JONATHAN ZUCK:	I guess we can go ahead and get started and just flip the script here a little bit and talk about safeguards and trust initially. So go ahead and start the recording. I see it's been unpaused.
	Welcome, everyone, to the Plenary meeting –
LAUREEN KAPIN:	And Jonathan, just as a heads up, I just want to let you know that at 8:30 I need to dash off for some other commitments. Just so you know my planning ahead [inaudible].
JONATHAN ZUCK:	Well, that's good we're flipping the script anyway then.
LAUREEN KAPIN:	Yeah, that's fine.
JONATHAN ZUCK:	Alright, good. Is there anyone that's on the phone that's not in the Adobe room? Has there been any changes to anybody's Statement of Interest?
	Okay, then without further ado, I guess what I'm going to do is… The idea here is to begin talking about recommendations. And we don't need to make them just for the sake of making them. We know that one of our biggest recommendations is going to be around data. But the

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extent to which we reveal the issues that should be addressed either by staff, by the Board, or by the Subsequent Procedures PDP, we're going to try to reach some consensus on those recommendations so the Drafting Team that convenes here very shortly, in the next two weeks, is armed with the consensus views on that aspect of the report.

What I guess I'd like to do is hand the discussion over to Laureen while we have her to talk about and lead the discussion on whether or not things have bubbled to the surface and the recommendations that we made by the folks in their templates.

So Laureen, why don't you take it away?

LAUREEN KAPIN: Okay. I think what's actually going to be most helpful is, instead of having… The paper on the screen actually is not going to get down to the level of detail that we need. And what I think actually, starting with the technical safeguards, I see Calvin's on which is good, what would be helpful is to have Calvin's latest version of his discussion paper up so that we can discuss the recommendations that Calvin has made.

Calvin, does that sound like a good plan?

CALVIN BROWNE: Hi, guys. I've just joined the meeting now. My recommendations, and there were some of them questions about it in Hyderabad, I believe. That's the latest one, yeah. Sorry, I've just got to get my head around things.

We're talking about… I mentioned the effectiveness of the monitoring of the safeguards as well as the cost-benefit relationships of the safeguards and whether that this accuracy reporting system might point to whether effectiveness of the Thick WHOIS requirements has made a difference or not.

Those are the three things basically that I came up with. I know there's some questions if I remember correctly about them.

LAUREEN KAPIN: Right. So I think maybe, Jonathan, we can actually use this as an illustrative opportunity because I think these recommendations were glimmerings or the beginnings of the way you would like everyone to form their recommendations but these are not fully formed yet. So, Jonathan, what I think would actually be very helpful is for us to use this as a case demonstration to discuss how we want to put more meat on the bones of these recommendations because I think Calvin's are substantively on the mark in terms of effectiveness of monitoring, cost-benefit relationship, and the WHOIS issues, but as I understand our discussion in Hyderabad, these need to be in a meatier state before we can really move from them. So can we use this as a demonstration for guidance for the team members?

JONATHAN ZUCK: Definitely, Laureen. I think that's a good idea. Again, the issue here is to figure out if there's something specific that we can recommend or if there's sufficient data or insufficient time for something. Are we making a recommendation for a future team? Obviously, the recommendations

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as they're listed here are repeats of the questions that we're asking, and so the question we need to figure out is the degree to which we can in fact consider these things ourselves and make recommendations based on them. I realize we won't always be able to do so, but we need to be specific about when we are and when we aren't.

I don't know how, Laureen, what you think is the best way to proceed.

LAUREEN KAPIN: Well, I think we have to [start] asking a couple of questions and then seeing if we can work this through together on the call. For example, Calvin, you raised the issue of effectiveness of the monitoring of the safeguards. What more specifically do you mean by that?

CALVIN BROWNE: I think basically what I'm saying there is then these programs that have been implemented to monitor these things in terms of [inaudible] because most of these things were ICANN Compliance contractual issues. Now [inaudible] that actually means that these things have been implemented properly as such. I've been answering the question all the time, still not [inaudible] with it at the moment.

LAUREEN KAPIN: I'm still searching for a little more specificity, and I want to make sure I understand your point. Maybe you can elaborate a little more, Calvin.

CALVIN BROWNE: Okay. [Considering] the [effectiveness] of the monitoring of the safeguards. Let me just go back to the first paper [for] contractual comments. I should have probably prepared something like this if I'd known it was coming up it would have been a little bit easier.

LAUREEN KAPIN: I'm sorry. We did spring this on you a little bit, Calvin. It's for the greater good of the group.

CALVIN BROWNE: I guess [inaudible]. Alright, so consider the effectiveness of the monitoring of the safeguards.

JONATHAN ZUCK: Think about what a template for a recommendation might look like. It seems like it would be something along the lines of – given the finding that X, there's a deficiency of Y, and we therefore recommend Z to address it. In other words, there should be a recommendation, should be tied back to a finding, and then it should have a level of specificity so that it's actually implementable. In other words, our recommendations should never be "consider something." That's what we're doing. In other words, if we have a finding that monitoring of safeguards is somehow insufficient or ineffective, that we would want to make some recommendation for how to improve the effectiveness of that monitoring. We should tie it back to a finding and be specific and implementable about the recommendation that we're trying to make.

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LAUREEN KAPIN: Can you repeat that first part, Jonathan, just for all our benefit one more time? Because I think that the idea of a template is actually something that would be very helpful for everyone. So when you're saying, given the findings about X, what did you say after that?

JONATHAN ZUCK: I said – and this is just toss it off my head and probably deserves some refinement. Given fining X, we see a deficiency or excess or limitation of Y, and therefore recommend that Z to address it

LAUREEN KAPIN: Right. That makes sense. My sense from your comment, Calvin, is that you have a concern about the monitoring of the safeguards, although what findings of yours relates to that concern? Because my sense from your findings was generally that you thought they had all been implemented.

CALVIN BROWNE: Yes. I think I guess I wasn't able to get a sense of whether the monitoring was increasing or decreasing the effectiveness or if it was adequate. Those three things. I couldn't get a sense of whether it was adequate or whether it was increasing or decreasing.

If I go and speak to the guys in our office who are responsible for responding to ICANN Compliance notices, they're going to say ICANN is going overboard. ICANN is probably going to go and say, "Yeah, okay," and somebody who's been harmed by something in the e-mail was something that it was designed to be addressed by the compliance issue

specifically might say that these things need to be done a bit more. I guess I'm looking for some kind of quantitative measure of efficiency in the compliance regime which I wasn't able to quite achieve.

LAUREEN KAPIN: What I'm concerned about then is that your recommendation doesn't seem tied to your findings, at least not as it's written.

CALVIN BROWNE: Yeah. I can go with that.

LAUREEN KAPIN: What I'm wondering is whether… What my recommendation to you would be to go back and take a look at this and I think you really need to consider, at least with the first recommendation anyway, whether your finding supports that. If there are other findings that you have information for – I'm just speculating – but if in the course of you going through your research and investigation, there is information that leads you to conclude that perhaps safeguards aren't being monitored effectively, then I think that needs to be brought out in your findings because currently I'm not seeing it, unless I'm missing it.

CALVIN BROWNE: Yeah. I think that I'm getting the feeling I need to go and just consider the compliance [inaudible] and go and look at the compliance reporting a little bit closer and see if this conclusion is to be born from the actual compliance reporting process.

LAUREEN KAPIN: I think that would be a very useful action item for you, and maybe we can add that as an action item in the notes because this is not just an issue that relates to your paper, I think this is an issue that is bubbling up in all of the safeguards papers which are questions about the monitoring process and what information we have available to us from ICANN Compliance and what information we might wish we have.

CALVIN BROWNE: Okay. So that's going to take care of my first recommendation. I really think that's a good idea, going and checking [with] the compliance reporting process that ICANN has put in place actually allows you to reach conclusions, yeah. If yes, then it is well and good. If no, then how can [we base] reports to allow people to get to conclusions with regards to these safeguards?

