

YESIM NAZLAR:

Good morning, good afternoon, and good evening to everyone. Welcome to the At-Large Consolidated Policy Working Group call, taking place on Wednesday, the 10th of April, 2019, at 13:00 UTC.

On our call today on the English channel we have Olivier Crepin-Leblond, Maureen Hilyard, Cheryl Langdon- Orr, Jonathan Zuck, Abdulkarim Oloyede, Holly Raiche, Ibtissam Kaifouf, Hadia Elminiawi, Eduardo Diaz, Kaili Kan, Alan Greenberg, Gordon Chillcott, Marita Moll, Yrjö Lansipuro, Glenn McKnight, Satish Babu, George Kirikos, Judith Hellerstein, and John Laprise.

On the Spanish channel, we have Lilian Ivette De Luque Bruges, and we are trying to reach out to Harold Arcos.

We have received a couple of apologies. The apologies for today's call are Justine Chew, Sebastien Bachollet – tentative apology for him – Seun Ojedeji, Alfredo Calderon, Greg Shatan – as he will be joining late – Tijani Ben Jemaa – another tentative apology – and Christopher Wilkinson.

From staff side, we have Heidi Ullrich, Evin Erdoğan, and myself, Yeşim Nazlar, present on today's call. I'll be doing call management as well.

Our French interpreters are Veronica and David.

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

As usual, before we start, just a kind reminder to please state your names before speaking, not only for the transcription but also for the interpretations purposes as well, please.

Now I would like to leave the floor back you, Olivier. Thank you very much.

OLIVIER CREPIN-LEBLOND: Thank you very much, Yesim. Today's agenda is going, as usual, to be very busy, first starting with an update on the Expedited PDP and some work on the revised draft advice from the ALAC in the current public comment that is taking place on that topic. Then we'll have our policy work with the different statements that are currently under consideration.

I do note one point, which is that Maureen has mentioned she needs to leave at the top of the hour for another call on auction proceeds. I wonder whether we could actually bump her topic that is currently in the policy comment section of the agenda forward so that we deal with it immediately after the review of her action item.

I'm not seeing anybody saying, "No, no, no," so it looks like we can probably do this.

ALAN GREENBERG: Olivier, it's Alan. I'm not sure where you're planning to bump it, but I'm due in auctions also.

OLIVIER CREPIN-LEBLOND: As well? Okay. I do believe, though, that Maureen's point is going to be much shorter than yours, hopefully. You've got 50 minutes. Maureen should be no more than 5 to 8 minutes, so I think we can still do it within the hour if I don't ramble too much.

Okay. So then let's just look at our action items from last week. There are two outstanding action items. One is for Greg to create a redline of all the new versions of the public comment on the proposed renewal of the .org registry agreement. We'll hear from Greg later when he joins the call. The other one is a long-term action item for John Laprise to prepare some work on the universal acceptance activation pilot. That's for presentation at ICANN 65.

So no action items to review right now, and we can move immediately then into Maureen Hilyard taking us through the proposed renewal of the .asia registry agreement. Maureen, if you can do this in five minutes, that would be highly appreciated so that we can also cover the Expedited PDP, with Alan needing to leave at the top of the hour as well.

MAUREEN HILYARD: Thank you very much, Olivier. I've got all my stuff on one slide. It was really just that I know that we don't normally make too many comments on registry agreements. It's interesting that we've got two this time. But one of the unfortunate things that came out of the Kobe meeting, of course, was the sessions that were held on the UA (Universal Acceptance). I don't know if you're aware, but Satish and I are on the Board and among the discussions we've had is the work that .asia does with UA for ICANN but also in their work with their gTLDs that they work with within the Asia region so that it makes sense, from their perspective, to have UA actually incorporated into their registry agreement alongside IPv6 and DNSSEC, which apparently were included into the RAs during the last round anyway.

I think that, in the statement, I'm proposing that, along with the inclusion of UA, into the RAs we also support the UA being included into the next round, if it goes ahead, of course; that we seek Subsequent Procedure's support for including UA into the next round. Also, adding of course that, as well as .asia Board support for this, that, at the end of the meeting in Kobe, the ICANN Board also supported the people supporting this effort as well.

But I also wanted to mention that universal acceptance initiated a pretty interesting discussion that we've been having within the Auction Proceeds Working Group. Mainly it is for it being a

potential area that auction proceeds may be used for projects. And the discussion has been, of course, that UA has had quite a bit of ICANN support for funding and that it shouldn't be included.

But one amongst the arguments has been the suggestion that there are projects related to the implementation of UA that could require funding that ICANN would not support and that – working with software companies to actually get them to ensure that there is UA compliance to make sure that IDNs can be used by end users appropriately across the system.

Bu, yeah, these are sort of things that we're discussing. I take Jonathan's point that there hasn't been a session yet on progress within the Auction Proceeds Working Group, and it's something that the team of us that are popping off to the meeting very shortly – we're going through a report that has to be in by Marrakech. So we've got weekly meetings as well coming up – and two-hour ones – so we can get through the report and readiness for that.

So I just wanted to highlight that, if there are any comments that people want to make in regards to the .asia RA, there is a comment that I've put on the wiki space. If anyone's got anything else to add, please do so.

If there are any questions, I'll take those now.

OLIVIER CREPIN-LEBLOND: Thank you very much, Maureen. First in line is George Kirikos.

