

TIJANI BEN JEMAA: Okay, thank you. Thank you, Margie. Actually, I think we have to start now.

[TERRI AGNEW]: Certainly. Thank you. One moment while we begin the recordings and the introduction. One moment, please.

Good morning, good afternoon and good evening. Welcome to the At-Large Capacity Building Program 2016, our fourth webinar on the topic Competition, Consumer Trust and Consumer Review (CCTRT) held on Wednesday, the 25th of May, 2016 at 22:00 UTC.

We will not be doing a roll call as it is a webinar, but if I could please remind everyone on the phone bridge as well as computer to mute your speakers and microphones as well as state your name when speaking, not only for transcription purposes but to allow our interpreters to identify you on the other language channel. We have English, Spanish and French interpretation. Thank you for joining, I'll now turn it back over to our moderator, Tijani Ben Jemaa, Chair of the Capacity Building Working Group. Please begin.

TIJANI BEN JEMAA: Thank you very much, [inaudible]. Good morning, good afternoon, good evening, everyone. This is the fourth webinar in our 2016 Capacity Building Program. The topic today is an update on the Competition,

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Consumer Trust and Consumer Review team. We will have today the luxury of having four speakers.

We will have first of all our two representatives in this Review Team, Kaili Kan and Carlton Samuels, and also we'll have from the staff Margie Milam and we will have also Jonathan Zuck that I welcome here. First of all, I will leave the floor to Terri to have some housekeeping announcement, and then we will proceed to the presentation. So Terri, please.

TERRI AGNEW:

Thank you, Tijani. Just a few housekeeping items we'd like to go over. If you do have a question for our presenters, in the box on the bottom left hand side of your screen, if you could please type in your questions there and we'll make sure our presenters receive the question. If there's not enough time to answer your question, we will post the questions and the answers on the wiki page.

Also, in addition, we are having our captioning today. As you can see, our captioning part is on the bottom middle of the screen.

In addition, today we will have three pop quiz questions as well as an evaluation. When it is time, a pop quiz question and evaluation will appear in the bottom right hand corner for you.

Thank you very much, and with this, I'll turn it over to Margie Milam.

MARGIE MILAM:

Thank you, Terri, and good morning, good afternoon and good evening to you all. As Tijani Ben mentioned, my name is Margie Milam and I'm a Vice President at ICANN in the department called the Multi-Stakeholder Strategy and Strategic Initiatives Department, and that department is responsible for lots of interesting projects at ICANN, but the one that takes most of my time relates to conducting reviews for ICANN. Reviews are a very important feature of ICANN, and very important to ensuring that ICANN continues to evolve and to address the needs of the Internet community.

So, as we look at reviews – and we'll focus in on a specific review later on in the presentation – we look at reviews from different perspectives. At ICANN, we really want to foster a culture of continuous improvement, and the whole process is designed to do that. When we have reviews at ICANN, we try to look at either a particular topic or a particular structure within ICANN, to see how it can be improved. For example, we might look at a topic such as security, stability and resiliency of the domain name system, and we would see whether we're applying industry best practices to that area of ICANN's performance.

We also want to keep up with different business trends and ensure that we're doing things as efficiently as possible. One of the things that the reviews also do is take a look at ICANN's commitment that you see in the bylaws and see in the affirmation of commitment, to ensure that future processes also are meeting our commitments.

The other thing that reviews do is they actually take a look at these various subjects and structures within ICANN, and we want to make

sure that we are fitting in within the vision and the strategic plan of ICANN. We also want to make sure that ICANN stays on its mission and does not go outside of its scope and mandate.

So that's some of the benefit of the reviews that are being conducted at ICANN. As I mentioned, reviews are very important, and they're important because they improve accountability and transparency. Especially at this time when we're looking at the transition of the IANA Stewardship function, it's an important time for ICANN to be able to show the world that we are evolving and we are keeping pace with the way that the Internet community is changing and the world is changing.

In particular, reviews are a way that we bring in the community input, to ensure that we are fulfilling our commitments and that we're staying true to our mandate. One of the features that you'll see as we talk about these reviews is that we really strive to get a geographic and global coverage, both in terms of nationalities represented, we try to look for gender balance, we also want to make sure that we are bringing in a lot of diversity of viewpoints as well, as we look at the different topics that are being reviewed.

That's a very important aspect of the review cycle, and in particular from the staff perspective, it is always our goal to ensure that we're bringing in a new perspective and bringing in participants that can share their expertise to help improve ICANN. As we talk about the types of reviews, there are two types of reviews that are done at ICANN. One is done under the Affirmation of Commitments, or the AoC as it's called.

That is the document that ICANN has signed with the US government, that outlines the relationship between the US government and ICANN.

Under the Affirmation of Commitments, we've committed to looking at different aspects of ICANN's work. We have, for example, a commitment that every three years we're going to take a look at the accountability and transparency of ICANN, and have a review team that focuses specifically on that. That's called the ATRT. We also – as we will go into in more detail on this call – we're looking into the aspects of Competition, Consumer Choice and Trust as it relates to the launch of the New gTLD Program. That review team is looking into how the New gTLD Program and the new extensions contributed to the areas of Competition and Consumer Choice and Trust.

Another area is taking a look at the security, stability, and resiliency of the Internet. We will have a review that will be kicked off later this year, that's going to take a look at how ICANN handles security, stability, and resiliency issues.

The last type of review under the Affirmation of Commitments is the WHOIS-related one. That takes a look at the WHOIS policy, how it's implemented and whether it meets the needs of law enforcement and the broader Internet community.

Those are the reviews under the Affirmation of Commitments. Those are conducted by community members, and what we typically do with reviews – and this is all specified under the Affirmation of Commitments is that there will be and there are a group of individuals that are designated to represent the different supporting organizations and

advisory committees at ICANN. A review team is a closed group, it's a specified number of people that represent different perspectives related to the topic that's being reviewed, and the Affirmation of Commitments also ensures that there's the opportunity for independent experts to participate in the review under the Affirmation of Commitments as well.

