James:

Thank you for your inquiry in regard to Chairman Crocker's August 5th letter to you regarding whether "the entirety of the current Subsequent Procedures PDP must be completed prior to advancing a new application process under the current policy recommendations". I shared the letter with members of the Business Constituency and we had a rather lengthy discussion of this subject on the BC member call held on Thursday, August 19th.

Based on that conversation I can convey the following preliminary views from the BC:

- The BC is of the general view that if there is to be a subsequent round or a permanently open application window, it should not be unnecessarily delayed so as to permit the timely submission of .brand applications.

- That said, the BC believes that the application window should not be opened until all necessary reviews have been completed and their reports and recommendations have been fully considered by the ICANN community and Board. This includes not just the Subsequent Procedures PDP referenced in Chairman Crocker's letter but also the RPM Review PDP (of which I am a WG Co-Chair) and the Consumer Choice, Competition and Trust Review mandated by the Affirmation of Commitments.

- Chairman Crocker appears to be inquiring as to whether it is possible for the Subsequent Procedures PDP to adopt a Work Stream 1 & 2 approach similar to the one created for the CCWG on Accountability. The BC knows of no precedent for such an approach within a PDP. We also observe that the Charter created for a PDP requires it to address, at a minimum, all the subject matter specified in the Charter and that it is the general practice of a PDP WG to keep all issues open and subject to potential adjustment up to publication of its proposed draft report and recommendations. Therefore, we believe that any WS 1 & 2 approach for any PDP would need to be specified in its initial Charter and, if not, would require a Charter amendment to be approved by Council.

- The BC wishes its Councilors to inquire in regard to what process will be followed within Council in forming a response to Chairman Crocker's letter.

Beyond those preliminary views, and speaking in a personal capacity informed by my Co-Chair position of the RPM Review PDP, I note that our Charter bifurcates our work into two phases, with the first being a review of all new gTLD RPMs and the second being a review of the UDRP. We are currently adhering to our projected work schedule and expect to complete our review of new gTLD RPMs by mid-2017 and to deliver a final report and recommendations (following a public comment period) to the Council by late 2017. We will then commence the UDRP review in early 2018 and have not yet projected how long that second phase might take to complete.

I personally see no reason why a subsequent application round would need to await completion of the UDRP review. However, it is the strong view of the BC that no new application round should commence until our WG's review of the efficacy of the RPMs has been completed and any recommendations for change have been considered by Council and The Board. While I have not yet discussed this matter with the other two Co-Chairs, I personally see no practical means by which we could prioritize our phase 1 RPM review into separate work streams; further, doing so would require wholesale revision (and consequent disruption) of our projected work schedule.

I hope that this rather detailed response is of assistance to you and other Council members, and look forward to further initial discussion of this subject during our September 1st Council call.

Best regards,
Philip

**Philip S. Corwin, Founding Principal**
**Virtualaw LLC**
**1155 F Street, NW**
**Suite 1050**
**Washington, DC 20004**
**202-559-8597/Direct**
**202-559-8750/Fax**
**202-255-6172/Cell**

**Twitter: @VlawDC**

*"Luck is the residue of design" -- Branch Rickey*