
JONATHAN ZUCK: And thank you. Good night. Good afternoon. This is the final session of the third face-to-face of the CCT Review Team. Everyone has been working hard and keeping their complaints to a minimum, so that's excellent.

UNIDENTIFIED FEMALE: Some more than others.

JONATHAN ZUCK: Thank you for that. I appreciate everyone soldiering through. These very intense days are tough. It's like being at an ICANN meeting. You're almost in a day of recovery after. Thank you for that.

What I think we want to do is hear some updates from the two sub-teams that we just divided into, get any kind of feedback on some of the open questions. As we've talked about in the past, if there's anything that felt unresolved that you'd like the larger group to provide input into, this is a good time to bring that up.

We'll go through some next steps and other business and our next meeting and things like that. Without further ado, let me pass it to Lauren.

LAUREEN KAPIN: Thanks, Jonathan. Alice is going to get up our latest and greatest incarnation of our project questions document, but before that, I want to give a huge thank you to my fabulous sub-team who, even though we

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had a grueling session, retained their sense of humor and good cheer and even volunteered for various tasks, which I greatly appreciate.

We have reconfigured a little bit and reorganized, scaled back a touch, and really tried to divide our work into a couple of different buckets with questions that we want answered and sources of data for those questions, some of which falls into our purview of safeguards, other which falls into our purview of consumer trust. We realize among the group that these are very intertwined and related concepts, but in certain cases, the data lives in different places, so we thought that at least to consider how we're going to divide and conquer the work, it would make sense to separate that.

One of our first buckets is DNS abuse. We have this first because we think part of this is going to be a threshold issue when we delve into the more specific data about DNS abuse. These are more narrative questions that there are going to be various sources of data for. They're up on the screen, but I'll read this aloud.

Is DNS abuse more or less prevalent in new gTLDs? Are there higher rates of abuse per registrar, registry, or resellers in new versus legacy gTLDs? We realize that data may not be available for all this, but there probably is some data available. DNS abuse policies. What does that look like for new gTLD registries and registrars? Enforcement mechanisms, again a comparison. Looking at ICANN compliance data because they have a lot of data in this regard, and ICANN compliance also has a separate category of abuse complaints.

That's one bucket of activity, and you'll see we have volunteers for that bucket.

Jordyn, do you have questions about that particular item?

JORDYN BUCHANAN:

Yeah, I do. Are you guys making any attempt to look at the interaction with new gTLDs and the level of DNS abuse overall? This is a hypothetical. I could have a TLD, .honeypot. This TLD could be free maybe, so it's super attractive to bad actors, but I also have super aggressive anti-abuse policies in place. All the bad people move to my TLD, but I kill them really fast. The overall level of abuse in the ecosystem might go down, even though my TLD might be 100% abuse. I'm wondering if you guys are making any attempt to look at the overall level of abuse as opposed to just, "This TLD looks bad or this TLD looks bad."

LAUREEN KAPIN:

I'm going to ask Drew to field that.

DREW BAGLEY:

Brian and I are working together to craft a methodology that an outside vendor could use to conduct a study. What we've discussed is that there's a need for two things. There's the historical analysis from when the new gTLDs were first introduced, factoring in all the sunrise periods and so on, which would still be over time and could potentially capture what you're asking. Then there's the importance to do a second thing, which would be a going forward study from some point in time. Let's

say from today for the next six months. We would see abuse levels over time. We'd price as a component. Jonathan has mentioned potentially being able to apply pricing data going backwards, too.

If we have all of those factors, I don't see why we couldn't find an example like what you're describing where we would at first see, "There's a lot of abuse in this TLD," but then we'd realize the pricing was very low. We'd draw that correlation. Perhaps the price lured these bad guys. Then we saw that [that] TLD didn't resolve for more than one day at a time. I guess that's what you're thinking in your scenario because they just get rid of them instantly.

JORDYN BUCHANAN:

My point is more that it seems like regardless of how prevalent abuse is within the new TLDs per se, what we really care about is whether overall the Internet is more or less safe after the introduction of new TLDs. It seems like what you really want to look at is what's the overall level of abuse, and how is that trending and how has that been affected by the new TLDs?

I gave a crazy, made up example of a way that you might say, "All the abuse in the world is now on new TLDs, but maybe there's only half as much abuse as there was before." Therefore you would say, "Even though the new TLDs have all the abuse, they would actually be an amazing benefit for the Internet."

I'm just trying to make sure that we're keeping our eye on what's the overall trend being, as opposed to just saying, "These TLDs have more

or less than the legacy ones.” Because what we really care about is the overall trend, right?

DREW BAGLEY:

I apologize. I misunderstood your question. To answer that, then yes, absolutely. We’re looking at all gTLDs with what we’re proposing should be done with the study. That way, we could basically come to a conclusion on exactly what you’re asking, as well as these more nuanced things that will allow us to see whether or not there’s any relationship between some of the safeguards and the new gTLDs and levels of abuse and whatnot. We’d still be looking at the overall ecosystem so that we’d find out if bad guys just jumped from legacy gTLDs to new gTLDs or abuse went down overall.

LAUREEN KAPIN:

Thanks for that question, Jordyn. That’s a very good point. Thanks for your answer, Drew.

David, how could I not see you?

UNIDENTIFIED MALE:

[inaudible].

DAVID TAYLOR:

I may forget my question.

LAUREEN KAPIN: I think it's the way you're sitting.

DAVID TAYLOR: It might be. I'll sit somewhere else next time, maybe the back of the room.

Just to pick up on Jordyn's point there, I'm wondering because [I think] that's a very good question, but do we have a measurement of the total abuse in the ecosystem prior to 2012? Because what do we compare and how do we do that? That's all. I think it's a very good question. I'm just wondering how on earth we go about and see whether the total abuse has gone down or up.