So when you're looking at a topic like consumer choice and trust, you would see individuals that have expertise in the areas of competition for example, or economics, or consumer protection. That way, those perspectives are reflected in the recommendations that come out of the review team.

The other types of reviews that we do are the organizational reviews, and those look at the ICANN structures themselves to see whether they're properly being managed and operated, and as many of you may recall, we are in the process of concluding the review on the GNSO and we're kicking [inaudible] review of ALAC and the At-Large organization. That type of review is a little bit different than the AoC review, because it's actually conducted by independent reviewers that are under contract with ICANN to take a look at how that structure works.

The organization reviews look at the different structures such as the GNSO, the ccNSO, NomCom, ALAC, RSAC, and SSAC. Those are mandated by the bylaws and involve groups of staff and these independent reviewers taking a look at the organizations and how they can be more effective.

So, what comes out of reviews? When you look at these reviews, what comes out is a very important series of recommendations, but they don't come to the Board until they've gone through a vetting process with the community. So what these community-led review teams will do is they will come up with recommendations for how to improve the particular area. If you're looking at, for example, the WHOIS reviews, you would be making recommendations – you'd see recommendations relating to how to improve the WHOIS policy, and there would be public comment opportunities where people who are not members of the review team can come in and share their perspective on whether the recommendations make sense.

Then, those recommendations get fed to the Board and the Board of Directors then takes a look at it and decides what to do with those recommendations. The Board of Directors might have some of those recommendations be fed into the long-term planning process for ICANN, and you will see for example in our five-year strategic plan that there are a lot of projects, goals, and portfolios that relate to recommendations that came out of the Review Team. The Board also accepts the recommendations, sometimes there might be changes to the recommendations, and the Board can also reject some of the recommendations as it feels that the recommendations weren't appropriate.

From the organizational review side, the independent reviewer would make recommendations, and again, those would be vetted through a public comment process. Some of you may have seen that with respect to the GNSO recommendations, where there was a community

feedback on how those recommendations were perceived and whether they were appropriate to be accepted for further implementation. As part of the work that comes out of the independent reviewer, these recommendations go to the Board and then the Board goes through the same process of determining whether some of the recommendations should be adopted, or all, or whether there should be changes to the recommendations, and some of the recommendations may, in fact, be rejected.

In the case, for example, of the GNSO, there was a working party that took a look at the recommendations and felt that some of the recommendations that came from the independent reviewer weren't ones that made sense, so the working party from the GNSO made recommendations that not all of the ones that came from the independent examiner should be adopted. So that's the process that you will see, as many of you may be involved in dealing with the issues that come out of the review of ALAC and the At-Large organization.

From the perspective of the Board and staff, as we work through both of these types of reviews, we're looking for recommendations from the Review Teams that are clear, can be prioritized, and are measurable and actionable. One of the things that we learned from the early reviews that were taken right after the Affirmation of Commitments [refined] is that sometimes recommendations might be vaguely written, and the intent of the recommendations may not be always clear. So, as we guide the Review Teams going forward, we're looking for the Review Team to really take a look at the recommendations and prioritize them to show how important they are, and also how they can be measured.

Like what is considered success for a recommendation. That is something that is an important part of the Review Team process.

And then, we always want to be mindful of the resources, because as it may happen, some recommendations may take a lot of resources, time and planning in order to implement, and others may not need so much financial backing. So that's part of the process that we're looking for when we're supporting a Review Team.

With respect to the role of the community, the community plays a tremendously important role in the review cycle. Even though the Review Team itself is a confined group of individuals that are selected to be on the review, there are opportunities in the review process for the community to participate.

For example, at the very beginning of a cycle, there would be a call for volunteers, where community members submit their names of individuals to participate in the Review Team. At that point, there's an endorsement process where the supporting organizations or the advisory committees can endorse candidates, and that's a very important part of the process. As the Review Team continues its work, there's a plan for action that is presented. The community participates in consultations that take place during the ICANN meetings. When the documents and recommendations become a draft report, there's an opportunity for input, and then there are always opportunities at the end when the final report is delivered to present your opinion as to whether those recommendations make sense.



This is an important slide that I wanted to share with you so you can plan your work over the next year or so. It's a very busy time right now for my department, and in particular for the review process. As you look at the slide today, as I mentioned, we are concluding the GNSO review, we've kicked off the Consumer Choice and Trust review, and we're moving into the At-Large review. All of that is essentially occurring right now. Next month, we will do the call for volunteers for the next Review Team, which is the second Review Team on Security, Stability, and Resiliency of the Domain Name System. That will kick off a series of work related to that topic.

Later in the year, in October, we will do another call for volunteers for the second WHOIS Review Team, and that will look at the WHOIS policy, as I mentioned before, to be followed up in year 2017 for the third Review Team that takes a look at Accountability and Transparency, the ATRT. Just so that you can keep that in mind, as this work progresses, we will be looking for ALAC and the At-Large community to come up with names of individuals that might want to volunteer for those activities.

With that all paused, Terri, do we want to do the pop quiz now, or wait until the end?

TERRI AGNEW:

Hi, Thank you, Margie. Let's go ahead and conduct our first pop quiz. You'll now see the pop quiz question appear in your right-hand side of your screen, and the question is "What is the CCTRT reviewing?" Please select your answer now. Once again, you should be seeing the pop quiz



question on the right-hand side of your screen, and we'll give everybody just a few seconds longer to read the answers. Margie, if you could go ahead and please share the answer at this time.

MARGIE MILAM: It's hard for me to read it. The answer is it's the Review Team on Competition, Consumer Choice and Trust.