LAUREEN KAPIN: Yeah, I think that's exactly the right inquiry, Calvin.

CALVIN BROWNE: Yeah, just making notes here.

LAUREEN KAPIN: Sure. Thank you so much, Calvin, for letting me pounce on you to be our learning model here. I appreciate it. I know it's not the most comfortable position, so thank you for being so graceful about it.

CALVIN BROWNE: No problem. [Inaudible]. No problem.

LAUREEN KAPIN: Maybe then we can move to the second recommendation.

CALVIN BROWNE: Right, so there I say – consider the cost-benefit relationship of the safeguards. Basically what I'm saying there is there's a cost to the whole system of implementing these safeguards, and I'm asking is it actually worth it? Is that a valid question? Has the benefits exceeded the costs?

JONATHAN ZUCK: I guess I see this as a very well-worded subquestion that people are hoping that we are trying to answer. I guess that's my concern with a number of these. In other words, do we have a sense of the costs – the safeguards – do we have a sense of the benefit? Are we in a position to say anything about the cost-benefit of the safeguards, and if they are then that should be in our findings and should generate a recommendation. To me this feels like a subquestion, not a recommendation. [Inaudible].

[Automated voice interruption – English and Chinese voices]

CALVIN BROWNE: Okay, I didn't quite get that last bit in Chinese there.

JONATHAN ZUCK: [Inaudible] you. I hope what I'm saying makes sense, Calvin.

CALVIN BROWNE: sure. [Inaudible].

JONATHAN ZUCK: We recommend that staff do X. We recommend to the Board directs there to be a PDP on why we recommend that that PDP on Subsequent Procedures adopt a procedure to improve the… That's what a recommendation should look like. It should be the result of our doing a cost-benefit analysis of the safeguards. And again, leave room for the possibility that it's impossible for us to do, but then we need to make very specific recommendations about what would make it possible in the future, if that makes sense.

CALVIN BROWNE: Okay.

LAUREEN KAPIN: Right, because following up on that, do you have any [fit] information, Calvin, about costs of the safeguard – other than whatever you might personally be experiencing because of your business?

CALVIN BROWNE: Yeah, I already just had [inaudible] evidence and I see it even in compliance sessions with where people do things like complain or raise the [inaudible] issues around having to, for example, answer all the [CZDS] queries that they get and so forth. So yeah, maybe the recommendation is that we need to… somehow Compliance needs to try and account for the cost side of the equation as well as the compliance side of the equation.

LAUREEN KAPIN: I think the issue is what information would we need to perform a cost-benefit analysis? And in terms of cost, I'm not sure we would address the recommendation to ICANN Compliance necessarily, but I think because ICANN Compliance doesn't bear the cost, right? Different players in this ecosystem bear the cost. In some cases it's registries, in some cases it's registrars, etc. so what I would suggest is to consider a recommendation about what information would need to be gathered. That, to me, is where this recommendation would be most useful.

CALVIN BROWNE: Okay. I'm making notes again. There's also there's some notes being made on the Adobe Connect stuff. Alright. Can we move on to the third one then?

LAUREEN KAPIN: Yes. Although I would say in the regard of gathering information, there your specific experience because of your business experience I think could come in handy about making specific recommendations about

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how this information could be gathered. So I would say take advantage of the unique perspective that you have.

CALVIN BROWNE: Yeah. [inaudible] cost from registrar, registry sides…

LAUREEN KAPIN: Finally, this is the most specific recommendation you have. Maybe you can, while we're on the phone and I'm only here for one other minute and then I have to give my apologies and leave. And Drew is more than able hands. But here you have a very specific recommendation about the WHOIS accuracy reporting system and whether that could shed light on the effectiveness of the Thick WHOIS requirements. Here again, I think you need to tie it to your findings, but here I think you actually do have some findings. And this recommendation I think more than any of the others can fit into the template that Jonathan has recommended.

CALVIN BROWNE: Okay. Before you go, has anyone got anything from my paper in terms of recommendations that I might have missed?

LAUREEN KAPIN: Well, you do have this addition on Specification 6 about procedures for handling complaints not being tested. It seems to me that that flags a recommendation about perhaps testing that. That strikes me as something that you flagged in your paper but you don't have a recommendation about.

CALVIN BROWNE: Yes, I'll put that in. That's right. I put that in after I did the recommendations. So [inaudible] tested. That's true because I did that after I did the recommendations so I must update my recommendations to include my answer to it.

DREW BAGLEY: I don't know if this would be directly applicable, but I was wondering with your going along with the Thick WHOIS recommendation and just WHOIS in general, the fact that registries will often do query limits to such a degree that it actually becomes hard to do bulk queries and therefore I would think would be kind of hard to monitor compliance. Does that tie in at all to this, do you think? Or do you know much about where you could get data for that?

I just know that in my own line of work I experience rate limiting, and I also imagine ICANN would, too, then if they're not relying on internal WHOIS records for monitoring compliance [they're] actually trying to ping the registries.

CALVIN BROWNE: Let me just try and restate that because you were a bit [indistinct] there and I just want to see if I've got the right end of the stick. You're basically saying, does the fact that the registries do rate limiting on their WHOIS services mean that people who require that information are disenfranchise or inconvenienced in any way?

DREW BAGLEY:

I'm thinking specifically in the scenario where ICANN is the user of WHOIS. So if ICANN needed to check – wanted to do WHOIS validation – and wanted specifically [yes] specifically with regard to some of the things you have in your paper, wanted to check to make sure WHOIS records were Thick when they needed to be and what not. I'm wondering if they're trying to do a bunch of bulk queries if that rate limiting is going to affect their ability to actually monitor registries for compliance. Because they're going to do more queries than your average user who sure, maybe will do a couple WHOIS queries but at that rate limiting probably wouldn't really affect them one way or another and disadvantage them. I would think that some of the [intense] rate limiting could actually inhibit ICANN from being able to do its job and I was wondering if you've been able to… if you know of where we could get data on that one way or another or is that something you've thought about.

CALVIN BROWNE:

It's not something I have thought about but I can instantly go to some personal experience that we've had with rate limiting on the [inaudible] side of things. What would often happen is when you implement rate limiting it's a catch-all and this would hit people who might not necessarily want rate limiting. So larger clients, for example, and their DNS [supporters]. Invariably, whenever we implemented a rate limiting scheme we would as well as a rate limiting scheme have to put in a white listing scheme to complement that rate limiting scheme.

That's just what we found out. I would imagine then that other registries would have similar requirements with large clients where they

would have to either do that. Alternatively, that information is available via EPP because EPP leads [directly] to the WHOIS. So that's another way it could be managed. So ICANN [did] get EPP access and [deduce] the WHOIS information from the EPP access. [It's] been something that I've considered. If you think it's something that needs to be considered in this paper then I can put it in. I just don't know where it could fit in to the subquestions.

DREW BAGLEY: I'm going to defer to you on that, but I just thought of it because you brought the point that many of the safeguards were hard… you brought up the point about effectiveness of monitoring compliance with these safeguards, and I just thought that that would be one key aspect of monitoring compliance with anything WHOIS related and so that's why I didn't know if that was in fact an issue where we might want to make a recommendation even if the recommendation was to guarantee that ICANN is white-listed for purposes of this or something. Or maybe it's a non-issue but that was my thinking was just going back to what you initially said when you were introducing the recommendations in the paper.

CALVIN BROWNE: Yeah, I think that the best way to answer that [is a query through] to look at the WHOIS accuracy reporting system and see what methodologies they actually use on that.

DREW BAGLEY: Okay. Good idea. Yes. That's one we could do as well on topic one. Okay, thanks.

