OLIVIER CRÉPIN-LEBLOND: Good morning, good afternoon and good evening everybody. This is the New gTLD Working Group call on Monday, the 25th of January, 2013. The time is 19:08 UTC – we're a little bit behind schedule, waiting for a few more people to join us. My name is Olivier Crépin-Leblond. I'm actually today filling in for Avri Doria who is the usual Chair of the New gTLD Working Group but who is business since she is on the World Summit on Information Systems, I think it is.

And so basically I'm filling in for her so I'll be chairing the meeting, and this is a very special call since it is a single-purpose call specifically to look at the proposed statement on the closed generic applications. As you know, the Board has asked for the community to bring some input with regards to the closed generic applications and so we have Evan Leibovitch with us who I've just heard saying hello and who will be reviewing the statement.

But first thing is we'll have the roll call I believe. First I see here, because I'm just covering the agenda here, the review of the agenda itself. Does anybody have to add anything to the agenda? So we've got the closed generic applications – anything else to add to this? I don't hear anyone or I don't see anybody putting their hands up so I gather this is the full agenda. And so we can start with a roll call please, Julia. And I'm not hearing anything at the moment so if you are speaking-

JULIA CHARVOLEN: Sure, sorry Olivier. I'm sorry, I was on mute, I'm sorry.

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OLIVIER CRÉPIN-LEBLOND: Okay, welcome back Julia, go ahead.

JULIA CHARVOLEN: Thank you so much. Welcome to the New gTLD Working Group call on Monday, the 25th of February. On the call today we have Evan Leibovitch, Alan Greenberg, Dev Anand Teelucksingh, Christopher Wilkinson, Olivier Crépin-Leblond and Andrew Mack. We have apologies from Yaovi Atohoun, Hong Xue, Fouad Bajwa, Cheryl Langdon-Orr, Tijani Ben Jemaa, and Cintra Sooknanan.

And from staff we have Silvia Vivanco, Heidi Ullrich and myself, Julia Charvolen. May I remind all participants to please state their names when speaking for transcription purposes, thank you very much and over to you.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Julia. Have we missed anyone? Is there anybody on the call who hasn't heard their name? No? Okay, so let's get on with it and I hand the floor over to Evan Leibovitch who is going to take us through the proposed draft statement on closed generic new gTLD applications. Evan, you have the floor and in the meantime I don't see that Julia has managed to share the screen yet; so you'll find the link over to that Wiki page on the Adobe Connect. Go ahead, Evan.

EVAN LEIBOVITCH: Thanks a lot, Olivier. I find myself in a bit of an awkward situation as being on one hand the penholder; on the other hand having examined

the various issues of the day, having formed quite the definite opinion on my own. So I want to bear with other people on the call and not only encourage but actively want to solicit people who are involved with perhaps a different perspective than my own.

In trying to create a statement, it seems clear first of all that we do not have unanimity on a single position. However, there are some areas of commonality that I'm hoping perhaps we can flesh out and address some of the differences while agreeing on some of the commonalities. It seems, and so I'm going to… This is going to be a personal comment and so believe me, if anybody wants to correct me or has other things to add please feel free to come in at any time.

One of the things that has struck me about the closed generic discussion is that it strikes me as something that is extremely valuable – it's an extremely important issue and it seems to be about four years too late, in a sense that… So it is that ICANN is now down the path of doing implementation details, that we are now talking about executing the objection procedures such as the one that Dev is running, such as trying to figure out individual things of what the GAC is doing, figuring out individual objection procedures from the trademark owners and from nongovernmental organizations.

So what we're talking about is the idea of closed generics, even as the term has been mentioned of having a public comment of high-level domains – that should not be locked away from the public. This is a very useful conversation to have but I fear that we're having a policy discussion during an implementation phase. And where I'm personally having the greatest difficulty in creating a statement is trying to

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reconcile those two things – that we're having a very high level discussion at a time where ICANN should be working on details such as figuring out whether or not they want to have roulette wheels to determine who goes first in the application phase. Alan, go ahead.

