 fee is painfully low.

And that the resolution of the dispute should take into account the purpose of the TLD so that I think has been incorporated into the Guidebook in some way or certainly it's something we - we agree with that sentiment.

Chuck Gomes: Thank you - thank you Kurt. Frank, did you have your hand up for this one?

Frank Marsh: Apologies I don't, I'm taking it down.

Chuck Gomes: Okay thanks. Okay.

Kurt Pritz: Chuck, can I continue for one second?

Chuck Gomes: Oh absolutely.

Kurt Pritz: Yeah, because we're at, you know, we might run short of time I just want to go onto Issue 5 and say that, you know, all those, you know, in the end we made this bucket of - a statement of, you know, about the process and the intent to the process. And, you know, we agree with everything in that.

And, you know, we can talk more about that at the end but I just wanted to let the group know that we think there's less to talk about in that recommendation. But we can kind of talk about it, you know...

Chuck Gomes: Okay.

Kurt Pritz: ...anyway I was just trying to manage time.

Chuck Gomes: Good, I appreciate that. I'm sure others do as well. Let's open it up for Issue 4. Anybody want to get in the queue there? We've kind of talked about some elements of it like Kurt already indicated, in particular the 2/3 vote to uphold an objection. Any new thoughts, questions on Issue 4? Robin.

Robin Gross: Thanks. Yeah, I mean, it just seems to me when I read the ICANN response and rationale on Page 18 to 4.1 and then right underneath it 4.2 they seem to contradict each other.

Four one says that the board has ultimate responsibility and 4.2 says we're going to outsource that responsibility to a DSRP. So, you know, it just seems to me that it's sort of double-speak here; it's trying to have it both ways. And it's not really the case.

I mean, the board isn't really going to be making final determinations if it's going to rely upon a determination of an outside panel. So, I mean, it just seems to me that these are two contradictory statements and you kind of have to pick one or the other but you can't have it both ways.

Chuck Gomes: Thank you Robin. A response on that?

Kurt Pritz: We don't see it that way.

Cheryl Langdon-Orr: Because...

Kurt Pritz: We see the board has having ultimate authority for the program just, you know, again not - you know, you can characterize it as a - TLDs is bigger than UDRP but relying on UDRP and the board will rely on independent evaluators to evaluate the financial and technical wherewithal of the applicants to, you know, operate a TLD.

And the board is going to rely on experts to determine string similarity from a visual case and whether the TLD string itself meets the technical criteria as putout the IETF. So we're not asking the board to make that determination; we're giving the IETF RFC to a technical panel and asking them to provide an expert opinion.

And the board has been, as you know, and as I painfully know, very active in this process examining every implementation aspect of it. They were involved to determine that the policy recommendations were in fact implementable. And then they checked (unintelligible) to determine that the implementation met the 19 policy recommendations as well as the principals and the guidelines that were published along with it.

And so we see that the board very seriously has taken its responsibility for ultimate oversight of the program. And the board is going to continue to be very active in its oversight of the program once it's launched.

But that doesn't mean that the board will revisit the findings of each of the panels and each of the dispute resolution providers but instead make sure that those panels follow the rules established for them and the standards established for them through the - that were created out of the policy making process and the implementation of that.

So I don't, you know, I really, really, really don't see that those are mutually exclusive statements.

Robin Gross: Well then why is it that you say you wanted to do this in order to mitigate risk? I mean, the risk is they're going to be sued because they've made a decision. So, you know, tie it together for me then. I mean, it says in the paper we need these to mitigate risk. So this really is about trying to remove responsibility because otherwise it wouldn't be mitigating risk.

Kurt Pritz: So if you are correct we'd be creating risk in this because the board does have responsibility for the program. And the risk to the program is in creating a process or procedure that isn't transparent and predictable for applicants.

So by what standard can a TLD be kicked out? It's got to be here's the standards, here's the decision maker and here's the process. So risk - and when I talk about risk it's risk to do this process.

So if this process attracts a lot of litigation and ICANN published the process and then did not follow it or that the process wasn't clear so that the applicant had no way of predicting what was going to happen to its application the risk is then litigation would halt the process and undermine the ICANN model.

So it doesn't really have anything to do with the people that are the directors or the people that are the staff; it has to do with the credibility of ICANN as a model for Internet governance. And publishing a...

((Crosstalk))

Robin Gross: But I think you...

Kurt Pritz: ...that process - no I'm not done yet. It's for publishing a process and then following it. And what we're trying to do here is avoid risk to that process and

the ICANN model for Internet governance by being - by clearly publishing a set of rules then clearly following them.

And that includes providing appropriate expertise and the right level of expertise to each decision and providing competence in that way and be able to predict outcomes and time table in a way that we think is following the policy recommendations for the GNSO.

So we're after the same thing I just, you know, and I still remain; I don't think those statements are mutually exclusive.

Chuck Gomes: Anyone else like to get in the queue on Issue 4? Okay. Anything else at all on Issue 4? Any comments on Issue 5 which basically I think we're all on the same page on. Okay let's talk about next steps.

I'd like to think that there's been some improved understanding in terms of the intent of some of the recommendations especially those that we talked about earlier in the call.

Where do we go from here on this? Where do you go from here, Kurt and your team?

Kurt Pritz: Well we're looking at each other. So clearly, you know, we have some takeaways from this where we think there are some areas of change in agreement.

And we also - one of our takeaways also is that, you know, we have some different understanding of the report than when we read it. So I'm trying to see how we would set up the meeting in Cartagena; what our deliverable might be for the meeting in Cartagena to make it different, you know, to take the issues we've discussed today and, you know, pick up where we left off because I think, you know, I clearly understood what everybody said on the call. I hope, you know, I was understandable in some way.

