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RECORDED VOICE: This meeting is now being recorded.

JORDYN BUCHANAN: Now that we have the recording started, why don't we go ahead and begin.   This is the July 12th version of the CCT Competition and Consumer Choice sub-team meeting of this [inaudible].   Welcome everyone.   In terms of agenda today, on our last call we had discussed dividing up our recommendations to review the public comments, look to see if there were any adjustments that should be made to the findings or recommendations based on the comments. Jean-Baptiste is transmitting the assignments in the notes portion.

Why don't we just go ahead on run through these in order, although I note that only Jonathan and I are on the call. So, we may only be able to handle recommendations 1, 2, 3, 4, 5 and 10. I see Jonathan's on the call.   Jonathan, have you had a chance to review the comments for number one and consider any changes that might need to be made there?

JONATHAN ZUCK: Yes. I've reviewed the comments. I confess I have not completed a new draft yet.   Mostly, some of the comments are about the kind of language used, in terms of must and should and clarity. I think, in the face-to-face meetings that we had in Johannesburg, we got closer to a clear representation of this. I still need to draft something which I'll circulate to the competition list.

JORDYN BUCHANAN: You're expecting, though, that the recommendation itself is not going to change, particularly. It's more style over substance?

JONATHAN ZUCK: That's my understanding and I welcome anybody else disagreeing with that. But, that's how I can away from those meetings, is that it was more a question of clarity than it was about fundamentally changing the recommendation.

JORDYN BUCHANAN: The next recommendations, 2 and 3. I haven't redrafted any of this yet but I emailed out a proposed change, a slight change in how we handle those questions 2 and 3. These are about collecting wholesale prices from both legacy and new gTLDs, in the case of recommendation #2, and get transactional prices from gTLDs in recommendation #3.

What I had proposed, based on the public comments that we'd received, as well as from the discussion that we had with the registry stakeholder group in Johannesburg, is to change these recommendations so that they recommend first, that I can conduct an economic study over time that's intended to understand the effects of the introduction of new gTLDs on price, and then second, that I can seek, when it's feasible to do so, to modify its existing contractual relationships with registers and registrars that don't have the requirement to cooperate with economic studies, to include that requirement that's included in the new gTLD contracts.

Because, I think our general consensus is that we got much better, sufficient if not perfect, cooperation from the new gTLDs and quite poor cooperation from those that didn't have that contractual provision. The other thing I'd guess I say is as I reviewed the comments and listened to the comments, it seems like the general economic study language gives a little bit more flexibility as well, so we're not locked in just looking at the particular issue of prices.

There may be other information that would be useful to future reviewers, or to the community as well. So, Jonathan or Waudo, do you guys have any feedback on that suggested approach to those two recommendations?

WAUDO SIGANGA: Hello? Just wondering, when we had the meeting with the registry group, they kind of indicated that it's basically impossible for them to provide information about the wholesale pricing. I don't know how we can incorporate that in recommendation #2. How can we reflect that part that, at the moment and also in the future, it's quite impossible to collect the wholesale pricing from the registries?

JORDYN BUCHANAN: The analysis group did get wholesale pricing as part of their study. However, they just got base pricing. There was some discussion about the feasibility of transactional pricing, and so on. But, the thing I took away from that conversation is that the registries did say that having it intermediated through a third-party, like analysis groups, felt to them more practical than doing it through ICANN.

I think there were more concerns about sharing the confidential data with ICANN, versus the third-party economic analysis. Which is part of the reason why I formulated it this way. Because, we did get some data from registries, as part of this path. Jonathan, I don't know what your takeaway from the meeting with the registries was. Do you have any perspective --

JONATHAN ZUCK: I came away from that meeting somewhat concerned that we were having a meeting with Donuts.

WAUDO SIGANGA: [inaudible] with Jonathan.

JONATHAN ZUCK: Waudo, go ahead.

WAUDO SIGANGA: Sorry to have spoken over you. If we are getting recommendations, I think we need to be a little bit thirsty, to ensure that we give recommendations that are actually going to be implementable. If the people in the industry have already indicated that we are suggesting is not possible, then I think we really need to find a way to [inaudible] that into the writing of the recommendation. That's what I got from the [inaudible] group.