LAUREEN KAPIN: I'm looking at Brian to ask that question. Not that you need to answer it now, but maybe there's a source we could look to. I don't know, but you're right. We would want a baseline if we're going to do any sort of comparison. Maybe that's something we can add to our task list to see what data sources there are.

BRIAN AITCHISON: In the DNS abuse report, we referenced Symantec's yearly security report. As far as I know, they produce one of those every year. Going back, I'm not sure how long. I know that overall information is definitely out there from various different sources. We'll also want to look into the methodology behind it and see if that's actually the best source of data, but the short answer to your question is yes. It is out there from my sense of things.

LAUREEN KAPIN: Good. Our next bucket of activities, and this is one of our more intricate buckets, is the impact of the safeguards and public interest commitments. Here, all of our subgroup is involved, although we've parsed it out into separate sections. If you can scroll down on this document, Alice, we have a list of questions here. Brenda, can you scroll down?

UNIDENTIFIED FEMALE: [inaudible].

LAUREEN KAPIN: Yeah. If we can just have impact of safeguards and public interest commitments, just so the screen shows all the questions.

Okay. These are big matrix questions. Has the safeguard been triggered exercise? What was the impact? What was the intent of the safeguard? What was the intent achieved? For this result, we think it's important to ask why or why not because certainly, a lot of the data goes to this. In fact, our huge reading list of 60 or so documents, many hundreds of pages, in some cases goes into a lot of detail about specific types of abuse.

UNIDENTIFIED FEMALE: [inaudible].

UNIDENTIFIED MALE: Are you raising your hand?

LAUREEN KAPIN: We've divided the safeguards and public interest commitments into these categories: DNS abuse and more technical safeguards, Spec 11 and GAC advice, rights protection mechanisms, and [for] names collision. I don't know why that says RPMs. That should be edited out. It's not RPM but names collision, we've decided that isn't something we're going to focus on.

Does anyone have any questions about that? Can you scroll down to the next item, then? Our next item really focuses on consumer and user behavior. This goes to some of the data that's available in the Nielsen survey from consumers. Consumer awareness of the new gTLDs, consumer trust. We really want to try and apply the Nielsen findings to certain safeguards because certain of the Nielsen findings, for example, do relate to an expectation that TLDs should have certain restrictions and consumers having expectations when they are dealing with domains in regulated industries. That's just by way of an example.

These are lists of questions that we want to tackle: how the new gTLD string itself may impact user expectations and delve into these questions by looking to the Nielsen survey, among other things. Can you scroll down so we can see the rest of the questions? Then we also have another more general question about consumers knowing where to go to report problems.

We have as a placeholder to think about whether we need to add anything about trademark and right protection issues here. That's a David Taylor question to think about.

UNIDENTIFIED MALE: [inaudible].

LAUREEN KAPIN: Right. Can we scroll down?

Most of our questions for developing countries are really being tackled as part of the application process sub-team, so we'll see that's crossed out in this document.

Finally, as our last category, we have effectiveness of procedures to enforce safeguards. This really deals with ICANN's role and how the safeguards and public interest commitments are being enforced and how certain dispute resolution processes are working to enforce safeguards, particularly rights protection mechanisms safeguards.

Jonathan, I see you have a question.

JONATHAN ZUCK: Just a point of clarification. Maybe you just went by it quickly. What did you say about name collisions?

LAUREEN KAPIN: That we didn't really see that as within our consumer trust remit, or if it is, as a priority.

UNIDENTIFIED MALE: [inaudible].

LAUREEN KAPIN: Yeah, unless we're misunderstanding it.

JONATHAN ZUCK: That's interesting. I only say that because we've got a presentation on it.

LAUREEN KAPIN: I think that's because we didn't understand it, though.

JONATHAN ZUCK: Oh, okay. I guess the question is that there was a concern raised by SSAC and then the community. Then there were measures put in place. I think the rationale for it, to some extent, maybe what you're saying is you think of it as a security and stability issue.

LAUREEN KAPIN: That's exactly it. That's exactly what we said.

JONATHAN ZUCK: I guess the question, then, is whether or not those collisions that could have resulted in things going out into the open air that should have been internal would have had an impact on trust, then. I always assumed that it was a part of it, and certainly I know Jeff Neuman is assuming that it's something that we're addressing. I just wanted to think that through a tiny bit. Go ahead, Carlos.

CARLOS RAUL GUTIERREZ: Yes, we have to think about it. We did not have in our reading list as of yesterday the relevant SSAC papers, which are 45, 62, and 66, so we added them to our list. There are invalid queries named collision risk and collisions. We have to go through them, but we realized that only yesterday. We will review this, but this is the working assumption.

JONATHAN ZUCK: So it's not a definitive decision to drop it, but you're thinking you might after you read those things. Is that what you mean?

CARLOS RAUL GUTIERREZ: We think they come from that remit, and we're going to read papers producing that remit, the SSAC papers, to sustain the hypothesis. If we're wrong, we might revise it, yes, but we have to go a little bit deeper. It doesn't make sense. It's just a note. We had a discussion on that. We have the gut feeling of the majority that is that way. We have to look through these three papers, which is a response from SSAC to the PDP, an official note they wrote to [Avri] yesterday. You might have seen it. We will come back.

LAUREEN KAPIN: Carlos, can I ask you to look at the papers and report to us, or is someone going to? I'm seeing finger pointing.

UNIDENTIFIED MALE: We both are [inaudible].

LAUREEN KAPIN: Oh, you both are.

UNIDENTIFIED MALE: Yeah, we are.

LAUREEN KAPIN: Okay, great. So maybe both of you then can do that.

UNIDENTIFIED MALE: We are brothers.