GEORGE KIRIKOS: Yeah, I think it's important to note that top-level domain renewals all have the same basic problems; namely the lack of price caps and also the imposition of the URS. So to the extent that there's going to be comments by the At-Large, those should probably be the most important aspects of the comments.

The fee increases could potentially be unlimited for registrants, so that's obviously an important risk: that there's no balancing between the needs of the registry operators and the registrants.

As we know, the actual costs of running registry operations are very small, like the .in ccTLD for India, which had a tender processed for their registry operations. Neustar won it for, I think, 70 cents per domain per year. So registry operators are already making a huge amount of profits based on the actual costs of running their registries. To have unlimited ability to raise prices just isn't a balanced policy. ICANN seems to want to harmonize these registry agreements to be similar to new gTLDs, but that doesn't really balance the needs of registrants and registry operators. It also obviously affects registrars as well because they have to pass on those fees to registrants.

The second issue is the imposition of the URS. That's the Uniform Rapid Suspension Policy that was created for new gTLDs. That

policy is actually under review by the RPM PDP. For ICANN staff to imply impose that, even though it's not a consensus policy, effectively they're making policy by imposing on it a de facto basis on all the registry operators as they come up for renewal, totally overriding the balance that's required by talking to other stakeholders through the multi-stakeholder [model].

So, at a minimum, they should wait for that RPM PDP to finish its review, go out for public comments, and see whether or not it should be a consensus policy rather than simply imposing it. Thank you.

OLIVIER CREPIN-LEBLOND: Maureen?

MAUREEN HILYARD: George, are you going to put that into the comment into the wiki space for me, please?

OLIVIER CREPIN-LEBLOND: Okay. We have three hands up still. Let's go to John Laprise, Alan Greenberg, and then Jonathan Zuck to close the queue. John Laprise?

JOHN LAPRISE: Thank you. Am I being heard well?

OLIVIER CREPIN-LEBLOND: Very well indeed.

MAUREEN HILYARD: Yes.

JOHN LAPRISE: Okay. Well, I take George's comments very seriously. On the other hand, while I am concerned with the idea of unlimited prices within the contracts, to the extent that those fees in some way come back to ICANN to deal with some of ICANN's funding issues [inaudible] especially for things like outreach and all the things we say we want to do, and at the same time thinking about how we are skeptical of the revenue generating by potential future gTLD rounds. I don't have a problem per se with price increases as long as ICANN is seeing some revenue as well from that.

From an end user point of view, while the registries, registrants, and domain users are important groups, end users will see only maybe a cent here and a cent there. So I don't think, for the vast majority of end users, this is going to be a significant issue, depending on the [convent] of the registries and registrants. Thank you.

OLIVIER CREPIN-LEBLOND: Thank you very much, John. Next is Alan Greenberg.

ALAN GREENBERG: Thank you. A couple of points. I tend to agree with George on the price increase. John, the price increase we're talking about is the price of the registrars, not the price that ICANN is charging. So I think this is more relevant than a few cents. In the past, for instance, PIR has exercised its maximum possible increase each year, and that has affected real prices. So I think we need to make sure that we're talking about the same thing.

In terms of the URS, although George is right – it is not a policy consensus policy at this point and was designed purely for the new gTLDs – from an At-Large user point of view, it has the same net effect as the UDRP, and that serves to often remove user confusion and eliminate lookalike TLDs which may be associated with fraud or other things. So although it is subject to the rights review that is going on – and, of course, if that rights review changes anything, it would change it for all TLDs – I wouldn't want to wait for the next renewal – another five years or so, or whatever the renewal period is – until we put that into these programs.

So I tend to feel URS is a reasonable one. The price increase I think does need some comments. Thank you.

OLIVIER CREPIN-LEBLOND: Thank you, Alan. Next is Jonathan Zuck, and then we'll go back to Maureen.

JONATHAN ZUCK: Thanks, Olivier. I think we opened a can of worms with both of these conversations, and it may be something that we want to have a more expansive discussion on because there's some interesting results in the work in the CCT Review about pricing and the fact that the current price caps may be below the market value of the domains, which has had a negative impact on competition from the new gTLDs. So finding that balance between new registrations and existing ones and the ten-year window that you get if there's a price hike – we probably need to discuss all that further, and the URS maybe falls into that same category.

So I guess I'm going to recommend that we take these up as substantive discussions. I think the pricing thing is a little more nuanced than price going up for a single domain and that having significant impact on end users. I think it has a very significant impact on volume of purchases of domains, but less so on individual purchasers. I think the true water level pricing is unknown at this point in a large measure because of the existing price cap structure. So I think we need to talk more about it.

OLIVIER CREPIN-LEBLOND: Thank you, Jonathan. I see hands again from Alan and George Kirikos – no. Alan has put his hand down. Or is it, Alan?

ALAN GREENBERG: That was an old one from me.

OLIVIER CREPIN-LEBLOND: Okay. Thanks. George Kirikos, please?

GEORGE KIRKOS: Thanks. Just to respond to the comments by the prior speaker regarding that the prices for registry services are too low and don't reflect the market value, I think that confuses the true issue; namely that the registries' fees are for two specific things; namely maintenance of a central database of all the domain names in that TLD, which has very, very minimal cost. Secondly, these fees are for resolving the domain name, like passing on the name servers of the specific domain name. so that again has a very, very low cost.