JORDYN BUCHANAN:	The one thing that I did take away is there was sort of a push towards using publicly available and retail data. Which is reflected in our recommendations 4 and 5, 4 principally, and then I think 6, probably. I'm not 100% sure why we ended up assigned to Meghan in this chart. At the same time, I do think Jon said that it was more feasible to cooperate with this sort of third-party study.
	However, Waudo, you raise a good point, which is the level of data we did get through this cooperation and the initial study was actually not very useful for price analysis, because we only got the raw wholesale price. We didn't have transaction data, etc. It does raise the question of the feasibility of doing useful price analysis. Jonathan, you were going to say that we were mostly talking to Donuts. Do you want to elaborate?
JONATHAN ZUCK:	That's the thing. When we were in the registry stakeholder meeting, and you weren't there unfortunately, it was when we had our 15-minutes to pitch this meeting and we only got two people to show up to our deep dive. It does seem to be a little bit driven by an operator. I didn't get a sense that things were impossible and felt like we needed to be more creative. I feel like this recommendation goes really soft on this, and that we could end up with similar data than what we got before, which we already concluded would've led us to the wrong conclusion with respect to prices being higher in the new gTLDs than they were in the legacies.

So, I'm hesitant to just let it go at cooperate with economic studies since part of what motivated us is that previous economic studies have lamented the lack of data as well. That doesn't feel like enough to me, but I don't have a concrete recommendation. I guess I need to niddle more, but I feel like there's some compromise in the middle that concedes the needs of the data to be either washed by an external firm, or analysed by an external firm or something like that. But, this requirement needs to be less abstract, somehow. I don't know.

JORDYN BUCHANAN: I'll react to your two points in sequence. I think you're right that Donuts has largely taken the lead in most of what you see in the registry stakeholder group comments. Basically, Donuts comments. Having said that, we did have new [inaudible] wrote their own comments.

And on recommendations 2 and 3, I think essentially have the same view as the registry stakeholder group comments. Which is, this is sensitive data, and that it's complicated to get and not going to be used correctly. So, it's probably not the case that, on this pricing topic at least, that Donuts new clients are the registry stakeholder viewpoint is unrepresentative of the stakeholder group.

JONATHAN ZUCK: I know Doc Berlin was the one that spoke up. These are all anecdotal, I guess. And, I guess calling Donuts anecdotal is a mistake because they own half the new gTLDs, but the Doc Berlin were saying, "Hey, we don't really have a problem sharing this information because we think the research needs to be done."

That's my only counterpoint, unfortunately. I feel like those comments are problems that need solving, as opposed to being unsurmountable things that says we'll never get the data we need in order to look at the impact on pricing. My other point was pessimism about that contract clause.

JORDYN BUCHANAN: So, we're not relying on the contract clause? You're relying, instead, on a commandment? Right? That's going to be a slow process, I guess. I can hope that we issued our report before the wholeheartedly adopted it. Sometime in early 2018, the ICANN organization was on notice that they should try to amend the new gTLD agreement to [inaudible] requirement to provide [inaudible].

The registry agreements don't expire until the earliest is 2022. ICANN does have a mechanism to negotiate changes to the registry agreements, so I guess we could try to push this into it. But, the registries actually did push back on it. There probably isn't really an opportunity to change the form until renewal cycle in 2022. That would be the earliest opportunity at which you could start to collect data from registries other than through the existing clause.

They're just sort of saying, "Why can't you try to do a study using the existing clause, with a focus on long-term pricing. You start work on that now, and maybe." One thing we could do is have a follow-up with the registries, either us or some future implementation group, and say, "Hey, is there some framework by which we could get samples of data or something analysed by a third-party?" Start to figure out the

framework of that long-term study looks like, as opposed to relying on a contractual amendment cross change in order to do this.

The other thing that I think did make sense, that I got out of that meeting with them, is focusing on the publicly available retail and secondary market data. The secondary market data is supposedly available. Focusing on those other data sources, on the retail level, is probably more productive. The retail data, in particular, is publicly available and ICANN can start gathering that and analysing it right away. It's true, it doesn't help us understand what the wholesale dynamics are --

WAUDO SIGANGA: Jordyn. Sorry to interrupt, Jordyn.

JORDYN BUCHANAN: Go ahead, Waudo.

JONATHAN ZUCK: He's having trouble hearing you, I think, Jordyn.

WAUDO SIGANGA: Yeah. I heard about the [inaudible]. I know it was also recommended to us by the people in the registry group meeting. But, I have a bit of reservation about the retail pricing. Because, the retail prices themselves have their own distortion, which has been brought about by the market. Some of them are not just price of the domain, they are

also price of some other [inaudible] that are bundled together with the domain.

So, I think we need to be a little bit careful when we're also trying to go to in the directions of using the retail prices to give us some information that we should've pressed to get from the wholesale prices. I think the wholesale prices are the best indicator of what the [inaudible] or not. I understand about the retail prices, but they're distorted.

JORDYN BUCHANAN: So, it's true. Let's say there's going to be…

WAUDO SIGANGA: Hello? Jordyn?

JORDYN BUCHANAN: Yeah.

WAUDO SIGANGA: We can collect the retail prices, but it should be secondary. It should be secondary. The primary focus should be the wholesale prices.