TERRI AGNEW: Thank you.

MARGIE MILAM: Thank you. [inaudible]. Yes, we will turn to Jonathan Zuck, who will give you some details on the Consumer Choice Trust review.

JONATHAN ZUCK: Hi, everyone. Thanks for having me. I personally voted for the Cross-Community Team review on the last poll there, because I just felt like that was such a creative answer, but the CCT review is indeed a review of the New gTLD Program in particular. Through the lens of how it enhanced competition in the DNS space as well as choices for consumers and overall consumer trust.

Am I able to advance the slides, or will somebody else do that?

TERRI AGNEW: Hi, Jonathan, you should have the ability to do so on the arrow.

JONATHAN ZUCK: Oh, that's fancy. Okay. So the CCTRD mandate was to evaluate how the gTLD Program is [inaudible] Competition, Consumer Trust and Consumer Choice, to look at the effectiveness of the application evaluation process and the effectiveness of the safeguards that were put in place to prevent some of the downside consequences of the rapid expansion of the new gTLDs. You can see the language from the Affirmation of Commitments at the bottom, but the idea is that the first one of these reviews should happen a year out from when the new program began.

Of course, there's a lot of question about what that should mean, because in many ways, the program is still undergoing because there are strings that have not yet been delegated, etc. So in some ways, it's early to make this assessment, but this is a review that will continue to happen over time, so we'll do our best now and it'll get reviewed again in the future.

The CCT Review Team members, as Margie described, were selected in large part by the community. There are six in North America, three in Latin America, three in Africa, three in Europe, two in the Asia Pacific and there are seven overall, which also includes some independent experts, including an economist, Stan Besen who's going to be a great help to us in doing some of the rigorous math associated with determining increases in Competition and Choice.



Then, the ICANN CEO and Chair of the GAC designated representatives to the team, so Fadi, I think in some form of punishment, designated Jamie Hedlund to be part of our team, and the GAC designated Lauren Kapin from the FTC, who has consequently begun to chair the sub team on consumer trust and safeguards. So you can see sort of where people came from here. Drew, Stanley, Ravi Shankar and Fabro Steibel are the independent experts that we have on board. The two representatives of ALAC are Kali Kan and Carlton Samuels, who will also be talking to you.

This is a little bit of a dense slide, but you'll be able to read this at your leisure. One of the first things we had to do was define what we meant by consumer, and that ended up being fairly broadly defined, and then the notion of trust, competition and consumer choice. Choice was sort of demand-side, and competition was supply side, if that makes sense. And then, one of the most intriguing exercises is to find the relevant market. One possibility is to look at just the new gTLD market, one is to look at the overall gTLD market.

Another aspect of the market is to role that ccTLDs play as competition for gTLDs. Whether they're marketed that way, like .tv or .ly, or if they just happen to be competition because they're used in different regions. There's actually been a suggestion by ALAC that we ought to be looking at the broader Internet identity market, so that – what is the extent to which social media, like Facebook and elsewhere are competition for new gTLDs? What is the extent to which third level domains, such as the ones on Squarespace or Wix represent competition? The net result is that we're probably going to probably be looking at a number of

different markets and trying to determine the competition levels in each of them, and the effect that the New gTLD Program has had on them.

One of the things that's interesting about this Review Team that makes it somewhat distinct from the others is that the work actually began about five years ago, with a Board resolution requesting that GNSO and ALAC come up with recommendations for data that should begin to be collected, and Cheryl Langdon-Orr participated on that effort along with me, to come up with a set of metrics that we might begin to measure and collect, so that by the time the Review Team actually began its work, there would in fact be some historical data to make use of.

Between the GNSO and the ALAC, we came up with about 67 different metrics and data sources that staff have been visibly collecting over time, and so you can see on our wiki page, which is ccp.wiki, the documents associated with our team. You can see the metrics that were created, and then where to find the ones that have already been published by staff. As far as our own MO for the team, we're trying to be very transparent. We're trying to introduce a new concept of fact-based evaluation, as Margie raised at the beginning, and try to make objective measures of these issues of Competition, Trust and Choice. So wherever we can make a quantitative analysis, we're doing that as opposed to sort of an anecdotal analysis, which is so often the case. There's data collection, there are surveys done by Nielsen, there's an economic report being done by Analysis Group. All things that are being input into this process, so we're very focused on trying to make our findings measurable so that the success of our recommendations can likewise be measurable.

So those are the primary objectives of the Review Team, and I'm happy to take any overall questions. Otherwise, I'll hand it over to Carlton to talk about some of the substantive questions that we decided to address.

CARLTON SAMUELS:

Thank you, Jonathan. These next ones were going to be voiced by Kali, but unfortunately, he can't be reached at the minute. We are divided into some teams that are looking at specific parts of the mandate. We have a sub team that is dedicated to looking at Competition and Consumer Choice. We're diving down into some deep dive, as they say, into certain aspects of it. Both Jonathan and Margie emphasized that the Review Team is really very committed to evidence-based deliberation and recommendations, so we are looking for data, we are engaging persons in the field that can provide us with data and analysis data. He mentioned Nielsen doing surveys and the Analysis Group doing some analyses of what's happening.

Price competition, we're looking to [inaudible] with the price competition. The idea is that we know there's a wholesale price associated with domain names, and there are also retail prices. We're trying to see what we can find relative to competition using price in the market, and how that has affected competition overall. We know that there are non-price aspects to competition, service elements and so on, and at various levels through the reseller chain we're looking at those things. Jonathan mentioned the intriguing look at market conditions.

TERRI AGNEW: Pardon me, Carlton, this is Terri from staff. I do apologize for the interruption, but it seems our interpreters have lost their audio. Do you mind if we could just pause for one moment, and we can see if we can get them reconnected.

