

**Vertical Integration PDP Working Group  
TRANSCRIPTION  
Monday 25 October 2010 at 17:00 UTC**

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**Participants on the Call:**

**Contracted Parties House**

**Registrars Stakeholder Group**

Volker Greimann

Paul Diaz

**gTLD Registries Stakeholder Group**

Keith Drazek

Brian Cute

Ken Stubbs

**- Commercial Stakeholders Group**

Mikey O'Connor – CBUC- Co-Chair

Berry Cobb – CBUC

Kristina Rosette – IPC

Jon Nevett – CBU

Ron Andruff - CBUC– CBUC

Scott Austin – IPC

**- Non Commercial Stakeholders Group**

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**Individuals**

Roberto Gaetano – Individual - Co-Chair

Jothan Frakes

Phil Buckingham

**ALAC/At Large**

Siva Muthusamy

Alan Greenberg

Sébastien Bachollet – ALAC

Baudoin Schombe – At Large

**Staff:**

Mike Zupke  
Gisella Gruber-White  
Glen de Saint Gery  
Liz Gasster

**Apologies:**

Chery Langdon-Orr  
Katrin Ohlmer  
Eric Brunner-Williams  
Avri Doria  
Michele Neylon

Coordinator: Welcome and thank you for standing by. 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.

Mikey O'Connor: Okay Gisella - well I tell you what since people are still joining in let's - we'll just spend a minute on the agenda and then we'll do the roll call. For those of you on Adobe Connect it's on the screen. But three or four things on the call today, the first on the list is to go through the points that Roberto raised in his email.

And then have a chat about sort of the way forward maybe based on Berry's note from over the weekend, sort of the check point restart discussion. Talk about responding to public comments, the three little bullets that I posted and then a discussion of the steps to finalize the Phase 1 final report.

Anything else that's on people's minds before we get going? Okay Gisella why don't you go ahead and call the roll and then we'll get under way.

Gisella Gruber-White: With pleasure. Good morning, good afternoon, good evening to everyone. On today's Vertical Integration call on Monday the 25th of October we have Roberto Gaetano, Mikey O'Connor, Baudouin Schombe, Siva Muthusamy, Keith Drasek, Alan Greenberg, Sebastien Bachollet, Ron Andruff, Jothan

Frakes, Phil Buckingham, Scott Austin, Paul Diaz, Berry Cobb. From staff we have Glen de Saint Gery, Margie Milam, Mike Zupke, Liz Gasster, and myself, Gisella Gruber-White.

And we have apologies today from Michele Neylon, Avri Doria, Katrin Ohlmer, Eric Brunner-Williams and Cheryl Langdon-Orr. Also just had a - Ken Stubbs has just joined the call. Could I please remind everyone to state their names when speaking and this is for transcript purposes. Thank you, over to you Mikey and Roberto.

Mikey O'Connor: Thanks Gisella. As per usual I'll take a moment to see if anybody has a change to their SOI or their DOI that they'd like to share with us given the agenda of the call today. Okay I don't see anybody...

Ken Stubbs: Yeah Mike...

Mikey O'Connor: ...raising their hands. Oh Ken go ahead.

Ken Stubbs: Yeah, would you put the budget revision that was just announced today for the new TLD process somewhere on that agenda?

Mikey O'Connor: Oh sure. Let's put that at the end, budget revision. All right I don't see anybody updating DOIs or SOIs so off we go. On the screen in front of you for those of you on Adobe are there five points that Roberto raised in his email.

And I think it would be very helpful if we could - actually Margie if it's not too much trouble could you put that into an editable note so that we could maybe tweak the language just a little bit as we go?

Margie Milam: Sure, let me do that.

Mikey O'Connor: Yeah, just copy and paste. It'll probably be ugly but less concerned about beauty than I am about the ability to revise the language as we go. Because I think it would be terrific if we could come to some sort of tentative agreement on the call.

Roberto do you want to sort of introduce your points and bring us up to speed on the state of the discussion so far? I sort of put you on the spot by doing that so don't feel like you have to but...

Roberto Gaetano: So no - okay yes, why not? First of all I think that there's a misunderstanding on my first point. When I say we don't have a consensus on vertical integration or vertical separation I didn't mean that we don't have any consensus at all, I'm saying that we don't have a consensus on either of the two extreme cases.

We don't have consensus that we should keep the status quo for vertical separation and we don't have consensus that we should open up on vertical integration. I realized only after an exchange of emails with Eric that there was this misunderstanding.

So in fact we might reach consensus but on some partial statements or results. So this is what we should concentrate on. The second point that I've made is that we have a list of harms. I'm not specifically replying to Volker but he noticed that the list of harm is not something that we have consensus on or that is in any case finalized.

I agree but nevertheless I think that it would be a good message to give to the board and to the council that we do - we are working on these things, that these are things that we can reach a consensus on if they would like to take this into account and give us the time to work on that.

So that our approach is to say okay there is no agreement on the extreme cases; let's work on the gray area that is in between. So - and the other lines

are kind of explaining why we don't agree on the fact of having a full vertical separation which is the status quo is because there are certain businesses or certain cases in which that would be harmful without - they get global advantages and vice versa we can have the reverse case.

So that's basically the point. I would like in summary to give a statement and that has to be given as soon as possible and in any case before the board meeting that is going to happen in few days that says the working group has taken into account the comments, first of all thank you for all the comments and we have taken that into account. That doesn't change our global point of view.

We don't believe that there isn't ever - is going to be a consensus on full vertical integration or full vertical separation therefore we need to (unintelligible). This is a kind of a long term - longer in the sense it will take some work evaluating the harms. We are evaluating the - we are analyzing the impact on the business. We need more time. And in order to come up with a statement.

But I believe that this in itself will be first of all a statement like this will be something that first of all will be helpful for the board that we have something on the table and not start from completely zero. And secondly will give a sense to the effort that we all have done in several months.