JORDYN BUCHANAN: That's only if we can get really good, volume-weighted or transactional prices, right? Because the kind of pricing data that we got in this round just tells us base prices, which don't really reflect the actual price to

consumer. Looking at retail prices at least lets us understand what the price consumers are paying is in a sort of transparent way.

So, {inaudible}, I think ideally you'd have both, right? I guess what I'm saying is, if I'm trying to think of how do I actually have a useful set of pricing data in time for a follow-up CCT review in like five years, it doesn't seem to me that there's a path, other than relying on the existing contract language and publicly available data sources because the amendment process is so slow. With that mindset, I'm trying to think through how to kick off now some sort of study that can take advantage of the existing contract language in order to…

JONATHAN ZUCK: Are they mutually exclusive, Jordyn?   Is it possible to add the recommendation you're describing and then, somehow, change the prioritization of this one? So that we're not holding up the organization for this, but that it's in there? Is there a long game here as well as a short game? You put your head down, then you looked up, and it's suddenly 10 years later in ICANN land, right?

I get what you're saying and so maybe that means we need to drive forward with recommendation as you described it. But, do we leave, in our back pocket, this recommendation that to go through the long process, which might take the five years, to go and try and get more thorough data out of the registries. Should we leave it in there so that it's something to work on in the long form?

JORDYN BUCHANAN: I guess this just gets to a cost/benefit analysis discussion. What's the incremental benefit of that versus, what's being described at least as a relatively significant cost by the registries. Now, we can say, "It doesn't matter, it's still worth it." We could say, "You guys are wrong. We don't think the cost is that high." But, we'd somehow have to tackle the pushback, specifically of the delta between what's possible about that with it.

JONATHAN ZUCK: Fair point.

JORDYN BUCHANAN: We could leave it as a recommendation that ICANN should seek to get transactional or volume-weighted pricing data as part of the study and it's not feasible to rely on the existing language. Then, it may be necessary to seek contractual amendments. Maybe that gives the registry some incentive to play ball under the existing language, as opposed to having it imposed on them.

JONATHAN ZUCK: I could live with that.

JORDYN BUCHANAN: Waudo?

JONATHAN ZUCK: It's just my opinion, but [inaudible] matters.

JORDYN BUCHANAN: You're 1/3 on the conversation. Pretty weighty opinion. Waudo, go ahead.

WAUDO SIGANGA: Jordyn? Jordyn? Hello?

JORDYN BUCHANAN: We hear you.

WAUDO SIGANGA: Hello. You hear me? Before we do away with 2 and 3, there's a little bit of, I guess, a little mundane language correction we can do. I think we can leave out the [inaudible] sentence in recommendation 2, "Collect [inaudible] for legacy TLDs." It's only talking about legacy there, but in the next sentence it talks about legacy as well as new gTLDs. I think that part of the sentence is really not necessary there.

JORDYN BUCHANAN: That was included…

WAUDO SIGANGA: And the recommendation 3, as well.

JORDYN BUCHANAN: Go ahead.

WAUDO SIGANGA: Hello? I did hear. It was included because?

JORDYN BUCHANAN: It was included because legacy gTLDs don't economic studies requirement. So, we didn't get any data at all from the legacy gTLDs. We, at least, wanted to put them on an equal playing field, or make sure that we had some ability to get data from the legacy gTLDs, which wasn't the case in this review.

WAUDO SIGANGA: Okay. I don't know. [inaudible] wholesale price information from both legacy and new gTLDs. Okay. I don't know. I don't know about them, but it seems like it's a duplication there.   And then, in the third recommendation, I think we should have some consistency with the language. Because we are now talking about, "ICANN should attempt to acquire." And in the second recommendation, we are just saying "ICANN should acquire." I think we should leave out the 'attempt' to acquire and just "ICANN should acquire." The third is consistent with #2.

JORDYN BUCHANAN: Based on the conversation we just had, I'll try to reformulate these a little bit, to make clear that we want some of that transactional pricing data and we want data from legacy gTLDs, we want a study over time to look at price. And, basically say that, if ICANN can't get the data that it needs, that it should consider that it should modify contracts to allow

that, on the theory that hopefully it will encourage people that are not obliged to, to cooperate so that they don't get their contracts amended to require it.

So, I'll make an actual proper draft based on this discussion and send it out to the list. Unfortunately, as I've mentioned, I'm out of time. I think we got through the sort of meaty part of the [inaudible] that's been sent to the list, so we'll meet again next week and I'll nudge Dan and Meghan and try to make sure to get some more text to discuss in advance of the call. And I'll also send some more text out as well. And, Jonathan will too. So, we'll have a little bit more to talk to next time in terms of -- specifically. Thanks folks for participating today and we'll resume next week and I'll, hopefully, have a few more things to talk about then. Bye.

UNKNOWN SPEAKER: [Inaudible].

[END OF TRANSCRIPTION]