JONATHAN ZUCK: Alright, Drew. Probably we should move on.

MARGIE MILAM: If I could address that issue of the rate limiting, because [inaudible] with [Brook] that we do at ICANN with respect to the WHOIS accuracy reporting system. We do face challenges with rate limiting when we try to do the bulk look-ups to get the sample size for each of the reports that we generate.

And so we typically go, I think it's about we're looking at say 100,000 records at any given time and so it's a much slower process because of the rate limits to gather information we need to develop the reports. That would be helpful. I just wanted to share that perspective.

It's also, obviously in the New gTLD Program, the new gTLDs have implemented the WHOIS and if you're trying to do an analysis between the differences between the legacy gTLDs and the new gTLDs, the legacy ones aren't fully implementing the WHOIS yet. They're still in thee .com and .net in particular are still Thin, although there is a plan to transition to Thick at some point, So it's not just on the registry side where you have the issue, we also have it on the registrar side.

DREW BAGLEY: Thank you. Okay, so then Calvin, I'd recommend – and I would certainly work with you on that – we do then look into this for your paper so far as it's related to monitoring compliance and perhaps we might come up with a recommendation regarding rate limiting so that ICANN can white list it or something so we can… I think that might be directly tied to measuring [effectiveness]. We'll look into that.

CALVIN BROWNE: I can sense a white list recommendation in rate limiting schemes if people don't already do it.

DREW BAGLEY: Margie, do you have data you could get us that would just –

MARGIE MILAM: Yeah.

DREW BAGLEY: [Inaudible] that ICANN has trouble, something that we could point to.

MARGIE MILAM: Yeah, I can go back to the team and get some information on that.

DREW BAGLEY: Okay. Thank you so much.

JONATHAN ZUCK: Thanks, Margie.

DREW BAGLEY: Okay, Calvin, did you have anything else in your paper before we move on?

CALVIN BROWNE: Not that I can think of right now.

DREW BAGLEY: Okay. Does anybody else have anything else to mention regarding Calvin's paper?

                      Okay, barring none, which paper is next? I'll look back at the agenda. [Inaudible].

JONATHAN ZUCK: [Inaudible]

DREW BAGLEY: I guess [inaudible] safeguards is next. What was that, Jonathan?

JONATHAN ZUCK: I was just going to say the next one is Laureen so we probably need to skip over that since she's not here to [discuss].

DREW BAGLEY: Yeah, then we can go to my Voluntary PICs paper.

Okay, so for this paper I still have not updated it with a further breakdown now that I've had ICANN staff provide me with new data, but the degree to which we can make recommendations one way or another won't really be affected by that. That'll most likely [be] because the new information just gives us a further breakdown of which new gTLDs went above and beyond with the required PICs, but maybe some of them chose to implement required PICs they didn't need to implement and so therefore those are being implemented as voluntary PICs.

But at the least the analysis is not going to change with regard to the voluntary PICs themselves, the ones that were not included as part of Required PICs and that new gTLD operators either put in their applications or just put in their Registry Agreements. And so this paper still kind of shows a lot of the variety even if I end up changing the structure of the paper, but shows a lot of the variety in the voluntary PICs employed.

Some of these voluntary PICs of course to me seem to be just reiterations of requirements that were already there with regard to WHOIS accuracy or anti-abuse whereas others appeared to be new commitments and those seemed to focus on Rights Protection Mechanisms.

With regard to recommendations, the first recommendation I have – and these recommendations down at the bottom I definitely need to work on restating and I want to use Jonathan's template for – but one

would be to the degree that we could get registry operators to label these appropriately or tie their PICs back to some longstanding obligation, I think that would be helpful so that a distinction could be made so if a registry operator is actually attempting to voluntarily make a commitment to do something that is actually exceeds a requirement, then it would be very helpful if they're actually citing the requirement and therefore distinguishing what they're doing that's going above and beyond. I think that would be helpful. Because otherwise, even though the PICDRP hasn't been used, I could see situations in which there are disputes under that and the similar language between the actual requirement and the PIC end up coming into play in a confusing way.

Also, there was a PIC operator, I believe it was Donuts but I'd have to go back and scour through this information – but basically they reserved the right to unilaterally withdraw their PICs at any time, and so – yeah, Jordyn says it is Donuts – and so I don't see how that… if that's possible, I don't see how then it's truly a commitment being made in the sense [of] something that belongs in a Registry Agreement. Because the Registry Agreement then is something that they're bound by, something that then they must comply with and then the PICDRP is the compliance mechanism through which they must comply with that.

So then if at any point they could just stop doing the commitment unilaterally and there conceivably could have been registrants who would have been relying upon that commitment, then I think that that is problematic because then that's kind of side-stepping the PICDRP process and this compliance process and the whole theory behind making the commitment. I know I need to reword that a bit, but that's something where I believe that should be one of our recommendations.

I would love to get feedback on that because I'm sure there might be a good argument against making that a recommendation.

So does anybody have any thoughts on those two things – the labeling or at least referencing back to requirements that something is related, and then the barring the ability to unilaterally just stop doing a commitment?

JONATHAN ZUCK: Drew, I will say that John pulled me aside in Hyderabad and expressed frustration that somehow they being highlighted for their escape clause as opposed to all the things that they were doing proactively to be helpful. I don't know the best way to address that because I'm not sure that the concern is any different, that if I've come to rely on something you're committing to and you can remove it, he just described that as legalese and didn't have any intention to change those commitments. But I do just want to pass on that he's expressed some frustration that somehow they were being singled out as being deficient somehow when in reality they were going well beyond what others were doing. I just wanted to pass that on and I don't know how to translate that into a recommendation necessarily, and I don't think it changes the nature of your concern. But that was John's comment to me [in the hallway].

DREW BAGLEY: Thank you. Yeah, [and] concluding with the analysis of this, of the PICs I've looked at, on the one hand he is correct. They have from what I've seen actually made true voluntary commitments where they've gone above and beyond requirements and come up with innovative

mechanisms for Rights Protection. But that still doesn't change the nature of the fact that it doesn't matter which registry operator it is or how great their commitments are or how terrible their commitments are, the fact that commitments are made, there can be reliance on the commitments and then there can be parties unilaterally withdrawing from them, that's something I see as problematic to where then maybe whatever they're doing doesn't belong as being a commitment if they're not committing to it and committing to the PICDRP process and everything that comes along with that.

That's my issue. Carlos had something to say. He can't raise his hand though. Carlos, chime in [inaudible].

CARLOS RAUL GUTIERREZ: Thank you. I don't know what's going on with my hand. I raised it but after a few second it comes down again. Probably I'm in the box.

One question to Jonathan for clarification, and then I will comment to Drew. Whose comments were the ones you got in Hyderabad, Jonathan? I didn't get the name.

JONATHAN ZUCK: Nevett.

CARLOS RAUL GUTIERREZ: Okay. John Nevett. Thank you. Yes, Drew. I would like to comment. I really like your proposition right now, and my reaction to it is about labeling you said they made some additional commitments. I guess my

reaction to that is okay, they wanted to make their case since we have no clear rules what direction a generic should go. So my reaction to the labeling of these totally new commitments that are not reiterations of other parts of the application would be ask them to report regularly if they're following, and if they think that they were useful. So if they made the commitment, I wouldn't automatically expect Compliance to chase them for the Public Interest Commitments, I would go back to them after a year or two and tell them, "How are you doing with your Public Commitments?" And if they say, "It's a success. We're selling a lot names." That's a possible scenario. The other one it doesn't make any difference. So we might consider taking them back. And then we're back on your second issue which I think is the most important that we should discuss. If those Public Commitments are part of the Agreement and we're going to change their Agreement, there are established procedures for changing Agreements.