And make clear that there is something that we have done. And there is the possibility to go on in this direction with other work. That's it. Hello?

Mikey O'Connor: Hi, Roberto, I'm typing.

Roberto Gaetano: Oh, yeah, yeah, no I was...

Mikey O'Connor: If you take a look at what I've typed after your fifth bullet and help me tune that up while I finish this. Something along that line. So Roberto gets editing rights any time. Meanwhile I'll hit the queue. Keith, go ahead .

Keith Drasek: Thanks Mikey. And thanks to Roberto, first off, for proposing this language and, you know, I think it's a, you know, a positive step forward. I do have one quick question or, you know, point I guess. And in the fourth bullet where it says if we keep the status quo of vertical separation there are some cases where vertical separation will hinder the business more than helping the market.

And I'm a little bit concerned that the word market is overly broad. And I guess what I mean is that I'm not sure how we're defining the market there and whether it may be a better word there would be helping the consumer or helping the potential registrants because when you start talking about market or marketplace, you know, are we talking specifically about the market for that TLD? Are we talking about the overall TLD marketplace?

And I think that that raises questions about, you know, economic study and whether, you know, what exactly is meant by market. I'd certainly welcome other people's perspectives on that; it was just sort of the first thing that popped into my head when I read the document when it was first posted.  
Thanks.

Mikey O'Connor: Thanks Keith. Ken, go ahead.

Ken Stubbs: Yeah, yeah, I'm a little troubled by that statement there. I think it's a little - first of all a little broad. And I think it might be difficult to support it on the basis of the work that we've done so far.

It to me appears to be a personal observation more than a consensus or even a majority statement by the group. So I'm going to have to say I'm not at

all comfortable with the idea is what you're really saying as I see is we keep the status quo then new businesses would be - could be hurt.

Well I really - I think I'd have to see a lot more in depth support for a statement like that, number one, and number two is I think this statement is inconsistent with the summaries that we presented to the council previously.

Mikey O'Connor: Thanks Ken. Ron go ahead.

Ron Andruff: Thanks Mikey. Last Monday I posted a statement that had to do with exactly this. And it came as a result of the call and Margie pointing out that the working group has to send something to the board. That was a week ago. We've got three days now. The board meets on the third day so we have two days now to send something to them.

I just want to support what was said by Roberto. We really - and in his post prior to this call he put a long post forward and it really has to do with the fact we need to respond to the board and tell them where we're at. So I would encourage all of us on this call to really try to bring helpful elements to this discussion right now so we can get this done today.

We really cannot expect others to jump through hoops when in fact, you know, we're - been sitting on this thing now for some weeks just getting a final statement to them. So my point is just to encourage the group today to really try and close this one out. Thank you.

Mikey O'Connor: Thanks Ron. Okay I see Ken's hand but I bet that's the old one. What other suggestions did people have? Sebastien, go ahead.

Sebastien Bachollet: Yeah if we discuss in detail once again the Point 4 here I would like - we need to find the right language because if we talk about the business more than the market it's - we are just talking to one part of the situation for the domain names because the not for profit is - I know English is different

maybe from other language and US uses business for everything even for not for profit organization.

But it's business it's really a sense of making money if we try to translate it to French for example. Then I would like very much to find a way to say that there is a situation where running the project of new gTLD will be - we have difficulty if we have this full separation more than saying that business and market. Thank you.

Mikey O'Connor: Thanks Sebastien. I snuck a word in as a possible option, applicant instead of business so that we would, you know, have a contrast between the applicants and the consumers. I've been putting possible changes in parens with question marks. We might be able to blunt that just a little bit with language like that. What does that show people? Sebastien is saying it's okay with him.

What if we changed it to - if we keep the status quo of vertical integration there are some cases where vertical separation will hinder the applicant more than helping the consumer. What if we changed it like that? Anybody got a terrible problem with that kind of language?

Sebastien Bachollet: It's Sebastien. I will keep registrant more than consumer. I think applicant and registrant could be a good - the end of the word is the same. Thank you.

Mikey O'Connor: Okay I'll take that. Applicant and registrant. Not hearing cries of pain. Alan go ahead.

Alan Greenberg: Yeah, if I heard Ken correctly he was saying that he doesn't think we do have a consensus on this statement. If that indeed is what he was saying and there are people who feel that then the wording needs to be something to the effect of some members of the group or a majority of the group or something feel that.

Mikey O'Connor: What if we changed will to may? Somebody suggested that on the list.



Alan Greenberg: I'm one of the believers so I have no problem with it but I just wanted to highlight the fact that if we're going to move forward we can't completely ignore things that people say we have to actually address them.

Mikey O'Connor: Yeah, Ken's agreeing with that. How about if we blunted it with may, Ken, would you be all right with that? Give you a chance to take your checkmark down just...

Ken Stubbs: Mikey.

Mikey O'Connor: ...ride your checkmark into the horizon there. Go ahead Ken.

Ken Stubbs: Yeah, it isn't just me, you know, we...

Mikey O'Connor: Yeah, I know.

Ken Stubbs: ...we're not working to the lowest common denominator here. I'm trying to give us something that we can take that we can look anyone that this is given to in the eye and not worry about somebody looking over our shoulder say wait a minute now we didn't agree on that, you know. I don't want to put a statement in there that creates a significant amount of controversy and brings up a whole bunch of issues.

I'm certain that there are some cases that could hurt either business models or any of the business models that are represented on this call. So it just - I do not want somebody from the board to take that as a subtle way of saying of saying well now wait a minute it's quite clear in this working group that they're very concerned about this or that.

Well there's concerns on all sides and I think we just have to be very careful how we structure this thing so that it doesn't become a controversial closing

statement. This can't be the last shot across the bow that's - I guess that's just my own personal feeling.