CARLTON SAMUELS: Not at all, Terri, not to worry.

TERRI AGNEW: Thank you so much for your patience. It'll be just a moment longer.

Once again, thank you everyone for your patience, just a moment longer.

Once again, thank you everyone for your patience. We are still trying to get our interpreters back online. It does appear we have one back, we're just waiting for confirmation on the other one. One moment longer, please.

And once again, thank you everyone for your patience. It'll be just a moment longer.

I have confirmation our interpreters are back. Carlton, thank you again, and pardon the interruption. Please begin.

CARLTON SAMUELS: Thank you, Terri. So we're back to Competition and Consumer Choice, and we're looking at market structures, we're looking at the elements in

the market, we're looking at market channels. We are interested in things like if there's market segmentation, how do we define the market, how do we define segments, how are they delimited and so on. We're looking at issues surrounding the number of choices. Does the more actually mean choice, or does it devolve to confusion? We're looking at the impact in regions and the choices by [inaudible] available with new IBNs and so on coming in.

These are some of the substantive questions the Competition and Consumer Choice sub team is doing deep dive on. As we go along, we intend to involve more of the community in all of this. You will see from the team requests to community members, specific communities, registrars, resellers, registries for help with data and so on. This is an ongoing process, we will be coming to you time and again for assistance in gathering information, getting data that we can examine to ensure that we arrive at evidence-based conclusions.

The Safeguards and Trust sub team is looking at the issues specific to safeguards. You probably know that there are several levels of safeguards. Most of you will be familiar with the category one, category two GAC safeguards. If you don't remember what they all are, I believe they are outlined in the Beijing communique from the GAC, and essentially, what the GAC safeguard [would say is] that there are some strings that are linked to regulated or professional sectors that they think should operate in a way that is consistent with applicable laws. That's a direct quote.

For those strings that they identify and they notice that they have not identified them exhaustively, they would want to see specific safeguards applied and they have a broad category related to consumer protection, sensitive strings, regulated markets. There's a whole, long list. You can go look at that Beijing communique annex one, and it'll tell you what all those are.

Similarly, category two safeguards, they were related to strings – what they call generic terms, and they said exclusive registry access should serve a public interest goal. Again, they have a long definition of what they mean by generic string and so on.

And then there's the public interest commitment, and members of the ALAC will know that the ALAC has been very interested, and this has been a major project in ALAC. Our interest, of course, is public interest commitments should safeguard the global public interest and end user interest, and that they should be substantive and they should be enforced. With respect to the ALAC position is that ICANN has a duty of care to insure that public interest commitments by new gTLD registries are in compliance.

Then, of course, there are all sorts of other ones that are strictly related to contractual obligations in registry agreements. Those would – in order to safeguards.

With respect to trust, there are those things that are related to behavior. Consumer end user behavior, what happens, how do they [engender] trust in the DNS as a whole. We are interested in looking at

those in detail. We are looking at the impact of the gTLDs in developing economies.

Most of you will know that the ALAC had a heightened interest in this topic and was very instrumental in development of an Applicant Support Working Group, and how that became the Applicant Support [Program]. That has been an ongoing issue with the ALAC, and we are looking at what happened there. We are reviewing how this has impacted new gTLDs.

Then there's a whole sack of procedural issues. It would be mindful that we had an Applicant Guidebook (AGB) and that has all the procedures that were set out. There are certainly a lot of opinions to go around, but certainly, some of us believe that the Applicant Guidebook procedurally was deficient. So the question is, what are the gaps and how do we mitigate them in the subsequent rounds? These are the issues that the Safeguards and Trust sub team is interested in doing deep dive on.

We also have a sub team that is looking specifically at application and evaluation process. Here, we are looking to see whether or not the application and evaluation process did not impact the participation of entities from underserved areas and markets, and how those processes might be tweaked to remove those disabilities.

Of course, there's also the issue of equal opportunity for participation in the program at large, and whether or not the application and evaluation process discriminated to that extent.

We have other issues, delegation of TLDs that can be confusing or harmful. The GAC public policy advice, especially the category one and category two safeguards, and the implementation framework for those.

The last one might be of heightened interest, again, to the At-Large, and the issue the definition of community TLDs, how do we start specific communities, what do we put in place to ensure that that is better understood, and maybe with better outcomes for communities.

I'll hand it over now to Margie, and Margie will take the next slide. Of course, if there are questions, please hold them until the Q&A section, when we will come back to you. Margie.

MARGIE MILAM: Thank you, Carlton. Actually, we will do a pop quiz question right now, and we will ask the second question, which is –

TERRI AGNEW: Thank you, Margie.

MARGIE MILAM: Go ahead, Terri.

TERRI AGNEW: Oh no, go ahead, please.

MARGIE MILAM: The question is what is the CCTRT reviewing?

TERRI AGNEW: That was our previous question. Let me quickly bring up the other one. I apologize. There you go.

MARGIE MILAM: I thought that sounded familiar.

TERRI AGNEW: And so our current pop quiz question –

MARGIE MILAM: Go ahead, Terri.

TERRI AGNEW: Thank you. Who is conducting the review? Please complete your answer now. Once again, the pop quiz question is who is conducting the review? Margie, if you could share the answer with us.

MARGIE MILAM: The answer is the first one, which had 77%, you all listened well. It is a group of appointed community members and independent experts, so that is the correct answer for that question. Thank you, Terri.

TERRI AGNEW: Thank you.

MARGIE MILAM: Before I hand it off to Jonathan to go through the next slide, Jonathan, is there anything you want to add about the subject that Carlton was talking about in the prior slide?

JONATHAN ZUCK: I guess not necessarily. Maybe we'll leave it for the question and answer period. I can't think of anything specific to bring up.

MARGIE MILAM: Great. So why don't you go ahead and walk through the next slides then.

