
JORDYN BUCHANAN: All right. Welcome, everyone. This is the latest and greatest version of the Competition and Consumer Choice Subteam meeting. Apparently, it's number 27, the 23rd of August, 2017. I am Jordyn Buchanan, the Chair of the subteam and I think we are ready to start.

On the agenda today, we have a few updates to papers that have been sent around and along with initial revision by Waudu, I guess, [is to be] sent out this morning. But why don't we dive right in?

The first of these is a revision to the section with the pricing and the net price increase in particular. I think Jonathan sent around an update to that yesterday. Jonathan, do you want to talk us through your [inaudible]?

JONATHAN ZUCK: Sure. Can you hear me?

JORDYN BUCHANAN: Yep.

JONATHAN ZUCK: Okay, great. I don't know the best way to talk through prose like this, but basically, as overview, the latest legacy TLD to bump up their prices was .net. When we looked historically, they all raise their price every time they get the chance and so, it seemed worth talking about that fact.

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And so, what I try to do here was say that the wholesale prices were above the gTLDs, but they weren't statistically significant. That's from the previous paper. The absence of data, transactional data, makes it difficult for us to see if there was any real dancing below the price caps in terms of affected prices from competition.

But that appears – there's some anecdotal evidence there like promotional prices [at .XXX] giving away a bunch of domains and things like that. But it appears to be the exception, and in fact, the pricing seems to be right around the caps. And historically, the registries have raised prices allowed by the caps and all of them have done it. And .net is still, I think, one of the cheaper ones but that's the most recent one to do it.

Then what I tried to talk about is something that was in a footnote, basically, in the original draft, which is that these price increases themselves are not necessarily dispositive of the absence of price-based competition because the competitive price might be something higher than the cap.

So the way that Jordyn has always talked about it is that prior to the New gTLD Program, the price that these folks wanted to charge or would have charged for a new gTLD is \$15 and after the New gTLD Program has come in place, \$10 is the new price. But because there's a price cap below \$10, we can't see that movement, basically. So that's what I attempted to say here as the competitive price might be higher than the existing caps.

It's possible there is a market distortion created by the legacy price caps, which acts as a de facto cap on new gTLDs as well. A lot of times, there's artificial constraints that have an impact on competition, particularly from smaller entrants without economy to scale.

And then I just again said that we really can't reach definitive conclusion on the issue [inaudible] price competition in the absence of adequate data until more time has passed for the [affected] new gTLD entry to be [fully felt].

And so it's our standard thing, throwing over to [transitive] and saying it should be dealt with in future reviews as well.

So those were mid-domain points. I hope that's enough kind of overview to solicit questions or comments about the new draft.

JORDYN BUCHANAN: All right. Thanks, Jonathan. Anyone? I have a quick comment or question. Does anyone else have any questions or comments for Jonathan [inaudible]? I see Brian's got his hand raised. Go ahead, Brian.

JONATHAN ZUCK: You might be on mute, Brian.

JORDYN BUCHANAN: Yeah. So far, we can't hear Brian.

BRIAN AITCHISON: Sorry, I was having trouble with my phone.

Just a minor nitpick, Jonathan, about the “statistically significant” phrase. Was there statistical significance testing run on anything that was talked about in these paragraphs? It’s just a kind of loaded term. That’s all. It’s [inaudible].

JONATHAN ZUCK: It is. I guess it is, but if you’ve got an alternative. I didn’t write that sentence. I left it in from the previous draft and you let it slip through. But that said, if you’ve got a better way of saying it, then feel free to make the change.

BRIAN AITCHISON: Okay.

JORDYN BUCHANAN: We should double-check with the next group, but I do think they had done some... I do think that comes from the Analysis Group.

JONATHAN ZUCK: Analysis Group? It might have.

JORDYN BUCHANAN: That there was a decrease, a very slight increase in price. But it was not statistically significant. So Brian, maybe we should just double-check that [inaudible] right where that came from. I think if we just look at the

final report from the Analysis Group, that may be where that [inaudible].