And, you know, Roberto and I have known each other for 13 years so there's a significant amount of respect on both sides. I just think that might be - the initial wording might have gone a little too far and I think you need to get some other perspectives besides my own on this. Thanks Mike.

Mikey O'Connor: You bet, Ken. Alan let me go to Brian first and then I'll circle back to you. Brian go ahead.

Brian Cote: Thanks Mikey. First of all I apologize because I've been out the last couple calls on other things. I'm just looking at the language now so I apologize if I'm asking questions that have already been answered. If they have been just tell me they have and I'll sit down.

But have we - when we say hinder the business applicant more than helping the market I'm still trying to get a handle on what we mean by hinder and what we mean by helping the market. I thought I heard some clarifications that market might be equated to registrant instead. But have we really fully explored the meaning of those terms as a group and come to some form of consensus on this?

Mikey O'Connor: I'm going to put words in Roberto's mouth and he's welcome to fix them. But I think that really this bullet is introducing the next bullet. And what it's saying is - oh Roberto just dropped off, rats. Well I'll continue to put words in his mouth and then when he rejoins the call he can help out.

It may be that part of the problem with this is if we keep the status quo of vertical separation that immediately implies a choice in terms of the model. And so maybe what we do - what he's I think doing is introducing the next bullet which is while the workgroup has not identified exact examples of

applicants being hindered there's a general feeling that some exceptions should be granted.

And so in absence of Roberto maybe what we do is we combine those two bullets. But that's just my take. I guess now I'll go to Alan and to - Brian - and unless you've got something you want to follow up on?

Brian Cute: No actually you started going in the direction that I was thinking we might go because there's just so much gray in the word hinder and the word helping that I think...

Mikey O'Connor: Yeah.

Brian Cute: ...you're starting to head in a better direction.

Mikey O'Connor: Yeah. I think what we need to do is tee up the last bullet and maybe not be quite so much on the bullet before it. But Alan, go ahead.

Alan Greenberg: Yeah, as the previous speakers were talking I realized that we have to be a little bit careful of the wording. I mean, there are some business models that I want to hinder. This whole many months has in fact been talking about which business models do we believe are good and which ones do we believe are bad...

Mikey O'Connor: Right.

Alan Greenberg: ...so it's not just the quote, exceptions, that have to do with business models. So just as we're wording it I think we have to think of both aspects of it.

Mikey O'Connor: What if we, you know...

Alan Greenberg: I wasn't trying to make a specific recommendation just that, you know, depending on what any one on this group wants out of this whole process other people may disagree and that's why we are where we are.

Mikey O'Connor: Yeah, I think that's right. What if we dropped that bullet, start thinking, you know, start reading this document without that bullet and see if we even need it. Meanwhile I'll carry on with Ken.

Ken Stubbs: Yeah, Mike, pardon me for saying this but which status quo are we referring to?

Mikey O'Connor: Yeah.

Ken Stubbs: The Nairobi status quo? The staff 2% status quo? The existing contractual relationships between the majority of the incumbent registry status quo? This is where we start to - this is where it gets a little iffy.

Mikey O'Connor: Yeah, I think that's why this particular bullet might be more trouble to salvage than it's worth. Just a note to Gisella and the operator, is somebody trying to dial back out to Roberto? I just wanted to make sure that we're doing that.

Roberto Gaetano: I'm back in, thank you.

Mikey O'Connor: Oh good. Well I just savaged your fourth bullet, Roberto, so you may want to join in here. One of the things that I said was that the fourth bullet really introduces the fifth bullet and may not be necessary. And rather than try and embed it in the fourth bullet are a lot of statements around which it's probably fairly difficult to achieve consensus.

We've been hammering on it pretty hard. And I'm curious if we dropped that bullet all together whether we would really lose much in terms of the intent of the document because the real intent it seems to me is in the last bullet where we introduced the possibility of exceptions.

And in fact we do a better job of identifying the dispersion within the group and focusing on the agreement. Do you take that as a friendly amendment?

Roberto Gaetano: May I?

Mikey O'Connor: Yes absolutely.

Roberto Gaetano: Mikey?

Mikey O'Connor: Yes. Can you hear me?

Roberto Gaetano: Yeah, I don't - I don't have any problems in changing the wording or also eliminating the fourth bullet. I don't have, you know, a line - a specific point that I want to make. I'm just trying to capture the consensus and try to give some sort of closure statement.

So whatever is decided by the workgroup has to be in the statement. I have no problem eliminating the fourth bullet. Maybe the fifth is a little bit more present because that's also the point for the continuation of the work. But, you know, is what people feel that the current situation is. I don't have any particular need for having this point to remain. Thank you.

Mikey O'Connor: Okay thanks Roberto. Let's see, Ken, is that hand up from before or is that a new one? That's an old one, okay. Well I'm tentatively - I'm going to put a bracket around the fourth bullet as a candidate for deleting it.

Because I think that then we avoid, you know, essentially embedded in that statement is a position that I know that we don't have consensus around. Even if we were to hammer down the exact definitions of the status quo and so on and so forth I think that that's the heart of the divide.

And rather than collide with that one I'd like to drop that one so that then we get the board focused on really four things, one is compliance and there's been some talk about the compliance on the list. We are not agreed as to the approach. But we all seem to agree that compliance is an important issue even though we disagree about why or what is to be done.

There is not consensus on either of the extreme cases either full separation being the most extreme being Nairobi from the board. And I suppose the most extreme on the other side being the free trade proposal. But there's room in the middle maybe if we had more time. Maybe not.

The next point is that there is a list of harms but we have not finalized it nor do we have consensus on it. In fact I think the - we agreed on a previous call that discussing the list of harms almost immediately turned into a surrogate for the discussion of the fundamental disagreement. And so I'm skeptical that we could get to consensus on that list.