JONATHAN ZUCK: Okay, sure. So one of the other things that you can find at the CCT wiki are the Draft Work Plans for the various sub teams and the overall work plan for the Review Team itself. We are trying to get some findings done by the end of the year because we are working in conjunction with the PDP on Subsequent Procedures which is trying to look at what future applications for new gTLDs there may or may not look like, and so we want to make sure and be an input into that PDP with our findings and recommendations.

So we have determined issues areas thus far, and the next part of this has been requesting additional data. So as I mentioned at the top, we've

been doing some data collection over the past few years but once the Review Team convened, we had to look at where there might be need for additional data.

One of the areas that Carlton talked about was participation in the program from the developing world, and that is a tricky issue to study because it involves interviewing the people who didn't apply, which isn't a list that we have in front of us. But trying to get an understanding of why more potential applicants from the developing world didn't apply for new gTLD strings is something that we're very interested in trying to figure out as part of our findings. And so we may engage some outside research on that for example.

As I mentioned, there are surveys and an economic study that were launched a year ago to create kind of a baseline look at what prices look like in the case of the economic study and how consumers were feeling about the new gTLDs with the Nielsen study. And so now a year later, both of those studies are being repeated, essentially, so we can see if there's been a change over the course of the past year and whether or not consumer feelings about the new gTLDs have changed, good or bad, in terms of their trust of the system, if their behavior has changed, and also whether or not pricing or pricing strategies or non-price competition has changed over the past year as the new gTLDs have really begun to enter the market.

In May and June we'll see the results of the consumer survey and the economic survey published. We're hoping then in the fall to issue some interim findings and then for community feedback, etc. and then in



December look toward a draft report for public comments to get people's feedback on both the findings and the recommendations, and to incorporate that feedback and then hope to deliver a final report and recommendations to the ICANN Board next April.

Obviously, we're interested in having you follow along with what we're doing and to provide input, in particular via your representatives who are Kaili and Carlton. They stand ready to take feedback from you and bring it to the Review Team. You can see our activities on our wiki at cct.wiki. You can see our e-mail archives. You can listen to our calls and meetings. They're all public. You can always listen in. You can't speak but you can listen in and then speak to Carlton or Kaili to raise the issues that are important to you. If you'd like to send an e-mail to us directly, you can reach us at inputtocctr@icann.org.

So by all means, if you have some thoughts or feelings, things that we should be looking at that we may not already be thinking of, then please do reach out either directly or via Carlton and Kaili so that we can make sure to do the best possible review.

This is us at our first face-to-face in Los Angeles. We're about to have our second face-to-face – well, I guess our third face-to-face, we had one in Marrakech as well – about to have our third face-to-face in Washington D.C. on the 6th and 7th of June. So I look forward to seeing everybody back.

So, questions. Yes, go ahead.

CARLTON SAMUELS: I would like to mention that we have a liaison from the GNSO straight into the GNSO in the person of Carlos Raul Gutierrez. Carlos is from Costa Rica, but he is our liaison to the GNSO as well as the RBS Working Group. Just to mention that.

JONATHAN ZUCK: Thanks, Carlton. I would probably [inaudible] the PDP to which I referred on Subsequent Procedures. That's the group that's looking at what the shape of the New gTLD Program might be going forward, and Carlos is serving on that working group as well as the Review Team. So he is our agent on the inside.

TIJANI BEN JEMAA: Thank you very much, Jonathan, Carlton, and Margie. Thank you for this presentation. Very interesting and I thought that everyone present here try to understand and try to... I [thought] that everyone has questions to ask you about this work on the [inaudible].

I will try first to ask you a simple question. Does your recommendation go to the Applicant Guidebook to change it for the upcoming rounds? Or it is only a general recommendation, not [precise] recommendation because everything you said here concerns very much the Applicant Guidebook.

JONATHAN ZUCK: Thank you, Tijani. That's a very good question. I believe that the best way to think about it is that the PDP Working Group on Subsequent

Procedures will be the ones that actually make direct modifications, if any, to a future guidebook. We'll be making recommendations to the Board that are larger in scope to deal with some of the issues associated with the developing world or potentially increasing competition and choice where perhaps it did not take hold. But the actual specific changes to the Guidebook will come through that PDP Working Group.

TIJANI BEN JEMAA:

Thank you very much, Jonathan. I have already one hand raised. First of all I will ask Terri if we have still other pop quiz questions.

TERRI AGNEW:

Hi, Tijani. We do have one final pop quiz question. One moment please while I bring it up on screen.

And our final pop quiz question will be: what will the Review Team be producing? Please select your answer now.

Margie and team, if you could please provide us with the correct answer.

MARGIE MILAM:

Sure, Terri. You are all correct. The answer is the one that got 100% which is: measurable and implementable recommendations for ICANN Board consideration. Thank you.

Carlton had a question he wanted to pose to the ALAC folks on the call. Carlton, would you like to read your question?

CARLTON SAMUELS: Concerning safeguards – are there any that we can point to as significantly successful to the intent for which it was originally devised? And this is to my colleagues in at-Large.

TIJANI BEN JEMAA: Carlton, can you please repeat your question?

CARLTON SAMUELS: We have a set of safeguards with the public interest: commitment, the category 1s and 2s of GAC, and the contractual ones. And I wanted to hear from you all whether or not you think any one of them has been successful in terms of what the intent was.

TIJANI BEN JEMAA: If you are going to answer, I may say perhaps it's not fully successful but the PICS I think was. And I have two hands raised. So I will give the floor to Olivier first.

OLIVIER CREPIN-LEBLOND: Thanks very much, Tijani. I can answer this and then I can ask my question as well, because I have a question afterwards. So I pass on to Alan before taking the floor. Thank you.