ALAN GREENBERG: Thank you. I'm in a different position than I very often am in these kinds of discussions. Very often I'm the one preaching, saying we have to be pragmatic about what can reasonably happen and do our best to guide something within that constraint. I find myself this time being in the exact opposite position of we have to say what should be happening regardless of whether or not it is possible to implement it right or not. I think it's an important enough issue.

As Evan knows I'm sure and other people probably know, I'm very much in the number one camp. I believe that Evan's statement is quite reasonable with the exception of the observation at the end, of what the motivation is of people on both sides.

EVAN LEIBOVITCH: Okay, sorry, which are we looking at?

ALAN GREENBERG: There's a "harmful, appears to be drawn by principle" and the "non-harmful by evaluating real outcomes," which I think is inappropriate. But basically I think Evan has identified the issues. Perhaps there's some minor wording changes that are needed in the number one and number two, but overall I think he has reasonably extracted the salient

issues from what can be and has been very long discussions on these kinds of things. However, I do not believe this is a statement that we should be voting on yes or no.

I believe this is a statement we should be voting on "I'm on Number 1's side," "I'm on Number 2's side," or "Abstain" because if we're trying to send a message to the Board as to what the ALAC and what At-Large feels, it is a mixed message. And simply saying "It's a mixed message" isn't helpful without some metrics of what the balance is among the positions. So I would support a statement very much like this being submitted but the vote not being yes or no, but indicating which side people support. Thank you.

EVAN LEIBOVITCH: Okay. Olivier, do you want to… I'm not quite sure where your roll in picking these goes off and mine comes in, because you're chairing so…

OLIVIER CRÉPIN-LEBLOND: Yes, thank you Evan. You're the penholder and it's interesting in that way, that we're not only looking at the text itself but Alan has made a suggestion with regards to the process. I will have to check with staff whether this is a possibility to have ALAC members to vote one way or the other…

ALAN GREENBERG: Forgive me, Olivier, why would it not be a possibility? It's our call.

EVAN LEIBOVITCH:	Yes, Olivier, this is a system where we're making a statement as comment, and the comment could be "We have X% of At-Large that believes in this and X% that believes in that."

OLIVIER CRÉPIN-LEBLOND:	Well, we can't say of At-Large, X% of At-Large. We can say we have X% of the ALAC which thinks this and which thinks that.

ALAN GREENBERG:	Alright, which is what we always say on a statement.

OLIVIER CRÉPIN-LEBLOND:	Yeah, you know, so we're not effectively polling our At-Large Structures and doing an At-Large-wide poll and say which At-Large Structures leans one way or another.

EVAN LEIBOVITCH:	Well, if we had the time this would probably be a good thing to do but they haven't given us that time.

OLIVIER CRÉPIN-LEBLOND:	It might be, yeah. It might be.

ALAN GREENBERG:	And any ALAC member can do what they want.

OLIVIER CRÉPIN-LEBLOND: Okay, so back to you Evan. I think I'll leave it to you since as far as the text is concerned you're the penholder and this really is a working group call here. So go ahead.

EVAN LEIBOVITCH: Okay. And I think the main reason why you've been asked to be here, Olivier, is on one hand I'm the pen and I'm supposed to be presenting an objective view of things while at the same time I've come out very heavily on one side. So I want to do everything possible to make sure that what is being done here is balanced and representative and doesn't have me trying to bully my way through a point of view.

So and to that extent, so what we have right now are the very tops of it and with a little bit of edits suggested by Alan we essentially have two very small paragraphs that summarize a point of view. To that extent, there has been cut and pasted below this an ongoing conversation that's essentially been taking place between Roberto Gaetano, Avri, myself; Carlton has also been involved in the comments on the Wiki page, and there have been other voices that have come in on the email in the ALAC list that have tried to engage this to try and flesh things out.

Is there an interest in trying to give further detail? We've got two very, very concise summary paragraphs. Is it necessary or useful to try and give some deep background? I guess we have a situation where Roberto's points can be brought into the Point #1, and I guess I've done I think a reasonable job of explaining some of the rationale behind the #2. Is there an interest in trying to do that? Or do we leave it simply simple and concise like that?

ANDREW MACK:
Evan, this is Andrew. What you're suggesting is that we would give more flesh to it by saying "An example of this would be X or Y?"

