Registry SG Meeting with Board
Tuesday, 26 June 2012
ICANN Meeting
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>>STEVE CROCKER: So apologies for running a bit late but we should press forward.

This is part of the sequence in which the board meets with each of the constituencies and stakeholders through the day. We've had such an easy morning that I'm hoping that you guys will provide some excitement and keep us awake. We haven't been able to engage in any of the interesting issues yet with the ALAC, ccNSO. You know, all those guys are easy, so...

We have -- our standard form here is to dive directly into some contentful issues. There's a handful of issues on each side that have been prepared in advance. It's probably helpful to put up the first slide.

Good.

So these are questions from you.

Impact of new gTLDs on the ICANN staff, timeliness, predictability of more decentralized decision-making, and the impact of new gTLDs on the registry stakeholders group, and --

What is that?

Refunds?

I don't want to talk about that.

Board with Registry Stakeholders Group
26 June 2012
Open Session – ICANN 44 Prague

[Laughter]

>>STEVE CROCKER: Next?

>>DAVID MAHER: But we do.

>>STEVE CROCKER: Yeah. We'll come back to that. I'm being facetious.

Questions from us.

RAA negotiations. We want to know what you think, what your positions are.

The WHOIS report. What aspects do you think should be subject to policy work within the GNSO versus left to the staff to implement.

What is your thinking about the time frames that are associated with the current budget and operations cycle.

And I think there's another slide after that.

Yes, indeed.

And then some very quick questions on your views about batching.

What is your view on a single batch. Is there anything approaching a consensus? If there is, then what kind of time frame do you have in mind? And if there is to be batching, on the other hand, do you believe there's a consensus that a method other than digital archery should be used?

So there's the agenda for the day.

Let's roll back to the beginning and I'll turn things over to David.

>>DAVID MAHER: Thanks, Steve.

I'm David Maher, chair of the registry stakeholder group, and thank you for letting us take our agenda first. We appreciate that.

We'll start with the impact of new gTLDs on ICANN staff, and I'd like to ask Jonathan Robinson, who was one of our councillors, to address that.

>>JONATHAN ROBINSON: Thanks, David, and hi to Steve and Rod and the rest of the ICANN board.

I think really we -- the board actually, from -- at the last meeting has spoken to us as a stakeholder group and to be thinking about the impact of new gTLDs on our stakeholder group, and we are also mindful of the impact on, you know, your -- you know, the ICANN organization and all that that entails.

And clearly, you know, there's a much broader context to all of this where we've seen some of the impacts as the organization moves from predominantly policy management into managing a significant operational program and some of the challenges that has thrown up.

I suppose what we're -- where we're at is that there are many different forums and ways in which these are being discussed, and some of the issues that have come up are being dealt with, you know, including the dominant discussion on batching and so on.

But when you really boil it down to the issues for us as a stakeholder group and as registries, I think we have liaison personnel that we work with and we get on well with and appreciate their efforts in how they work with us, but it seems to us that at times that they -- we need to work with them in a way that they can produce timely and empowered responses to some of our questions.

Sometimes it seems that things get delayed in the organization and staff are not able to give us the answers we need fully or accurately, as speedily as we might like.

And so really for us the challenge is both at the liaison level but also as the stakeholder group grows and expands -- and we've told you and we'll remind you, I think, of some of the changes we've made within our stakeholder group -- we're going to need that account management function, if you like, for want -- you know, to be as effective and well-managed as possible, but in particular to be empowered and able to deal with our queries and not to feel that those get held up within the organization through various things.

So that's really the key.

I don't know, Jeff, if you'd like to add or make any other comments because we've talked about this as well.

>>JEFF NEUMAN: Thanks, Jonathan.

Just to add to what Jonathan was saying, I think we're talking at two different levels here as well.

We're talking about, one, a liaison to deal with the stakeholder group as a stakeholder group, but that's separate from dealing with staff that we need to deal with each of the registries as registries.

I think when you're dealing with individual registries on operational issues, the term "liaison" has its own problems.

We actually don't need a liaison; we actually need an account manager.

We need someone that's empowered to make decisions, and that's one of the things that we've seen. Again, this is not a comment toward the current liaisons we have, who are great people, very acknowledgeable, but it's our feeling as a group they are not empowered to make decisions.

They always have to go back to whomever and get authority and get some kind of advice or instructions, and that is not scalable at all.

When a registry calls and needs an answer, it's not acceptable to say, "I need to check with my legal department on everything,"or "I need to check with so-and-so."

Of course there will be issues that they have to go back on. I mean, obviously we don't expect them to know everything. But there's a certain level of, let's call it Tier 1 support that we believe that the -- what are currently called "liaisons" which I truly believe we need to change the title to "account managers" or something like that.

We've had this discussion with ICANN staff, with Kurt Pritz, and I see him in the audience, and he understands the issue and we just hope that you all will help them follow through to make sure that the qualifications we need in an account manager is one that's got some business experience.

And I don't mean business from a commercial standpoint or, you know, from a for-profit standpoint. I mean someone who understands how organizations operate and work, as opposed to, you know, the policy.

And so I think, you know, that's what we spend a lot of time talking about, and we're really looking forward to it, because it's an exciting time and, you know, you all have a lot of work to do as well.

>>DAVID MAHER: Thanks, Jeff.

Question?

>>JUDITH VAZQUEZ: This is Judith Vazquez. I sit on the board.

My question is -- and this is to Jeff -- who is the registry? Is it the technical platform provider who will do the calling or will it be the registry on contract?