So, if we start thinking about what is the maximum fee that the registry operator can get away with, that's actually thinking about what the value is of the domain name itself, rather than the actual services being provided by the registry operator. So you have to make that distinction because, otherwise, if you think about what is the maximum amount that the registry operator can change,

then that's really saying, "Taking a look at the value of that domain name, how much can I tax that domain name?" rather than, "What are the services I'm actually providing, and what are those services worth?" because, if you have a competitive tender, then you can obviously replace the registry operator with somebody who's willing to do the same job at a lower, the true cost in a competitive market for those fees would be much lower, just like in the .in for India. The cost should be under a dollar a year. When you actually start looking at the value of the domain name and saying, "Okay. This domain name is worth \$20,000. I can tax that at \$200 a year and still get away with it," that's completely, I think, inappropriate.

To give an example, let's say you have an apartment building and you have various apartments in that building that need electricity and there's a competitive market for electricity. Now, let's say I give an exclusive contract to somebody for that building. Call them the Registry Operator for Electricity. So let's say the electricity fees should be, in a competitive market, around \$100 a month. But you know that the user apartments that are worth a million dollars, two million dollars, \$800,000 dollars. It gave a profit maximizing monopoly. The electricity operator for that apartment could say, "Well, \$100 a month isn't enough. I'm going to charge \$1,000. And people will still pay it. Otherwise, their apartment is worthless."

So that's really what we're having now: that registry operators are thinking that they are the actual owner of the domain name and trying to tax the owner of that domain name to the maximum extent possible. They're trying to reframe the debate, as opposed to what they actually are: simply contractors for services. They provide registry services: the maintenance of the central zone file, the WHOIS. The resolution of the domain name is really secondary – well, it's the authoritative level, and then it passes on to the domain servers.

For example, let's say you own example.org and have nameservers NS1.example.org and NS2.example.org. All the .org does is pass on those nameservers. They don't actually really resolve the domain name. So that's—

JONATHAN ZUCK: Hey, George?

GEORGE KIRIKOS: Hello? I was just finishing up.

JONATHAN ZUCK: Sorry. It's Jonathan. I think the point is that we didn't establish the bandwidth on this call to get into this deeply. So I think this is really great discussion and we need to have it so that we develop consensus, which is clear that, perhaps, we don't have within the

At-Large. So let's take that one as an exercise: to build consensus around this issue because I think we need to have an in-depth discussion and, right now, I don't think we have the bandwidth to do it.

GEORGE KIRIKOS: Okay. [That has been happening. Thank]—

JONATHAN ZUCK: Thank you. I don't mean to cut you off substantively, just procedurally. So let's get this on the agenda to talk about it and be fair.

GEORGE KIRIKOS: Okay. Great. Thanks.

JONATHAN ZUCK: Thanks, George.

OLIVIER CREPIN-LEBLOND: Thank you very much, everyone. Thanks for this, Jonathan, and, indeed, we need to move on. If we do have any spare time at the end of this call, we can come back, of course, to the discussion on .org, .asia, etc. But now we have an important item with a shorter deadline, and that's the Expedited PDP statement. I hand the floor

over to Alan Greenberg and to Hadia Elminiawi to take us through this.

ALAN GREENBERG:

Thank you very much. We had a few comments on the presentation I did last time. We had a number of comments on the call from Marita, and she put them into an e-mail, later moved to the wiki. We also had a few comments from Bastiaan. There were a number of other comments that were made, but they were largely supportive of the statement.

The major issues, if I remember them correctly – and Marita will correct me if I’m wrong – is whether there is anything new in each of these that warrant us talking to the Board. In my mind, there certainly is on both geographic and legal. Legal is scheduled to be discussed anyway. Geographic? It’s not clear. Probably it will not be. In both of those, when they were discussed in the first phase, there was a marked reluctance of most participants in the EPDP to look at the issues associated with benefits of publishing any data. With the GDPR, one of its core tenets is that privacy is not absolute, that it has to be balanced with the benefits of publication. Those were not looked at. We considered the cost to contracted parties. We considered the risk to contracted parties. From the NCSG, we considered privacy in its own right as a good thing. But the balancing was never done.

The point we're making here to the Board – we're not talking about the substance. The Board is not empowered to make a decision on the substance. But we're simply saying that we should make sure the process has been reasonably followed before we come up with a decision. To that end, the advice in all cases is simply: the Board should try to take action to make sure these things are discussed. That's all the Board can do at this point.

Marita had commented on the potential benefits of one or more studies. Those have been discussed, but they were never seriously discussed, and there's no indication that they would actually be undertaken. Based on that, I have added a fourth item to the advice, saying the Board should either initiate its studies or try to make sure that the EPDP does – the studies looking at to what extent have other people who have implemented the various differentiations experienced both high costs and difficulty and risks associated with them – and that we try to understand the benefits to the cybersecurity community or the impact to the cybersecurity community of the redaction that has been done under the temporary spec.

If we can go to the new presentation – the one that's up now – this one shows what the advice is. So it cuts out the background but essentially say what it is we're saying to the Board.

First slide, please. Sorry, we have to go to skip – there we go. So the first one is: ALAC advises the Board to something, that the

issue of thick WHOIS be reopened during PDP Phase 2 in light of new legal opinion. The red is a question of do we say request or require? It's not clear that the Board has the authority to require, but that's a much stronger statement, and the Board can, of course, weaken it in what it actually says. That tends to be what the GAC does: say the Board should take action to do something. The Board may have soften that in how it actually does that.

I see Hadia has her hand up.