EVAN LEIBOVITCH:
Actually it's a matter of talking about rationale, because if you look on the Wiki page at the discussion that has gone on, essentially the two main proponents of the explanations behind the concise paragraphs are I'd say Roberto talking about the principle stands that ICANN has to do to create, so to speak, a commons of words that should not be subject to closed ownership; and myself somewhat backed by Avri has taken the position of giving a long, logical fleshing out of #2. I personally think that there's two issues behind #2 – number one is on principle and number two is on the fact that if anything this is almost PDP territory and we're too far down the road for that.

And so part of my challenge right now is with the closed generics are harmful, is that very few of the people who have been advocating this point of view have argued for a remedy. A couple have taken specific issues such as everyone's been targeting .book. There's some official objections that have actually passed the Review Team in terms of .health and a couple of others, but part of me wonders where do you draw the line where .live I believe which is being proposed as a closed generic by Microsoft isn't worthy of all this attention, but .book by Amazon is?

This is where personally I start to get a difficulty in dealing with this, in that if we're going to say it's harmful how harmful and what is harmful?

There's some principle behind the stand but not enough specifics to be able to suggest remedies or even where you draw the line between what particular strings are closed and need to be protected from being closed and which ones are okay? Alan, go ahead.

ALAN GREENBERG: Yeah, I don't think there's as much illogic as you're implying. .live is a brand name of Microsoft. Yes, it has a generic meaning but it's not used in the same meaning by other people with competing products whereas most publishers call their things books. And that's the reason why some are being targeted more than others, and I'm not saying that the criticism has been uniform or fully logical.

EVAN LEIBOVITCH: So you're saying it has to be a category as opposed to just a name.

ALAN GREENBERG: It's a category where one purveyor of the category is trying to claim full domain over. So I think there's some logic in why it is. In terms of .health it's not so much people trying to claim it but issues of customer perception, of user perception. So I think the motivation is different slightly based on which ones we're talking about, and yes, I think the first, #1 could be fleshed out just very slightly. I wouldn't want to put a lot in but some indication of what I just said may well be warranted because I think there are multiple issues driving the discussion.

But I don't think we should make this a long treatise, I really don't. We could certainly point to where some discussion can be seen if people

want to go into the personal views a little bit more, but I'm a strong believer in keeping things short and concise if they can be made short and concise, and I think this one can be. And I'm not worried about the remedies either. It may well be four years too late and this may be policy that has gone down the road and we can't change – so be it. You're the one that has pointed out many a time in other subjects that it doesn't mean we can't go on record about what's right.

EVAN LEIBOVITCH: Agreed.

ALAN GREENBERG: And I think that's the case here. But there is an issue that the Board may well have options available to them, including they have discretion of not delegating, at least not in the public domain. Yes, it may generate a lawsuit – that's not our problem. So there are potential ways to address the problem should the Board believe that the community is strongly behind them or they believe that it's sufficiently in the public interest, and I think it's our responsibility to present that case.

And since there are different views I'll reiterate what I said to begin with – we have to give them some indication of where At-Large through the ALAC falls. And I don't know where it is. Maybe 13 of the 15 members agree with you, maybe they agree with me. I don't know which it is but I think that we owe the community and the Board some information about how our community is divided. Thank you.

EVAN LEIBOVITCH: Olivier, you've got your hand up and since you're chairing that seems kind of obvious, so since we have a queue you might as well be the one managing it.

OLIVIER CRÉPIN-LEBLOND: [laughing] Thank you, Evan. Okay, so I'll manage the queue and I'll put myself at the end of the queue since Christopher and Andrew were there before me. So Christopher first, please. At the moment we can't hear you, Christopher.

EVAN LEIBOVITCH: *7 to unmute.

ALAN GREENBERG: Still nothing, Christopher.

OLIVIER CRÉPIN-LEBLOND: Okay, in the meantime what we'll have then is to have Andrew and Christopher will try to unmute. It might be a problem of some sort. Andrew Mack?

