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JORDYN BUCHANAN:

All right, thank you and welcome, the few people that are here right now. This is the CCT-RT Competition and Consumer Choice Sub Team meeting for August 9, 2017.

We have Jonathan and Dejan on the call in addition to myself, Jordyn Buchanan, chairing the call and a fairly modest agenda as well.

Why don't we run through our topics [so we can] review the state of the recommendation updates briefly as well before we get to the end of the call too.

In terms of formal agenda, we have a discussion of the .NET price increases. Waudo has put together some text that has been further edited a little bit by Megan just reflecting the fact that the .NET registry has been increasing its prices, at least in terms of the publicly announced price. We don't know whether or not there's promotional pricing going on that offsets that pricing. Kaili suggested a further minor edit online which is to take out the word "significant," which seems reasonable to me.

The point of this revision is simply to reflect the fact that at least for .NET it seems to be the case that Verisign is both exercising its contractual right to increase the price cap and at least is updating, has also announced changes to the public to the officials or list pricing for the TLD as well.

So one of the questions that we had asked in the original paper, as you can see in this language, is whether or not the introduction of new

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gTLDs had changed the pricing behavior of legacy TLDs or whether the price caps were still controlling. At least here we have some evidence at least that the price caps are still a significant factor – or “factor” if we don’t want to use the word “significant” per Kaili’s suggestion – that are controlling or limiting the pricing of the .NET registry at least.

So I guess I’ll just – we don’t have Waudon on the call, but I just wanted to see, Jonathan or Dejan, do you guys have any feedback on these edits or the inclusion of the .NET price changes in the revision to the competition section? Okay.

[JEAN-BAPTISTE DEROULEZ]: Jonathan has his hand raised.

JORDYN BUCHANAN: Oh, Jonathan has his hand raised. Oh, it’s very small. Sorry, I’m using mobile Adobe Connect again, and it’s very hard to tell that. Yes, go ahead, Jonathan.

JONATHAN ZUCK: Yeah, it is. I’ve had to do that a few times too, and you almost need it to flash a big pop-up bubble or something like that to say someone has raised their hand.

I think this generally looks good. I guess the question is – and I confess I just don’t recall – do we still have this discussion about the possibility that, I don’t know what we called it, that the natural price is somewhere

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above the caps or something like that? We've talked about it a lot, and I don't remember if it survived edits to the paper.

JORDYN BUCHANAN: Yeah, I guess we should look at this in the context. Is it possible, Jean-Baptiste, to pull up the entire text in this section, I guess around page 46 instead of just this little excerpt?

JEAN-BAPTISTE DEROULEZ: Yeah, I can put the original report online, yes.

JORDYN BUCHANAN: Okay, thank you. Let's take a look at what the current language says.

While Jean-Baptiste does that, I had a question for staff that I had raised on e-mail. I don't know if anyone knows that answer to this currently, but do we know if any other registry operators that have price caps have increased the capped price since the introduction of new gTLDs? So I guess since our end of 2014 timeline.

JONATHAN ZUCK: That's definitely a good question.

JORDYN BUCHANAN: Yeah, I know we did get a chart at some point of what the price caps were year-by-year, so someone can just look at that probably and see. I don't know where that chart is though. Eleeza, do you know where that

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price cap information that we collected is stored? Is it on the wiki somewhere? Maybe we don't have Eleeza for real.

BRIAN AITCHISON: Hi, Jordan. Let me check on that for you. I'll coordinate with Alice and Jean-Baptiste and see if I can find those for you.

JORDYN BUCHANAN: Okay, yeah. If you guys could just verify. I think it's possible I remember .BIZ also had the opportunity to increase prices [or something]. Maybe I'm totally wrong, but it would just be interesting. If there are other registries that also increased their price caps, it would be interesting to look to see if there's any evidence that they increased the price as well. I think we have some evidence that Verisign actually increased the list price in addition to just increasing the cap. So that would be good to see if we had similar behavior from other registries.

Or, this may be harder to get at, Brian, but maybe if staff has the ability to say are there any registries that under their contracts could, like had a mechanism to increase the price cap but chose not to. Does that make sense?

BRIAN AITCHISON: Uh, right. Let me check into that. I don't believe there were, but that's just off the top of my head. Let me get you a better answer.

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JORDYN BUCHANAN: Sure. Okay, thank you.

All right, now we have the original report [projected]. Can we jump to – is this locked or can we scroll ourselves?