And then finally introducing this notion that exceptions should be considered again making it clear that we are probably not going to be able to provide the board with consensus on what those exceptions ought to be. Which is, you know, sort of - gives the board some guidance. It certainly doesn't give them a whole lot. But it certainly focuses their attention.

So if we left it with those four bullets the way it is how are people feeling about that? Changes that folks would like to propose to 1, 2, 3 and 5? Golden silence. I'm liking that silence. Ken, go ahead.

Ken Stubbs: I mean to put a checkmark under 3.

Mikey O'Connor: Oh okay. I'll accept that checkmark. Well okay why don't we make that change then? We'll take out - I'm going to - for purposes of the editing put the removed stuff down below just in case we decide we need it back.

Ken Stubbs: Now I did put my hand up.

Mikey O'Connor: Okay, go ahead.

Ken Stubbs: Okay. I'm not trying to reverse the order of the agenda but I think there's something we need to talk about in relation to what's currently on there. When you get done looking at the budget revision that was just announced today and passed and everything like that you're going to find that there's absolutely - and please somebody call me out if you can - no reference at all to compliance.

And as much as we've discussed it the board is not willing to acknowledge in any sort of a budget document except very loosely any real effort towards dealing with that issue. And as we tried to point out we - we really need to try to put - and I don't know how to do it, maybe we have to do it in - I don't even know whether there's a public forum for this other than standing up in line in Cartagena.

We really need to point out to the board, you know, there was a gratuitous promise made by the chief operating officer at the last meeting which has not gone any further. And I believe it was Christine on the last call indicated in Washington that there was pressure there applied to the staff about how they want to deal with compliance.

And, I mean, when you see a document where they acknowledge the fact that there may have to be some sort of subsidy program for new applicants but don't bother to put any money in a program to ensure that there's some sort of a compliance regimen in place to avoid what could be a significant number of the harms that we have identified even though we haven't elaborated on them.

And I'm sorry if I sound like I'm pontificating but I don't know what other venue to bring this up in at this moment at least. Thanks Mike.

Mikey O'Connor: Well I think that a lot of what you're saying is embedded in that first bullet. And rather than putting much more detail behind that I think what that first bullet of Roberto's does is it gives each and every one of us a platform on which to stand when speaking to the board members.

You know, I don't speak to board members, that's above my pay grade but a lot of you do.

Ken Stubbs: Yeah.

Mikey O'Connor: And I think that one of the things that that first bullet does is it provides the opportunity to say look, you know, the very first thing on our list was compliance.

Ken Stubbs: Well, Mike, let me ask you a question. Maybe I'll propose a little bit of word smithing. I'm not as good at this as other people are but is there any problem issuing - mentioning the fact that - I'm not trying to use the uniform concern but there was significant discussion and concerns expressed about compliance and managing compliance with the new TLD rollout.

Just saying compliance is the key is kind of like saying, you know, drink four glasses of water a day or whatever it may be, I'm just trying to make a little more emphasis on it.

Now maybe I'm making too much of it; if I am then I'm sure somebody will let me know.

Mikey O'Connor: About that if we amp it up - oops - my spelling here. You know, I don't want to go too far because we do not - we are far from consensus on the approach to compliance. I think the most that we can say at this stage of the game is that we are very focused on it.



But as you saw on the list there was a fair amount of discussion even in the last few days about where people stand on that issue and we are not at a place where we can go much further than this I think because there are pretty broad differences of opinion. I'm getting a checkmark from Ken. I'm going to take that as an acceptance of my little amendment.

Alan go ahead.

Alan Greenberg: Yeah, you might take a look at Brian's little post down there on the comment section.

Mikey O'Connor: Oh. Oh.

Ron Andruff: Actually I wanted - this is Ron. I wanted to speak to that Mikey, Brian's post and...

Mikey O'Connor: Okay.

Ron Andruff: ...but I don't want to preclude Alan. Go ahead - just...

Mikey O'Connor: Yeah, go ahead Alan and then we'll...

Alan Greenberg: Yeah, two points. One that predated this discussion then I'll have a comment on that. The sentence at the - after the bullets of we would like to continue to refine our work if the board is willing to provide us the time. I think that needs to be clarified because as it reads it almost sounds like hey board don't make a decision while we're still continuing to work. And I don't think that was the intent.

It's not clear that the board - it's the board's job to give us more time. So I think we need to be clear on what we're saying there. And I'm not even sure...

Mikey O'Connor: Yeah.

Alan Greenberg: ...what it is we're saying there. I don't think we need to ask the board for more time at this point. You know, we may - if we stick around we will react to whatever the board does. So we may be asking the GNSO not to shut us down.

Mikey O'Connor: Yeah I was transcribing what Roberto was saying...

Alan Greenberg: Okay.

Mikey O'Connor: ...and, you know, when we get to that one we'll (thin it out).

Alan Greenberg: With regard to compliance we surely do not have closure on what we all believe would need to be done and the level of compliance. I suspect or I hope there would not be any disagreement at all that in ramping up from a situation where we currently have, I don't know, 15 gTLDs or whatever the number is, to potentially several thousand there is going to be a need to revise how compliance does their job and how we're going to - how they're going to cover the world they're looking at even assuming we are adding no level of complexity because of vertical integration.

Just the several orders of magnitude increase in the number of contracts they're dealing with and entities they're dealing with is going to mean there should be significant effort focusing on how they're doing it and there's no evidence of that. So I think our compliance concerns are far above just what would happen if we introduced some very complex regime of integration.

Thank you.

Mikey O'Connor: Thanks Alan. Ron, go ahead.

Ron Andruff: Thank you. I wanted to speak to that issue of compliance as well. But that's not just - and that's why Brian's line down below kind of makes some sense.

Whatever the rules established for new TLDs we need mechanisms and adequate resources to enforce them.