BRIAN AITCHISON: Yeah. I do know that Analysis Group didn't run statistical significance tests, so it's just a minor question. I know the kind of economists of the world will look at that and ask if they ran statistical significance tests. It's a specific mathematical term, so I'll try to think of a clever alternative and send it to you and Jonathan, if you don't mind.

JONATHAN ZUCK: We could just say the differences are not significant.

BRIAN AITCHISON: There you go. Hey, there you go.

JONATHAN ZUCK: And leave the statisticians out of it, but [inaudible], Brian.

BRIAN AITCHISON: Sure.

JORDYN BUCHANAN: And any other questions or comments for Jonathan?

So I was just going to add Jonathan, it would be actually helpful to add some prose around like a \$15 to \$10 example, just sort of laying it out a little bit more.

JONATHAN ZUCK: Oh, okay.

JORDYN BUCHANAN: I can probably [inaudible] adding a little bit more.

JONATHAN ZUCK: Just so [inaudible] more.

JORDYN BUCHANAN: Yeah, we've been talking about this so much that I think we sort of jumped. We sort of see where you're getting at, but I think someone just coming to this for the first time may not understand what that notion of the competitive price really is.

JONATHAN ZUCK: Okay.

JORDYN BUCHANAN: So I can try [inaudible].

JONATHAN ZUCK: Okay.

JORDYN BUCHANAN: All right. It looks like we don't have any other questions or comments, so we'll take a look at those two issues and then otherwise, hopefully, this will be good additions to the eventual final reports.

So let's jump to everyone's favorite topic, parking. Jonathan had also sent out some edits on the parking paper, so I'll turn it back over to you.

JONATHAN ZUCK: Okay. So this is a long paper for me to read to you, so I think that the high level of this is that we had two objectives in this latest draft of the analysis of parking.

One was to try and contextualize the test we did as more important if it is succeeded than if it is failed, if that makes sense and the other was to get out some of the additional hypotheses associated with parking to help underscore some of the complexities associated with trying to put parking in its place, and part of that is also our definition of parking includes sufficiently different types of domains that it's difficult to treat them as a single entity.

And so as we kind of agreed on the call, we sort of a few calls ago, decided to kind of take the prominence of the calculation away and not give it sort of equal standing as the other calculations [of] paper, and so it's made its way into the footnote instead. Those were sort of the biggest pieces of this.

So, at the top, we talked about the... Basically, it felt like we were trying so hard to apologize all the way through this paper. I tried to rewrite it to be more direct and less passive language, and things like that, and just said the majority of domains and most likely gTLDs are not primary identifiers of typical websites. And they're forwarded to other domains, including sub-domains used only for e-mail, monetized via advertising or simply do not resolve, perhaps held in reserve by speculators.

So that's kind of how I tried in prose to describe what the overall situations were, and then we simply called this "parked" and if we used this expensive definition of parking, that's where we have the 68% of registrations.

And then the rest of this is the same. Do I have scrolling control, or does everyone?

JORDYN BUCHANAN:

Everyone has scrolling control [inaudible].

JONATHAN ZUCK:

Okay, great. So then I'm coming down to the second page here. And then because the percentage of parked registrations in new gTLDs is somewhat higher than in legacies – 68% versus 56% – this is Jamie's edit so this is probably worth discussing. It's unfortunate he's not on the call, but to understand whether this phenomenon would affect its inclusions.

So these are where the hypotheses are laid out. Hypotheses could be advanced and would suggest counting certain types of domains differently when computing market share in concentration.

For example, one possible reason for taking parking rates into account is that registration renewal rates may be negatively correlated with rates of certain types of parking so that the current market shares of TLDs with relatively high parking rates may overstate their long run competitive significance. And in that instance, you would discount at a rate commensurate with the correlation.