JEAN-BAPTISTE DEROULEZ: I'm on page 46, but I can leave the navigation to everyone if you prefer.

JORDYN BUCHANAN: I have no idea how that would work on my terrible mobile interface, so I think it's probably fine right now.

JEAN-BAPTISTE DEROULEZ: Okay. Is that okay like that for everyone?

JORDYN BUCHANAN: Yeah, I'm just seeing if we can find [inaudible] Jonathan was referring to.

JONATHAN ZUCK: It's great. Thank you.

JORDYN BUCHANAN: Yeah so, Jonathan, it's in the footnotes on this page.

JONATHAN ZUCK: Oh, can you – I can't see the footnotes.

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JORDYN BUCHANAN: In particular, 101 I think which says, “Even if we could observe the wholesale prices the registries actually charge and the wholesale price caps were binding throughout this period – i.e., prices were always at the caps – we would still be unable to observe the effects of new gTLD entry on the prices that legacy gTLDs would have wanted to pay because we would not observe those prices. It is possible the legacy gTLDs reduced their wholesale prices below their respective price caps in response to new gTLD entry, although we have no evidence that this was the case.”

JONATHAN ZUCK: Yeah, I guess it’s the “would have wanted to pay.”

JORDYN BUCHANAN: Right. So that basically does call out....

JONATHAN ZUCK: I confess to not being a competition economist unfortunately, but the write up we have with this emphasis on pricing seems to suggest [it] would provide fodder to people saying that competition [hadn’t] been created. And I don’t want to lose what seemed to be a discussion earlier about how this price cap might be creating an artificial price point that in and of itself distorts competition. I guess that’s sort of covered in 101. I think it’s an important observation that they were willing to raise prices, but I guess I don’t know whether or not that would allow people to jump to the conclusion that competition hadn’t been created.

JORDYN BUCHANAN: Yeah, well, I think mostly what it demonstrates – I think the fact that .NET is consistently increasing prices wherever they can mostly indicates that, gives us evidence that the price cap is probably binding right now in that the natural price for .NET would be higher than the price cap but Verisign, they're just not allowed to charge that much.

JONATHAN ZUCK: Right. I think it's more a question of phrasing it that way maybe. The natural price might be higher. I don't know. It's forcing the new gTLDs to try and price at those artificial [inaudible] to be competitive.

JORDYN BUCHANAN: Yeah, potentially at or below. For the TLDs that are trying to compete based on price as opposed to quality of namespace, that's right. They have to generally [go on] with very low prices, which is presumably why we see some TLDs going in with prices of .99¢ or something like that.

Which has an interesting tie in when we look at the correlation with abuse potentially with low prices. If the effect of the price caps is that you force more and more people to price really low and low prices result in abuse as opposed to a natural state of the market where it could be that TLDs would tend to want to price a little higher than the price caps allow them to do, you might actually end up with less – well, I don't know if you would end up with less abuse because the other thing we saw from the DNS abuse report is that [the overall amount] of abused didn't really increase.

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At the very minimum if prices were higher, it's possible bad guys would have to pay more money. Which I don't know if that's a pure victory or so what? But you think that would have some effect eventually. So I think you're right, Jonathan.

Here's what I suggest that we do here. Let's get the information from staff to see if there's anything other than .NET that we can talk about in this context, and then maybe just try to do – I don't know, Jonathan, if you have time to potentially pull out the – I think we should just pull [101] up into the main discussion and put it in context to the .NET price change to say we think this is actually happening. We're not sure because we can't look into Verisign's minds as to what the actual price they would want to charge is. But the limited evidence we have, there seems to be some evidence that would indicate that the price cap is binding right now.

JONATHAN ZUCK:

That's right. And then I guess sorry, Jean-Baptiste or whoever is controlling this, can you put Waudo's draft back up again? I feel like just as you took it down I noticed something that seemed illogical to me, but maybe I misread it too quickly. Okay, "Moreover, although the new [gTLD has held] prices above legacy gTLD price caps, it was estimated that those higher prices might have acted as a constraint on the ability of legacy TLDs to increase their prices significantly [if caps were removed]." I don't know that I find that sentence logical [inaudible] higher prices [might have] acted as a constraint.



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JORDYN BUCHANAN: Right. Yeah, I think the phrasing before in this sentence is actually probably I would prefer, maybe partly because I'm just reacting to passive voice as well, the ["it was estimated"]. I feel like here we don't see....