Of course, not everybody has the same Public Commitments, but then we [fall into] this process of making changes into their Agreement either between the signatories of the Agreement and ICANN or even going one step further into the policy loop and say, "Let's revise Public Interest Commitments," and the usefulness and the cost-benefits, and so on. And then we are at the stage back to our initial propositions in this Review Team, what are the cost-benefits of everything that happened here? And it might be that the benefits of this Public Interest Commitment is rather low so we have to make a recommendation it is reviewed by the community in the normal Policy Review Process. Or, as you mentioned, probably [its] more targeted then it should go directly into the Right Protection Mechanism.

But I thank you for your explanation. It's crystal clear. I've been wondering all the time what Drew makes, but this morning has been very good, your point. I think we should keep it and it's an excellent point. Thank you.

DREW BAGLEY: Thanks, Carlos. I really like your suggestion, but I'd like to figure out how to phrase that into one sentence. Because you have an additional recommendation I think is terrific about some sort of regular evaluation of the Public Interest Commitment. Also we could have Public Interest Commitments where they're working terrific for the registry operator, registrants are flocking to them, but maybe they're having some sort of unintended effect on something. I don't know – DNS abuse or something else – or maybe they're crippling the registry operator and it's just good to have that check-up to where they're having that unintended effect. Obviously though, as you suggested, there are already means to change Agreements but maybe there should be some sort of annual check-up on the Public Interest Commitments with the registry operators. I think that's a really good idea.

Do you have a suggestion on how we could word that into Jonathan's template? As Jonathan has urged us to do which is very important, we need to relate it back to a finding. I'm thinking a finding that just in general might be that we want to relate it back to – in light of the fact that Public Interest Commitments are diverse and potentially cumbersome in nature, it is important to regularly or – correct me if I'm wrong whether ICANN Compliance would be the body – but for ICANN

Compliance to occasionally or on a regular basis evaluate how they are… something about how they are working out for the registry operator.

Carlos, do you have any language we could use [inaudible]?

Okay [inaudible] think about [inaudible] and self-reporting. That's good because we do have the PICDRP for conflicts so we don't need it to be a compliance thing. What about, do you have any way to word it with the self-regulation/self-reporting? Just so we are getting [inaudible].

CARLOS RAUL GUTIERREZ: I like very much your very simple classification of reiteration of what is already in the contract and new commitments, the tendency to go towards Rights Protection Mechanisms. And I would [beg] to consider some self-reporting, some self-enforcing mechanism before falling into the compliance issue because for me compliance is a very serious break of the contract and so on. So I don't want to pass everything automatically to Compliance. We can work out some wording. I would be glad to discuss some wording with you over e-mail. Thank you.

DREW BAGLEY: Yeah, that sounds good. Let's do that over e-mail. I would love for anyone else to chime in if you disagree with what Carlos has proposed and what I strongly agree with, but I think that would be good so now at least we're getting regular data coming in from those who have made the voluntary Public Interest Commitments. Therefore, it's not that the only time we're ever hearing about them again is if the PICDRP is employed. And then the PICDRP is the safeguard mechanism still by

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which I think the new [inaudible] still allows people if there is some issue there's already that there so I don't see any way to make a recommendation one way or another about PICDRP since so far it hasn't been used. Unless we somehow had data about why it hasn't been used and knew that there were aggrieved parties who somehow felt like the barrier to [us it] is too high or something. But I don't know that we know that.

Does everybody agree with this whole self-reporting thing so that way we are getting a barometer on the voluntary PICs from the operators?

JONATHAN ZUCK: Drew, Jordyn's hand is up and I don't know if it's related to this or not but I just wanted to alert you to that hand's been up –

DREW BAGLEY: Thank you. Jordyn, sorry I didn't see your hand.

JORDYN BUCHANAN: No worries. I guess I have a more fundamental angle of attack here, which is to wonder whether – did we look to see whether we think there's a relationship between the presence of a PIC and a registry's behavior in a particular [setup]? We talked about the donuts RPMs in particular, and I think Donuts has implemented a number of voluntary RPMs. I'm under the impression there are other registries that have also implemented voluntary RPMs. I don't know whether or not they made PIC commitments to do so or not.

Similarly, I don't know if there's registries that made PIC commitments to [inaudible] RPMs that may or may not [inaudible]. I guess I'm mostly curious about whether we think that there's a relationship between voluntary PICs and registry behavior in a meaningful way at all, because this was a mechanism that was imposed very much at the last minute by ICANN.

I know that our registry, for example, didn't impose any voluntary PICs because we saw no reason to. Why would you add some contractual obligations that serve no benefit to the delegation process or to the evaluation process? I imagine there may be others but I don't think that necessarily changes people's intent to operate the registry one way or another. I guess I'm just curious to see if we've done any analysis on whether there's a relationship between the presence of the voluntary PICs and registry behavior.

DREW BAGLEY: Thanks, Jordyn. Real quick – first of all with regard to the haste in which the registry operators came up with the PICs, you're absolutely right. This wasn't necessarily some sort of organic process by which they were coming up with voluntary PICs because it was with response to the GAC early warnings. And so that's why many of the PICs are focused on Rights Protection Mechanisms and many operators did that, end especially where there were words that were generic and yet they related to a well-known brand then there are provisions in there about that or with regard to the Australian emergency number, which I'd have to look in my paper to remember exactly what that is but anyway there are PICs in place related to that. There were things put in to basically

calm people down and ease them it appears with regard to a lot of them and then others seem to be kind of actually being created to say, "Hey, when you register in our zone, our zone is going to uphold these principles and this is what we're going to be known for."

So there is still a little bit of that economic creativity with regard to the PICS from what I've seen. But to your point about the relationship between the use of PICs and actual behavior, the only data that's coming in about that is going to be DNS abuse where I'll at least be able to make some correlations there and see if there are direct correlations between those with lots of voluntary PICs that go even beyond their required PICs and DNS abuse. But I don't know of any data that exists or that we have where we can do a correlation between those with Rights Protection Mechanisms and other sorts of registry behavior.

Also it would be interesting I wonder if with regard to what you're mentioning where you guys didn't do the voluntary PICs. You didn't see a need to. But maybe you do other things voluntarily even though they're not in your Registry Agreement, I don't know if you have any recommendations on where we might be able to easily gather some data on things like that for registry operators, then at least do some comparisons there to say, "Hey, these new gTLD operators don't [inaudible] but they're doing these things that are similar to some of the voluntary PICS with regards to Rights Protection Mechanisms. Do you have any recommendations on when or where we can get data and see where we could get data on what people are doing, even if they didn't do PICS?

JORDYN BUCHANAN: Yes, that's a good question. It seems like a hard question to answer. I think what… You guys have already characterized sort of categories of PICS. Probably you have a standout as an area where there are some degree of PICS.

For example, I don't know if Rightside agrees in their agreement to voluntary PICS right RPMs. I know that Rightside has a block list very similar to the Donuts one. I know ICM has block lists, and so I guess I would just be curious to… Maybe we can do this when we take a look a the RPM analysis, just sort of meet up to multiple work streams where we try to look at the costs of blocking, for example, and identify the places where blocking exists and see whether there's a correlation with registries that have adopted blocking as a mechanism versus those that [inaudible] to it in the form of a PIC.

My intuition is that there's not a very strong relation. I don't really know one way or the other, because I never attempted to look at this. I think what we'll probably have to do as opposed to trying to do it holistically is if you take a look at the PICS and can identify some general areas that are common, we could look and see if we can identify registry behavior in those common areas to compare registries that have the PICS and those that don't.

DREW BAGLEY: Yes, that sounds good, but then I'm just confused about how we measure that behavior once we identify who we want to measure the behavior for, which I guess we've pretty much already done a pretty good job. So, the voluntary PICS side, and then we can do people

without voluntary PICS and measure their behavior. We could easily put that in the top 30 list of new gTLD operators.