HADIA ELMINIAWI:

I just wanted to add to the matter of geographic distinction that I would argue that closing the matter was procedurally wrong because [we had] a question posed to the legal counsel, and we haven't received the answer yet. So I would argue that, regardless of the type of the question and the answer expected or not expected, procedurally it was wrong to close the matter and it was not expected to close the topic. Thank you.

ALAN GREENBERG:

Hadia, I agree with you completely. The only problem is I am pretty sure – and I think you are also – that the Chair made a ruling say it would be discussed in Phase 2. Unfortunately, I can't find that in a public transcript, and he has indicated privately to me that he's willing to stand by whatever is in a public transcript, but that's it. So unless we can find that statement in a transcript, I

don't feel comfortable in saying it was closed improperly, unless the Chair at the time is willing to say that's not how it should have happened. So I agree with you completely. And the legal issue is mentioned. But to claim it was essentially an error of the Chair – because it's the Chair that makes those comments – without us being in a position to quote the Chair I think makes it somewhat difficult.

Hadia, did you want to get back? Your hand is still up.

Okay. All right. The next advice is a similar one on the geographic issue. We are saying that the Board, in light of the new legal opinion and the lack of considering competing needs – that the issue be discussed and it be discussed with those needs factored in.

The third one is legal natural, which is due to be discussed in any case. But we're saying it must consider the competing needs.

Lastly – and this is the new one – the ALAC advises the Board to initiate studies or to request/require that the EPDP commission studies related to the implementation and geographic and natural legal implementation – [there's] a redundancy there – as well as the impact of the temporary spec implementation on cybersecurity. If the latter – that is, if it expects the EDPD to do it – [they] have to make sure there's adequate funding.

In the revised document, the fourth advice simply says such studies – that has to be expanded as this one was to actually make sure it stands alone as a sentence without reference to the previous one.

I open the floor up to comments.

Marita?

MARITA MOLL: First of all, I'm not seeing that we can have control over the slides so I can look back and forth on them because it's a little hard to do that when we're locked onto one slide.

ALAN GREENBERG: Sorry. I was made a presenter, so I have control. I didn't know that you don't. If staff can make me not a presenter and give people control, I'd appreciate that.

MARITA MOLL: Thank you.

ALAN GREENBERG: It's also linked to the agenda, however.

John?

JOHN LAPRISE: I am in favor – oh. Sorry. Jon, go ahead.

JONATHAN ZUCK: I was just going to ask if he meant me. Go ahead, John. I'll go next.

ALAN GREENBERG: Sorry. I saw John Laprise's hand up.

JOHN LAPRISE: I would like to say that I'm in favor of the stronger language wherever possible and, if we need to, we should, by some method, inform the Board that we acknowledge that – and some Board may deem that – “require” may be outside of their capacity and then to water down to it being a request. I favor the stronger language.

ALAN GREENBERG: Thank you. I do also. I will pass this my Leon, of course, but these days there is an opportunity to talk to the Board about what these things say. We don't just toss documents over the wall. So I think what you're suggesting is covered.

[Jon], you said in the chat that you don't like the term “other legitimate purposes.” I think the other legitimate purposes are

already discussed in the context of the EPDP, and they are, in general, related to intellectual property rights. I would think we will damage ourselves by putting those words in here. The constraint is already there from the point of view of the EPDP. So I would advise not being more specific, although I understand your concern.

Jonathan – I'm not sure who was first. Was Jonathan Zuck or George? Let's go to Jonathan Zuck.

JONATHAN ZUCK:

Thanks, Alan. This may not even change the advice, so I apologize. I'm not trying to derail this. On the thick WHOIS thing, I think part of what's interesting about that is that this is a pretty new example of potentially a consensus policy being rendered moot or something like that by a new policy. I wonder if we should be recommending that some kind of discussion take place, either via Brian Cote's group or something like that, on how to handle the situation more gracefully in the future—

ALAN GREENBERG:

Can you be elaborate? Which consensus policy is being—

JONATHAN ZUCK:

Oh, on thick WHOIS. I'm sorry. That's the one I'm talking about.

OLIVIER CREPIN-LEBLOND: Okay. Is—

JONATHAN ZUCK: Thick WHOIS is a special case where there was this consensus policy, and part of what's going, at least in some people's mind, is that it was rendered moot by this. We're arguing that to some extent, but the very nature of that is somewhat new, and it might be worthy of some discussion on how to handle that kind of situation since we have so many reviews happening and so much stuff going on. How do we not turn this into an arduous to unwind consensus policy when new policy comes into place or something like that? It feels like a generally interesting topic to cover and try to resolve.

ALAN GREENBERG: Yeah. Thank you. I do have to comment on that. The lowercase policy of practice is that review teams and PDPs do not stick their hands in relatively recent consensus policy decisions. That's the norm. So the norm in this case is we would not have touched that because it's so recent it's not even implemented.

But there are two catches to that. Number one, clearly, GDPR potentially affects this, if not in privacy than in [trans-border] data flow. Number two, the EPDP never discussed thick WHOIS as

such. We have managed to kill it by implication. We've put together a set of constructs which will result in it dying, but we never actually said that. We presumed thick WHOIs was illegal, even though we now have a legal opinion saying it isn't. But we didn't consciously do it, so it's—

JONATHAN ZUCK:

But it wasn't just that it was illegal. It was rendered moot also by RDAP and things like that. It's a separate issue. Illegality wasn't the only issue. The other issue was whether or not it was even necessary.