ANDREW MACK: Thanks, Olivier. I haven't been following this one quite as closely but I'm coming up to speed pretty quickly. I've got to say, Alan, I respect your opinion a lot but I tend to fall on Evan's side of things for a couple of reasons, first of all the practicality of it. My concern is that if we go down the road and say we are concerned about this then that's effectively all we're saying at this point without having a little bit more

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detail about what we think is okay versus what we think is not okay. My concern is that we would likely… Best case we're going to probably be ignored.

So that's just from a perspective of having an impact, and [I'd like to see us have an impact] if we're going to try to do it. Also just personally I'm not convinced how much harm there is. I guess I can see both arguments. In truth I would prefer that somebody didn't own .book or .beauty, say, but I'm not concerned that that's necessarily going to cause a lot of harm; or if there is harm I'm just not sure how much harm it's going to be. So I think barring having better answers to those two questions I'm tending to fall on Evan's side.

I'm wondering is there something more direct that we can offer? Is there something, is there a line that we can draw to say a portion of the group feels strongly that something like this (inaudible) why it would not be so much of a big deal? That would at least make more sense to me and I think it would have a bigger impact. That's my two cents.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Andrew. Evan, you wish to respond or should we move on to the next person?

EVAN LEIBOVITCH: Keep going.

OLIVIER CRÉPIN-LEBLOND: Okay, thank you. So then we have Alan Greenberg.

ALAN GREENBERG: Thank you. I really think we should not be focusing on which side do we side with here. There is a split; we don't know what the ratio is and I don't think either of us is going to convince the other party on this call. So I don't think we should be focusing on which is right and which is wrong; we should be focusing on how do we go forward and either answer the questions the Board has posed to us or not and do so in a useful way.

OLIVIER CRÉPIN-LEBLOND: Okay, Alan, thank you.

EVAN LEIBOVITCH: So Alan, if I get you right then your suggestion is essentially flesh out the two concise paragraphs, offer to provide more background information if necessary but essentially put in something simple that says "The ALAC has identified two different streams of opinion, and based on our polling of the ALAC we've found that this percentage has a preference one way or the other." Do we want to bring in the RALOs and ALSes or have we just run out of time?

ALAN GREENBERG: There's a hard deadline which isn't very far away so I think we need to get this to the ALAC as soon as possible, and to the extent they want to consult their RALOs that's their call on what their methodology is. I don't think we can do that if we're going to meet this deadline. We can certainly say this is how the ALAC has voted and we're in the process of

going deeper and we'll come back in three weeks or something like that, but other than that you're a gentleman and a scholar and you understand what we're talking about.

EVAN LEIBOVITCH: Yeah. Matt, there's not necessarily a problem with having a Big Pulse vote on two issues as opposed to an election between two people, is there? Sorry, I'm asking Matt if there's any technical issues on doing a Big Pulse based on selecting between two issues as opposed to electing between two people.

OLIVIER CRÉPIN-LEBLOND: That's rather interesting. It's Olivier here for the transcript. It's interesting because Christopher can't speak and Matt can't speak either at the moment.

EVAN LEIBOVITCH: Okay, well yeah, Alan's saying if Big Pulse can't do it we have other means. I just thought we had that tool, and I figure if we can say "Do you pick this person or do you pick this person?" it's just as easy to say "Do you believe in Column 1 or do you believe in Column 2?" and we can basically have Big Pulse come out with that as a result.

ALAN GREENBERG: Evan, forgive me for butting in but we're just replacing "yes" with "Option 1" and "no" with "Option 2." If Big Pulse can't handle that then they should be out of the business. [laughter]

MATT ASHTIANI: Hi, this is Matt. Can you hear me now?

OLIVIER CRÉPIN-LEBLOND: Yes, we can hear you, Matt, go ahead.

MATT ASHTIANI: Well, when you say Option 1 and Option 2 you can just change the voting placards from yes, no, and abstain to you know, choose the option below that you prefer. And option 1 you can write it out, option 2 you can write it out and option 3 can be abstain.

EVAN LEIBOVITCH: Okay, so can I make a suggestion then? Alan, can you and I maybe take 24 hours or in fact even less to implement the wording changes you're suggesting on those two paragraphs?

ALAN GREENBREG: Sure.