>>JEFF NEUMAN: In this capacity, it has to be the registry that's under contract. It's not meant to foreclose any discussions with back-end providers, but in essence it's the registry under contract that has the primary responsibility of interfacing with ICANN staff unless there's some other arrangement privately worked out between those parties.

>>STEVE CROCKER: Bertrand?

>>BERTRAND DE LA CHAPELLE: Just a -- this is Bertrand de la Chapelle. Just a quick point to say that we don't need to belabor this discussion right now because there are other topics.

It is a great illustration of the benefits of launching the issue relatively early, because at each meeting some list of questions -- and for instance, the background of staff, the structure of staff is something that has not really been mentioned in the previous discussions and I'm very happy that this is added to the list of topics.

I just wanted to say that the goal is to make sure that in Toronto we shape in an appropriate manner a space during the meeting to talk about this with different groups in the community, and I would be very happy -- and Ray as chair of the Structural Improvements Committee is following that very closely as well -- happy to have your feedback and your comments on the topics.

We are at a stage where we want to identify as closely as possible the list of issues. Not jump into the solutions immediately, but identify correctly all the different issues so that we can prioritize them and see what are the short-term, mid-term, and long-term impacts that have to be addressed.

But thank you very much for the input.

>>STEVE CROCKER: Good.

>>DAVID MAHER: Okay. Moving along, then --

>>STEVE CROCKER: Yes.

>>DAVID MAHER: -- the next topic, the impact of new gTLDs on the registry stakeholder group.

 I think you're already quite familiar with what we've done to anticipate the considerable enlargement of the stakeholder group.

 We've now, for some time, enabled observers to participate in our meetings, and we've added to observer status recently by amending our charter, and just this morning the group of those who have observer status in our group met at 7:30 and they've created an interest group within the registry stakeholder group.

 Jon Nevett, I believe, is the interim chair of that group. Jon, if you'd care to say a few words about what your group has done already.

 >>JON NEVETT: Sure. Thank you, David.

 So as David mentioned, we formed the new TLD applicant group this morning, or NTAG, because we need an acronym, and this group will be a group of applicants for this new round of gTLDs under the auspices of the registry stakeholder group, and once we get our contracts to become registries, we will leave the interest group and become full members of the stakeholder group.

 But with David's blessing, the stakeholder group has been very welcoming to what -- we call ourselves observers to the stakeholder group, and while we're called observers, we're full participants except for voting, and the group has been very warm and welcoming to us and our input.

 And you will see, in the future, policy statements from the new TLD applicant group which may be apart from the actual statements from the stakeholder group. We might support a statement of the stakeholder group or we may have our own statement.

 But at least we're organized now and have the ability to do that. Thank you.

 >>DAVID MAHER: Thank you, Jon.

 >>STEVE CROCKER: I call on Ray.

 >>DAVID MAHER: Yeah.

 >>RAY PLZAK: Just a question in this area.

 And I don't want to set a discussion up, but I'm throwing it out as food for thought.

 What do you think is going to be the synergy between the registry stakeholder group, the registrar stakeholder group, with the advent of all these new gTLDs and

the policy regarding vertical integration? It's certainly going to be something different than you have now.

 So I wonder if you've explored that or if you've thought about that, and what you could forecast as what the world will look like in maybe three to five years in that regard.

 >>DAVID MAHER: We've given that a good deal of thought going back for some time, and in principle I think almost everyone that I've talked to, not only in our group, but in others, we agree that even given vertical integration, a particular entity should only be able to vote in one stakeholder group or constituency, as the case may be.

 And we've had talks, for example, with the registrars. The executive committees of both groups have met. And in principle that's agreed to that if registrars become involved as registries, they will have to make a choice as to where they vote.

 And I think that's a workable solution. Go ahead.

 >>KEITH DRAZEK: Okay. Thank you, David. And Ray, thank you for that question. It's a really important one, and I'd like to just expand on that briefly.

 Obviously, when the introduction of vertical integration was, you know, identified and permitted in the new round of TLDs, it did raise the question about, you know, voting and representation in various stakeholder groups. Specifically, the registries and the registrars.

 But as we now know, following the reveal day for new top-level domains, it's actually a bigger issue than that. It's not just registries and registrars.

 With the advent of dot brands, for example, and companies that may be a single registry/registrant, you know, protecting their own mark, they may have interests in the intellectual property constituency. They may actually have interests in the business constituency.

 So it's theoretically possible. I mean, you could have one entity that has interests in four different stakeholder groups or constituencies.

 So while we're currently focused on a lot of tactical things related to the new gTLD process, there's actually some more structural and strategic things that we need to be thinking about as a community.

 There's actually a WHOIS -- sorry. There is a GNSO review scheduled for -- to begin next year, and it's unclear at this point whether that review is actually going to be

worthwhile, is to be done on schedule, because we're still going to be in the process of the introduction of all of these new top-level domains, new players, new participants.

So I mean this is something that not -- it's more than just the registries and the registrars.

>>RAY PLZAK: Can I speak to that last point?

You know, I'm the chair of the SIC, and the scope, if you will, of the review is moving more from one of what you do, per se, more to how you do it.

So it's more of one of measure of organizational effectiveness.

And so we will be looking -- the independent reviewer will be looking at it because -- and actually, you will get a chance to participate in the formulation of the criteria which staff is busily working on now, because the intent is to not let the contractor invent the criteria, but to give him the criteria to use which reflects the thinking of the community and the board as well.

But the thing is, it's going to focus more towards organizational effectiveness, so it's going to be how are you -- what -- how are you coping with this. You know, what kind of operational plans do you have. What are you looking at in terms of resources. What are you looking at in terms of governance.