ALAN GREENBERG:

Thank you. I don't think the question is answerable at this point for a number of reasons. First of all, all the safeguards the GAC requested were not implemented. The Board, in its wisdom, reduced some of them significantly. Some applicants voluntarily did that kind of thing, so how you can tell whether someone who did something voluntarily is successful – because you don't know what the alternative would be if they hadn't done it.

Moreover, last time I looked at this – and it's a few months ago at this point – when you look at some of the potential problems you can have with TLDs, the number of registrations was too low for them to really show up on any scale. So, if in a larger TLD you may see – and I'm making up the numbers – but you may see one out of 10,000 registrations cause some sort of potential problem, if a TLD only has 22,000 registrations the statistics will not show up those kind of things.

So I think the numbers, certainly when I last looked at them, are too early to make that kind of judgment. And in many cases, if safeguards were implemented there is no real way to predict what would have been different if they hadn't. You're being asked to prove a negative at that point.

So it's a really difficult problem, and I'm not quite sure how you address them. But the real issue is, in my mind, how do we make sure that we err on the side of prudence and safety and not put consumers at risk. Thank you.

TIJANI BEN JEMAA: Thank you, Alan. Olivier?

OLIVIER CREPIN-LEBLOND: Thanks very much, Tijani. First, to answer the question that Carlton Samuels has asked. This is really just my point of view that I'm going to share here. And I'm hearing a nasty echo at the moment, but I'll continue speaking.

On the subject of PICS (Public Interest Commitments), I once heard someone say that they weren't worth more than a bucket of spit, and I was quite shocked at the time when hearing this. I can't remember who it was that said it. It might have been someone on this call. In any case, all I can say is that so far that person appears to have been quite correct on this.

They are voluntary, as Alan has said. And one of the weird things about them is that some of the organizations that did implement them and that did come up with a number of safeguards for their top-level domain appear to have somehow overdone it. And one discussion that I had yesterday with some people in Bern during the Swiss Internet Governance Forum was that one of the new gTLDs for a highly regulated string that was on this list implemented safeguards which are so tight that none of the organizations that should be able to register domains under that TLD have been able to do it successfully so far.

So they've been very much too strong on this. And it reminded me, very much like the work of the Joint Applicant Support Working Group that had made the tightening of the regulations or the things that were

required in order to qualify for applicant support, so tight that no one ever qualified or just very few people managed to qualify for it.

When it comes down to category 1 top-level domains or the ones in the category 1 list that the GAC had supplied, as Alan said, there doesn't appear to be any interest in the Board to push forward with something like this. It's very disappointing and I don't think there is even any interest from anyone in the whole process from proceeding forward with pushing in one way or other about these. So I'm particularly concerned about that.

The process to try and find a solution was delayed again and again. We had to run around the block a few times, and at the end of the day nothing came out of it. It seems to be a pattern at ICANN, unfortunately. So that's the end of this process as well, at least as I see it. Although there was a lot of goodwill from At-Large to try and move things forward, when contracted parties say that they're not interested, it seems that this is the last word. The only word they need to say for a process to say.

But I do have a question, but I've seen that Alan has put his hand up. So I'll give the floor, I guess, back and then I'll ask my question afterwards when we finish discussing this. Thank you.

ALAN GREENBERG:

Thank you. I also have a separate question, and I'll defer that one to answer it. I'm going to be a little bit more generous than my colleague in terms of the GAC advice and the Board reaction to it. The Board

implemented most of the requirements that the GAC specified, with the exception of prior verification and validation of the credentials before granting a domain name in the list of TLDs they specified.

The ALAC did a pretty extensive review of those TLDs, and our conclusions were, among other things, the GAC was somewhat overreaching in its list. That is, there were indeed a number of TLDs where the verification/validation before granting the domain name was certainly valid. And some TLDs, in fact, have done that voluntarily. A fair number have done it voluntarily in one way or another. But the list was too extensive. So if it was a "do it for the whole list or not at all," the Board may well have taken the right decision. But sadly, there should have been a middle ground. And I'm still optimistic that between the Review Team and the PDP – both of whom were requested by the Board to consider that issue – there will be some look at the granularity and what might be required for a subset of those kind of TLDs that the GAC identified. Thank you.

TIJANI BEN JEMAA:

Thank you very much, Alan. And Olivier, back to you.

OLIVIER CREPIN-LEBLOND:

I was going to follow up on the answer that Jonathan had provided on the process by which the Subsequent Procedures (PDP) is going to take in the input from the CCT. I understand that the CCT is going to send this, it's going to go to the Board, and then from the Board it will go to the PDP. But by that time, we won't be operating under the AoC

anymore by the end of the work of the CCT, and will be operating under a community power system. Does that mean that the community powers could overrule any of the input from the CCT?

JONATHAN ZUCK:

Olivier, I think the nature of the community powers is that they can overrule the findings of any Review Team. But remember that part of the accountability reform is, in fact, to bake the review commitments from the affirmation commitments into the bylaws. So it's not as though there would be something automatic that happens that makes the review irrelevant or something like that, because there will be an ongoing requirement to review the New gTLD Program for Competition, Choice, and Trust.

So if the actual community empowerment mechanisms are put in place to override Board approval or disapproval, I guess, of our recommendations then that would be the community operating within its purview. Does that make sense?

OLIVIER CREPIN-LEBLOND:

Thanks, Jonathan. It does make sense. Then I can just say I do have concerns about this because of the unwillingness of this part of the AOC being transported into the new bylaws. I understand that – and I might be wrong now because things might have moved on – but I understand that this review was only going to happen for this current round of new gTLDs and I'm not sure if it's baked into the new bylaws for the future rounds.

JONATHAN ZUCK: It is at this time baked into the review for future rounds. There is, in fact, a community mechanism to change that fact. But again, those are fairly high bars. In other words, the community has the ability to add and remove reviews if they want to, but that's a very high bar and difficult to do. So I think for the foreseeable future, we'll see an ongoing CCT review. But at the very least, there is no reason that the recommendations of this team will be disrupted by the new community mechanisms.