EVAN LEIBOVITCH: Then put them up to a Big Pulse vote and allow it so the Big Pulse has each of those paragraphs: "Do you agree with this, this, or neither?" We have to give a third option for people that don't… Sorry?

ALAN GREENBERG: Abstain.

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OLIVIER CRÉPIN-LEBLOND: The third one is abstain, yeah.

EVAN LEIBOVITCH: Yeah. Matt, is it possible to actually instead of having a person's name and yes or no, to actually have that paragraph as one of the choices?

MATT ASHTIANI: Yes, it is.

EVAN LEIBOVITCH: Okay, so is it reasonable to consider as a way forward that we do that? Well, there's other people on the call.

ALAN GREENBERG: Evan, just to interrupt normally we put in the lead-in paragraph the two options and then say Option 1, Option 2 or something. Whatever will look best on the poll-

EVAN LEIBOVITCH: I'm just saying if we can put the two… The two paragraphs are short enough that we can put them directly on the poll then that makes it clear beyond a shadow of a doubt.

ALAN GREENBERG: If it doesn't look confusing, yes, correct.

EVAN LEIBOVITCH: Now there's other people on the call. Roberto has joined us, Dev is here – do either of you want to say anything about this? Okay, Roberto is typing… Oh, so Roberto is on the Adobe Connect but might not be with us on the call.

Okay, so Roberto is fine with this. Okay. So then let's do this unless there's any dissension, is to turn this into a Big Pulse vote with a very quick turnaround; and then based on the results of that, Olivier, I guess you and I or you alone or whatever can basically work on a cover letter saying we [came upon the fact] that the ALAC has these two general points of view and based on a recent poll of the ALAC the preference was split this way. Is that a reasonable approach to take this?

OLIVIER CRÉPIN-LEBLOND: Yes, thank you very much, Evan, it's Olivier for the transcript. Absolutely, I think that's a good way to go. Actually having put myself in the queue and not having held my place in the queue, I just wanted to add that if the Board did ask the question it was because they certainly have some serious questions about this. I don't think they would have asked the question if this was just a side issue and they were not genuinely concerned about what they were hearing, and they just really wanted to take the temperature of the community on this.

So what we're effectively doing here is to really take the temperature of the committee and I think that having a statement which has both options in there is something which is entirely fair for everyone. That's my personal point of view on this. So now do we have Christopher back on there? No, I see that Christopher is being dialed out. We have Alan Greenberg.

CHRISTOPHER WILKINSON: Can you hear me now?

OLIVIER CRÉPIN-LEBLOND: Oh, so we have Christopher. Okay, so let's speak to Christopher first. Christopher, you have the floor. We can hear you, yes, welcome.

CHRISTOPHER WILKINSON: Thank you, that's good, and thank you, Julia, for sorting this out. And don't call the mobile as long as this is working. I've made my point of view very clear on the list and I confess I haven't been able to study Evan's draft in the meanwhile, but my main concern is creating a precedent. I don't really agree with the argument that because generics have been allowed to be closed at the second level that therefore there is no option but to allow it at the top level.

I've just read the letter from Microsoft which is very clear, and I feel that in the future the Domain Name System will expand and above all it will expand into different languages and different scripts. And I see no evidence whatsoever of a consensus that closed generics would be admissible worldwide in all languages and scripts. And I think if the Board thinks that they can just carry on with the current policy in the English language, I think they're mistaken. I think this is going to cause serious problems in other parts of the world.

I also agree fully with those who have warned us that the closing of generic terms will have anticompetitive effects. So I really feel that we should go for the first, what I think you're describing as the first option.

OLIVIER CRÉPIN-LEBLOND: Okay, thank you very much, Christopher, so that's of course taken into account. We've got the two options there. And then we have Alan Greenberg?

ALAN GREENBERG: Thank you, just one quibble with what Evan said. I think what he said was open it with quick turnaround. I would suggest that because we have until March 7th to submit a statement that we open it with a very long vote until March 6th or something to give staff and Olivier time to submit something, but to give ALAC members time to consult and discuss it within their own groups should they choose to do that. We do have an extended time. I'm taking Evan at his word that between the two of us we can turn this around and get some slightly changed wording out within 24 hours, and let's give people as much time as we can to let them consult if they feel that's appropriate. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you, Alan. Evan?