We can find some metrics like that through the identification part, but then in terms of measuring complaints against some Rights Protection Mechanisms related to rights protection or something, that's what I'm trying to figure out, I guess, where we would get that data, or what would be the best metric for that. And then after you respond, then Carlos is going to respond to you.

JORDYN BUCHANAN: Sure, yes. I don't know 100% sure yet. I know that we are trying to look at the cost related to blocking in particular, and so I think what we may need to do is just identify the big areas of common PICS, and then see if we have data related to registry behavior, both amongst those that have the PICS and those that don't, for each of those big areas.

I don't know what the big areas are, so it's hard for me to answer the rest of it, to say what data sources might be.

DREW BAGLEY: Got it, okay. Yes, we should talk more about this over e-mail. That sounds good. After Carlos's comments, then Jordyn, I think it may be time to pass this on to you for your hour, and your papers. So, Carlos?

CARLOS RAUL GUTIERREZ: Yes, just a very short comment to Jordyn. I think that we have to differentiate. I really agree with your fundamental question, and we

have to differentiate between the application process and the normal operation of the domain name.

Of course, there was an [information] of PICS just because they thought they might win in the application process, but I guess no application process was decided based on PICS only, meaning the end, if some were competing, it was the money who decided.

But I would pose a fundamental question in terms of the GAC advice insofar as they had worries how it was going to be used. The domain name closed or not closed, or validation or no validation and so on, so we fall back into the PICS themselves, and then if we exclude the application process and we assume somebody won it and he's the only one who can operate, then I come back to my question: are you following the PIC? Does it make sense? Do you need it? Give us feedback. You, registry operator, just give us your feedback of what you think. Only for the winner, not for the losers, of course. Give us your feedback, how are you implementing that? Is this effective? Does it produce more cost? If not, are you planning to drop it? Very straightforward, but I think it's a very useful notion. Thank you.

DREW BAGLEY: Alright, thank you, Carlos. Yes, so we'll definitely work on language for a recommendation like that, because as Jonathan has reiterated with so many of our [things,] I think a lot of our recommendations that can help even get better data for the next Review Team will be helpful, and that would certainly be one.

So, let's do that. With that said, I will now pass the baton to Jordyn so we can hear from the competition team. It's all yours, Jordyn.

JORDYN BUCHANAN: Thanks, Drew. Maybe we should just pull up the general competition findings doc. I think that captures most of our work, and it also already includes some recommendations along the way. Most of the recommendations that we've identified so far relate to just further data collection, but it's possible as we discuss this that we can identify other recommendations as well.

Looks like the doc is coming up. So, we won't rehash the findings too much since we've been talking about them for a number of weeks now and talked about them quite a bit in Hyderabad, but in this first section on gTLD market, this is just the general statement that the new gTLDs are representing a large part of the growth in the domain names since their launch and that they've reduced concentration in the gTLD market.

And then we have the side observation that although in other industries, what we expect to see when concentration reduces is the prices decrease as well. In the case of the domain name market, the gTLD market, we haven't seen a measurable effect on price. There are various reasons for that that I think are not related to concentration, just our ability to measure both in terms of data sources and the price gaps that exist on legacy domains, but it's just the fact that currently we don't have any strong signal related to pricing.

There are two recommendations here: one is that ICANN needs to gather more data relating to price in the legacy gTLDs. This is

particularly important if the price caps are removed. This has happened, I think, with a few of the legacy gTLDs already as they've moved on to the new gTLD form agreement and could happen to others in the future. But in general, the legacy gTLDs that have moved over have been very low volume and I think the expectation is that, for example, .com is still going to be subject to a price gap negotiated with the U.S. government. So we may have to see if some of the other larger – but not .com – agreements.

Nonetheless, more data there would be helpful. Similarly, we are really missing transactional data both at the retail and wholesale level, but it particularly shows up in the lack of data that we have from registrars, and so there's a second recommendation here that ICANN needs to gather more data related to retail prices charged by registrars.

So, at least in this area where our general findings are that the new gTLDs are a large portion of the overall domain registrations over the past few years and that the result is decreasing concentration, our only recommendations currently are related to gathering more data for future analysis and reviews. I'll pause there and see if people have thoughts.

Okay, hearing none. I see Margie has raised her hand. Go ahead, Margie.

MARGIE MILAM: Yes, if I could comment on this recommendation, you guys may recall for this Review Team and the current contract, ICANN doesn't collect

price information and ICANN, for obviously anti-trust concerns, shouldn't be collecting price data.

What we did for the studies was we had the price data sent directly to a third party, which in this case was Analysis Group. Since we're not a regulatory agency, we don't have the ability to do that without risks, so I just wanted to flag that that you probably want to be a little careful about that recommendation.

The other kind of thought for all the recommendations is yes, I understand that it would be useful to have more data, but we need more specificity on what the intent of the data is, like what you would do with it if you had the data. Just saying that it would be useful to have more price data doesn't necessarily help us in understanding why we need more price data and what's to be done with the price data that you receive. In other words, are you looking for the prices to go up, to go down? If the prices are higher or lower, what does that tell you about competition?

So, the recommendations – this one in particular and the other ones we talked about earlier – need to be a lot more specific and measurable, so that when we get to the point of implementation, we know why we're doing it, what's the benefit of doing it, and what the goals are for the particular recommendation. So, I think this one raises some of those issues.

JORDYN BUCHANAN: Let me go through your points backwards, Margie. I guess you're right that we could add some more specificity here and maybe we ought to,

but with regards to why we want it, the answer is simply we don't feel like we're able to properly conduct this review because we didn't have the data in order to draw conclusions one way or the other.

For example, as indicated in the findings, we would expect – based on other industries – that a decrease in concentration will result in a decrease of pricing. We really can't say one way or the other what we think happened or would have happened absent the price caps.

It just makes it very hard for us to draw further conclusions about what effect the concentration metrics are having in terms of consumer behavior or consumer effects, really. It's very difficult, since other than having a better review next time, there's no goal of having the data. It's not to change the competitive dynamic, it's just to be able to better study the topic in the future.

As to your first point, you're right that ICANN didn't gather the data this time. I think I heard Jonathan saying in Hyderabad – and I think I agree with him – that ICANN really needs to get more into the data business, and it could be that there are special constraints around pricing, but I don't think we need to assume that just because ICANN didn't have the price data this time around, that they ought not to necessarily in the future.

Now, I understand it's sensitive and it probably made it a little bit easier to get it from the contracted parties, the registries in particular, because it wasn't going directly to ICANN, but I think we'd want maybe some better insights into the legal concerns that you're speaking to, Margie, before we came to the conclusion that ICANN wasn't necessarily the

right repository for it, since I think it's going to be a pretty broad set of recommendations relating to the fact that we think ICANN needs to be the home for a lot more data going forward.

MARGIE MILAM:　　　　　Yes. Certainly, we can provide more specificity on the legal concerns, and we'll take that as an action item to see if we can have someone on the Legal Team to talk through those issues. Regarding the specificity, perhaps it's something like ICANN contracts should require the registries and registrars to provide whatever the data is that you're looking for.

So it's a very direct contractual obligation, because I think part of the problem we had – not just with the pricing, but kind of in general – was when we went back to get information for different things, that unless it's very clearly identified in the contracts, we get pushback from the contracted parties, so that might be a way to make it more specific.

JORDYN BUCHANAN:　　　Yes, sure. I think that makes sense, Margie. I think that will help when we're talking about contracted parties to some degree. There are other areas where third party data, like data from the reseller networks and/or data from the secondary market would have also been helpful, so I think we can't just really on the contractual mechanisms. It's possible that there's going to have to be some creative data gathering exercises that rely on some third party data sources perhaps, but point taken that we could probably be a little bit more specific here.

I think both Waudo and Carlos have had their hands raised. I'm not sure in what order, I think I saw Waudo first. Actually, I think I saw Carlos in chat first, so why don't we start we Carlos, then over to Waudo.