JONATHAN ZUCK: "Higher prices might have acted as a constraint."

JORDYN BUCHANAN: Yeah, I think you're right.

JONATHAN ZUCK: The fact that a price is higher doesn't feel like it would be a constraint. That's why I guess I'm confused. I can take a pass at this. I wanted to just sanity check and have you put another pair of eyes on that to make sure that I wasn't missing [the logic behind this].

JORDYN BUCHANAN: Yeah, I agree. That doesn't quite work for me either. Yeah, I think you're right. If you can just take another pass based on today's discussion, that would be fantastic.

JONATHAN ZUCK: Okay, I'll do that.

JORDYN BUCHANAN: Alright, Dejan, do you have any comments on this section.

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DEJAN DJUKIC: [No, I don't have anything.]

JORDYN BUCHANAN: Okay, thank you. All right, so on the agenda we have further discussion of parking. I don't know actually. I think the takeaway from the last call was that we're actually waiting for a set of revisions, some from Laureen and some from Jonathan on the parking paper. So I haven't done anything on the parking paper over the last week [inaudible].

JONATHAN ZUCK: Laureen has done some edits and I've started to do some edits, but I guess I kept saying in the prep for this that it's not a competition issue. I think it's a plenary issue.

JORDYN BUCHANAN: Sure, yeah, it's for the plenary call.

JONATHAN ZUCK: The other thing I think we want to try and do if we have John McCormac here as an observer, I think we want to try and schedule a call with him as well [inaudible] another draft.

JORDYN BUCHANAN: Sure, yeah, I think we could.

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JONATHAN ZUCK: I think Alice taking that on to try and get something scheduled with John.

JORDYN BUCHANAN: Okay, sounds good. All right, this sounds good. So we'll skip over parking. Then just to review – actually before we do other things, I realized Dejan sent out language revisions for three recommendations. I was intending just to review the state of the recommendation edits that were proposed, but why don't we start with the ones that Dejan sent out in the last 24 hours since we actually have some new content there to talk about. Dejan, do you just want to briefly walk us through the revisions that you've posed?

DEJAN DJUKIC: Okay, would you like to represent now all those three, or just according to your agenda 7 and 8?

JORDYN BUCHANAN: No, why don't we just go through all three for the moment.

DEJAN DJUKIC: In the Recommendation 7 and 8, I actually wasn't sure what we meant by TLD [sales]. I tried to find if there was any definition of that in the report. There is no specific language of that, so I proposed some alternative definitions, alternative terms of TLD [sales]. It is TLD registration number [inaudible] per TLD and registrar. So if it is not [inaudible] enough data and if we meant something different by TLD

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[sales], we could add some different definition and keep it as it is and add some additional sentence in [inaudible] recommendation or [inaudible] report. I'm not sure. What are your thoughts on this [inaudible] language?

JORDYN BUCHANAN: I like this. I think this is a lot clearer. It's a lot easier for someone to implement. I don't know if I could think of additional data that we might mean by sales unless we start to get into pricing again, which would complicate this quite a bit. So I'm supportive of this edit. Jonathan, do you have any feedback? It seems like no.

DEJAN DJUKIC: He says in the chatroom [inaudible].

JORDYN BUCHANAN: [inaudible] great.

DEJAN DJUKIC: Let's move to Recommendation 8 is changed from prerequisite to law [inaudible] based on comments.

Also, ICANN Organization asks for those two recommendations to be more specific in a way that they could prepare a budget and to be more specific what sort of data are they looking for. But at this moment, I'm not sure that we could describe what are those data because ICANN should ask [inaudible] try to find some cooperation with those

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[organizations] such as CENTR and other regional organizations. [It mostly depends on that.] If they're not willing to cooperate or what sort of data they're willing to give. Most of the analysis [depends on that so] in this moment I think we are not able to give some specific definition [inaudible].

JORDYN BUCHANAN:

Thanks, Dejan. Now that you've laid out these recommendations right next to each other like this, it actually seems to me that it would make a lot of sense to just consolidate these two recommendations into one with the option of using the partnerships [inaudible] organizations just as a potential mechanism for accomplishing number 7 as opposed to a standalone recommendation in its own right.

DEJAN DJUKIC:

That's [inaudible] logical for me.

JORDYN BUCHANAN:

And then I think as to your point about – I think you're right that it would make sense for them to first look at these potential third-party organizations to see what's there and not necessarily have us prescribe exactly what it looks like and then have the third-party information not be quite right and then they have to start from scratch.