UNIDENTIFIED MALE: Connected. We're looking at the paper, but as I argued in our breakout session, yes I understand that name collisions might contribute to insecurity and instability, but we have to prioritize and with respect to the focus on consumer –

LAUREEN KAPIN: Trust.

UNIDENTIFIED MALE: Trust.

JONATHAN ZUCK: And safeguards.

UNIDENTIFIED MALE: And safeguards. It was tenuous. That was the position, but we're still going to look at it. We're committed to looking at the papers and respond to them.

LAUREEN KAPIN: That's the feel of the group at this point before we've heard a report on the papers. First of all, we'll hear a report on the papers and we'll discuss it. If folks want to lobby us to reconsider, please do so, but you're going to need to convince us that this is a priority area within consumer trust. It struck us as more tenuous.

JONATHAN ZUCK: It could very well be that it has a home in application and evaluation or something, too. There's a lot of ways to look at it. It has the benefit of having done some things that could probably be thought of as having made the process go better. Some of the things that got excluded as a result of those procedures and safeguards that were put in place prevented something that would have been a ding on the program.

It's just a question. We're reviewing the new gTLD program for some potential downside. There was something fixed. It was something about the system working the way it ought to. Is there some value to that and making that a part of the review?

That's what I heard in the presentation that we got, was that there was some benefits that were accrued from it that made this process better than it would have been otherwise. Maybe finding a precise home for it is part of the challenge, but that's what I remember hearing in the presentation. That feels like a feel good thing to include, but I'll yield the microphone to Jordyn.

JORDYN BUCHANAN:

I didn't hear the presentation. It's not obvious to me that the name collisions procedure prevented anything particularly bad in that ICANN's had a reporting mechanism. Certainly nothing that met the threshold of endangerment to human life has been reported. There's been a small number of issues that I'm aware of that have been reported through ICANN to registry operators as a result of name collision, but most have struck me as relatively minor.

I think there's a separate issue of the non-delegation of .corp, .home, and .mail, which was not the name collision procedure per se. It was just like, "You guys aren't allowed to proceed."

JONATHAN ZUCK:

I guess [inaudible] part of [inaudible].

JORDYN BUCHANAN:

But even those, I think the benefit would be more speculative than realized. No one's actually attempted to measure what the direct benefit would be. There's a speculation that it would have some harm, but no one's been able to study what the harm would actually be per se.

Which is not to say whether or not we should include it in our report. I agree with Jonathan that it feels like something that's potentially in scope, and if we don't take a look at it, someone else will have [to]. I feel like necessarily then, the subsequent procedures PDP will have to take a look at it because we would have to decide whether we thought it was a worthwhile feature of the program for the next time that we allocate – any subsequent attempt to allocate new gTLDs. That was a procedure that was not anticipated by the GNSO policy and was just implemented on the fly by ICANN.

That's a really good example of the sort of thing that ought to be evaluated before moving on, although maybe you could also just accept that it seemed to work well enough. We could just do another allocation of TLDs and just keep doing what we were doing because nothing particularly bad happened last time.

LAUREEN KAPIN:

I think we'll be better positioned to think about this after we hear these RSSAC papers. Candidly, I still think we're struggling to understand exactly the impact of these name collisions and how it relates to consumer trust. Perhaps these papers will help educate us on that.

UNIDENTIFIED MALE: [inaudible].

LAURENN KAPIN: SSAC.

JONATHAN ZUCK: Very quickly. I'm sorry. Part of it is going back to the text of the review, our remit in the first place, and really asking the questions whether safeguards has a capital S or a lowercase S. There's this notion of looking at the safeguards that were put in place, lower case. I'm agreeing with you, Carlos. The things that were put in place to mitigate the consequences to the program.

I know that Safeguards with a capital S means something very specific and is [inaudible], but the actual language of our remit says basically the mitigation procedures we've put in place, were they effective? That's why I felt like it was in. When you talk about Safeguards with a large S, I can see why it doesn't fit, but with a small S, it feels like it does.

We'll wait to hear back from the reading of the documents.

LAUREEN KAPIN: That's where we are for now. We have pen holders for all these categories. We have some deadlines for our first bucket of domain abuse, which actually is our largest bucket. We are happy to have managed to come up with a list of questions and a list of projects to go forward. We do anticipate this is going to be a living document to a

certain extent, so we may tweak it, but at least now we have more of a map of where we're going.

JORDYN BUCHANAN:

Thanks. We've spent the last couple of days in two areas on the Competition and Consumer Choice sub-team. The first is taking an effort started by Stan and generalizing it out. You can actually see some evidence of it on the wall here. What we've been trying to do is go from a general notion of having data to looking at the specific questions that we had previously identified at the Marrakech meeting that were priorities for us to answer.

For example, the question might be, "Have the new gTLDs produced price competition amongst gTLDs? Have they produced non-price competition? Have the benefits of consumer choice outweighed the costs of the introduction of new gTLDs?"

Those are the sorts of questions we've tasked ourselves with trying to answer. We have taken some time to take a look at data sources and review them. Now we're going to the next step and saying, "How do we look at this data in a way that will allow us to help answer these questions?" We've been trying to identify data analysis projects.

One example of a project might be – this is one of the ones that Stan identified. We have a bunch of market share data. We know how many registrations occur in various TLDs. Let's go and take that data and do some economist-style analysis and calculate market concentration in various ways. We plug those numbers into formulas and say, "Using standard measures of market concentration, here's what we're saying in

the gTLD space, for example.” Or, “What fraction of the market is occupied now by the new gTLDs? What fraction of new registrations has been in new gTLDs as opposed to legacy gTLDs?”