ALAN GREENBERG:

No. I think RDAP was presumed when we looked at the thick WHOIS PDP. It's always been known that WHOIS is a dead protocol and that it would be replaced by RDAP. So I don't think the RDAP issue is relevant. The legality is relevant, and that was presumed but not actually discussed. And that's the basis for us saying "reopen": because it was never discussed.

Marita – oh, sorry. George?

GEORGE KIRIKOS:

Thanks. I'm in favor of the stronger language. Better to put "require" than "to request"; tell people exactly what you want not just what you're looking for.

As for the over-application of the GDPR in terms of geography and to businesses, I 100% agree with the position. So no need to change that. [We want] to be forceful on that.

With regards to thick WHOIS, to me that's a lower priority item. It's kind of sad that it fell apart, but from a practical point of view, we know that .com, that had been WHOIS forever, has worked fine for the most part. The key is to have it so that all the registrars are actually serving up the WHOIS. I think one of the reasons for the desire for thick WHOIS was that the burden would be placed on the registry, who's perhaps in a better position to actually serve up the WHOIS with 100% uptime. Or as the registrars tend to be a bit flaky – so to the extent that it goes back to thin WHOIS, to me it's sad but it's not the end of the world, as long as ICANN Compliance makes sure that people are actually serving up the WHOIS at each of the registrars. So, to me, that's a lower priority item.

I want to draw attention to a letter that was sent to ICANN last week on April 4th by David Redl with regards to timeline because I think that's an important consideration in terms of pushing for other studies. David Redl is of the NTIA/Department of Commerce, and he wants Phase 2 completed by Montreal. I think that's November, and it's now April. So I don't know, from a practical point of view, whether there's going to be time to actually do the studies that are being requested or required here.

So I think that should be taken into account, that we have to prioritize what we most want to see. Having delay due to studies is probably not going to be received well from other forces, or at least other stakeholders, in this matter, especially with all the workload and burnout that people are suffering from. Thank you.

ALAN GREENBERG:

Two things. In terms of the workload, a proposal that had been on the table was to look at Phase 2 as two streams – that is, the access issue and the carryover issues – and do them in parallel; so essentially two meetings a week. One of the meetings focuses on access issues. The other focuses in parallel on the separate stream. That looks like that has not been what will happen. We will operate solely on the access issue until it's completed and a report is issued and then go back to the other issues. There is no way both of those are going to happen by Montreal in my mind. So I don't think that is a relevant issue, and that's one of the reasons that I believe there may be time for such studies. But clearly there may not be. So we'll have to see where that goes.

Marita?

MARITA MOLL:

[You] said it before and I'm going to say it again. I don't think Advice #3 should be there because we're just saying, "We don't like the way it went. We want it to go again. There's no new stuff

there. I think there was some support on the list for that opinion, but I see it's [still there], so I'm just going to throw that back in there.

As far as the studies, if there's not going to be enough time to do these studies, [it'll turn out] that that might be moot. So that ought to be a serious consideration: if there's time and energy and money to do it. That's my comment.

ALAN GREENBERG: Marita, you said, #3 legal issue, that we didn't get what we wanted so we're saying do it again. That one is on the agenda to be discussed.

MARITA MOLL: Right. So why is that in there? It's on the agenda to be discussed.

ALAN GREENBERG: It's there because of the last phrase in the advice. Explicitly considering the competing needs of those using the data for cybersecurity and other purposes. That has been something which has been carefully not discussed. It was raised by a number of parties, including us in the SSAC and other, and to be blunt, patently ignored. The only issues that we discussed were costs and risks to contracted parties.

MARITA MOLL: And what are other legitimate purposes?

ALAN GREENBERG: The other legitimate purposes are the other users who have legitimate access, and that is Purpose 2 or 3 in it. There are specific others who have legitimate access, and exactly who those are and the details will be worked out in the access description. As far as the—

MARITA MOLL: So we're asking the Board to take a hand in how this discussion goes.

ALAN GREENBERG: We are asking the Board to make sure that, when the result comes back to them, they can be assured that full process was followed, yes. Because that process has not been followed to date. But, because of the time delay, they have no choice but to accept the recommendations at this point, in my mind. But since this is going to be on the table, we want to make sure that the other considerations are brought in.

MARITA MOLL: Well, I've said my bit. I don't think it's totally appropriate, but I guess I'm an outlier here on this. Thank you.

ALAN GREENBERG: John?

JOHN LAPRISE: Thank you. I'd just like to make a point. Earlier, one of the issues was raised and I think George mentioned in passing was geographic. I wanted to add [my two cents.] So I work for a global non-profit organization that's not [inaudible]-related. We implement GDPR. We have members around the world. We came to the conclusion on GDPR – to implement it globally, at least as a matter of course – for two reasons, one of which was that we deemed it was likely that we're going to be [inaudible] legislation expand globally. So this gave us an organization a head start on this process.

Secondly, as a non-profit, we believed it was unconscionable for us to go to our members, saying we're going to protect some members' privacy better than others. So we're thinking of geographical protection. I think perhaps that consideration should [also] be added into the mix, or at least in the thought process. Thank you.

ALAN GREENBERG: Thank you, John. The question I'm obliged to ask is, what are the negative impacts of redacting all of your members' information as opposed to just some? Because in WHOIS there is a negative impact, and that has to be assessed as part of the decision process. I'm not saying how it comes out, but the question is, has it been considered?