It's not going to be a judgment, if you will, on the content of that. More as a way of how you -- how you're going to deal with it.

And certainly during this time frame, if there are things that are going to cause changes to the structure of, for example, this stakeholder group, those would be made independent of the review, because you can't wait for a review to say, "Okay, now we can do this," because the dynamics of the situation just won't allow that.

And so that's why we've tried to focus this more on organizational effectiveness, like what are your -- what are your election procedures, you know, all those other kinds of measurements of how you do business, as opposed to the actual content of it.

>>DAVID MAHER: We have given thought to election procedures.

The size of the registry stakeholder group in the past has made it possible to operate by consensus. Clearly, when we have, say, 500 or a thousand members, consensus is probably not achievable. At least in a practical way.

 So we have thought of voting procedures. The current charter, which is publicly available, provides that in any given case a member can invoke a -- voting that is based on the number of domains under management, and at least going forward, we assume that that will be the best way to proceed for a fair voting system.

 I think Bertrand had a comment?

 >>BERTRAND DE LA CHAPELLE: Thank you, David.

 A question in -- as a follow-up, and not to belabor but to put on the thinking list, the distinction how do you integrate or how will you integrate the evolution in the structuring of the market or the industry with the emergence of back-end registry service providers that will be basically doing the churning of the hard work operationally, separating the policy function where there will be a registry nominal owner that will be doing the policy function and just outsourcing the back-end registry?

 How will you integrate this new type of operator, knowing that some of them will have actually a lot of contracts with registries? And if they are part of the decision-making process, they can even be requested by their operator to be the representative in the environment.

 How will you be handling the weighted voting or the number of proxy -- it's not proxy, it's the delegation of voting that those actors may be -- is it likely to bring an imbalance? How do you consider the structuring of this group in the future?

 It's not for an answer right now, but to make sure that this topic is on the agenda.

 >>DAVID MAHER: Ken?

 >>KEN STUBBS: Yeah. I'd like to elaborate a little bit on what Keith said, and that is that already we have reached out to other constituencies, including the BC, and discussions, informal discussions, with members of the IPC, recognizing the role that they have and how they relate, because many of the brands that are applying as applicants are members of these constituencies. Creating an awareness to avoid situations where there could be conflicts in the voting procedures.

 And we're trying to work in a very smooth, transparent way, and we've gotten a very positive response, especially from the BC that has many of these applicants in there. And it's important to know that it's not just a contracted party thing, but rather working with that entire community.

 >>DAVID MAHER: Thanks, Ken.

>>JONATHAN ROBINSON: Thanks, David. Just two very brief -- I think they're informational points. I mean, one is that as a supplement to that is of course the advent of the cc operators moving into the new TLD space, which is another key crossover point as they have applied for the operation of gTLDs.

 In fact, there's one even more sort of extreme example, in and of itself, that doesn't appear to cause particular concern, but that's a cc operator applying to ICANN to be not only a gTLD operator, but as well, a registrar at ICANN.

 So I mean, that's a pretty substantial conceptual change, even if in practice it doesn't make a whole lot of difference right now, and there's some specifics about that example.

 And then to Bertrand's point, I'm not sure if I understood you correctly, but in no way do I want to undermine the value of the points you made but there are of course existing back-end operators running TLDs right now and have been doing so within our stakeholder group for some time, but the scale of the problem is what changes substantially.

 And so, yeah, I -- exactly.

 And I take that point.

 >>STEVE CROCKER: Let me ask -- make a suggestion here.

 This question of scaling and the impact on the organization is one that is quite obvious to discuss and -- but less obvious as to what the precise details are.

 We met with the contracted -- non-contracted parties commercial stakeholder group earlier and had some related discussion, and I would like to ask all of you to jot down briefly -- let's say one page max -- what you think the impact is going to be, and then any suggestions you might have or things to consider. Not necessarily -- doesn't have to be an official position. It doesn't have to be, you know, a specific demand, but a thought piece that would go into the meaningful discussion of these things, and to get that started.

 And so no process. Just, you know, sort of get to the bullet points and do that.

 And then I think we can have a kind of interesting discussion.

 And the other thing is that I have a favorite little essay that relates to scaling and structure and if you send me names, I'll send this out. It's only about three pages. It's a classic by J.B.S. Haldane, an early 1900s naturalist, titled "On Being the Right Size," and a little exercise in mathematics. Yeah. Ray?

>>RAY PLZAK: Regarding the paper that you were asking about, actually the plan is that what we're planning now from the standpoint of the Structural Improvements Committee is for Bertrand to conduct a session in Toronto to discuss this whole issue, so that would probably be your homework for that session.

>>STEVE CROCKER: Yeah. In preparation. Yep.

>>CHRIS DISSPAIN: Just a suggestion. You might want to talk to the ccNSO. And, Keith, I mean, you know how to do that.

Because (a) we're used to having gTLD operators running ccTLD registries, so that's worth remembering. And secondly, we've also gone through some structural changes because of the fact that we have to deal with the possibility that an IDN ccTLD manager in a country may be a different manager or a different registry from the current -- the manager of the ASCII ccTLD.

So we've done some work on how we manage that sort of thing.

So if you want to reach out and ask, we may be able to give you some help.

>>DAVID MAHER: Thank you. I think we can now move on to the third topic on the agenda we proposed, which is the question of refunds to applicants of surplus from new application fees.

Ken?

>>KEN STUBBS: Yeah. Thanks very much.

This won't take a long period of time, but I would like to, at this point in time, put down a placeholder for future discussions about a process for this and dig into this much more deeply.