OLIVIER CREPIN LEBLOND: Thanks, Jonathan.

TIJANI BEN JEMAA: Thank you, Jonathan and Olivier. Alan, please.

ALAN GREENBERG: Thank you very much. On that last point, I think but I don't remember the exact wording that this review would not be triggered by a new round should there be a new round, but is at this point subject to the five-year rule, I think. But I'm not 100% sure.

In any case, I have a more general question, and you may not be far enough along to answer the question. The concept of competition in TLDs has always intrigued me. And this goes back to when I first started

with ICANN and the expression that was used is "Let 1000 flowers bloom." We need more and more of these TLDs.

TLDs in my mind do not, in general, compete with each other. For right now we have several – I guess close to 2000 – TLDs floating around [inaudible] something. And if you look at the subset that competes in any given instance, it is a small number. So up until recently, .com might compete with the ccTLD in the region that the domain was being registered.

I run a genealogy society, and we have a .ca, we have a .org, these days we might go get a .club if we thought there was some reason. But we're not likely to get a .auto, .hotel, or .puppy. So in any given instance, depending on what the market is, a very small number of TLDs may compete with each other and they may be successful or not.

So I'm not quite sure what the whole concept of competition in the whole top-level domain marketplace means. Can anyone enlighten me, or is that what you're spending your time talking about?

JONATHAN ZUCK:

Thanks for the question, Alan. Feel free to break in, Carlton, if you like as well. That is what we're spending our time talking about in the Competition and Choice Team. As I mentioned at the top, I think addressing the very problem that you raised is one of the challenges, and that's why we're likely to perform an analysis on a number of different markets' definitions. Right now, we're looking at trying to divide the new gtLDs up into a number of different types of markets,

whether it's there's thematic things so that there's four or five TLDs that could be used for education, for example, or photography. There's also linguistic groupings that could be created, there's geographic groupings that can be created.

And I think, as you say, the number that will compete against each other won't be the total, but that in fact will there be competition in these various markets. And I think it's reasonable to ask whether or not the new gTLDs are in total somehow creating competition for the more generic legacy TLDs such as .com. So are you more likely to get greenberg.genealogy than greenberggenealogy.com, or if it's not available, finding a better string in as you say .club or .genealogy.

So I think parsing into various markets is part of how we're going to look at that, but we'll also look at them as a whole, and as verticals, are they able to semantically compete with .com, and does that have an impact on pricing .com – pricing in the aftermarket of .com, etc. So those are some of the things that we'll be looking at. It's not necessarily going to be easy, but that's what we're trying to do, Alan, and to see if competition was created.

That said, there's certainly a part of the ICANN community that believes that there doesn't need to be competition to justify new gTLDs. The "Let 1000 flowers bloom" notion suggests that if we can sufficiently mitigate the downstream consequences of expanding the number of gTLDs, then we ought to just allow people to create them at will, and that performing an economic analysis on whether or not competition choice has been created doesn't need to be the justification. I think it gets used

as a justification if we aren't sufficiently mitigating the downside consequences for IP holders and others, consumer confusion, increased phishing attacks, etc. You end up having to come up with a balance. All things being equal, I think many would suggest that we don't need a justification to expand the program.

ALAN GREENBERG:

Thank you. As a very quick follow-on – and I don't need an answer of what you're finding – but I presume you're also looking at whether this is real competition or essentially coercion to have to spend more money to make sure all of the possibilities are covered in whatever minimal field you're in.

JONATHAN ZUCK:

Yes, Alan. That's a very good question. In fact, Holly, your representative to the group has raised the specter of this kind of – inadvertent, I guess – coercion of which you speak. So the obvious one is related to Intellectual Property, that I've got to go out and buy all kinds of TLDs in order to protect my brand. But the other possibility – and Holly has raised this – is have we created a scenario in which to fully cover your business you have to get .club, .[paris], and .genealogy if that were one, all together in order to cover the different places people might look for your business? So that's an interesting question that we're trying to explore as well.

ALAN GREENBERG: Which is exactly one of the reason we have two for my genealogy group.

JONATHAN ZUCK: There you go. Thanks for your question, Alan.

CARLTON SAMUELS: I just want to add – and I'll follow Jonathan instead, because this competition issue are certainly been taking up a lot of your time with [us]. Kaili, as you know as Jonathan mentioned, has been closely watching that sub team because they're most interested in those competition issues, especially the IP ones, brand protection, kind of [moves] which he's thinking about. He [saw another] view that they shouldn't be classified as competition. Those kinds of [moves] should not be classified, although we have a group that says non-price competition. He doesn't think that it is so much competition. But that's the position that has been evolving with him. We are taking a lot of look at that.

What the market stratification, the market segmentation attempts that we are making is what we think will probably help us to glean some answers that we can use in answering the question whether or not competition has emerged in the domain name space from these new gTLDs. I think right now, the more information we have, the more inputs we have from the community as to what, for example, you gave your genealogy example. It will certainly help to frame our minds as we look at how we could segment the markets to see what's happening.

TERRI AGNEW: It appears Carlos is having trouble with his mic. Carlos, this is Terri. If you could send me a private chat, we're also happy to dial out to you on the telephone.

JONATHAN ZUCK: He seems to have withdrawn his question. He wanted to respond to Alan's question, I think.

TIJANI BEN JEMAA: Okay, thank you very much. Waiting for fixing the problem of Carlos's mic. Is there any other question to our speakers?

TERRI AGNEW: And it does appear we have one question in our chat. And I'll read it for him. From Bachar Bong. "We found weak demand from Africa as what to do to have more applications and also to avoid falling on the current problem of dowry effort.