EVAN LEIBOVITCH: And to continue on what Alan said, the nice thing about this is that if we have a period essentially the points of view have been expressed, they're on the Wiki, they're in the mailing lists; questions can be answered. Certainly anybody who needs some time or needs some background to make up their mind certainly has some very eloquent speakers on both sides of this.

I was just going to raise an issue and I hope it's not too strange, but there's a part of me sort of that deplores the fact that we're almost in this binary situation; that something has to be either totally closed or it has to be totally open – and if it's totally open then it has to be thrown open to the standard ICANN way of going through registrars. What would be the case… I mean through my reading of the Applicant Guidebook, and there's enough other experts here who can correct me if I'm wrong, but through my reading of the Applicant Guidebook if somebody wanted to start a TLD and say "I want to give away the subdomains to other people," that's precluded under the ability to go with what's commonly thought of as an open system.

As an open system, you still have to go through registrars. They still have to do their part of the registration, they still have to make their money, and a registry that wants to just say "I want to give away my subdomains and make my money on something not on anything to do with making money off the domains themselves, but making money off data or other things" – the kind of thing that Google has turned into an art form when they've disrupted the fields of email and word processing and so on. If they wanted to do that here it seems like they almost have no option between either "open" which means they have to go through the ICANN standard indirect channel; or they have to go "closed" which means they claim ownership of everything.

And it seems like registries have been forced into a very binary choice that makes it very, very difficult to offer innovative mechanisms for distribution, and that's… Part of me, I can't presuppose what's in Google's brain but part of me almost wonders if some of what's now being proposed as a "closed" domain is actually something that may

have envisioned something that allows people to have subdomains but simply doesn't require them to go through the usual ICANN registrar channels.

Anyway, I just wanted to toss that out as my frustration with even the way this question is being asked, that what is defined by ICANN as being closed or open – those two things are both so narrowly defined that they really make it difficult to have any innovation in the middle. And I'll leave it at that, thanks.

OLIVIER CRÉPIN-LEBLOND: Thank you, Evan. Alan?

ALAN GREENBERG: Yeah, Evan, I think you're confusing, and you're not the only one – I think the Board has been guilty of doing this, and certainly others are confusing whether the domain is open or not to registrations from the public with perhaps some requirements; and whether you go through registrars or not. .book can be a domain which is only going to be used by Amazon, and only the subdomains can be registered by Amazon and still go through registrars.

The code of conduct or whatever it's called which allows them the exception to allow them to not go through registrars is a convenience for them so they don't have to go through a bureaucracy and pay someone else to register their own names. It has nothing to do with whether it's an open or closed domain. It simply says "Since I'm only going to be selling the domains to myself can I please avoid the bureaucracy of dealing with registrars?"

But they can have a closed domain and still have to deal with registrars. They can go out for bid, they can find a registrar who will do it for them at a modest price and then they will technically go through the registrar each time they want to register a domain for themselves. They'll still be the only ones qualified but they'll have to go through that bureaucracy.

The exception is just an avoidance of bureaucracy; it does not say whether the domain is open or closed. Whether the domain is open or closed depends on the rules the registry set for who is allowed to register, so we shouldn't confuse the two.

OLIVIER CRÉPIN-LEBLOND: Alan, it's Olivier for the transcript. I think the question that Evan is asking here is whether one needs to keep a domain closed if one was going to give that domain away. So if Amazon was going to give .books away for free for anyone to be able to have a .book subdomain, at that point – but whilst still keeping ownership of all of the domains of .book…

ALAN GREENBERG: If I remember correctly, the exception which is in the Applicant Guidebook, I think it's called the code of conduct but I'm not sure – it's something like that. The exception is closed domains only. So if you wanted to register with the public but you wanted the price to be zero, I believe the exception is only for closed domains therefore you would have to go through registrars and find a registrar who wouldn't charge you an awful lot of money for it. But that's it.

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EVAN LEIBOVITCH: So in other words, in order to provide the kind of innovation I'm talking about they have to start closed and then ask for exceptions.