Chuck Gomes: One of my concerns, Kurt, is that if our next step is after the staff does a little more work on their part if our next interaction is in Cartagena that's just, you know, a few days before the board will probably act on the final Guidebook. So I'm having trouble understanding what the purpose of the meeting in Cartagena would be other than maybe just understanding.

Amy Stathos: So I guess - Chuck, this is Amy. Would it be possible for your - for the working group to clarify in writing certainly because I could say, you know, obviously the board role issue is something that the report did not say what we heard today.

And as Kurt said it's always challenging to do this on the fly so if you all could get together and at least clarify some of those - some of that that would probably be helpful for us certainly.

((Crosstalk))

Chuck Gomes: Okay. Go ahead. To facilitate that could I ask you and Kurt and whoever you want on your team to do it to just a brief - send us a - send to the list a brief list of the areas that specifically need clarification? And then what I'd like to ask the working group members to do I'd like to request several volunteers who would draft a first response to those and then we can discuss it on the list.

So let me first of all Kurt and Amy is that okay to identify specifically where you heard different things than what you read in the recommendations? Is that okay?

Amy Stathos: Yes I - that's definitely - I think we can put that together. I think Margie will be the - probably the liaison with that but...

Chuck Gomes: Okay.

Kurt Pritz: Point person, yeah.

Amy Stathos: Yeah.

Chuck Gomes: That's good, that's good. Margie has given us great support on this working group so we're happy with that. So and then now - and I'd like to do this live - solicit some volunteers from the community working group hopefully from different groups that would be willing to just be a - interaction with yourself online, maybe a phone call or whatever.

And I'm sure if assistance is needed there that Gisella and Glen would help set up a phone call if that's needed. But could we get - I think all of us that are on this call know the issues. So who would like to volunteer from the community working group to help draft up a response that would be considered then by the broader working group?

Okay I see Avri, thank you. And Richard do you have a comment or are you volunteering?

Richard Tindal: Volunteering.

Chuck Gomes: Volunteering, thank you. Okay, it'd be nice to have a - do we have anybody from the ALAC that would volunteer. I see...

Evan Leibovitch: You've got to scroll down a bit to see my checkmark there Chuck.

Chuck Gomes: Oh okay...

((Crosstalk))

Chuck Gomes: ...thanks for reminding me of that. I will. I see Jon Nevett and I see Evan, thank you Evan. So anyone else want to volunteer on that? We actually have - what do we have, four people, that's actually not bad...

Cheryl Langdon-Orr: That's enough for a draft, yeah.

Chuck Gomes: ...for a draft. And then so I would like to encourage that group of people and Margie if you would just send a reminder to the list of those four people? And, Margie, you're willing to work with that group is that what I'm seeing there?

Margie Milam: Yes, yes and also when you have a chance I want to talk a little bit about planning for Cartagena because I do have to submit the final agenda today so if you guys have thoughts on how that session should be - what the agenda should look like please let me know and who should be panelists and that sort of information.

Chuck Gomes: Okay. All right so I think we've got that covered right now. So again, Margie, if you'd just send a message to the list that would say that these people have volunteered. And if somebody that wasn't on the call wants to volunteer that's okay too.

So but I'm assuming that Margie you'll get something out to the list in the next day or two with regard to the issues that need more definition. And then hopefully the four people who volunteered - and Cheryl, are you volunteering as well or you wanting to say something?

Cheryl Langdon-Orr: No I just wanted to make the point which I was happy to wait until you finished with this - wrapping up of this section - was of course this is running at the same time as the same volunteers and indeed every one of us in the work group and (unintelligible) communities that we're involved with are also trying to respond to more than just those changes in Module 3.

There are public comments running on all of the Applicant Guidebook. And there is, you know, a recognition needed I think that this particular cross-community work group is willing to do whatever it is able to but we would like to know that we are not, how shall I say this, wasting our bloody time, quote, unquote.

Chuck Gomes: Thank you Cheryl. Margie would you go ahead on the agenda - let's talk just a couple a minutes about the agenda. And let me start off, Kurt, did - was there a particular agenda that you had in mind or any of your team had in mind with regard to the meeting in Cartagena on Recommendation 6?

Kurt Pritz: Let's work on that over email, you know, we're way over time and to tell you the truth I don't - if somebody has a good idea bring it up. I want to, you know, I want to see what I think would be constructive and I'd certainly be happy to hear what other people would - think would be a good agenda too.

Chuck Gomes: Okay well the deadline for agendas is today but, Margie, maybe you can just put a general statement that this will be a session to discuss the implementation - inclusion or lack of inclusion of the Rec 6 community working group recommendations in the Guidebook. That probably will be sufficient for what we need today. Is that all right Margie? Is that all right?

Margie Milam: Yeah that's...

Chuck Gomes: And then go ahead and initiate a discussion on the list and we can refine that agenda as we move forward and get closer.

Margie Milam: Okay I'll do that. Thanks.

Chuck Gomes: Thanks. Anything else before I adjourn the meeting?

Cheryl Langdon-Orr: Just for Margie's - I think Avri's text is review resolution of Issues 1-5 and then link the document that we've been discussing today may go a long way to a meaningful agenda.

Chuck Gomes: Okay. And thanks Robin for you're volunteering for that group as well, I appreciate that. All right well thank you everyone. It's been two hours and 15 minutes it looks like. And I appreciate again the ongoing good cooperation from all parties. And thanks, staff, for taking the time to do this with us. And let's see if we can't make it even better going forward. Meeting adjourned.

Cheryl Langdon-Orr: Thank you Chuck.

((Crosstalk))

Kurt Pritz: Thank you Chuck.

((Crosstalk))

END