And then an added hypothesis, [inaudible] hypothesis has been in there all along. Another hypothesis is [inaudible] domains that it uses pointers and apply a transition away from existing domains. So in this case, the domains to which others are pointed would be discounted at some rate.

And then finally, it's possible the speculation has a pro-competitive effect captured directly by market share in concentration calculations by bridging new entrants to maturity which generally takes three years. And given the mandate to examine the impact of new gTLDs, we wanted to perceive there was a delta, and this part is essentially the same.

We wanted to see if there was a delta between the legacy and new gTLDs. We found that there was, which is why I'm not completely in agreement with Jamie's edit above. I think he was just concerned that I was... that the text was too strident there before.

But then the rest of the paper is fairly straight-forward from what it was before. It just, like I said, moved the calculation down into the footnotes, etc., which Jordyn has done in his draft.

Again, I guess I'll stop there. I think it's probably worthy of some discussion. Jamie's edit is probably worthy of some discussion because

the term about the percentage of park registration new gTLD being so large dates all the way back to a stanza in the initial draft and it just had to do with the fact that the percentage being overall and not about the delta, but the number being big overall is what drove us to try and understand the implications of this phenomena.

So that's why it was written the way that it was and Jamie sort of jumping ahead to describing the delta is somewhat higher and there may be some disagreement about that because of the 20%. But there you go. Are there questions about it? Comments?

JORDYN BUCHANAN:

Jonathan, I have a quick question, which is I think we previously discussed Laureen had submitted to those [with] her concepts incorporated into this [inaudible] as well?

JONATHAN ZUCK:

So I worked from her draft. And so she has had this draft for a day. I removed a lot of what she wrote, but tried to capture the essence of what she wrote if that makes sense because again, I feel like it was one of those things where it became a Christmas tree of passive language over time because we were trying so hard to downgrade the importance of the tests we did and talk about how complicated this is, and stuff like that. And so I just tried to switch things to more active language. So she's got the draft and is looking at it.

One of the things she had was a fairly extensive footnote on the limitations of the calculation because while the calculation – and I'm

forgetting the name of it because there's a law firm on a show on television called Suits that's Pearson Specter Litt and so that's what I think of when I think of this test. Yes, thank you, Pearson correlation analysis.

So Laureen went out and researched that, looking for criticisms of it and had a pretty extensive footnote that talked about the fact that because it shows correlation, not causation, that you could end up being confused about the direction of the correlation if you weren't careful.

And it seemed to me that in this case, there wasn't an opportunity for that confusion even though in some instances, there can be. And so I took it out, and so I'll wait and see how she reacts to that, but I felt like it was trying too hard to critique the methodology. But instead, I put it in its place and simply say that it really would have been interesting had there been a positive result and it's not particularly interesting that there wasn't. I hope that makes sense.

JORDYN BUCHANAN:

Yeah, I think that's right. I think since there wasn't, it seems like there's really no opportunity to confuse causation and correlation since we found that there is not a correlation so we wouldn't be able to [inaudible].

JONATHAN ZUCK:

That's right. Again, I think she was reacting to Stan's criticism of the simplicity of the calculation and went out proactively to find criticisms

of it, but that particular criticism felt like one that wasn't applicable here.

JORDYN BUCHANAN: Yeah, that's right, and I think we all acknowledge it was very simple. What we wanted to do is figure out if at a high level, there was an easy to discover correlation that would give us a sound basis back out, but [inaudible].

JONATHAN ZUCK: Right. And so I guess the question is, is there a... I was going to see if I could find that sentence and you could see if I sort of captured it. I mean, that's probably a significant. So here's the sentence. It's on page 5 toward the top and maybe folks can read this in particular, and maybe in particular, Brian, two and a half lines down.

"While the identification of a relationship would have been interesting, the results of this test are by no means dispositive of a potential correlation." That's how I tried to summarize it.

JORDYN BUCHANAN: Yeah, that sounds correct to me. That's fine.