Spent quite a bit of time trying to identify what those specific projects were. We made some good progress in that we started yesterday with I think four of the six major questions that we hope to answer without having any projects associated with them. Now each of them has at least one, and most of them have more than one project associated with them. Now we think that we have identified the sort of data we want and the analysis that we’re hoping to do for most of our questions. We’re hoping by the end of this week, actually, is a little bit of homework for folks that will have really well-specified projects that we think are actionable by either the Analysis Group or staff or ourselves or someone to take the specification for one of these projects and go do the work. The way I think about it is the result of those projects will constitute the data tables that we’re going to put in our report. Once we have that, then we can start to put some words around what we’ve discovered as a result of this analysis.

I won’t bore you with the tedium of going through all of the projects, but we’re happy to share the list. Eleeza’s pulled some together. I’m actually going to ask for Eleeza’s help because several of the projects we identified, we thought you guys on the Safeguards and Consumer Trust Team might already be doing some related work. We don’t want to have both sub-teams doing the same work, so it makes sense to see to what extent we should be coordinating on those projects.

Eleeza, can you tell me the projects that we identified as potentially having overlap?

ELEEZA AGOPIAN:

I'm working on it right now. I'm trying to put it all in a table in a logical way. Let's see. I think the first one I just came across had to do with UDRP and URS policies. That was suggested as a topic that might fall under the category of non-price competition between different registries. The group also suggested that this might be covered by the TMCH review, but that's [inaudible].

JORDYN BUCHANAN:

I think here Dejan had proposed that we look to see whether... I think this is largely a comparison against legacy TLDs and ccTLDs as to whether the URS and UDRP, the existence of those from a consumer choice perspective made the new gTLDs more attractive. We were wondering to what extent you guys on the Safeguards and Trust Team were looking at the URS and UDRP. Separately, we know that there's the TMCH review and there's also the RPM review happening. It's possible we should just defer all of this into one of those other places and not be in this review at all.

In any case, David now has his placard up.

DAVID TAYLOR:

Thanks. When you say the fact that the UDRP and URS would make the new gTLDs more attractive, more attractive to who? Registrants,

cybersquatters, consumers who want to register and feel more protected, channels?

JORDYN BUCHANAN:

Using our definition of consumer, it would be either, would a registrant prefer to register in one of these, knowing that somehow the space was more pure and free of terrible cybersquatting? Maybe an end user would be more navigate to one of these because they felt that they were less likely to encounter bad results.

DAVID TAYLOR:

It comes down to the safeguards and trust, whether we trust the TLD. So it's certainly in our remit on that sense. The UDRP exists, so it's just the addition of the URS and I suppose you'd probably say the Trademark Clearinghouse, whether those alone make the general public feel safer. Probably not because they only know about the URS on the time that they find out that they've been squatted, which would be too late to feel safe. Interesting. I don't know. How does that reflect on competition for it to be in your group?

JORDYN BUCHANAN:

I think only to the extent that if people trusted a TLD more, they might be more likely to... We don't know I guess. That would be a follow-on question of: are trusted TLDs more likely to be competitively effective or not? I guess would be the question. Am I capturing your intent right, Dejan?

DEJAN DJUKIC: Generally, that's what you answered. We are looking it from the angle of non-price competition. Are there new gTLD and gTLD in general more competitive if you compare with ccTLDs? Some ccTLDs don't have UDRP or ADR at all. It would be some value for potential registrants or someone who starts the UDRP process and have [inaudible] process tools to see who has the rights to register potential domain name.

We're looking it from different angle than the other sub-team.

UNIDENTIFIED MALE: Sorry, Stan. Was that a question?

JORDYN BUCHANAN: David, it sounds like you're not currently looking at the effect of the trademark protections on consumer trust as part of your remit. Is that a correct statement?

DREW BAGLEY: We are, but only within a certain restricted paradigm. We have a list of the safeguards. We see what the intent of the safeguard was, whether or not the safeguard was ever even triggered to begin with. Let's say we solve no instances during which the safeguard was relied upon. With some of the examples that you're giving, we're not going to know if just the existence of the safeguard alone created a sense of trust, even though it was never triggered, and that that sense of trust led to a user actually investing in a new TLD or registering a domain name, especially if that's a brand or something.

After we see if it's been triggered, if it has been triggered, we're going to look at the result of what happened and did the safeguard fulfill its intent? Did it not fulfill its intent? Why didn't it? From there, that part is our best area from which we could gather information about consumer trust, where we could see if trust had been broken, perhaps.

For us, separately from this, we're exploring trust as a whole category in and of itself with the other areas that Laureen went over. In that, we could potentially reach conclusions that perhaps all the safeguards are fantastic. However, there weren't enough safeguards because there were still all these other consumer trust issues in the new gTLDs that have been broken down.

Those are the different ways in which we're looking at it. Going back to your initial example about UDRP and URS, if you looked at that specific example, the question to you would be, is what we're doing going to be fulfilling enough for you guys? I don't know that what we're doing would answer that competition question about whether people are migrating to the new gTLDs based on the safeguards.

JORDYN BUCHANAN:

A couple of questions for staff, I think. The first is there is the TMCH review happening right now. Could someone from staff maybe speak to the scope of that review and to what extent it might cover any of these related discussions? Then I have the same question for the RPM review. I haven't been following that work, but maybe someone who's in that. Is that you, David? Are you a liaison? Who's our liaison to the RPM?

UNIDENTIFIED MALE: No, [I'm not the] liaison. [inaudible]. We will have a long session.

JORDYN BUCHANAN: Sure. If someone knows enough –

UNIDENTIFIED MALE: [inaudible].

JORDYN BUCHANAN: If someone in this room currently knows enough about the RPM PDP, that might be interesting to know as well whether they're anticipating covering this ground.

KAREN LENTZ: On the Trademark Clearinghouse independent review, there's some look at disputes. What do [inaudible] holders choose to put in the Clearinghouse, versus what do they choose to protect, say by registering a sunrise or by filing a URS case or filing a UDRP? There's some correlations being examined there. As far as the use of URS, it's a little out of scope for that review. It's focused on the Clearinghouse, and the competitive effect of having that in a TLD versus not having it is not really in scope for that.