There are expectations that exist with respect to what funds were to be used for that were given to ICANN to process the applications, as opposed to, let's say, the auction funds.

We have a lot more important issues than to worry about what to do if there's something left a year or whatever it may be down the road.

The other point that goes with this, and I think is a reasonable one, is you are dealing with a significantly material amount of money, and the community in general, I believe, will have a significant amount of concern that the -- that this process was managed properly from a financial standpoint.

So my suggestion to the board is that you consider the possibility of putting an addendum into next year's annual report and doing a source and application and use of funds as to how -- you know, you're talking over a quarter of a billion dollars here -- as to how these funds were used, with some sort -- and if you incorporate it into the report, naturally there would be an oversight function on the part of your accountants and auditors.

I think this would give the community a certain amount of comfort, and I believe this would significantly assist in any credibility in dealing with concerns that people might have.

So it's just food for thought there, Steve.

>>STEVE CROCKER: So it's -- thank you very much, Ken.

It's actually more than food for thought. It's stuff that we have thought about, and -- and I've actually spoken on this multiple times, including making a point of it in my opening talk yesterday morning.

We are committed to making sure that the funds that have come in for the gTLD program are accounted for separately. So your idea of an addendum is in line.

I don't know the precise format of that, but yes, indeed, fencing off those costs, accounting for those costs, and understanding them.

So that's one element.

The -- those funds are paying for -- you characterized them as just paying for application processing. There's -- the application processing can have a narrow or broad interpretation. A portion of the funds, as everybody is aware, are set aside for risks or for litigation costs and so forth, so that's all part of that umbrella.

>>KEN STUBBS: Yeah. And I think the community and the people I've talked to fully acknowledge this. I think there are methodologies for dealing with that, and I'd like to further explore dealing with that potential risk because most lawyers will tell you that as you move further away from the initial --

>>STEVE CROCKER: Right.

>>KEN STUBBS: -- delegations, the risk becomes less and less, so what I would say is I honestly feel it's -- you need to have an independent review of exactly what the exposure would be, and maybe you could develop a methodology for dealing with that, you know --

>>STEVE CROCKER: Right.

>>KEN STUBBS: -- and that makes sense to the people.

But we really did not, as applicants, intend on funding further operations beyond the -- this was supposed to be a cost recovery and exposure situation.

>>STEVE CROCKER: Sure. But the -- but that period of time is not just, you know, a short period of time. It's a long period of time.

But right.

So we're in -- we're moving into a gray area of the following type.

It is very, very reasonable to make the suggestions. The execution --

I'll get there in just a second.

The execution is not so easy to outsource to the community to say, "Here's what risks you ought to take" or "Here's how you evaluate them," except as a suggestion.

But when it comes down to the risk to the corporation, it becomes a corporate risk that has to be managed as a business, and -- and -- but done well and with competence and expertise in that area.

So that then moves into the staff area. But with heavy oversight and clarity about what values are being put into that.

And adjusting that model over time with the -- with experience and with the knowledge about where we are in the process definitely ought to be all part of that, in my view.

>>KEN STUBBS: Well, I -- and that was my implication. If I was in a position as a director, I would want to have that exposure analyzed --

>>STEVE CROCKER: Right.

>>KEN STUBBS: -- by people who have an obligation and responsibility to ICANN --

>>STEVE CROCKER: Yeah.

>>KEN STUBBS: -- and not the community.

>>STEVE CROCKER: Now, let me deal rather explicitly with the question about refunds.

It is not my understanding that there was any commitment to refund excess monies coming out of the processing, and that the only form of surplus would come out of auctions.

That's what I believe I heard in the way that you talked about.

>>KEN STUBBS: No, that isn't what I meant.

What I meant very simply was, Steve, over the last five years, the board has discussed what to do with auction proceeds.

There was an intention that at some point in time, the board would develop a methodology --

>>STEVE CROCKER: Yeah.

>>KEN STUBBS: -- for dealing with that.

That's Pot A.

Pot B is the money that was given to ICANN as part of the application process --

>>STEVE CROCKER: Yeah.

>>KEN STUBBS: -- and I'm not proposing in any way whatsoever that the auction proceeds would be any sort of --

>>STEVE CROCKER: So here's my view. And if I'm -- if it turns out that this is not, you know, sort of in the center of everyone's thinking, the board's and everyone else's, I'll take the hit on it, but my understanding, one pot, no distinction between auction proceeds versus surpluses versus funds left over from the risk pot that are not there.

I'm about to be corrected, I suspect.

>>ROD BECKSTROM: You are about to be assisted, I think, on clarification. Maybe Cherine.

>>STEVE CROCKER: Sorry. I only got one foot in the hole. Let me put the other one in. And that no decision is being made about what to do with those funds at this time. There will be a full development of inputs and community consensus before

we make the decision. So whether it is refunded or whether we have a new
foundation or whether we have some sort of other thing is in the future.

 >>KEN STUBBS: This wasn't meant to be a distraction. I prefaced my comments by
saying this is not the time to get to deep.

 >>STEVE CROCKER: Exactly. So assistance, please.

 >>ROD BECKSTROM: I will start. Maybe Cherine can build on that. First of all, I
think it is an interesting idea with respect to a possible addendum or separate
financial reports. I will let Xavier comment on that, our chief financial officer, who is
also in the room.

 With respect to the program funds versus auction funds, (audio problem) those
would be mentioned separately. And has long been discussed, if after some
extended period of time, we learn that there are surplus funds left from the program
where the costs were lower or the risks were lower after a suitable amount of time,
then there would be a process to look at what was done with those funds.