JONATHAN ZUCK: For your question. There is a separate sub team that is looking into the application and evaluation process, specifically to see if there were either disincentives or a lack of incentives for applicants from Africa, Latin America, and Asia, that might otherwise have applied.

One of the things that we're trying to determine is the cause of that lack of application. The easy answer is that it's about money.

TERRI AGNEW: Jonathan, this is Terri. I apologize for interrupting you during the answer, but it appears our interpreters have again disconnected at this time. There appears to be some technical issues with their connections. If we could just give them a moment to rejoin.

JONATHAN ZUCK: Sure.

TERRI AGNEW: As the person asking the question is on the French channel as well.

Our interpreters are back at this time. So thank you so much for your patience on this. Jonathan, if you could please continue.

JONATHAN ZUCK: Sure. I was trying to put something in the chat in case they didn't come back. But the idea here is that we are trying to explore the reasons for the lack of applications from the developing world generally, including Africa. And so as part of that, we will be trying to reach out to the same kinds of entities, whether they're brand owners or communities, or registrars, etc. that did apply from the developed world or the global north, and try to find those people and ask them why they didn't apply. The answer may be about money, it may be about lack of awareness,

about the program, it may be a lack of confidence in the market for new gTLDs in Africa. So once we have a better idea about what it is that prevented those applications from taking place, we'll be able to make recommendations to the Board to better facilitate applications from the developing world in the future.

TIJANI BEN JEMAA: The same person asked why the new TLD application has stopped for some years, if you want to answer this question.

JONATHAN ZUCK: Sure. One of the interesting things that happened was that the New gTLD Program, I think in an attempt to keep it from being overwhelming, was designed as a round that had a limitation on the time. And ironically, I think that led to more applications than we would have gotten had we just had open applications.

So one of the things that will be considered both by the CCT Review Team and the PDP on Subsequent Procedures is whether or not a new application should be handled via a round in the future or if there should be just an easy way to apply on an ongoing basis, the way that there is for registrars today.

That's why there's a break now, because there was planned to be so that there would be time for these reviews. But in the future, those applications may be ongoing.

TIJANI BEN JEMAA: Thank you. You also spoke about .africa. Do you have any concern about it?

JONATHAN ZUCK: I feel like I should only speak about .africa with my attorney present. I don't have anything specific to address on that. I don't know if Carlton or Carlos would like to speak to that.

TIJANI BEN JEMAA: Okay, thank you. I think that Carlos has fixed the Adobe Connect problem.

CARLOS RAUL: I just want to comment to Alan Greenberg's question or comment that we [spent a lot of time] in the definition of Competition, Consumer Choice, and Consumer Trust, and it's worthwhile reading that in the charter of the Review Team. That gives you a first step into the explanation.

The second comment I wanted to make to Alan is that competition normally is seen from the point of view of the consumer, and the consumers here are either applicants or users of the Internet. As already mentioned, the way to measure competition is either because there are barriers to entry – that you cannot get a new TLD – and we discussed that earlier in the call. That's all related to the Applicant Guidebook.

But the test is very easy. If there is more competition, prices should be lower, and the moment you see that new gTLDs are given for free while others are being sold for very high amounts of money, at least we see a lot of activity. Is that good competition? We will have to find out. But in any case, as Jonathan said, we think a lot every day about that and please refer to the Charter where I think very clear definitions have been made about Competition, Choice, and Trust. Thank you very much.

TIJANI BEN JEMAA:

Thank you, Carlos. We have four minutes left. Terri, can you please proceed to the evaluation questions.

TERRI AGNEW:

Certainly. Thank you. At this time, we'll now conduct our evaluation survey questions. There are a total of 10 questions.

The first question: the captioning feature of the Adobe Connect room is part of a pilot. Please choose the suitable term.

Moving on to question number two. Please self-identify all categories that describe who you are.

Survey question three: what benefits did you get from accessing the captioning stream? Continuing from that question, if you would like to describe what benefit you were able to get from accessing the captioning stream.

TIJANI BEN JEMAA: Okay, this is the last question?

TERRI AGNEW: Tijani, since it's a webinar there's actually several more questions. There were a total of 10.

TIJANI BEN JEMAA: Okay, because I would like them to finish this addition after the last question. Because we have one hand raised now and I'd like to give her the floor. So please go ahead.

TERRI AGNEW: Go ahead with the person who has their hand raised, and I'll give folks a few more moments just free-form type into this section then. And we can continue after the question.

TIJANI BEN JEMAA: Okay, thank you very much. Renata, please go ahead. Renata? Okay, so continue, Terri. Renata has no more hand. Go ahead.

TERRI AGNEW: Thank you.

Survey question number four: where else do you think captioning should be required?

Question five: how do you rank today's session in terms of quality of information?

Question six: how was all the presenters' delivery?

Question seven: do you plan on using any of the information directly with your At-Large Structures? If yes, please explain.

And finally, any further comments or recommendations about the content of this session?

I will leave the evaluation question up, and please feel free to take your time to fill in the survey on this question.

Tijani, I'll hand it back over to you for any closing.

TIJANI BEN JEMAA:

Thank you very much, Terri. You may continue to answer this question even if it is not now, you can send in later to discuss. It is better to do it on the Adobe Connect, but if you don't manage you can do it through the e-mail to discuss.

Thank you all. Thank you very much. I would like to thank all our speakers – Margie, Carlton, and especially Jonathan who is the Chair of the Review Team. I would also like to thank the interpreters and all our staff and [inaudible] staff. Thank you very much and see you all in the next webinar. Bye-bye.

EN

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TERRI AGNEW: Thank you. Once again, the meeting has been adjourned. Thank you very much for joining. Please remember to disconnect all remaining lines, and have a wonderful rest of your day.

[END OF TRANSCRIPTION]