The adequate resources is not just - not just funding but in fact it's human beings. Right now we had - for those who were party to the BC face to face meeting that took place in Washington about a week or 10 days ago. Kurt Pritz made a comment which was quite surprising to me because it's a question about compliance and that when will we see a head of compliance, a new compliance officer to run that department.

And he said well it's not just the head we actually have several positions open in that area. So at this stage of the game, you know, virtually on the edge of November 2011 - 2010 I should say - we have no compliance officer yet we hope that within another month we'll be introducing a date to start the process.

So we have no compliance officer and we're missing two or three people to support that office. So that is a big, big issue for us all. And I think the other thing that Kurt said at that meeting which was quite an eye opener for me is he made a comment almost off the cuff about single registry single user how would compliance be able to manage a space where a brand has a top level domain.

And he was taking the position that would compliance be asking for a list of all of the employees of the company to ensure that in fact the company had only given top level domains to its employees if in fact that was one of their policies.

So compliance is, you know, while we use just the single word it is a very serious deal. It's almost like peeling the layers off an onion. And I think we are going to have to make the board quite well aware that this work on developing a very strong compliance staff with strong compliance policies is a major undertaking and it has to be at the top of the priority list.

Thank you.

Mikey O'Connor: Hang on a minute Ken I'm going to just take a checkpoint on the state of our bullet. If we said compliance is key, the working group has spent a considerable amount of time discussing the issue. And then said whatever the rules established for the new TLDs need mechanisms and adequate resources to enforce them does that - can I change our sentence to that? Is there anybody who's opposed to that strengthening?

Ken Stubbs: Yeah, I'm not opposed to it; I think it needs a little more word smithing.

Mikey O'Connor: Okay.

Ken Stubbs: The concern I have is, you know, we don't need reactive compliance, we need proactive. So what I would do is if you're going to keep that sentence in front of the words to enforce them I think you need to put in place. In other words we don't talk about compliance after we've got 600 applications in and we're already allocating space in the root for these guys and we're through the app process.

We really need to have a process clearly defined because in - part of the evaluation process in looking at applications is going to be the ability to manage compliance. I mean, Kurt asked the question what are we going to do? How are we going to deal with this? You know, if they don't have the slightest idea how to deal with it then maybe what they need is some sort of a clearly defined process in place, you know.

They're spending a huge amount of time planning for marrying the processing of the applications but they're not really spending a hell of a lot of time in terms of managing the security and stability of this space once these applications are approved and an assignment is made by (IANA), you know, or delegation or whatever the word is. Thank you.

Mikey O'Connor: Okay I've inserted Ken's in place. It seems like a pretty good friendly amendment. Anybody opposed to that one and can I take the brackets off of that? Oh Sebastien, go ahead, I'm sorry I didn't - I wasn't looking at the queue.

Sebastien Bachollet: Yeah I would like to suggest to replace mechanism by process like can use this word and to put adequate before to (unintelligible) process and resources because my fear that we can have adequate - we can have mechanism but not adequate processes or we can have processes and not adequate mechanism.

I will be for example very interested to know if there are some reason in the work itself on the way as the staff of ICANN is doing the job and the reason why the guy in charge of this department left ICANN. Thank you.

Mikey O'Connor: Thanks Sebastien. I went ahead and accidentally mistyped and then discover I don't have un-delete. So I've made Sebastien's change a little - a little faster than I intended.

But anybody - and I also inserted leadership because I think that that's also a word that we can use when we're conversing with the board to amplify the issue that's been raised just now by Sebastien but by many others on the - on many calls about the situation with the leader of that and actually the leadership of ICANN in general.

Ken Stubbs: Hey Mike I know I'm not on the list but has anybody ever approached you or Roberto from the board to ask you if you guys had some time to spend on a conference call or in front of them to answer questions? I mean, is this beyond - way out of line for the process?

Mikey O'Connor: I would - if approached I would decline because I don't feel comfortable being able to represent the diverse views that we've got. I don't know if Roberto has

been approached or not. But, you know, we are a group that's very difficult to summarize accurately and well on the fly on a conference call.

Ken Stubbs: I was more concerned about the process. The board needs to understand that we have really worked hard from a process standpoint even to get where we are now. They have to know that there's - now maybe that's the way that the report is written and maybe I'm just not taking enough out of the report but we just need the board to understand that these people have really worked diligently and hard to try to identify, you know, issues and points and stuff like that.

You know, we know we don't have consensus on the overwhelming majority of stuff we've discussed. But there are broad perspectives and they've got to understand it was truly deliberative, it wasn't just eight or nine people sitting around a bar drinking and kicking it around.

Mikey O'Connor: That sounds pretty good to me actually. I kind of like that approach. Thanks Ken. I'm checking to see how we're doing on this language. It seems like we have come pretty close to agreement on the first bullet if we took - if we put the in place. Anybody got anything that needs to change there?

Okay Sebastien, go ahead.

Sebastien Bachollet: Yeah, just one little point. I think I don't know if gives the process (unintelligible) in the right order but except that I agree with the sentence.

Mikey O'Connor: Oh I didn't put them in any order with any intent...

Sebastien Bachollet: No but you - we may think about and I think maybe we need to - good leadership to have a good process and the good resources and maybe we need to start by leadership. But never mind it's a good sentence. Thank you.

Mikey O'Connor: Ah yes that's a good point. It would be nice to have leadership there in order to develop good processes. Take care of that. Ken.

Ken Stubbs: Yeah I just feel the need to respond to a comment that Jon Nevin made on the - down in the chat session there. I specialized when I was practicing in France at accounting. And Jon indicates that, you know, because we have no new contracts in place we don't really have the necessity for a budget for compliance.