 But I think Cherine had something to say and I think Xavier may want to comment
on the first point.

 >>STEVE CROCKER: Jeff? Were you done?

 So before Cherine, Jeff, please.

 >>JEFF NEUMAN: This is pretty much what I wanted to say. I disagree with the
notion that there should be a process to determine what happens with the funds. I
think the registry stakeholder group's position is if there is any left over -- I'm not
saying there will be. We don't go down that rat hole because we don't know. If
there are any excess funds from the processing, not from the auctions, from the
processing, that must go back to the applicants. This was a cost recovery process.
To the extent it's more than cost recovery, it should not go out to the community. It
is not for the community to decide. The applicants paid for the processing of the
applications. Once the processing of all those costs, however determined is done, it
goes back to the applicants. Otherwise, you have changed the fundamental nature of
the program by not making it cost recovery.

 >>STEVE CROCKER: I look forward to having an extended discussion on this. It is
not in my mind so simple to reach that conclusion.

 And just to give you the rest of that, what happens if a number of people, number of
parties show up and say, "Oh, had we but known the ultimate cost was going to be

this much less, we would have applied," that puts us in an awkward position. Maybe there is a quick answer to that.

But in my view, everybody who applied, applied under a very clean state of rules that said 185,000, this is what it is, except for the JAS situation. And it is a long time from there until the dust settles and we know what the ultimate costs are. And to try to say everybody who applied has an automatic right to have a pro rata portion returned strikes me as an awfully constrained view of the process.

And I'll just fess up, that's my personal response. And we'll see where this goes. But I had not understood -- and I would challenge that there is a firm commitment of the kind that you're saying.

>> KEN STUBBS: Some of the applicants agree with your point of view.

>>STEVE CROCKER: Okay. Cherine and Xavier and Jonathan and did you want to chime in there.

>>CHERINE CHALABY: I don't want to talk about public process for disposal of funds because this is nothing to do with the BFC. Something has to be imposed on us with what for do. Someone has to agree on that.

On behalf of the Board Finance Committee, what do we see our role with all this money coming in? First of all, this is not our money. We are the guardian of this money. So this is number one. Our responsibility -- And this is what we will do, first, is segregate the money into separate buckets, each ring fenced very carefully, whether it is the risk reserve or if it's an auction money that comes in. Everything will be separated and segregated.

Second is the preservation of the capital. We are not there to take risk with this money. We are there to preserve it and to make sure it is there.

The third is what was mentioned earlier about sources application fund. There has to be an accountability and transparency on the use of this money, audited and reported, constantly and permanently, right?

So if at the end there is surplus, well, good luck to everybody but this is not the BFC's job to decide what to do with it. Some other authority will have to decide on that.

>>STEVE CROCKER: Xavier?

>>XAVIER CALVEZ: Thank you, Steve. Just quick facts on the information that we've provided in the budget presentation, there is concernment of discussions

relative to the existing actions that have been taken and the plans on how to handle the cash management, the communication about the cash management in the sense of reporting.

Just to provide a high-level view, the funds have been and will continuously be segregated. They are in specific bank accounts that are totally different than the bank accounts that the ICANN operations use.

There is also a whole infrastructure of accounting and process that is separate for the new gTLD from the ICANN operations. For those of you who are interested in the technicalities, we have a separate general ledger -- entire general ledger which is basically a separate instance of the accounting system for the new gTLD, which will let us account for, produce financial statements that are specific to the new gTLD program, statement of operation and balance sheet and so on. I won't go further into detail. But there is a lot of infrastructure created to ensure the very clear separation between the new gTLD program and the rest of the ICANN operations and also enable to provide analysis and reporting on the subject.

>>STEVE CROCKER: Thank you. We have got several people queued up here. Judith and Mike.

Okay, Judith.

>>JUDITH VAZQUEZ: I am the only board member who did not vote on the new gTLD program. And coming into something so important to the organization, I took a great risk by putting myself as an applicant, and I paid the $185,000 to do the test, to do -- to answer the questions myself, to understand what it's like to be an applicant. There is nothing, nothing that guarantees a return of the excess funds.

So, Jeff, this is grossly unfair. We are colleagues. There is nothing that guarantees that. I withdrew my application not knowing if I would get a refund. Can you imagine that? But I went through it myself to understand what we are getting ourselves into.

Please, please. So let us be sane about this. You talk about scaling the organization. It takes capital, front and capital to scale.

As an applicant, I have only one expectation and if there is any excess, please put it in good decisions around our capability to build a truly capable organization. Thank you.

>>STEVE CROCKER: Thank you.

Michael?

>>MICHAEL PALAGE: I guess this is a follow-up to the details about the separate accounting functions. Since ICANN staff currently doesn't use time sheets, how are you going to be accounting for staff resources?

>>STEVE CROCKER: Sorry. Appreciate your excellent training as an attorney and putting the answer to the question in your hypothesis there, the presumption that the only way to account for things carefully is to use time sheets. Not so.

>> So I heard Kurt earlier today suggest that the original intent of excess funds was to be used to reduce future rounds, the cost of future rounds. It seems to me to make a lot of sense. That way we don't have to figure out times line of when it is safe to give money back. At the point you have future rounds, you include whatever is left over at that point to the planning. To the extent that was indicated as a plan for funds, it seems like a path going forward. Keep going with what the original plan was. That's consistent with the notion of cost recovery, it is just cost recovery over a longer period of time.

>>STEVE CROCKER: I'm trying to understand if there is a statement or a question there.