JONATHAN ZUCK: Okay.

JORDYN BUCHANAN: Any other feedback for Jonathan, or questions?

JONATHAN ZUCK: I guess I don't have the ability to move that arrow. Okay.

JORDYN BUCHANAN: All right. So why don't we go ahead? Thanks for this, Jonathan. I think it does make sense to try to discuss this on a [plenary] call so we make sure we have Jamie and Laureen's feedback as well.

But for the moment, for our discussion here, this is [inaudible].

JONATHAN ZUCK: Oh, I guess, before we leave it, do you have a thought on Jamie's edit to page 2?

"However, because the percentage of parked registration new gTLDs is somewhat higher than in legacy gTLDs," so basically he jumped ahead to that calculation and that wasn't really the motivation for looking at it, but the fact that the majority of domains were parked was really the issue.

JORDYN BUCHANAN: Yeah, and that's a large language [inaudible] in our draft report, so I don't have a problem [inaudible]. But I'm happy with the original language, and I think that was always the reason why parking was... We were attracted to the topic, right? Because it was always so large and we didn't know that it was [inaudible].

JONATHAN ZUCK: That's right.

JORDYN BUCHANAN: So I would be inclined to stick with the original language, but you know, we can maybe check that with [inaudible].

JONATHAN ZUCK: Okay. All right. Thanks, guys.

JORDYN BUCHANAN: All right, why don't we move on to our Topic #4? This should be quite brief, actually, since I think we only have updates on one of these, which is Recommendation 9 from Waudou, which I guess he sent. Jean-Baptiste, did you get that [inaudible]?

JEAN-BAPTISTE DEROULEZ: Yes, I did.

JORDYN BUCHANAN: Okay, so why don't we [inaudible] with that? Okay, and Waudou, do you just want to talk us through what you found in looking at the public commentary?

WAUDO SIGANGA:

Okay, just a couple of [inaudible]. It's still a work in progress. I looked through the public comments and most of them, actually, don't make any reference to Recommendation #9. They are only about five that do.

Of the first that do, the edit that I've done to the recommendation so far is taking into consideration only two of them. That's one from INTA. INTA was concerned that their numbers have actually not been reviewed. They asked questions in the [survey] that were done, so the recommendation there, the addition is that all stakeholder groups should be included.

And then there was one for the comments that actually reinforced the [inaudible] from each group, but there was one further comment. There are both three other comments that are [inaudible] to incorporate, but one of them is a bit of a [inaudible], the one from the ICANN group that is actually talking about bonding together the Recommendation 9 with a few other recommendations. You know they can get it here.

[Inaudible] Recommendation 9 would be 11, 15, 26, and 36, so I'm still yet to see the impact of that on Recommendation 9 alone, so maybe I'll do that a little bit later.

And then [inaudible] also has a comment on Recommendation 9 that I also have to see how to incorporate.

Another one that is still pending is from – let's have a look, it's already there – [Neustar]. [Neustar]'s comment is almost like [inaudible]. The concept, the sample, that is going to be taken, that the sample should be [selected] [inaudible] the reality in the market, so that one, I think, is included.

There is also a comment from the registry stakeholder group. I am yet to incorporate that one and I think that is all. So I'm willing to incorporate about two or three comments, and then I'll come up with a final suggested new for the Recommendation 9. Thank you.

JORDYN BUCHANAN:

All right, thanks, Waudo. I'm going to see if anyone else has questions for Waudo and his work so far. All right, not seeing anyone, [inaudible]. So Waudo, I guess with regards to the [inaudible] comment, and I guess to a certain extent, the [Neustar] comment as well, I would be a little bit worried with the notion that INTA suggesting that you should make sure that like individual stakeholder groups get represented in the survey.

I mean, it's not that surprising. So I guess it's not that surprising to me that INTA members weren't included in the initial survey and that if we do a random sampling of domain names, it's not particularly surprising you wouldn't end up with INTA members represented there or maybe there even were. I'm not sure if INTA actually did a check with its membership as to whether anyone happened to have received, participated in the survey, in the study or not. That would be interesting to understand.