ALAN GREENBERG: No. Closed is closed. If you're going to be closed, the only exception I believe would be granted for closed but it is only for closed. If you decide to open it up, even if the price is zero, to paraphrase the old joke "We're only quibbling about the price now." If you're open even though the price is zero you're open, and I don't believe you're eligible for the exception as it is worded. I haven't focused a lot on it but that's my recollection.

EVAN LEIBOVITCH: But that's what I meant, Alan. If you wanted to do that kind of thing you would have to start with a closed application and then apply for an exception. That exception would not be allowable in an open one.

ALAN GREENBERG: No, because once you get the exception you have to stay closed. You can't open it up afterwards once you have the exception. You could not get an exception I believe if you are going to be operating as an open domain with other people having responsibility for their subdomains. I do not believe that. Now, if you want to give them away, so if I want to give .people, if I have .people and I want to give you Leibovitch.people, and I'm willing to take full responsibility and get sued over what you put on your subdomain, how you use your subdomain, that's a closed domain I believe. If I want you to take responsibility of it, it's an open domain.

EVAN LEIBOVITCH: Okay, but then doing .people that way would make .people a closed generic, which is the subject of this statement.

ALAN GREENBERG: Exactly if someone were to propose that, I believe. I don't think anyone's talked about that a lot because not a lot of people are in this business to give things away for free although it's a business model that works well with Google, so… [laughter]

EVAN LEIBOVITCH: And I must say in my advocacy of what is generally being called Option #2 a lot of this has been trying to anticipate real attempts at innovation in the names space. And right now, the only channel that's possible for real innovation in the names space is for people to start with something closed and then try and stretch that to its limits. I'm just saying that's the conclusion I've come to.

ALAN GREENBERG: But if you want to try to give something away and you have a business plan which is going to make you billions of dollars by doing that, the cost of subsidizing the registrar fee is not going to be a big issue.

OLIVIER CRÉPIN-LEBLOND: So this is the question, Alan – you're basically saying clearly that as soon as a top-level domain is open, it needs to pay a registrar to do the registrations. And that's from the vertical integration thing, isn't it?

ALAN GREENBERG: Well it's not from the vertical integration – that goes back to the original tenets of registrars and registries, that you have an open market; that all registrars can compete for the registration of domains. They may compete on a customer-by-customer basis or they may compete if you go [asunder] but they all start off being eligible.

OLIVIER CRÉPIN-LEBLOND: Okay, so Alan, nothing stops a registry and a registrar reaching an agreement where both of them offer their services free of charge but make their money in another way.

ALAN GREENBERG: That's correct. But I presume if you wanted to cost share, cost and benefit share with the registrar there may not even be a fee. That's a business practice between you and them.

EVAN LEIBOVITCH: And given what we've gone through with vertical integration, the registry could own that registrar.

ALAN GREENBERG: Yes indeed. But they would have to at the start allow other registrars to bid. They may not find any takers…

EVAN LEIBOVITCH: So they could say "Okay, I'm Google, I'm just letting you know ahead of time my domains are going to be free – any registrars want a piece of this?" [laughter]

ALAN GREENBERG: Well not quite. You're going to have to make a reasonable business proposition and Go Daddy may well take you up on it.

EVAN LEIBOVITCH: But if the business proposition says I'm making my money through registrar data and not through anything to do with procurement…

ALAN GREENBERG: I think the courts would not look at that properly in terms of anti-competition. I mean that's no different than IBM buying cables from someone or manufacturing them themselves.

EVAN LEIBOVITCH: No, what I'm saying… But then again, here we are and we're talking about reducing innovation. We have a company like Google and frankly I think that there might be others that have other business models that don't require selling domains to make their money.

ALAN GREENBERG: All I'm saying is I don't believe the issue of registrars is a substantive part of this discussion. The exception gives the registries, the TLDs, an opportunity to save a bit of money if they're not going out to the public, but that's all it is. Let's not confuse the issue.

OLIVIER CRÉPIN-LEBLOND: So it's Olivier for the transcript, and the discussion here has been between Alan and Evan for those who are doing the transcription to understand it's not just Man 1 and Man 2. The question of course of the closed generics or the open generics, I think from this discussion has actually come out with the fact that it doesn't really matter whether generic is closed or open – you can offer any type of business model and Google could have it as open or as closed. That's at least what I get.