In terms of the RPM PDP, I can look at the charter right now. It's pretty broad in terms of the number of topics and questions that they posed to cover. I think that group is at the beginning of its process, so there's

probably still room to raise more questions if we think that should be [covered] there.

JORDYN BUCHANAN: Thanks, Karen. Maybe what I'll suggest is Eleeza, can we assign to Dejan, actually specifying that project? What analysis would we want to do if we were to try to answer your question? Then I think maybe we could propose to the liaison. Figure out who the liaison to the RPM –

DAVID TAYLOR: Me, apparently. I was just told.

JORDYN BUCHANAN: David could take back to that PDP group whether they'd be interested in answering that question. If they don't want to, then we'll have to answer it ourselves if we think it's in scope.

DAVID TAYLOR: I just put one caveat. I did sign up for that PDP on that, but I haven't opened a single e-mail yet because there's just too many e-mails and I can't keep up with them all. I don't actually know whether I'm the best liaison person. I will try to, and I'll certainly attend it in Helsinki.

JORDYN BUCHANAN: Thanks for that. Let's start with Dejan specifying what the exact work would be that we would want to accomplish.

That's number one of the things that we thought there might be overlap. Eleeza, what's the next one on our list?

ELEEZA AGOPIAN: I already lost my place. Here it is. It was under question five, which had to do with whether the benefits of the increase in choice outweigh the potential for the cost of confusion. The project we'd noted was the frequency of brand and trademark registration across new gTLDs. This is a related topic.

JORDYN BUCHANAN: Yes. I turned it off. I meant to turn it on.

The question I think we had was to what extent we saw trademarks being registered in the new gTLDs. We wondered if you guys were looking at that as part of your look at safeguards and trust. Drew is shaking his head no.

UNIDENTIFIED MALE: [inaudible].

JORDYN BUCHANAN: Which marks are actually being registered. As an initial matter, whether by the trademark owner or not, and then potentially as a follow up, whether by the trademark owner or not.

KAREN LENTZ: That's also something that's being looked at in the Trademark Clearinghouse review, looking at marks and claims and amounts or registrations in the selection at least of TLDs.

JORDYN BUCHANAN: Okay. So maybe we could look to try to channel that work into the TMCH review or make sure that the TMCH review is already doing it.

Eleeza?

ELEEZA AGOPIAN: The next one: how much fraud is there in new gTLDs?

JORDYN BUCHANAN: Yes. Is the safeguard and trust team looking to try to quantify the amount of fraud or abuse in general exists? It sounds like yes based on our previous conversation.

All right, so we're going to defer that work to you.

UNIDENTIFIED MALE: Real quick, could you define fraud beyond abuse? In a sense, abuse is the big umbrella category for us, which would include all kinds of things that could be considered fraud. For you guys, could you define [inaudible]?

JORDYN BUCHANAN: I don't think we made any attempt. We're not deep thinkers on this topic like you guys.

UNIDENTIFIED MALE: Then our answer is yes. We have that.

ELEEZA AGOPIAN: Similar, another one is, is the TMCH reducing the cost of possible UDRP/URS cases?

JORDYN BUCHANAN: Yes.

JONATHAN ZUCK: Is presence of a string in the Trademark Clearinghouse a good indicator of fewer trips to resolution procedures like URS? I think is what that was.

UNIDENTIFIED MALE: Is the presence of a string in the Trademark Clearinghouse what?

JONATHAN ZUCK: Correlated to fewer trips to resolution procedures like the URS.

JORDYN BUCHANAN: Is it actually helpful to be in the TMCH?

DAVID TAYLOR: There's two bows to that. I think there's the one whether being in it, you might file more URSs. I'd say potentially you would because you get the notifications, so that in effect means you're aware earlier on of a bad act to doing something. You may or may not file a URS or UDRP based on that.

JONATHAN ZUCK: The question is, is it just more information for trademark holders or is it a behavior modifier for potential trademark violators? That's the distinction I was trying to get to, which is, is there any indication that there's fewer transgressions as a result of them getting that warning?

DAVID TAYLOR: I think it's fewer than what? Again, it's very hard to compare because what do you compare to? A legacy TLD. Which legacy TLDs? It's an open new gTLD against an open legacy TLD, bearing in mind the number of applications and length of time of existence. It's quite a thing to do. I'm guessing it's Trademark Clearinghouse review to an extent.

JORDYN BUCHANAN: I agree with David's last conclusion. Hopefully the TMCH review is going to help tell us whether it was useful or not. As a baseline matter, David, I don't know if Google is unique or if there's other registry operators doing some form of a longer claims process, but in our TLDs, at least, we have permanent claims process. In that model, you might ask, "When you look at the number of bad actions happening, is it less frequent in

TLDs that have longer claims during claims periods than it is outside of claims periods?” That might tell you whether the claims period at least was useful at deterring abuse.

DAVID TAYLOR:

Sorry. Following up on that, that's a very interesting point and I think it raises another one because I've thought about it now. Safeguards, when they're looking at the URS, UDRP and which rights protection mechanisms, at that point I didn't mention it then. I was thinking, do we go into the specific mechanisms which new gTLD registries are putting in place, which are different, such as donuts, and then look at those? That point – it's great you actually said that – made me think, “Is this a competition aspect?” This is me punting one back from our side back to you and saying, “Is that something which is yours?” Because there's a competition aspect there between the registries and what Google are offering. Absolutely. I think there you've gone a step further, which is what a lot of the rights protection community wanted. You've done that, so there's competition aspects. I think that's an interesting one, really.