JOHN LAPRISE: So far, our organization had a negative – we haven't been [called upon]. In some way, there's been negative outcome. We haven't had a negative outcome from this. So I can't [inaudible]. I don't have anything for you, Alan.

ALAN GREENBERG: That's, I think, what makes the difference. Hadia?

HADIA ELMINIAWI: I just wanted to address the recent question about the legitimate interest spelled out in David Redl's letter. Some of them are the law enforcement, IP rights holders, and cybersecurity researchers. So those are some of the legitimate interests spelled out in his letter. Thank you.

ALAN GREENBERG:

Thank you, Hadia. All right. I see no more hands up. At this point, I sense – and I'd like to call on Maureen to take about what the process going forward is – we have a strong desire to put in “require” and not “request” but cover ourselves with personal discussions with Board members to say we understand they may not have that ability but to make the statement more forceful. I believe we only have Marita at this point and possibly Bastiaan – but he's not on the call – as ALAC members that are expressing some concern over one of these statements, or possibly two. So I think at this point, using the ALAC rule of consensus, we do seem to have consensus. In giving advice to the Board, however, I think it's really important that we formally take a vote prior to actually submitting it was advice.

Given that, Maureen, how do you want to proceed? I can have a draft within a day or so that I think cleans up most of these issues. If anyone else has any – no one has made any comments on the actual text or wording, and if someone has noticed typos or other things they think are in error, then, please, if you can correct them on the wiki. So if we give a draft, that can go to the ALAC for decision. This due to the public comment no later than the 17th, and I think our discussion so far has been we will submit it as Board advice and copy the public comment. So that puts a one-week constraint on us. So, if we get a couple days to clean it up and then a three- or four-day vote, Maureen, does that sound comfortable to you?

Is Maureen still on the call?

MAUREEN HILYARD: Sorry, Alan. I was actually unmuting myself and I was just drafting a note to say that, following your advice, I agree that we seemed to have reached a pretty broad consensus here. But I would appreciate a draft [inaudible] if you could do that for me [inaudible] present it to the ALAC.

ALAN GREENBERG: I'll clean up the statement and draft some words for you for submitting to the ALAC.

Seeing no more hands, I'll turn this back to Olivier. Thank you.

OLIVIER CREPIN-LEBLOND: Thank you very much, Alan. So we now have time to go to the public [policy] comment updates. I hand the floor over to Jonathan Zuck and Evin Erdogan.

EVIN ERDOGDU: Thank you, Olivier. So, moving to the policy comment update recently ratified by the ALAC, there have been none within the past week, and there are currently two open for public comment for decision. I'm not sure if Jonathan would like to comment on

either of these, but they are the proposed renewal of the .biz registry agreement and proposed renewal of .info registry agreement.

[Beyond] this, the current statement in development: Alan and Hadia have just gone over their draft ALAC advice to the ICANN Board, and Maureen has also gone over her proposed renewal of the .asia registry agreement draft. I'm not sure if we have Greg Shatan on the call, but he's also currently looking into the proposed renewal of the .org registry agreement.

So unless the penholders would like to make further comments, or if Jonathan would like to discuss the two public comments for decision, that's all from me. Thank you.

JONATHAN ZUCK:

Thanks, Evin. It sounds like somebody's got their line on because I'm hearing from both your line and mine.

It seems from the conversation that we began with respect to these and the URS, etc., that there are some conversations that we need to have but that we might be likely to comment on these renewals but that we're not quite ready to develop our outlines until we've had a little bit of consensus session on the next call on these issues that George raised with respect to the .asia renewal. So let's have those conversations but let's leave these things open with the likelihood that [inaudible].

Back to you, Evin.

OLIVIER CREPIN-LEBLOND: Jonathan, I did put my hand up and I think Holly has her hand up. So perhaps there could be some comments from her.

HOLLY RAICHE: Yeah.

JONATHAN ZUCK: Oh, sure. I'm happy to manage the queue. Sorry about that. I wasn't paying attention. Only thinking of myself. Olivier, go ahead.

OLIVIER CREPIN-LEBLOND: Thank you very much, Jonathan. So the first thing I was going to note is – or I was noticing – is that all of these registry agreements come up for renewal at the same time. I was going to suggest that, unless there are some specific points for one or the other, we either decide to respond to all of them or respond to just the one that is different from the others.

So I know that Maureen brought forth the one on .asia, specifically pushing for the universal acceptance part, and the .org and .biz and the other ones don't seem to be suffering much from

universal acceptance. So maybe that's not a point to be made on these.

That being said, as you mentioned as we've heard earlier on this call, there's been quite some discussion on .org. I wanted to – and this is taking my Co-Chair's hat off – as someone who's been looking at these registry agreements for quite some time, also start a discussion – maybe not for this call but put it in everyone's minds for the future call that we'll have on this – that, with regards to the actual fee, a registry pays ICANN per annum.

The fee is currently labeled in Article 6.1: Registry Level Fees. It's a number which is there and hardwired into the contract, which I already find to be a bit strange, should I say. It's a number that was worked out at some point – I don't know how it was worked out – more than ten years ago, when those registries took the running of these top-level domains. And it's a fixed number. Of course, as you know, ten years ago one dollar bought you a lot more than what one dollar buys you today.

So then, when we hear the whole problem of ICANN having an income that is not increasing and the only way of ICANN's income to increase is to create new gTLDs, I do find it that we are on a downward slope that will ultimately signify ICANN's end of life due to running out of funds because it's just simply not being covered by the fees that are being taken from the registries.