But one thing we could say, because my sense is – this originally came from Stan – but my sense is that the methodology for the [inaudible] study was something that we thought was helpful. So it's something we could us specifically here to say, for example, by sampling WHOIS data

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as the [inaudible] study did or something like that. That might be a way to at least give the idea of what we're looking for a little bit more specifically.

DEJAN DJUKIC: [inaudible]

JORDYN BUCHANAN: Okay. Dejan, could you maybe take one more pass at this and try to consolidate 7 and 8 and make that reference to the [inaudible] study? And then I think these are looking really good.

DEJAN DJUKIC: Okay.

JORDYN BUCHANAN: All right, thank you. Jonathan, unless you have any feedback, we'll jump to number 12. All right, so you want to talk us through number 12, Dejan?

DEJAN DJUKIC: Okay, [inaudible] recommendation is moved from [inaudible]. Maybe [inaudible] correct this [inaudible] few comments and we discussed about this on a previous call. Additional sentence is based on ICANN Organization request of being more specific in this recommendation because of [inaudible] contract and [inaudible] policies [inaudible] that this issue [inaudible] applicable law. But through our analysis and we

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were looking at the policies of [inaudible] registries, we found out a few unusual rules and unusual policies. And those registries had very specific [inaudible] share or sell personal data of registrants without their consent and without any rule or applicable law.

So my idea was to add some additional language in the registry agreement to be more clear that sharing or selling personal data is [inaudible] most extreme case of [inaudible] violation, it's not allowed. So that's the point of this additional language in the recommendation.

JORDYN BUCHANAN:

Thanks, Dejan. I have some minor edits, but I can suggest those offline via redlines. I did want to talk about the prioritization though. I don't remember us talking about changing this to prerequisite. Especially given that we're now recommending those [channels] through a PDP, I would be really reluctant to make it a prerequisite because it basically means there's a new PDP needs to begin that hasn't even started yet and complete before we could allocate more gTLDs.

Given that PDPs are binding on all contracted parties whenever the PDP completes this would come into effect regardless of whether or not the PDP completed before the next round. So my opinion at least is that the previous priority was probably correct.

You're saying some of the public comments suggested this should be a prerequisite, is that right?

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DEJAN DJUKIC: Yes. It's from [ALAC] and a few of constituencies. Not a few of them. Once besides [ALAC]. [inaudible] but we can leave it [inaudible] to leave it [inaudible].

JORDYN BUCHANAN: Yeah, I don't know. Jonathan, do you have a thought on this?

JONATHAN ZUCK: Sorry. I was on mute. I guess that's the question. We need to just decide how we want to react to each of these comments. So the fact that somebody recommended that the priority change doesn't mean that we necessarily want to change it.

JORDYN BUCHANAN: Yeah, well, I think that in mind the important – oh, sorry, Dejan. Go ahead.

DEJAN DJUKIC: I just said that's true. Nothing else. Go ahead.

JORDYN BUCHANAN: I was just going to say given that, like on our last discussion of this, we talked with Dejan about saying how would we actually accomplish this. We wanted it to apply to all of the new gTLDs and probably the legacy gTLDs as well but certainly to all of the new gTLDs.



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So we shifted from saying this should be a requirement in the new guidebook, which you could make a prerequisite. That one would almost make sense to me as a prerequisite because it needs to go in the new guidebook if it's going to be effective. But since we've pivoted to saying, no, we think this should be retroactive and therefore it needs to go through a PDP, it seems like you probably don't need to make it a prerequisite given that change.

So I think the first change, the change in the recommendation itself, makes it so it's I think not only unnecessary but somewhat ill-advised to change the priority.

DEJAN DJUKIC: Okay, [I'll leave it as] [inaudible].

JONATHAN ZUCK: It might get done sooner as [inaudible].

JORDYN BUCHANAN: That's also true. We'll see.

All right, other than that, Dejan, I will send you just some minor wordsmith-y edits here, but I think it makes sense otherwise. It's consistent with our previous conversation too.

All right so, Jean-Baptiste, can you pull up the list of recommendations and who is assigned to do what. I know you have that little chart you e-mailed to me.

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JEAN-BAPTISTE DEROULEZ: Yes, I think it's currently in the agenda. I don't know if you see it on your form there, Jordyn.

JORDYN BUCHANAN: Oh, is it?