JORDYN BUCHANAN:

Yeah. This gets back to Dejan's analysis of is it helpful to have better rights protection in terms of from a competition angle? I don't know. Karen, is any sort of analysis along those lines of whether the claims period works envisioned in the TMCH review, or is it just looking at the actual mechanics of putting stuff in the TMCH?

KAREN LENTZ: It's examining the claims period data as much as we have. It will tell you for each Clearinghouse record, how many notices were downloaded for that, and then looking across TLDs, how many claims transactions did they report. How many times were claims notices displayed? There's some challenges with extrapolating from that, what the numbers tell you about registrant understanding and acceptance of those notices.

The point about registries having different lengths of claims periods, I don't know that anybody is looking at, although I think it would show up in the reports as they continue to occur. Let me make a note of that.

JORDYN BUCHANAN: Independent of the duration of the claims period, you could just look at the fraction of the registrations that occurred during claims periods, what fraction of those ended up going up to URS or UDRP versus those that occurred outside of claims periods and whether there was a difference.

DAVID TAYLOR: Sorry, just to follow up on that and to remember there that when we look at how many go to UDRP or URS is one thing. Bear in mind that a lot of them will be cease and desists. As an estimate, I'd say maybe 5% to 10% of the cases we're involved in ever go to URS or UDRP. It's cease and desists. That fudges everything.

JORDYN BUCHANAN: Do you have any other ideas about how you can quantify the amount of trademark abuse happening?

DAVID TAYLOR: [In] public way of doing so, yeah.

JONATHAN ZUCK: Two things. One is that it might be valuable again to take a step back from this and get back to Larry's notion that we have immortalized here. Do the benefits of choice exceed the cost? That's why we're looking at defensive registrations and things like that. I think that's part of what people are looking for. Is this a net benefit in a way? That's why we're trying to get at some of these answers. Just pushing things off to TMCH might make it difficult for us to make that assessment. Finding a finite way to go into them might be of some value.

The other thing that I would remind people about is we are trying to do a survey of trademark owners, potentially through INTA. What we may be partly doing here is extending the questions that are part of that survey.

JORDYN BUCHANAN: Sorry, Jonathan. I guess I would say depending on the timing of the TMCH review, it's conceivable that could get done before us. We could outsource a little bit of our work to them, essentially.

JONATHAN ZUCK: That would be great.

JORDYN BUCHANAN: Karen, is that expected to be completed prior to our report's preliminary release?

KAREN LENTZ: Yes, it should be. Q3 is when we're targeting for the draft report, so the data should be available to you [in there].

JORDYN BUCHANAN: Maybe in Eleeza's document, we can flag that we think this analysis is going to be done by the TMCH review. We'll make sure to take a look at those results.

JONATHAN ZUCK: [inaudible] help?

JORDYN BUCHANAN: Obviously, yeah. It seems like we'd be happy to talk with the folks working on the TMCH review about these matters to make sure they get incorporated.

Eleeza, that's it? Those are the areas that we thought there might be some overlap. It seems like it's mostly overlap with the TMCH review, although you guys are also doing the abuse quantification, so that will be helpful.

David.

DAVID TAYLOR:

Jonathan just mentioned there with the potential INTA review, which we've been discussing. I think there's an overlap there, and there may be something. If we find that the Trademark Clearinghouse review isn't covering something, we can bring it into that review to ensure it is covered. I suppose the only point there is just something which I know was raised of cost sharing for that review. I presume there's no issue with ICANN cost sharing with INTA on the review. So 50/50 split or something. I'm just throwing out that number. Is it something which we need to discuss at some point? Because I know there was a question raised on that, so I don't want us to talk about it for another month and we don't kick start that review because we want to try to get them to do it.

JONATHAN ZUCK:

That's a good question. I think we're at the point with the exception of probably this project with AM Global, of ceasing to worry about the FY16 budget and whatever we left on the table and things like that. I think we'll drive ourselves a little bit nuts.

There are numbers that are allocated for FY17, so the first thing might be, at some point, not to put you on the spot now, is to understand what that is and look at the studies that we're talking about trying to do. The DNS abuse and the applicant survey are big ones. Then potentially this trademark owner survey. I think those are the three big things we're talking about. Seeing if that's going to be disruptive to your predictive budget. We need to escalate to Theresa or Xavier or whatever that process might end up being.

Maybe if we can make that a to-do to figure out what those budget numbers are so that we can assess where we are, because it could be that we're covered. To answer David's question, I threw out rather carelessly on a call with INTA that included people from INTA – it was the IPC call being held at INTA – the possibility that if money was one of the things slowing them down in helping do this survey of their members, that we might be able to help with that.

There's two sides to that. One is do we have enough money, but the other is is there any kind of procedural issue with trying to pitch in, as David said, to spur that along because we'd rather have them sooner rather than later? It is something that we would, absent the presence of INTA, try to do ourselves. That might be a better way to do it. That question's aimed at staff. Is there anything improper about splitting the cost with them? It's probably Margie and Karen.

MARGIE MILAM: I'm sorry. I'm not following the question. What do you mean, the cost?

JONATHAN ZUCK: Conducting a survey of INTA members will cost money. They're trying to find money, so I threw out there, "Hey, we'll pitch in some of the money for that, too." Was I wrong to do that? Is the question I'm asking. Is it somehow bad to, because it's a single organization that we're putting money? I'm just trying to think outside the box or optics or anything else. Separately, we'll figure out about how much money it is, but is doing that okay?

MARGIE MILAM: I'll think about it. How is it different than retaining a vendor to do the study?

JONATHAN ZUCK: We probably would. That's the whole point. We would retain a vendor and make their membership the population we surveyed, probably.

MARGIE MILAM: We'll take it back and we'll get you an answer on that. Off the top of my head, I don't see a problem with it.

JONATHAN ZUCK: I didn't either, but I wanted to make sure I didn't mistake.