CARLOS RAUL GUTIERREZ: Yes, thank you. I have problem raising my hand. Margie, I don't know why staff gets so defensive when we ask the issue. It has nothing to do with regulators or non-regulators. First of all, ICANN makes a living of what the companies, so it's in their interest to know where the market is going.

Second, every regulator in the world has the same problem and it's not the regulator who collects the prices through a contract report. All the registries can hire KPMG or something like that and just report the average prices and the median. It's done everywhere in the world. This discussion happens every day between regulated companies and the regulators.

The regulator is not going to chase them. They're not going to have security problems of giving that data. The industry reports data every day to governments everywhere in the world. There are mechanisms for reporting valid data for the competition review. If there is no original data stored in ICANN, the recommendation might be to stop doing competition reviews because the only thing we're doing is making a good living for consultants. And then I have my question if that makes sense.

So, I don't see it as a threat and this has been [solved] in all types of monopoly industries over the last 100 years without problem. I'm just surprised we cannot do it in the domain name industry. Thank you.

MARGIE MILAM: In effect, you just replied to that. Because we're not a government agency, I think we're different than what you're thinking of. I have no disagreement with what you said, Carlos. If they're a government agency, they can certainly gather that data and that's not a problem. It's just because we aren't that it raises unique concerns to ICANN. Not to say that it can't be done. Like I said, we have this in… The Analysis Group do it, so if the recommendation is phrased in a way that it's provided to a third party or something like that and then backed up by clear language in the contract, then at least it would be a recommendation that we could probably be better able to implement.

CARLOS RAUL GUTIERREZ: Thank you, Margie, but I think there is a fundamental difference between hiring outside consultants and having the long-term time series honed in some public space as Jordyn just said. I think there is a very big difference. I think the biggest inefficiency we have in this Review Team is to have to go out and hire a company to do questionnaires that nobody answers. That's very inefficient, so I go back to what Jonathan said: there must be a repository. Everybody must be happy with the repository, of course. There must be a repository where we have the time series of the average prices and the median prices and the top and lowest price at least, so we can do useful competition

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analysis. Otherwise, you would just budget more money and the Analysis Group gets rich. I would like to get a job with them. Thank you.

JORDYN BUCHANAN: Thanks, Carlos. Waudo, I think you were in the queue as well. Although I do know that Waudo has been writing in chat. Waudo, we can't hear you if you're talking so far. Right, seems like we may not be able to hear from Waudo, so I'll just note in the chat he's made a couple points.

First, without price data, basically not possible to establish competition and that the registrar price data is basically public, although hard to compile should be possible for registrars to be required to make periodic reports to ICANN.

I do think registrar price data in particular is going to be a little hard to get, because the registrars offer so many sort of bundles of services, so it will be difficult to establish exactly what's meant by the retail price, so maybe the transactional data is less useful. Margie, is that an old hand or a new one?

MARGIE MILAM: It's a new one. The point about the data being public is really only the list price for retail registrars. What is actually charged may not be the list price and then there are certainly a number of registrars that aren't necessarily active in the retail space and their prices might not even be on their website.

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Some of the problem we had – and maybe Eleeza can address this – in trying to get the data from registrars was that there are so many different bundles and ways that they priced their services.

JORDYN BUCHANAN: Yes, I think that's a great point, Margie, and as Carlos is saying, maybe we'll do something like averages and medians as our reporting unit. Another possibility – I think this is a complex topic. I don't think that the Review Team necessarily [see] all of the implementation exactly right, and it may be that we just say this is an area where we clearly don't have enough data and we want the community to sort of figure out – or some task force [looking at] both registrars, ICANN staff and sort of the metrics interested folks from the community to get together to think about what's practical to collect and report on.

Okay, so why don't we move on from the gTLD market section to the industry structure section of the document? Once again, this is the section that talks about the fact that the [inaudible] calls them inputs of the registrars and the registry services provider makes it possible for a registry operator to operate with relatively lower scale and lower cost, potentially fixed cost, than if they had to build out those functions on their own. And to point out that most registries are quite small, but despite that fact, only a single one has ceased operations, and a handful of others have been sort of moved between owners, have had changes in ownership.

We have this finding that is that most gTLDs only have modest numbers of registrations, raising the possibility that they may not have achieved

minimum viable scale. So far, we've seen only one failure, so the structure of the industry may make it possible for standalone small gTLDs to continue to operate even with low registration volumes. But this is very early, so we have a recommendation to continue to measure metrics around gTLD viability. I think this is another are where we could probably stand to have a little bit more specificity, but the one area that we don't understand very well right now is what the actual sort of cost of running a registry looks like other than the ICANN fees, per se.

Secondly, we don't have a good enough sense of what that translates into in terms of minimum viable scale or a registry's ability to continue to operate, and it's quite early.

I see Jonathan has raised his hand already, so I will allow Jonathan to jump in.

JONATHAN ZUCK: Thanks, Jordyn, and I guess this is sort of half findings, half recommendations, but so much of the stuff on the competition side is going to be recommendations from findings, I think. But I guess this issue about minimum viable scale and the inputs that [inaudible] for it I think raises questions in the Global South, in that the [inaudible] of registrations may in fact be the result of an insufficient number of registrar availability or it's not on the suggestion list. It may be something that we need to delve into and down to another level or something to kind of separate the value of the backend providers versus the registrars and gain an understanding that where there are

differences in the availability of these inputs if it has an impact on market entry in the first place.

So, we're making the conclusion that we believe it has an impact on market failure, but I don't know if there is a way to get the notion of its effect of its market entry or the degree of market success, or something like that, based on the actual availability of registrars and – I don't know what the right word is – placement of registrars or something like that.

Obviously, when I go to Network Solutions and I put in a domain that I want and it doesn't find it, it makes 15 recommendations back to me of others that I might want instead. It doesn't make 1500 recommendations, so I guess the question is, what does it mean to be listed in – some of that's regional – I don't know, is there another level that we can drill down to in this [bigger] industry structure question?

JORDYN BUCHANAN: Thanks, Jonathan. You raise the question of potentially a new – what Stan calls a – project, which might be easy to complete, which would just be to look – and maybe the Analysis Group already did this, I don't know – whether there is a relationship between the number of registrars for a given TLD and the number of registrations in that TLD. That might be a crude proxy for what you're talking about. Obviously, it's not going to capture the more subtle things like how the registrars are placing the TLD, which is probably a lot harder to get at other than through observational data points.

JONATHAN ZUCK: I guess the question is, as this translates to recommendations in terms of the effectiveness of the process in the Global South is the availability of these inputs something that we need to pay more attention to on a regional basis or something? That's what I'm recommending. Maybe this is something we take offline with Stan to discuss, and see if it's something that's already addressed with Analysis Group data, but we've made a general finding, but I wonder if there are significant regional or economic differences there.

JORDYN BUCHANAN: That's a good question, Jonathan. I see Carlos has his hand up.

CARLOS RAUL GUTIERREZ: Yes. Jonathan, just to comment that Brian is following this issue with the consultants who wrote the reports for the Middle East and Latin America, the Caribbean, and we have discussed it with Stan and we are hoping to get some regional HHIs for the countries that were developed in this report. So, I don't know how fast that will be, but we have it in our checklist in the group that is following up these Global South issues, and Brian is helping us. Thank you.

JORDYN BUCHANAN: Alright, thanks. Yes, Jonathan, we'll take a look and see if there's a way to refine this around regional recommendations. It does seem like there's some ongoing work on this topic right now. Okay.

JONATHAN ZUCK: There is competition generally. Sorry, [that's] definitely the case. I'm trying to do reasonable breakdowns of concentration. That's definitely occurring. I guess I'm looking at the relationship that we've drawn between the availability of these inputs and the decreased minimum viable scale and getting an understanding of regional differences there.