But I think from a practical standpoint the planning process for managing an effort as large as one that's going to be needed really needs to be looked at in terms of planning, managing resources and so forth. And given ICANN's ability to deal with expanding issues in terms of managing resources and so forth the earlier they get started on it the more effective it's going to be and the more in line with ICANN's mandate for stability.

I just, you know, I can't wait from a practical standpoint until the day they sign these contracts. And in terms of scope, you know, if you do a proper job of planning you can always scale. But if you don't even have any plans for dealing with it it really is hard to manage.

So I think that it's something that needs to be looked at now not eight months or a year from now. And that's what my concern is in terms of the attitude that the board appears to have taken towards this at this time.

Mikey O'Connor: You know, at the risk of sounding imperious I think I'm going to say that we are now spiraling back into the debates that we've had in the past. And what I want to make sure is that the language we've got is neutral enough that we can roll forward with it rather than re-open some of the details of the compliance discussion because we had a pretty lively discussion about that back when we were doing the initial report. So take a look at that first bullet and sing out if you can't live with it.

Okay I'm going to take Bullet 1 as okie dokie for the moment. Volker in answer to your point we've talked about Bullet Number 3 a bit. We softened it with the stuff that's in parens; we haven't accepted that yet. That's sort of where we're at. So I think all three remaining bullets are open for discussion at the moment.

So if - again what I'd really like to do is focus us on the language that's there and find things that you can't live with. Brian, go ahead.

Brian Cute: Thanks Mikey. Again apologize for missing earlier discussion if I did. It says we've identified a list of harms and suggest that either complete separation or complete integration will create problems. Is that true as a statement?

Are there suggestions about partial integration that could create problems as well that were on the list of harms? I honestly don't have it in front of me and Jeff Eckhaus, you probably have the thing memorized. But that's my outstanding question. Is that statement true? And are there other models that we've said, you know, there still could be a harm if it was something in between the extreme points.

Mikey O'Connor: You know, again I'm going to put words in Roberto's mouth. But I think that the second - that second clause the either complete separation or complete integration will create problems may have been written to sort of make the sentence work but I'm not sure - I'm not sure that that's really what we've got in the list of harms. Really all we've got is the list of harms.

Roberto, go ahead.

Roberto Gaetano: Yeah well I - what I intended is that - is just to set the scene. We do - we are not going to have a consensus and in my opinion we will never have either on full complete vertical integration or on full vertical separation.



I'm not excluding that we might have consensus on a partial condition it's on but at this point in time there's nothing we can say because what we have been debating was not indicating that we had any consensus on partial solutions.

I think that all what we have now after months of debate is some elements that will allow us to analyze further the situation like a list of harms and some very narrowly defined and even not fully defined exceptions like the - the TLDs for limited use like cultural and so on.

So I think that what I've tried to do is not to put things that could be controversial but only to summarize what I think that - where the discussion and the consensus at this point. I don't think that we can say anything about a partial vertical integration or a partial vertical separation because that will open up a can of worms.

Mikey O'Connor: How about this Brian? I think - I had something here. What if we said we've identified a list of harms that are associated with either - are associated with either complete separation or complete integration? It's more the mechanics, you know, the way we've structured the list is there are harms associated with vertical integration and there are harms associated with vertical separation.

And back off the language a little bit that way. Would that address the issue that you're raising? Back to Brian.

Brian Cote: Can we walk that out one more time?

Mikey O'Connor: Yeah so I'll read it sort of tentatively. What if we said we've identified a list of harms that are associated with either complete separation or complete integration period. And then the next sentence could be we have not finalized the list nor do we have consensus on it at this time so that what we're really saying is what we did.

What we did was compile lists but we haven't evaluated them. And the way we compiled the list was again the two scenarios either vertical integration or vertical separation. That work?

Brian Cute: Well I think what you do there by saying are associated is you make it black and white and definitive. And the phrasing that suggests you leave some wiggle room because in fact we didn't really as a group go through all the harms and agree yes that one is a harm, that one isn't. I actually - I think that suggestion makes it a little more black and white than we intend.

Mikey O'Connor: Okay so give me a...

Brian Cute: That's a gut reaction.

Mikey O'Connor: Give me another version. If I pick - I'll just back that one out of this.

Brian Cute: Yeah, I'm struggling with this too. I know I've raised the issue, I apologize. But again my focus wasn't consensus on complete separation, complete integration or partial, my focus was what was a (unintelligible) a list of harms (unintelligible) in terms of the different scenarios.

I'm honestly at a loss right now to offer language to address the problem that I had in my mind.

Mikey O'Connor: Okay well if something pops in thing out...

Brian Cute: Sure.

Mikey O'Connor: ...because, you know, I think that we are all sort of on the same page we just aren't quite saying it right yet. And so maybe you can sit not quite in the spotlight and by not being in the spotlight something will come to you and chime in there.

Oh wait a minute, Christina's on here - here. Christina says we've compiled a list of potential harms that may be associated with either complete separation or complete integration. We have not finalized the list. I'm going to grab this before it scrolls off the screen. Help me; the screen is moving awful fast. I'm putting it down at the bottom.

Christina's language is at the bottom of the page. Wow, she's getting a lot of plus ones. Way to go Christina. How does that look to you Brian? Plus four, wow, awesome. Shall we go with that one? Brian you okay with that one?

Brian Cute: Yeah I think that's good.

Mikey O'Connor: Okay. Way to go Christina and Brian. Yikes did I do that? I'm sorry I might have done that - do that. That one's going up again in the bullet. All right so again look for things that make you crazy in the four bullets; don't look at the bottom stuff yet. I was transcribing that really fast as - let's see - a dollar a word. I owe Christina at least two beers I think.

Okay anything else that people are reacting to in the four bullet lists? Okay I think we're going to take those as done. Now let's take a quick look at...

Woman: (Unintelligible).

Mikey O'Connor: We've got somebody with a lot of noise in the background. He's listening to voicemail on a speakerphone or something. Operator can you tell where that's coming from?