DAVID TAYLOR: Just following up on that, I think in a way, if we want ownership of it, in my view we should be paying for it. I've seen obviously we've been on the discussion with INTA and the people there, saying, "We could do it, but who's paying for it?" We end up in a discussion, which you see another month goes by. The way we should be doing it is saying, "[inaudible] we need a vendor to do it. We'll find the vendor. Can we go to the INTA membership? Yes or no. If not, we'll go to the ECTA membership. If not, we'll go to so-and-so membership." I think there, there's never going to be an issue with us going to their membership

with an outside vendor doing it. There's really a question of whether INTA could use the results. Again, [inaudible] whatever.

I'd go around to if we can pay for it, let's go ahead and do it and then take it from there.

LAUREEN KAPIN: Who should I talk to about it? Is it mostly David that's spearheading this?

JONATHAN ZUCK: Yes.

LAUREEN KAPIN: Okay. We'll work it out. We'll figure it out.

JONATHAN ZUCK: As a takeaway, help us figure out what our budget is for FY17 because of the other projects that we're identifying.

JORDYN BUCHANAN: To wrap up the Competition and Consumer Choice report, in addition to this project definition, we spent some time on market segmentation definitions. Once again, we've been looking at trying to come up with definitions of market segments by looking at topic areas, by geographic groupings, and by language groupings.

The good news I think we did that. We now have pretty good lists for all the geographic TLDs, a good set for topic-based TLDs, and the language group has done all but two of the languages that they could identify. They just need to figure out what the heck the other two languages are. One challenge of working on the language group is sometimes it can be a little impenetrable.

The bad news is I think we had quite a bit of discussion about how we were going to make the segmentation useful. I don't think we've finally resolved that. I think we've decided that we want to keep trying to work at this and do some analysis based on the segmentation work.

Kaili had some concerns as we started to look at the geographic segmentation. We realized we would have some problems because for example, if we said that if you lived in Shenzhen in China, you might think it would totally reasonable to register in .shenzhen, which exists. Shenzhen is in the province of Guangdong, so you might say, "I'll register in .guangdong instead." Or maybe you would say, "No, I really want to appeal to all of China, so I'll register in .cn or the IDN equivalent for .cn." Maybe you would want to register in .asia. Obviously, there's things like .com as well that are potential, but just looking from geography, there's four layers of potential registration, but it becomes very hard to compare because we don't want to compare the total registrations in .asia versus just the people in Shenzhen registering in .shenzhen. How would we somehow make reasonable comparisons?

Stan led us in some discussion about market definitions, but I think we still don't 100% understand how to split things up. We may be looking at tactics like trying to look at registrants from a specific country or

something like that to try to narrow this down. There's some work left to do on figuring out how to approach the market segments now that we've identified them.

At the end of this, we roughly have a set of projects and a set of market definitions as pretty tangible outcomes of these two days, so I would say it's been successful. Those were the goals coming in, so we met our goals. Hopefully this gives us the ability to actually execute on work over the next couple of months and hopefully start drafting some text as we start to see numbers roll in.

That's our summary. Does anyone have questions?

DREW BAGLEY:

In the end, were you able to, even for the geographic definitions, work out something that will be helpful in measuring those markets?

JORDYN BUCHANAN:

I think what we would do in an ideal world is say – for each of those four or five TLDs I should mention – shenzhen, .guangdong, .cn, Chinese version of .cn, and .asia – that we would go in and extract just the registrants from Shenzhen and say, “What's the market share and so on across each of those TLDs in Shenzhen?” I don't think we can do that. I don't think we know how to do that, so we're going to have to come up with some proxies that we can use.

Maybe we can't do it at the city level and we need to jump up to country level or something like that where we feel like we have better segmentation capabilities. Maybe we do a sample of WHOIS data or

something. We do a sampling of registrations. There may be some tactics. We don't know exactly how we're going to execute on all the segmentation.

The Analysis Group originally did a topic-based subdivision in their phase one report, and that seems a lot more straightforward. Stan, as the only member of our sub sub-teams, has made some refinements to what the set of topics look like, so we should be able to do that analysis there. Even with languages, we may say, "These feel like groupings already." It's just when we get to the geographic ones because they're concentric circles that it becomes a little more complicated to figure out how to approach it.

DREW BAGLEY:

If you think of anything that we could latch on to the DNS abuse study, even though it would be unrelated to abuse and be market-related, let me know because that study will be looking at all the zone files, all the WHOIS data, all kinds of stuff. To the extent that you could also draw inferences from the same exact vendor, that might be [inaudible] to get something.

JORDYN BUCHANAN:

That might be helpful, yes. We should keep that in mind. Let's stay in touch.

JONATHAN ZUCK:

Any other questions for Jordyn or Lauren? I just wanted to get that on the record for fun later. Thank you. Thanks for the update. Thanks,

everyone, for your work. We've got a lot of work ahead of us. I know it's been a slog, but I think we're making some good progress. The next thing is some next steps in terms of our next meeting. We have some resolution there. What else did you tell me that I was going to talk about [at this point]?

UNIDENTIFIED FEMALE: [inaudible].

JONATHAN ZUCK: [inaudible]? Was it the different template than we talked about at the beginning?

UNIDENTIFIED FEMALE: Right. As part of the next steps, every sub-team will need to drill down on substance and content to make sure there's some consistency across the sub-teams. Brenda, could you pull the template up? Just give Brenda a couple of seconds.

JONATHAN ZUCK: Is it [inaudible] that we went over. We were talking about dividing things up by questions and things like that at the beginning, but I swear I'm just drawing a blank about what the distinction was. I feel like we talked about it. Do you remember which document it is, Alice or Eleeza?

UNIDENTIFIED FEMALE: One moment. Brenda's pulling it up. There we go. Now you can see it on screen. Can you just get rid of that? Thank you so much.