>> So I'll ask a question. Is it, in fact, the case that there was a planned intent in the past to use funds -- excess funds for reducing the cost of future rounds?

>>STEVE CROCKER: I'm probably not the best person to answer that because I haven't been tracking everything that's been said by everything along the way. My instinct is precise answers to questions like that are in the future rather than based upon whatever might have been speculated in the past.

But I appreciate help, assistance from the people who have actually been running the program.

Is there a crisp statement on this in the past? Chuck?

>>CHUCK GOMES: Thanks, Steve, Chuck Gomes. And Kurt can correct me if I'm wrong or Bruce can as well. But there was discussion of that idea during the new gTLD PDP. I don't recall that any specific decision was ever made on that.

>>STEVE CROCKER: Thank you.

>>DAVID MAHER: Steve, we're getting short on time and you have your list of questions.

>>STEVE CROCKER: Right.

>>DAVID MAHER: Do you think we may have exhausted the --

>>STEVE CROCKER: I'm absolutely exhausted.

[Laughter]

Yeah. That's probably right. Thank you very much. I actually expected a very short, crisp treatment of this which was no. But this has been informative. I take to heart this discussion.

Let's move on then.

>>DAVID MAHER: Okay. Well your first question had to do with the RAA, the Registrar Accreditation Agreement. And I think Jeff Neuman would like to address that.

>>JEFF NEUMAN: Thanks. I think on this issue, we just wanted to make a couple points that may not have been made in other fora. You know, as entities that all know what it's like to negotiate with ICANN, we certainly feel the registrars' pain. But this is just going to repeat some of the statements I made yesterday during the session, but not everyone could be there.

There are a couple of clauses that we found in reading the June 4th agreement that were not requests made by law enforcement but seem to be requests that were put in by ICANN staff. And with two of those, we had some difficulty. And as registries, we wanted to just provide these comments.

The first one is on the definition of consensus policies. The definition of consensus policy has been a sacred item in the registry agreements and was heavily, heavily negotiated. We believe it is fundamentally important for the definition to be the exact same in the registry and registrar agreements, especially in this environment as Ray had pointed out with vertical integration. It is critical that those definitions are completely aligned.

We noticed that in the registrar agreement, ICANN legal had added a provision stating that everything in the agreement is, itself, subject to the consensus policy process. I'm paraphrasing. It doesn't exactly say it. It says it much better and more legal. Essentially that's what it says.

The second clause we have a problem with is a revocation clause that the ICANN staff had put into the agreement. It basically states that if ICANN decides unilaterally that this is not the right business model or they want to change business models, that ICANN on its own can revoke the entire agreements with all of the

registrars, come up with new agreements, of course, registrars will be allowed to enter into those new agreements.

 This to us is completely unreasonable. It is the same reason we found the agreements a few years ago proposed for the registries unreasonable. There should never be a unilateral right of termination of ICANN for anything other than but for cause. It is impossible.

 You are talking about millions and millions of dollars, in fact, a billion-dollar industry, multi-billion dollar industry that you are going to make at ICANN's whim if they want to revoke and change a business model. No one can live by that.

 It's as absurd as the registrars coming back and asking for a mutual clause that says something to the effect of "in the event the registrars or the community do not believe that ICANN should manage the accreditation of registrars, the registrars may unilaterally revoke the agreement, come up with a new system and come up with new criteria and agreements. Of course, ICANN would be allowed to reapply."

 Both of those are completely absurd. We ask that ICANN withdraw that from the agreement. We heard yesterday, well -- what we heard yesterday was, well, those things will -- you know, those things will fall through. They will eventually come out of the agreements. I find that just astonishing. They should have never gone into the draft agreements. They were never discussed with the community. They are not needed for the community. And we ask that they please be withdrawn.

 >>STEVE CROCKER: Noted.

 >>DAVID MAHER: Thank you, Steve.

 Shall we move along then to the WHOIS issue? The question of the GNSO Council versus staff treatment of the issues raised in the most recent proceeding, I think I can address this very briefly.

 Policy questions are reserved to the GNSO. Do you have something specific in mind in asking about this?

 >>STEVE CROCKER: Yes. I think the point of the question is -- and this depends upon having read and sort of thought through the recommendations in the report, which I'll note I have not yet. But the form of this question is, of those recommendations, which ones do you judge are, in fact, ones that should be subjected to the GNSO policy development process versus which ones should be left to the staff?

 So the generic statement of policy stuff should go through the GNSO, no problem. The question then is: Which ones are and which ones aren't?

 >>DAVID MAHER: Okay. I suggest then that we address this in writing following this meeting.

 >>STEVE CROCKER: Good.

 >>DAVID MAHER: We'll do that.

 And that brings us to the last topic, the budget and operations plan.

 And, Chuck, I think you are going to talk about that, the cycle.

 >>CHUCK GOMES: I was actually going to do the next one, but I can do this. First of all, I think we're relatively comfortable with the cycle. And I'm talking about the cycle starting with strategic plan review and then budget and operations. That process will start here July 1st, I think. I think we're fairly comfortable with that. We also saw that in the strategic planning there's a new committee added, SO/AC committee.

 One of the things with regard to the budget and operating plan -- and we submitted this in our comments, so I won't belabor it on that. And I'm sure Xavier has looked at that. There still needs to be more detail, especially with regard to costs. Revenue is pretty clear where it is coming from. Unfortunately -- and my guess is it's because of some systems problems that I've heard indirectly.

 But in the previous cycle, there was a delineation of what the costs were for ccNSO, for GNSO, et cetera. That same level of detail for costs was not provided this year. And we said this in our comments. More detail in that regard would help us manage -- I think it would help the ccNSO recognize where costs are being expended on them.