The yearly fee per domain name is \$0.25; i.e., 25 cents. I would argue that one really has to think quite actively now about having these fees go up at least by the rate of inflation, follow inflation, because, if they don't, then we're just going to end up with an ICANN budget that will continue staying at the same level and our operations being naturally reduced due to, as I said, inflationary measures.

I know some of the answers I was given when I spoke to Board members was, "Oh, but rate of inflation do you take? US? Europe? What country? Every country is different." At the end of the day, ICANN being based in the US, I would argue for a US rate of inflation.

That's all I wanted to put at this moment in time. Thank you.

JONATHAN ZUCK:

Thanks, Olivier. I think you put words to what was already starting to evolve, which is that we probably need to come up with a generalized set of comments that apply to all these things and to go through that exercise. Maybe we miss the deadline for .asia doing that but we develop a general set of principles that we either submit multiple times or try to submit as advice or both. So let's have that conversation. But I think that's a very good idea; to attack this as a more general issue and not something that's

specific to a specific registry agreement. I think that's very true.
Thanks, Olivier.

Next hand is Holly.

HOLLY RAICHE: Thanks a lot. I was going to say pretty much what Olivier said, but I was going to say, is there an argument that says something like .org, which is largely for not-for-profits – that in fact there may be policy arguments why one registry should be capped and others not? I do not know the answer. It's just a question. Because otherwise it makes sense to answer them all at once. Thank you.

JONATHAN ZUCK: Thanks, Holly. I guess, as we try to discuss some in generalized terms, it may be that we do a generalized comment and that we end up doing much shorter specific ones if we discover that there are specific issues that need to be addressed. So I think that will fall out of that conversation. But good question.

HOLLY RAICHE: Okay.

JONATHAN ZUCK: George? George is next.

GEORGE KIRIKOS: Thanks. With regards to the comments on this, I already kind of made my points on the prior discussion earlier.

With regards to Olivier's statement, I don't think ICANN really has a revenue problem. What they really have is a spending problem to the extent that they've let spending get out of control. That's, I think, the bigger issue, rather than trying to link these registry fees to inflation and so on. They've really had a big party the last few years and hired a lot of employees, thinking that new gTLDs would be a wild success, etc. All those prognostications have been proven to be incorrect.

The other issue is that the registry fees are just a fraction of the revenue that ICANN takes in. There's also the variable fees that are collected by registrars. So there's, I guess, another 25 or 22 cents per domain name per year. So, between the registries and the registrars, it's all ultimately coming from registrants. So it doesn't really matter if there's a shortfall from the regis[inaudible] eventually be collected from registrants one way or the other. So it's all just an accounting gimmick to some extent. Thank you.

JONATHAN ZUCK: Thanks, George. Alan?

ALAN GREENBERG:

Two quick comments and then I have to leave. In terms of “ICANN has an expense problem, not a revenue problem,” that may be the case today. It may not. it’s a matter of opinion. However, the general issue is ICANN should have some ability to control its revenue. I think it’s a true one.

The registrar fees are nominally set by ICANN, but in general, ICANN has been very reluctant to raise registrar fees. The registrar lobby is really strong.

In terms of Holly’s statement on .org being for non-profits, I think that’s a hard argument to make, since they don’t restrict it. It’s a marketing decision but not an implementation decision. So I think that’s a hard one.

The precedent, however, of “They have been [marketed]. They have been capped and therefore should not be completely uncapped in fell one fell swoop,” I think is, in my mind, a stronger one. Thank you, all. I’ve got to go. Bye-bye.

JONATHAN ZUCK:

Thanks, Alan. Good point. Back to Olivier.

OLIVIER CREPIN-LEBLOND: Thank you, Jonathan. In response to George's point that ICANN has a spending problem and not an income problem, actually the two are related. They're totally related because, of course, the spending problem is taking place because inflation makes everything more expensive; so you're average hotel room, your meeting, your funding for meetings, for working groups, for all that, salaries. All of that is going to continue going up. So if you keep to the same spending budgets year on year without taking into account inflation, what you're effectively doing is downsized.

Now, I don't know how people feel in this organization or in the ALAC, as we all rely on ICANN to fund us to go to these meetings and do what we do and we give our time free of charge. But that's something which it think greatly affects this community and will greatly affect the community further.

I'd like to just add one additional thing. I'm not convinced that having new gTLDs is actually the answer – additional income streams from new gTLDs – because, if you look at them, the amount of money that has to be spent on compliance when you have new gTLDs that are mostly used for all sorts of activities that [are] quite detrimental to end users, you end up with an equation which [I've yet] to see from any kind of economic study. When does a TLD start becoming profitable for ICANN? "Profitable" as in zero-sum game at the time that it doesn't actually cost money. That's one which is a difficulty. We always speak about cost

recovery basis for the application, but then we don't speak of cost recovery for the actual lifetime of the TLD, which is something that is a bit like looking into a crystal ball but at the same time there are some trends emerging. Thank you.

JONATHAN ZUCK:

Thanks, Olivier. That's a broader conversation as well because, in theory, that should be non-linear; the compliance eventually, if it got its act together, should be able to handle an infinite number of top-level domains because, as we know, the DNS abuse, etc., just moves around at will. So I know it's not necessarily directly linked to the number of them. We're going to need to – that's a non-linear equation that we'll have to work on. But, thanks, Olivier.

Alberto is next in the queue.