But for sure, if we change the methodology to make sure specific groups were represented, I think that would have to be done very carefully to make sure that it was acknowledged that the sample was being skewed in order to make sure that certain groups were represented in that sample and potentially represented in both of their natural occurrence in the population.

So yeah, we have a separate recommendation that there should be an analysis of impact on trademark holders and it doesn't seem to me that we need to both manipulate this registrant survey and do that separate study as well, so it [seems] that we are consolidating recommendations. Maybe that's an opportunity to do so, but I would think you would get pretty different sort of types of responses from generic registrant [inaudible] a sort of trademark oriented study and it would be better to keep those two things separate.

WAUDO SIGANGA: What number is the recommendation for... Sorry, Jordyn, what recommendation is that for the trademark [holder] alone? Suggesting that should be [redundant] with this one.

JORDYN BUCHANAN: I think it's either 10 or 40. I think it's number 40. Yeah, it's [inaudible].

WAUDO SIGANGA: I'll look for it later. It's not 40. I'll look for it later on.

JORDYN BUCHANAN: Okay, there is definitely a recommendation that says to periodically repeat the impact analysis on trademark holders.

WAUDO SIGANGA: Okay.

JORDYN BUCHANAN: Which is essentially, it's a membership sort of code word.

WAUDO SIGANGA: Okay, sorry.

JORDYN BUCHANAN: So I [inaudible] hear more about sort of constructing examples and making sure that the sample is representative of certain types of groups that might not naturally occur in the sample.

All right, any other questions or comments for Waudo? All right, thanks, Waudo. We'll let you complete your analysis and see if you [inaudible].

WAUDO SIGANGA: Jordyn?

JORDYN BUCHANAN: Yeah? Yes?

WAUDO SIGANGA: Okay, this other comment, I think it's from the Registry Stakeholder Group about perceived benefit of the recommendation. How is that [put] in editing?

JORDYN BUCHANAN: Sorry, what was the registry holder [inaudible]?

WAUDO SIGANGA: Yeah, it says, “What is the perceived benefit of this recommendation? What would be the cost to carry it out and would the benefit exceed the cost?” Are we dealing with this issue of cost and benefit in editing?

JORDYN BUCHANAN: Yeah, I think at the minimum, we should make sure that the benefits of the... I think one thing we did agree on of the Review Team is we make sure that the benefits were clearly articulated for each of the recommendations. So I think here, if you just look at the other – not the recommendation test itself, but sort of the rationale, that we should just make sure that clearly states why we think that this [inaudible].

WAUDO SIGANGA: Okay, thank you.

JORDYN BUCHANAN: All right, so I think that was our only... Jean-Baptiste, we haven't seen updates on any of the other recommendations this week, right?

JEAN-BAPTISTE DEROULEZ: No. I did not [inaudible] paper. No.

JORDYN BUCHANAN: Okay. So we'll hopefully be able to revisit the remainder of these on our next subteam call. But that's all we've got to review today.

Does anyone have Any Other Business that we'd like to cover today before we [end] the call, and a quick reminder at the end of the call?

Okay, it doesn't look like we have Any Other Business so we'll go ahead and wrap up for today.

As a reminder, there is a plenary call tomorrow, just to keep in mind that we are still aiming to try to send out a revised or a supplemental report with content related to both the DNS Abuse study and the INTA study by the end of the month. So we'll be discussing.

Drew should be sending out [inaudible] study momentarily. We'll be discussing that on tomorrow's call, so I strongly encourage everyone to tomorrow's plenary call at the same time.

All right. Thanks, everyone, for your participation today and hopefully we'll see you or hear you on the call tomorrow.

JONATHAN ZUCK: Thanks, Jordyn.

JORDYN BUCHANAN: Bye.

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