Okay let's work a little bit on the comments. Actually I think that one might be - what I want to do this break this and say that the working group - the language on the comments mirrors what I was talking about on the list in terms of - I got a lot of smart remarks from people - when did we review them?

And the answer is we tried to review them four times and each time we dropped right back into the same debates that we've been having all along and so I gave up. Mikey gave up but I think we've got a pretty good statement that says they didn't change our global point of view.

The next clause - and again I was sort of winging my way through this as Roberto was talking so this is pretty rough. We do not think we will arrive at full consensus on either - well I think we can even - on either extreme case, integration or separation, however we may be able to arrive at a position that lies somewhere between those extremes.

And then the final point which is the continuation thing. Do you want to put those two in a little of context, Roberto? Are you actually thinking that we should go back to the board and ask for more time to arrive at a decision? Or - because, you know, the sense that I got from Steve Crocker in DC when he and Ron and a bunch of us were together was that the board has taken the decision back that they'll make it.

Are you asking - are you proposing that we ask them to unmake that choice?

Roberto Gaetano: No, not necessarily. I'm just saying that what we have to do is to make clear where we are. And we are in a situation in which we believe that there is something that can be done in order to reach consensus in between those extreme cases.

And I don't think that I want to necessarily ask for more time to get that - to that intermediate compromise in between. I would like to state that because that's part of the report.

And then I don't know, then I think that to ask for more time is then connected with the (unintelligible) PDP that has to be how are we going to go to Phase 2 and so on. So I would prefer to avoid this issue and just remain on the fact

that we state where we are at. And then it's up to the board. If they decide that we should be given more time they can decide that even if we don't ask for it.

And I'm not really sure that we have a consensus in going to the board and ask for more time so therefore I'm unwilling to have this statement in those terms.

Mikey O'Connor: Okay so I'll take that last one out. I put it down below just so I don't have to retype it if somebody wants to put it back in. And so then our concluding statement would be to - and I think I'm going to take the comments on out as well because I really think that's a work group process point rather than a point that we need to make to the board.

So our concluding statement is to restate our status which is we don't think that we will arrive at full consensus on either extreme however we may be able to arrive at a position that lies somewhere between those extremes. And I could even go far as to say something like during Phase 2 of our work if you'd buy that, Roberto. Does that work? Is that what you're aiming for?

Roberto Gaetano: Yes.

Mikey O'Connor: Okay. Siva, go ahead. You may be muted, Siva, we're not hearing you. Checking Meeting View for a minute. Yeah Siva is muted. Operator could you unmute Siva's - I'm not sure I know how to do that. Siva Muthusamy. I can do this, hey cool. Now try it Siva, I just unmuted you.

Siva Muthusamy: Yes can you hear me now?

Mikey O'Connor: Yes, I did it.

Siva Muthusamy: Yes I think we are (unintelligible) and with the complex - we are examining a complex set of issues and it's quite a large group. And (unintelligible)

discussing more and (unintelligible) to submit the interim report and that kind of place is off track. So we should be in practical tell the board that we are progressing, we are making progress and that's my first point.

And second point is about your comments that (unintelligible). I think that also is a (unintelligible). Then (unintelligible) that could happen either for separation or against separation from the - and it would be an assumption to say that (unintelligible). That's about it.

Mikey O'Connor: Ah okay I see that point that you're making. Roberto was that, you know, we could take out - we could say we have not arrived at full consensus at this time. However we may be able to arrive - what Siva is suggesting is that it's possible that we could still arrive at consensus at an extreme position.

I think that's probably a fundamental change to the meaning of your sentence because I think the point that Roberto is trying to make is that it's very unlikely that we'll be able to arrive at consensus at either of those extremes but we can continue the debate in a minute. I'll let Sebastien speak.

Sebastien Bachollet: Yes thank you. I would actually to support Siva's statement because we are always the extreme of someone and we didn't find any consensus on any position. And why we could assume that one will be able to have the consensus of the group more than another one even if I have my position and I will be agreeing with what is said here as my position but why my position will be better than the one of Siva who want extreme if he wants one extreme and then - and some other who wants another extreme then it's quite difficult.

What I would like to add to that it's - we can still try but my feeling that we don't have the tool to do that. And maybe we can try to use some part of the way use for the (MAP) or Reg 6 group or even the (Chaz) or maybe applicant group to try to go to consensus.

There was some quite interesting way to do that specifically in the (MAP 1) where we had people from the GAC in addition to the one here from GNSO ALAC and others. But my point regarding all that is that we don't have the tool to help the committee to find consensus, we - and in a difficult subject like this one.

And I would like very much to say something - to add something on that issue that may be it's time for ICANN as a whole to think about a new tool to help building consensus.

Just to take one example and not to say that the co-chair didn't do a good job or we are wrong in doing something because Mikey you try a lot of things and quite interesting. But we need to try more. And for example I think for the - to try to find the consensus maybe a tradeoff for the different solution for integration or separation could be a good way to say yes I prefer this one against one but I prefer this one against this other one.

And at the end of the day we prefer more this one than the - all the other because we got around all the solution. That's my thinking just it's (unintelligible) and APO like Oliver. Thank you.

Mikey O'Connor: Thanks Sebastien. And as the junior co-chair no one ever needs to feel bad about correcting the (unintelligible) because I lose sleep about that all the time. I keep thinking of things that maybe could have gone differently, etcetera so no worries there.

Let's go back to the part of this sentence that's troublesome is the part that I've just bracketed. So what if we...

Sebastien Bachollet: It's Sebastien again. I didn't put my hands down. I would like to - I think it's - we need just to say that we didn't find consensus today but the group is willing to work to find the consensus and whatever the consensus will be. We don't need to define it here because it's again a discussion.