ALBERTO SOTO:

Now, with respect to expenses for [inaudible] or meetings or what was being mentioned right, and with respect to inflation, we must also consider that, as it was said, the US inflation. But if you consider Argentina's inflation, which is 3 or 4% a month now, the investment that was made at a certain point, in Buenos Aires, for an ICANN meeting, if you held a new meeting this year, it's going to be a lot less. The percentage in dollars is going to be

significantly reduced. So we need to see where the meeting will be held to see what is going to be the actual cost. Thank you.

JONATHAN ZUCK: Thanks, Alberto. Again, probably we won't get that question resolved on this call, but these are all good points to raise as we continue to engage as we have in the budget review process. So I think these are all going to be ongoing discussions. But let's see what we can do to get ourselves to consensus on fees and [inaudible] and some of these other issues that have general applicability across the domains.

Seeing no other hands, Evin, I return the podium to you if there's more for us to cover in our overall presentation.

Evin, I don't hear you speaking.

EVIN ERDOGDU: Can you hear me now?

JONATHAN ZUCK: Yes, I can. Thank you.

EVIN ERDOGDU: Oh, okay. Great. I don't know what happened there. Thank you, Jonathan. No, I don't think there's anything further to discuss, but

it does seem for next week's call there might be an agenda item on the registry agreements as to whether there'll be one statement given to each or if perhaps there would be some advice on this. So maybe that could be further discussion for next week. Thank you.

JONATHAN ZUCK: Yeah, for sure, Evin. I think we'll have both a procedural and a substantive discussion about this next week. So I'll work with you to figure out how to phrase those things on the agenda.

Olivier, back to you.

OLIVIER CREPIN-LEBLOND: Thank you very much, Jonathan. The next item of the agenda mentioned here is ICANN 65 policy topics. So back to you, Jonathan.

JONATHAN ZUCK: Oh, wow. I hadn't noticed this on the agenda. I guess this discussion is – I may have made some proposals on the list, and I'm completely drawing a blank, having a gone through a week of being under the weather and not remembering them.

But I know one of the things that we'll be doing at ICANN 65 is that John will be making a presentation and a proposal to the

RALOs for a plan to implement and track and outreach surrounding acceptance. So he is working with Don Hollander with my help to come up with what that plan looks like. It's significantly less complicated and arduous than the one I had in mind, so that's all good. So that's good news. I was completely overly ambitious in what I was thinking back in Kobe. So there's a much more manageable – and in a way, more relevant – plan for us [that's not] just more directly outreach. So that will be happening in Kobe.

We're having active discussions about what kind of policy sessions we might want to have like the ones that we had in Kobe. I guess I haven't settled on any in particular. One of the things I think we should be probably doing and reserving some time to do is going out into the world of ICANN and engaging in some of the policy discussions that are going to be going on in the meeting. Maybe we formalize that a little bit and try to assign some folks to some meetings and have some reporting back from those meetings with subsequent procedures and some other areas where there's going to discussions going on where us just having our own conversation in parallel might not be that productive.

So that's still in process, and I guess, if you have ideas for that, please e-mail them to me. If there's a session like the ones we had that you'd like to see, let me know that. I'll continue to think about that. We'll probably try to do the talking points exercise

again but in a more open way than last time. That was a last-minute thing we did on the ICANN 64 planning group as opposed to this group, which is probably a better place.

So we'll probably try to do that, and we'll probably try to work on getting people out and [seating] them around the meeting, both to deliver our messages and to bring messages back. So we'll [inaudible] exactly. There'll probably be something on the strategic plan.

So, yeah, please e-mail those things and ideas and I will, for the next CPWG call, try to make more of a proposal about what we ought to do in Marrakech with respect to policy round table we hold and the schedule as a whole and we might handle that in a more formal way. So thanks, folks. Back to you, Olivier.

OLIVIER CREPIN-LEBLOND: Thank you very much, Jonathan. I notice that Greg Shatan has arrived. There was an action item for him. So maybe we can deal with it now, which was for Greg to create a redline of all the new versions for the public comment on the proposed renewal of the .org registry agreement.

Greg, I'm not sure. Have you managed to produce redlines for these, or are they very, very vastly different so it doesn't make any sense?

GREG SHATAN: Hi. Thanks. I will produce it within the hour and circulate it to the group. I just need to convert one of the documents from PDF back into a Word doc so I can run the comparison. You may even see it come up during this meeting. Then we'll see just how useless it is. Thanks.

OLIVIER CREPIN-LEBLOND: Thanks very much for this, Greg. Thanks for keeping the faith and being ready to produce a document that might or might not be useful but still spending the time over it. Sometimes life is like this.

I think we are reaching the Any Other Business part of this call. Yes, we have gone a little faster than usual on this, so I would perhaps ask that staff puts [inaudible] and isolates the recording of the call quite quickly so we can get the people who have missed the call today to be able to listen to it because I think that we've had some really, really interesting discussions on the call today.

So any other business?

I'm not seeing any hands up. Going once, going twice ...

Right. Well, this is a landmark case today of a CPWG call ending early when I'm chairing it. That's just unbelievable. I'm going into

shock. We are 17 minutes before the end of this call. Does anybody want to ramble for this amount? Perhaps not.

So, thanks, everyone. I'm going and celebrate. I really will now. You have 17 minutes of your life back until the next call. Thanks, everyone. Have a very good morning, afternoon, evening, or night.

[END OF TRANSCRIPTION]