I don't believe that that's on the list right now, so I don't mean to keep beating a dead horse, but I think that we are looking at concentration calculations on a regional basis, particularly as they might include ccTLDs, but this particular industry structure finding that the availability of these inputs has a beneficial impact on minimum viable scale. I don't believe that we have plans to do – we're not in process of doing a regional analysis of that, but I could be wrong. Carlos, correct me.

CARLOS RAUL GUTIERREZ: I think you're right, Jonathan. We are looking only at some country-specific [inaudible] we have not developed those details that you just mentioned. Thank you.

JORDYN BUCHANAN: Alright, thanks. Jonathan, I do think – as highlighted – that it may make sense to do some sort of view as to whether there's a relationship between the number of registrars and success of a given TLD. That's not regional-based, but still, if we looked and then further saw that there was some relationship between the number of registrars and the region, that might help us draw some conclusions.

And then secondly, I do think that there is some existing analysis on backend providers and the region in which they're located, so we could probably – and the relationship between that and the registry operators. So, we could probably look at that data as well. We'll see if we have more data here that we could poke at.

JONATHAN ZUCK: Thanks.

JORDYN BUCHANAN: Alright, so moving on, looks like we're starting to lose people, unfortunately, and I need to drop off about five minutes early, so we've got sort of a max of about 20 minutes remaining here. We do have this further section on parking, and once again, we're waiting for important data on parking, so this is necessarily quite a sketchy section.

I see I didn't finish typing out my recommendation here, so we can talk through what I have in mind. But the observations we have so far are that almost two thirds of… Oh, I see Kaili has his hand raised. Kaili, is this on the previous topic related to the industry structure?

KAILI KAN: After you finish, please.

JORDYN BUCHANAN: Okay, let me run through the parking discussion really quickly then, which is most of the new gTLD registrations are parked. We talked

about this quite a bit. What we're waiting to see is what the parking rates are like in the legacy gTLDs to make a comparison, and then we make this general statement that the prevalence of parking and lack of ability to compare to new gTLDs right now is one of the factors that makes it harder to understand the impact of new gTLDs in the marketplace.

So, I think we were making a recommendation here that ICANN should study the phenomenon of parking more in order to – both I think better to finance, and to better understand its potential impact on competition and consumer choice, which is a pretty light recommendation.

I suspect this area of the findings and recommendations will evolve significantly once we get some more data. Kaili, go ahead.

KAILI KAN: Yes. About [inaudible], I believe that we all agree that this is a very important issue, so here, I believe also more data needs to be collected. Say collect more data to compare legacy gTLDs and new gTLDs, etc. Talking about collecting data. Can you hear me?

JORDYN BUCHANAN: Yes.

KAILI KAN: Talking about collecting data, I believe while ICANN is the ultimate authority worldwide of the Internet DNS industry. In that sense, we are the regulator of the domain names because we are the worldwide

recognized ultimate authority on that. All the registries and registrars are contracted with us. Otherwise, we are nothing.

So therefore, we do have the right to collect data, including both the parking data, as well as pricing data we just talked about. Every regulator has the right to do that. Otherwise, they would not be contracted.

Yes, in the past, ICANN did not explicitly say that in a contract. I believe that we should recommend ICANN to add those terms in the contract. Also, about recommendation, I think not only ICANN should study the phenomenon of parking, but also, this is a task of our team while [inaudible] doing this study. The only reason at this stage is because we do not have enough data to do that, so we promise ourselves that we won't need more data, and ask for more data on this.

Also, about recommendations, are we talking about recommendations of ICANN policy? If so, a lot of times, we have fully discussed the effect [inaudible] of large scale parking. So, I think we should include some policy recommendation in our report about what we should do about this. For example, the "use it or lose it" policy, something like that in order to have healthy and sustainable DNS market. Thank you.

JORDYN BUCHANAN: Thanks, Kaili. I think you had raised the use it or lose it recommendation in Hyderabad. I didn't hear a substantial amount of support in the room for that particular recommendation. I think largely because –

KAILI KAN:

I'm not talking about a particular recommendation. In order to come up with particular recommendation, we need at least two things: as we already mentioned, we need more data and we have asked for more data on this. That is one thing.

Another thing is that we need a better, more detailed definition of parking and various kinds of parking. So, after these two, we can come up with policy recommendations for that. And so "use it or lose it" is only an example that could be for that.

Talking about support for this particular policy recommendation, yes, a lot of times that was raised in Hyderabad. There were not too many people who supported it. However, I did not hear anybody opposing it either. So, this is only possible or an example of the policy recommendation, but I suggest that we should come up with policy recommendations on parking. Thank you.

JORDYN BUCHANAN:

Thanks, Kaili. I think the sentence I was hoping to complete was that one of the principle reasons I think I heard in Hyderabad for not wanting to get ahead of ourselves is that we wanted to make sure the recommendations were related to specific findings. So, we would want to have data to demonstrate that, for example, use it or lose it would be intended to address that phenomenon that there's large scale people just sitting on domain names, and for some reason, we thought that was harmful.

And I think we do know that there's large scale parking, but what we haven't been able to point to are particular reasons why that's harmful

or that's worse in the new gTLDs than in legacy gTLDs. And our scope is really tied to the new gTLDs in particular, so if there were a phenomenon that was just identical across both new gTLDs and legacy gTLDs, it would be hard to say that the New gTLD Program has effect in that area, and therefore, that would be out of scope for our recommendations. It might be a totally valid thing for the GNSO to take up on its own with regards to gTLDs in general, but it wouldn't necessarily be related to the introduction of new gTLDs, which is our scope.

KAILI KAN: I cannot fully agree with you on that. I would say, of course, in legacy gTLDs, parking existed. And whether the new gTLD has a higher parking rate or a lower parking rate compared to the legacy ones, that is data we want to collect.

However, I think anybody would agree with that New gTLDs Program certainly amplified that issue which already existed in the legacy one, so I don't think that there's any question about that.

JORDYN BUCHANAN: Kaili, I actually disagree with that. I think that if we found that the rates of parking were identical across legacy gTLDs and new gTLDs and that legacy gTLDs and new gTLDs had roughly the same number of registrations in this period, it would basically tell us that it's just that the new gTLDs continued a trend that was already present in the legacy gTLDs, and really has nothing to do with the new gTLDs in particular, it's just a market trend that happens to be happening at the same time.

So, the [inaudible] has come from evidence that there is difference in behavior that is either caused by or related to the new gTLDs in particular and not just present in the market at the time that the new gTLDs happened to be introduced.

KAILI KAN: I cannot agree with that. Well, new gTLD because it's a large scale, before only dozens and now we have hundreds or about a thousand or more new total gTLDs. Therefore, I think there's no question that the New gTLD Program does amplify the parking problem. So, I don't think there's any question about that.

JORDYN BUCHANAN: [inaudible].

KAILI KAN: Even if the parking rates are comparable.

JORDYN BUCHANAN: The fact there's hundreds of new gTLDs, the parking [inaudible].

KAILI KAN: Through the New gTLD Program, yes, even if it is an old issue, but further exposed there. I don't think we can just ignore it because as [inaudible] this is for the overall health of the DNS industry, so therefore, I think it is our obligation to point to the problem and come up with policy recommendations.

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JORDYN BUCHANAN: So, I'll actually defer to you, Jonathan. My understanding of our charter is that it is not to look at the overall health of the gTLD industry. It's to look specifically at the effects of the introduction of new gTLDs, and therefore, unless we can tie a particular phenomenon to the introduction of the new gTLDs, not just saying that this affects the health of the gTLD marketplace in general and not just because the new gTLDs continue to model a behavior that was already present in the legacy gTLD marketplace, that's out of scope, even though it does impact a lot of new gTLDs. It's only changes that were caused by the introduction of new gTLDs that are in the scope of our review. But Jonathan, do you have a view on that?