Then maybe the - if the group to commit to try hard to work on that it's enough to say to the board then to say that the compromise will be here or here we don't know yet. Thank you.

Mikey O'Connor: So Roberto we're whacking this sentence pretty good. I'll stick it down below. Like that. Check out the - doing this on the fly. Ron, go ahead.

Ron Andruff: Thanks Mikey. I'm just questioning the statement that we didn't arrive at consensus but the group is willing to continue the effort during Phase 2 of our work. We're willing to work at reaching consensus on the Phase 2 issues? Or we feel that we actually might find consensus on Phase 1 if we continue to work during Phase 2. It's a little bit confusing.

Mikey O'Connor: The main part is really my injection so that may have derailed it.

Ron Andruff: Well the point actually is before that Phase 2 popped up as you were typing I was speaking. And the fact is I just - we have not reached consensus. It's all pretty clear, we've all tried but we can't find that common ground on this VI topic whether it's separation or integration. So I think we just call a spade a spade; we didn't get there and - but there are other elements we need to address and we would continue to work on those other elements.

Siva is quite right, you know, there's a leading statement that we might get there. I think it's - I think anybody in this group will agree that that is a wish that we will never achieve. Thank you.

Mikey O'Connor: Okie dokie. Siva give me new language rather than telling me it's leading, it doesn't help so I need - propose, oh, Keith's got something in there. This working group has not and will not reach consensus - okay I'm grabbing this before it rolls off the screen. Go on from some of those...

Siva Muthusamy: Yeah, Mike.



((Crosstalk))

Mikey O'Connor: Yeah, go ahead Siva.

Siva Muthusamy: Yeah the new language that I just (unintelligible) my comment on language is for both (oral) (unintelligible) defensive. It sounds as if we are saying we are sorry we haven't reached - we were unable to reach consensus so give us more time. From that I think we should change to look we are still on the special case and we are just saying that we haven't come to that point of reaching consensus yet.

We are supposed to (unintelligible) consensus case sometime after a month or two. And so I think that should be the language. Alan, I was stating it conversationally but we can say it nicely.

Mikey O'Connor: Thanks Siva. I've posted Keith's proposal just below the dashed line. Oh he's critiquing his own language. I don't think we are likely to reach consensus or a compromise either since we have been trying for months.

So if we said this working group has not - will not reached consensus on recommending strict vertical separation or full vertical integration. Well that's going to draw fire from Siva. It remains to be seen whether consensus can be reached on a compromised recommendation.

Jon you're hurting me here. We could just drop this; we could stay with the four bullets. Keith's in there too. Maybe we drop this last one, maybe that's just reaching - leave it at the four. I'd be actually quite inclined to do that because I think that we are skirting, you know, into the issue of the next - on the way forward and we do not have consensus on the way forward for sure. Brian, go ahead.

Brian Cute: Yeah, just to follow up on that. I think, you know, what the board decides to do might impact what we're able to do after the fact anyway so kind of this is a - this is - this question is not ready for primetime in that respect either.

Mikey O'Connor: What's people's reaction to simply dropping that last clause? If I did this? That's our statement, four bullets. Hearing either shock or silence as assent. I'm going to take that as about as good as we're going to get on that one. Just want to wrap.

Okay it's 23 minutes after the hour, just the bullets. Christina is asking I think we should have a wrap-up sentence, make it clear where we are and where we aren't.

Okay. Well let's have a wrap-up sentence. Who's good at drafting wrap-up sentences? I'm terrible at that. I mean, one way we could do this is we could frame it in a - and this is probably going to be a fairly informal communication with the board anyway because their meeting is coming up in three days.

So one way to do this is to say that on our call today, Monday, these were the four points that we really wanted to emphasize to the board during their discussion on Thursday and leave it at that.

Where's the - where is the word extreme Ron? Chime in there.

Ron Andruff: Second bullet. Second bullet. This is not consensus on either the extreme cases. So there is not consensus in either of the cases either on vertical integration or vertical separation.

Mikey O'Connor: Oh okay.

Ron Andruff: Extreme, you know, there's nothing extreme about it; those are the two ends of the spectrum. Thanks.

Mikey O'Connor: I mean, I think that probably we would wrap some language just introducing this around it Christina but this is eventually going to get folded into the report too. But, you know, the conversation that the board is going to have is coming up on Thursday and bullets can just sent as is.

Okay I think that we've actually done pretty well today. Roberto, there's no consensus on full integration - vertical. How about Christina, did you see Roberto's proposed change - the one right in front of yours? Okay so we'll use that one. Sorry for those of you on the transcript, this is inside baseball as we get through the last little bit.

But Roberto has proposed a change to the second bullet that would make it read like this - as soon as I get it pasted in there. There's no consensus on either full vertical integration or full vertical separation. Either - oh I guess we don't need that last clause.

Comments in the chat are getting pretty frisky. Okay how are people feeling about Bullet Number 2 with that change that's in there now? Going once, going twice, 26 minutes after the hour I'm going to wrap this one up.

We'll pick up the rest of the agenda next week. And I thank you. We'll push this out to the list; I'm sure it will draw some fire but I think we did a great job today folks and I appreciate your patience. That's it for me. Roberto, you got anything for us before we drop off?

Roberto Gaetano: No just I'm wondering about the timing because some sort of statement has to arrive to the board before their meeting that I believe is on the 28th. So I think that we can circulate that on the list. But we should have a sort of a hard deadline within 24 hours or so so that we have the practical time to forward the result.

Mikey O'Connor: Yeah, that's a good idea. I'll push it off to the list right after the call and put a 24-hour session. Okay then 27 minutes - 3 minutes early, hot diggety. I think

that's it and thanks again. We'll talk to you next week. That's it for me. Thanks all.

Alan Greenberg: Thanks Mikey.

Ron Andruff: Thanks all.

Sebastien Bachollet: Bye.

END