 And like we said in our comments, the registry comments, the cc's then could decide, except in the cases of security and stability, could decide for services they don't want since there's such a huge gap between -- between what cc's contribute and the services that are provided.

 But we're really relatively comfortable with the cycle as it is.

 >>STEVE CROCKER: One key thing that is of interest to us is, we're hearing some pushback in other others from other groups about the amount of time available to comment and about the speed of it. So a suggestion that is under discussion is to

tighten up the time for the strategic plan and thereby create more time in the year for the development of the budget and the operations plan.

>>CHUCK GOMES: Thanks, Steve. And we haven't discussed this as a stakeholder group, so I will give my personal observation. I think that's a good track for thinking mainly because there are less comments going on because the strategic plan has been developed over several years. And there are modifications, less changes. I think that's a good idea.

And, also, another idea is -- and I think others have said this, not in this group, but the idea -- probably a little less time for replies and more time for -- more time for initial comments might not be bad to consider either because, as you know, some of the people had to be extended into the reply period.

>>STEVE CROCKER: We got push further. We have a six-month cycle for the strategic plan. Would you want to cut that down by six days? Cut it down by six weeks? Cut it down to six weeks? Cut it down to six days? I'm being a little facetious.

>>CHUCK GOMES: I understand. You can't cut it down too far. I think -- and Xavier and his team can talk to this more than I can. But the further you get away from the end of the year, the less history information you have on the future budget.

But if I was to just off the top of my head, you know, maybe four months and the balance -- four and eight would be a guess for me. But that's without a lot of thought.

>>STEVE CROCKER: Thank you.

Sebastien?

>>SEBASTIEN BACHOLLET: Yes, I'm sorry, sir, chair, but I don't want just one idea like that will be the end of the story. I would like to throw my idea, that to have the six months for one and eight months for the other and one overlapping to the other could be a good solution, too, because I don't think that shorting the discussion about the strategic planning is a good idea. And I will say that this year specifically and especially I will not go into that direction. But it is, once again, my personal point of view and suggestion. Thank you very much.

>>STEVE CROCKER: I'm glad I don't feel strongly about what we just discussed. No, I understand what you're saying. If I take your number, that's a 14-month cycle, there would be a two-month overlap in the process. So the tail end of one would be going on -- or put it the other way, you would be starting up one while you are still finishing the other. Good.

There was a hand raised. Our CFO, yes, indeed.

>>XAVIER CALVEZ: Just to indicate that we have scheduled tomorrow a meeting with a number of leaders of the organizations to review the process -- the budget process and be able to try to identify a number of improvements that are meaningful to everyone in order to improve notably the public comment and the general interaction with the community on the budget process because, I think there is a number of us, including myself, who are not satisfied with the effectiveness of this process today.

>>STEVE CROCKER: Thank you.

>>DAVID MAHER: We are very close to our time. And you did raise the question of batching.

>>STEVE CROCKER: Oh, yes.

>>DAVID MAHER: Do you want to delve into that?

>>STEVE CROCKER: Next slide, thank you.

So questions on batching. What are your views on having a single batch? Do you believe there is anything approaching a consensus? And if so, then what would be an acceptable time frame to do a single batch? And, on the other hand, if there is to be batching, do you believe there is consensus that a method other than digital archery is to be used? The way that is phrased is one sided.

Do you believe consensus not to use digital archery? It doesn't ask if you have consensus of what to use instead.

>>KEN STUBBS: First of all, I think we have to remember that this process is divided into three different sections. The first section involves the evaluation of the applications.

>>STEVE CROCKER: Yes.

>>KEN STUBBS: The second section involves developing some sort of methodology for delegation that is equitable and makes sense.

>>STEVE CROCKER: Yes.

>>KEN STUBBS: And the third is taking the delegation and moving it forward in a secure stable way that does not impact in any adverse way the root system.

 I think what we have -- we have a political issue that has arisen over the last couple of weeks with the GAC. What it means to mean, what I hear is it doesn't matter if we get it all the stuff done tomorrow, we have got to wait until next April.

 My suggestion is you used vertical integration, an intercession that ICANN had with the GAC in Brussels, if I recall.

 You might consider the responsibility of reducing the timeline for this by offering some sort of an incentive to the GAC to have some sort of an intercession to deal with that issue. If you offer it early enough on, frankly as far as I would be concerned, my guess is nobody would have concerns if ICANN funded the whole dog-gone thing because you are saving two to three months of time if you can get the GAC to make that intercession in the early part, let's say, in January and not wait until --

 >>STEVE CROCKER: It is harder than that. A new element that's crept into this is the GAC has a role now in this process, an objections process, and they are giving us -- I don't know whether it's gotten to the formal point or not, but the direction they're going is that they don't want to give us advice in piecemeal. They want to have give advice on everything. And so that in itself kind of creates a single batch phenomenon.

 >>KEN STUBBS: If that's the case, then hypothetically if you can develop efficiencies, working with the community, because there's been a lot of good ideas that's been thrown out that Cherine has been involved in, working groups and stuff like that. The possibility might exist that you can get a single batch followed by the GAC and then move forward.

 Your big issue is still going to be developing a delegation scheme that you can live with.

 >>STEVE CROCKER: You would have thought so. But Chris and others have suggested that there is some natural trickling that happens even if they all come out of the evaluation process at once.

 Chuck and somebody keeping track.