JEAN-BAPTISTE DEROULEZ: Yeah, so Recommendation 2 and 3 are assigned to you, 7 and 8 to Dejan, and 9 to you again. Then there was Recommendation 10 where there was a question whether this should be considered with Recommendation 40 where you need to have a discussion with David. Recommendation 11, you and Megan. Recommendation 12 Dejan again. And Recommendation 47 and 48 Megan, following edits from that Jamie shared after the last [inaudible] call. And finally, Recommendation 50 Jonathan and Megan.

JORDYN BUCHANAN: Right. Okay, so let's just run through the ones that are obviously [inaudible] our section at the moment. So 2 and 3, I still owe and update and I will endeavor to make that be sent out before the next call. I think we're just looking for language there.

Then Dejan has already given us a round of revisions, so that's good.

I totally don't remember. What's Recommendation 9? About parking?

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JEAN-BAPTISTE DEROULEZ: I will put them on screen so that [inaudible].

JORDYN BUCHANAN: Okay. I think 9 is parking.

JEAN-BAPTISTE DEROULEZ: Okay that's "conduct a [inaudible] survey of registrants. This survey should be designed and continuously improved to collect registrant trends. Some initial [inaudible]."

JORDYN BUCHANAN: Hmm...that's assigned to me? That's weird. I don't remember volunteering for that. All right, I've got my hands full with the other thing, so I might put out a call on the list and maybe suggest that Waudo in particular, we'll see if he can pick this up since he doesn't have any of the recommendations at the moment.

JEAN-BAPTISTE DEROULEZ: Okay.

JORDYN BUCHANAN: Then for 11, it was just a similar. I'll follow up with Megan and see what needs to be done there.

And then on number 10, I'm waiting to talk with David. I don't think 10 and 40 can be consolidated. They're in the same topic area, but I don't

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think the substance of the recommendations is similar. But I'll double check that with David.

JEAN-BAPTISTE DEROULEZ: Okay, and if you can let us know [inaudible] would be great. I tried liaising with David to see if he had anything to share on that, but I didn't get a reply.

JORDYN BUCHANAN: Okay, yeah, I'll drop him a note and see if he has any thoughts. But I personally don't see a way to consolidate them. So unless he has an idea, then we probably won't.

But I wonder if 9 and 11 could possibly be consolidated as well, so I'll suggest that on the list too.

All right, that's all of the recommendations in our section, actually. So it looks like we're mostly waiting on me and then a new volunteer for number 9. And then the parking recommendation is waiting for the edits from Jonathan [inaudible].

All right, I think that's it. That's the last item I had on the agenda. Is there any other business anyone else would like to discuss? Okay, I don't see anything. So we'll wrap up. Just a reminder, next week's call.

UNIDENTIFIED MALE: Jordyn?

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JORDYN BUCHANAN: Oh, yeah? Go ahead.

JEAN-BAPTISTE DEROULEZ: Before we wrap up, I'd just wanted to do a quick run through of the different action items we have just to be sure we're all on the same side, if you don't mind.

JORDYN BUCHANAN: Sure.

JEAN-BAPTISTE DEROULEZ: Okay, so we have ICANN Org. to share previous work made on price caps and confirm whether there was a mechanism for registries to increase price caps that CCTRT did not use.

Then we have Jonathan to revise the page 46 document based on Waudo's edits.

Dejan to consolidate Recommendations 7 and 8 and revise the text based on your input and also to revise text for Recommendation 12.

On Recommendation 9, Waudo will be assigned with this one and he has to look into revising it if needed.

Recommendation 10, that's you to liaise with David on whether this should be consolidated with Recommendation 40. And also you will look into possible consolidation of Recommendations 10 with Recommendation 9.

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And Recommendation 11, you will follow up with Megan.

Is that correct?

JORDYN BUCHANAN: Yeah, that's right.

JEAN-BAPTISTE DEROULEZ: Okay, perfect.

JORDYN BUCHANAN: Okay, so then I think we're at the – oh?

JEAN-BAPTISTE DEROULEZ: Yeah, you wanted to talk about next week's call I think.

JORDYN BUCHANAN: Oh, yes. I was going to say next week's call, just as a reminder, has been moved to Thursday in the same timeslot, mostly due to my travel schedule. So hopefully that works for folks. But I will be on a plane at [inaudible] in a week.

All right, so look forward to discussing, and hopefully we'll get a few more folks on the call next week as well. In any case, looking forward to the discussion next week, and thanks for joining this week.

**[END OF TRANSCRIPTION]**