Here's a suggested template to document every sub-team topic and area of focus. What's we're suggesting here is to have a problem statement, the [inaudible] and then background material, findings, committee input, potential recommendations, and anything to do with the implementation of these recommendations.

As part of the next steps, the idea would be to populate that and circulate this discussion paper within the sub-teams.

JONATHAN ZUCK: This is sort of like our other sub-team that arranged vertically instead of horizontally at some level, right?

UNIDENTIFIED FEMALE: Yes. It drills down [inaudible].

JONATHAN ZUCK: I welcome feedback on this. This is a draft from staff.

Sorry?

UNIDENTIFIED MALE: I'm [filling] here for the –

JONATHAN ZUCK:

The purpose?

UNIDENTIFIED MALE:

Not the purpose, the [inaudible]. We had agreed in the Safeguard sub-team that we have a table that Brian is going to help us with. We were going to work together in small sub-teams to fill/work that out. Are we saying we do this before that or what?

UNIDENTIFIED FEMALE:

This would be after.

JONATHAN ZUCK:

I think this is more after. This is beginning to draft the report. This is a structure that the report might take across all of these questions that got asked of these groups. You start with a question, then the subquestions, and then do these things for it and talk about the conclusions.

Part of that has to do with the rigor that we were trying to engage in. When you look at the background material and data, you want to put in there the conclusions that we reached and how we reached them from as evidence-based a perspective as possible. In theory, when we make recommendations and then later on, this review takes place again, they ought to be able to go to the same sources or types of evidence and detect whether or not the way we defined the problem, things improved as a result of the recommendations.

The rigor of documenting the problem statement but also the conclusions. In simplest terms, Stan has a calculation that's going to say that the percentage of new TLD sales that's made up of by new gTLDs is X percentage. We would love for that to be double three years from now and recommend X, Y, and Z. That's a statistic that they will then be able to recalculate at the time of the next review to see if, in fact, the recommendations had the desired outcome.

That's the most quantitative way we can do this, is to try and identify for the next research team or even staff reviews along the way, are the recommendations that are put in place showing an improvement based on the calculations we used to define the problem in the first place. Does that make sense?

That makes some modifications to this probably that I can take a spin at, but I think this is largely right for that. We may try to get a little bit more explicit about what we meant by background material data. It's conclusions and basis for those conclusions, something like that so that whatever that basis is can be done again, repeatable. The idea is to make the analysis repeatable.

CARLTON SAMUELS: I understand what the objective of this is. It's the process now that is a bit of a challenge because one of the things you want, you want to have it written in one voice.

JONATHAN ZUCK: That's what [inaudible].

CARLTON SAMUELS: Yes, but who is going to construct it and the template is going to be important.

UNIDENTIFIED FEMALE: Carlton, for instance in the safeguards and trust, today you formed some teams of pen holders.

CARLTON SAMUELS: We have some sub-teams, and we are going to put our sub-teams together. Me and Lauren are going together and we're going to do that, but this is only going to be a small part of this final document. This is one document. This is not going to be multiple documents from each team. I'm talking about the high level teams here, the Competition and the Safeguards Team. Just one person.

JONATHAN ZUCK: I'm going to take your question right away. My best answer at the moment is that the degree to which we define a vocabulary for the report, which is what a template does, that will help to create a similar voice across reports. In other words, if we talk about things as hypothesis, if we talk about things as findings, etc., that will help guide things into a similar voice. There will be an exercise after that, a review exercise, for sure. I'm guessing I'll be part of that exercise of literally trying to make it the same voice, but I think the degree to which we are successful in defining a vocabulary for the report, which is what the template attempts to do, it will help to guide us toward a similar voice.

CARLTON SAMUELS: I was just concerned about process. [inaudible].

UNIDENTIFIED FEMALE: It's just that the sub-teams and the group in general is going a little nuclear in the sense that everybody is forming sub-teams, sub-teams, sub-teams, sub-teams. You need to be consistent throughout what you're producing. Otherwise, there will be a huge discrepancy between the sub-teams. You need to have [shelves] and information to frame how you're going to work and how you're going to have an outcome that makes sense.

JONATHAN ZUCK: I'll take it as a to-do to dive into this with explanatory text. That might help to make it an easier template to use, like an instruction manual for the template or something.

UNIDENTIFIED FEMALE: Can I work with you on that, Jonathan?

JONATHAN ZUCK: Please.

UNIDENTIFIED FEMALE: Okay, great. Thank you.

JONATHAN ZUCK: The next thing is the next meeting.

UNIDENTIFIED FEMALE: Yes. Based on the Doodle poll, it seems like August 29th and August 30th of the September meeting dates.

JONATHAN ZUCK: That's so classic ICANN.

STAN BESEN: [inaudible].

UNIDENTIFIED FEMALE: What do you have in mind, Stan?

STAN BESEN: [inaudible].

JONATHAN ZUCK: We just set the dates at the 29th and the 30th of August.

UNIDENTIFIED FEMALE: These are the [concerned] dates. Our ICANN meetings team is already in the process of collecting coats and so on for locations, so we'll get back to you on the location as soon as possible. Just so everyone knows, it looks like it's going to be Western Europe.

WAUDO SIGANGA: I think that's as soon as possible. Has to be much sooner because for some of us, getting Visas is a problem time-wise.

UNIDENTIFIED FEMALE: I think Schengen Visa would be the one you need.

WAUDO SIGANGA: Yeah, but we still need to know the specific location so that we can target the specific –

UNIDENTIFIED FEMALE: We'll get back to you as soon as we can.

DAVID TAYLOR: About 6:30 would be good.

JONATHAN ZUCK: 6:30?

DAVID TAYLOR: 8:00 sounds good.

[END OF TRANSCRIPTION]