KAILI KAN: I believe there's no question that New gTLD Program has amplified the problem even if the parking rates are comparable. Also, so far, we do not have data to show that they are comparable, or even lower.

JONATHAN ZUCK: Right. For one thing, Kaili, we don't want to make any assertions for which we don't have data. We don't have data that they're comparable, and we don't yet have data that they're not. So, we have to be careful that our findings are all supported by data and not just what we think everybody knows.

The second thing is I think we have to look at the introduction of new gTLDs in terms of specific impacts to new gTLDs. One of the things we

don't know about the market at this point is the degree to which the new gTLDs simply cannibalize what would otherwise have been the normal growth. The growth since 2013 was something like 23% cumulatively and that's where we have our numbers of 50% being attributable to new gTLDs. We don't know if that growth rate is in fact much different than it would have been absent of new gTLDs.

In other words, we don't even necessarily know that there's been an amplification of parking as a result of there being... All there is is the greater dispersion potentially of parking, but we don't even know if it's actually led to an overall increase in the parking rates that would have been there otherwise.

One of the things we're looking at, for example, with DNS abuse, Kaili, is that seeing if the rates of DNS abuse is different in some of the new gTLDs, and is there a link to, for example, the ones that are very low cost, like .xyz that keeps coming up?

Is that having seen a higher incidence of DNS abuse in those types of TLDs? I think those are the kinds of trends that we need to look at, not simply general DNS trends that have simply been reflected as the DNS has grown.

Again, I don't think there's anything wrong with us noting that fact, and suggesting – as Jordyn has done – that the GNSO look at the issue of parking generally, but we have to somehow bound our own findings and recommendations around the New gTLD Program and any subsequent procedures related to new strings.

And I think that unless we see something inherent in the new gTLDs, we need to let it go back to the [inaudible] process.

KAILI KAN: Well, I believe, yes, we do not have data, then we collect it, just like the pricing data, okay?

JONATHAN ZUCK: That's right.

KAILI KAN: Yes, so then we collect it, and then make that [a task] and we ask AG or Nielsen or whoever or ICANN itself to collect the data.

JONATHAN ZUCK: And we're in the process of doing that.

KAILI KAN: Also, [inaudible] Jordyn said that over two thirds of the new registries are being parked. That is phenomenal, so I believe this is not an issue that can be ignored.

JONATHAN ZUCK: No one is talking about ignoring it. The issue is simply that we don't want to make assertions in our document, we want to only express findings that are supported by data. We're in the process now of identifying data to look at parking rates in the legacy TLDs in order to

understand whether – as Jordyn has specified – the proportions have changed. Because if they haven't changed, then it would be difficult for us to make the conclusion that parking is a problem unique to the New gTLD Program. That's the issue that we have to – or that there's an aspect of it is unique. Obviously, we know it's not unique, but is it exacerbated, as you say, by the New gTLD Program other than simply the fact that it's a continuation into more TLDs?

We are looking at that data now, so we are trying to collect that data, and then we'll have more data and we'll be able to draw more conclusions.

KAILI KAN: Okay, yes.

JONATHAN ZUCK: Separately, the other issue also has to do with the effect of parking, and we need to make sure that assertions we make about the effects of parking are supported by data as well. So, one of the things we are doing is fielding a DNS Abuse survey.

If we believe that one of the effects of parking is an increase in DNS abuse, we'll find that by looking at DNS abuse directly. We don't need to necessarily say that it's about parking, we can say that there's been a DNS abuse problem associated with the New gTLD Program, if the data supports that.

So, there are things that we are gathering data on, but right now, all we have are assertions, both that the parking problem has been

exacerbated in a non-linear way by the New gTLD Program – right now, that's an assertion, and the fact that there are negative consequences to parking is an assertion at this point as well.

As you know, Stan proposed in Hyderabad a potential downside consequence to high rates of parking in that it distorts our interpretation of the competition data because it may lead to a lower rate of renewals. That's something that we're trying to look at as well.

So Kaili, to the degree to which there's something specific data that we should be trying to collect specifically because you have a hypothesis, we should be doing that, but we are collecting, doing a study on DNS abuse, and Stan has made a recommendation on renewal rates of parked strings to see if there's a connection to distortions in our competition analysis.

KAILI KAN: I certainly agree with looking at renewal rates. However, because the renewal price are very low, that may not be enough to check about the parking rates and so forth. So, that is one way of doing it, but there are other ways, including collecting data.

JONATHAN ZUCK: I need you to express this. Let's take this offline. I need you to – and we can do a separate call, if you like – express this as a set of hypotheses, things that you think that might be the case, and then let's look into how we might test those hypotheses.

KAILI KAN: Okay.

JONATHAN ZUCK: Absent data to support them, we're not going to report on them, okay?

KAILI KAN: I will agree with you, but – okay, anyway, maybe this is my minority opinion, just to express that. Thank you.

JONATHAN ZUCK: Right, and so then there will be an opportunity for minority reports as well, but again, even those minority reports need to be confined to interpretations of data and not just assertions of fact. We're not going to include assertions of fact anywhere. Let's make sure that we have the hypotheses outlined and see what can be done to [inaudible] test them. Even if we can't do it as part of this group, we can make specific recommendations about testing them in the future, so let's take that –

KAILI KAN: Just to be honest, the points made on the screen, the [inaudible] these are most of them are hypotheses. Just my opinion.

JONATHAN ZUCK: Right, so let's try to develop some hypotheses, and look into what data would be necessary to prove or disprove those hypotheses, okay?

KAILI KAN: Sure.

JORDYN BUCHANAN: Thanks, Jonathan. I think that will be really helpful in framing the parking discussion, since we are starting to get some data in, but to the extent there's additional data we should be looking for, we need to know that now if we're going to have this get incorporated into the report.

Unfortunately, as indicated, I have to drop off about now. I think hopefully that wraps up our discussion on parking, and maybe on the next call, we can dig through the rest of the findings and recommendations related to competition and consumer choice.

JONATHAN ZUCK: Thanks, Jordyn.

JORDYN BUCHANAN: [inaudible]

JONATHAN ZUCK: Ok, thanks. Waudo, I see you have a recommendation for a study on parking, and we can certainly make that recommendation, but let's try to figure out what that means with some greater specificity, because right now, it's just out there like a kind of a boogieman, and we're just throwing around assertions about what the impact of parking is.

So again, let's look, and if you want to be part of the conversation with Kaili, let's figure out what our hypotheses are associated with parking, and what data might support that. Okay?

Folks, I think we're sort of at the top of our time here, so we'll draw this call to a close, but as you can see how this conversation is evolving, hopefully, the exercise of digging into some of these recommendations has helped to clarify what you need to be looking at in the templates that you're producing. So, I need to ask you to go back to the recommendations that you have, if you have them, or add them if you don't, and make them specific to the findings and make them as measurable as possible and as implementable as possible.

So, things like consider, etc. can't be the basis of a recommendation, because otherwise – as we say in English – we're kicking the can down the road. We need to be very clear on what we're recommending and if our recommendation is further study, then we need to be specific about what the implications of that further study are and the degree to which we think it's critical path to any subsequent procedures.

This is going to be very important questions. We're going to get asked all along the way, is the recommendation necessary before there are new application windows for subsequent gTLDs? So, we need to figure out whom we're making the recommendation and whether or not that recommendation is on the critical path to subsequent procedures.

I implore everyone to look back at the documents if you haven't looked at them in a while, so that we can have as sufficient a conversation as possible about these as we continue these calls. We have a very short

period of time to reach some consensus about what we're going to try to draft up in a couple of weeks.

Alright, thanks. Is there Any Other Business? Okay, thanks, everyone. Check back on your documents.

[END OF TRANSCRIPTION]