ALAN GREENBERG: It's Alan speaking. They have said it's going to be closed which is the crux of this whole issue.

OLIVIER CRÉPIN-LEBLOND: Yeah. Any other comments or thoughts? I think that we have a plan here so I'm not sure whether we need to go to the end of the hour. I see that Christopher has mentioned what he had to say. Roberto, do you have anything to add? Are we all clear on where we're going now?

We will have the text that will be drafted by Alan and by Evan which is likely to be as small as the text currently on your Wiki page which is under the sentence "I find that the attitudes towards them can be distilled into two general camps. The first one being A.) closed generics are harmful, and the second one being B.) closed generics are not great but not harmful either." And then C.) would be an abstain and that would be sent over to the ALAC with a long voting cycle so as for ALAC members to be able to consult their region.

And I think that in fact we should not just wait on the ALAC to consult the regions, the ALAC members; but this vote and the announcement of this vote should also be sent to the regions for them to speak to their ALAC members. Now, I do know that ALAC members are often reticent on going on a directed vote but this is something where they'll just have to sort with their region. I'm not willing to go into a discussion on the directed vote or non-directed vote on this one.

ALAN GREENBERG: Olivier, it's Alan. I don't think we're talking about directed votes. We're talking about feeling, getting the pulse of the region. That's not quite-

EVAN LEIBOVITCH: It's being responsive to but not quite directed by.

OLIVIER CRÉPIN-LEBLOND: Okay, so perhaps that's the way then – getting the pulse and being responsive to the thoughts or points of view of the region. Heidi, you mention here please state the action item as required… The last two minutes were one action item, that was a plan on what we're going to do. I don't think I can summarize it in one sentence. Perhaps I can, yes – action item: wait for 24 hours for Alan and Evan to draft the final text, then make introduction and send to the ALAC. Start the vote with the two options, Option 1, Option 2, and a third option which is abstain.

ALAN GREENBERG: Please make that Evan and Alan – I'm late to the party. [laughter] Evan has taken responsibility for this and he should get the credit.

OLIVIER CRÉPIN-LEBLOND: Okay.

EVAN LEIBOVITCH: Yeah, that's why I'm doing this.

ALAN GREENBERG: Or the blame.

OLIVIER CRÉPIN-LEBLOND: And as we all know, Evan is only doing it for the credit because he hasn't got enough to put on his CV, but there you go. [laughter] And he has been slacking, he hasn't done much recently so I guess it's good to have his name up there from time to time. [laughter]

So yeah, are we clear now? Heidi, are we okay with this, all done?

HEIDI ULLRICH: Yes, thank you. I think Matt had it.

OLIVIER CRÉPIN-LEBLOND: And so the vote will start as soon, I guess, as this statement is ready and it will close… I believe we have to give our answer on the 7th; it will close on the 5th of March, 2013 – deadline 5th of March, yeah, as Evan puts in the AC room.

EN

EVAN LEIBOVITCH: So we'll just use that to create the deadlines for the Big Pulse that would then give you a chance to do a cover letter.

OLIVIER CRÉPIN-LEBLOND: Okay, that's it. Perfect! Any other thoughts or questions by anyone? Okay, well I thank each and every one of you for having made this call very interesting indeed, actually, and I thank you, Evan, very much for the work you've done into researching this issue. I must say I was a little concerned originally due to the point of view that you had but with time I think it's really good to see that you've spent some time in researching and finding input from people in At-Large. And I also thank Roberto very much for this replies, and Christopher and Avri. There's been a good discussion on this on the mailing list.

And I sometimes wish that more of these discussions took place – in fact, I always wish that more of these discussions took place but I wish that more of these discussions took please on the ALAC, on the At-Large lists and certainly on the RALO lists. So I don't know how we will be able to establish this for each one of our statements but this one definitely is one which has brought at least a subset of our community to be very interested and to voice their opinion.

So with this, thanks very much to everyone and this call is now adjourned.

[End of Transcript]