 >>CHUCK GOMES: Let me go directly to the questions that are up there. Unfortunately not to give you a specific answer, as you would like, because the registry stakeholder group and our observers, we really haven't come to any sort of consensus position on whether there should be a single batch or not. Certainly there are a lot of members and observers that believe that. Nor have we decided what should be used instead of digital archery.

But Kurt asked us a question in the session we had with him this morning with regard, okay, how should we proceed on this? Because time is of the essence, and the longer we wait, the more backtracking we may have to do.

So I threw this suggestion out this morning. There's certain bits of information that staff could obtain right now without any further discussion because it is just obtaining information.

For example, how many applicants would opt out and are okay with being in the last batch? If we knew that, I don't know how much that would be, but if we knew that, we would probably reduce the size of the problem a little bit.

Another bit of information -- and this came out of the session that Kurt led at the end of the day yesterday on batching -- is you can ask applicants who have multiple TLDs to prioritize their TLDs. That would be information that possibly could be used, wouldn't be guaranteed to be used, but could be used in terms if we did go to a batching solution and applicants then would be able to have some say in terms of which TLDs are more important to be done earlier for them. There may be other elements of information.

Now, let's go beyond that. We still have the issue of, okay, how does the board come up and make a decision? I don't envy you in that regard. But a lot of information has been received here, some in writing, probably some more is coming in writing.

What my personal suggestion was in the meeting this morning was do a summary -- set some sort of near-term deadline in terms of the input. Do a summary and analysis, just like you do with the public comment periods, a brief comment period -- when I say "brief," I'm thinking maybe two weeks, something like that -- and then, you know, of course, it is in your lap again. And, like I said, I don't envy you in that. But that's just one approach to maybe make it happen quickly.

>>STEVE CROCKER: Just to quickly review the numbers, 1,930 applications, 1409 unique names, 1185 distinct applicants. So if they prioritize and you say only one per applicant, you still have 1, 185 assuming they are all successful so that this -- you would nibble at it but it wouldn't solve the core problem.

>>CHUCK GOMES: Understand. But you would have information that could be used to do it in a more -- we would have more data to do that than we have right now.

>>STEVE CROCKER: We always would have more data.

Yes, sir?

BRET FAUSETT: Two quick points. First of all, in the interest of time, Kurt's done a very good job of listening to us over the last couple of days. So if you want to hear the range of views on batching, he will be able to give it to you.

Second, I think some of these questions are hard to answer without input from ICANN. For example, is digital archery the right method? Well, it depends, I think, in large part on whether it can be fixed and what time frame. Also, can there be a single batch? I think it depends on how long it would take to do that. If we had some feedback from ICANN about what the ranges were and the answers to those questions, we'd have, I think, better answers for you.

>>STEVE CROCKER: So we actually were trying to ask the community what the time frame would be that is acceptable so that rather than us saying well, would it make a difference if we could do it in two months, or six months or ten months or something like that. But anyway, that's where we are.

>>DAVID MAHER: Jon.

>> Thank you.

>>JON NEVETT: Jon Nevett, Donuts. One question you don't have up there, Steve, is if you do a single batch -- Let me preface that by saying I'm speaking on behalf of Donuts, not the applicant group that we formed this morning.

If you do a single batch, when would you release the names? For example, if it is an eight-month batch, do you do 200 a month? Or 250 a month? Or do you do it all at the end?

I would strongly urge you not to save them all for the end because then you can just -- you are kicking the can down the road creating roadblocks at the end. Instead of having 200 come out and go through predelegation testing and going through contracting and going through delegation, you are having 2,000 coming out at once or ~~4,000~~1,000 at once. It is just going to clog the pipes, and then you are already delayed that time.

People are saying that there is going to be some natural selection. The vast majority will go through one path. So there won't be that much in delay and contention and whatnot.

We strongly urge you to go through the process where you are having a rolling announcement, and it could be one batch. It's fine as long as it is rolling and not holding them all to the end.

>>STEVE CROCKER: Thank you.

>> ALEX STAMOS: Alex Stamos. Sorry. It seems in all this discussion of batching, there hasn't been a lot of discussion about trying to shorten the whole process even with a longer batch through moving contention resolution earlier.

You talked about 1900 versus 1100. And it seems a lot of problems go away if a big chunk of those 800 or 500 companies, or however many are going to have to get, are getting out earlier. It seems to me there is ways the board, when you do this, can encourage people to take care of their contention issues earlier, perhaps by economically incenting them to do it earlier or by building in the batch rules about contentions so that people feel like they can get their risk management stuff down now and hopefully take 400, 500 people, applications, out of the process and make the whole thing shorter for everybody else.

>>STEVE CROCKER: I feel like we are discussing how to reduce the employee count by offering them exit packages before we do layoffs.

Bertrand?

>>BERTRAND DE LA CHAPELLE: One quick question. During the discussions, there has been possible criteria that has been mentioned in terms of ordering, not batching but ordering.

What is the reaction in your group regarding the suggestion that was made by some people of using a distinction between IDNs and others? Is the notion of IDNs for something that is utterly unacceptable, acceptable, worrisome, great? Quick feedback knowing that I'm sure you don't have a great position collectively.

>>KEITH DRAZEK: Thank you, Bertrand. Let me just make this statement. We as a stakeholder group have not discussed this in much detail, this specific proposal. So what you may hear from individuals is not the stakeholder group position. All right, Jeff says I may be wrong.

>>DAVID MAHER: I think we're occupying a room that is about to be used for another meeting.

Thank you, Steve. Thank you all the directors for attending this meeting. It is always a high point of an ICANN conference for the registry stakeholder group and we very much appreciate your candor and your assistance.

>>STEVE CROCKER: And thank you. Thank you, David, for organization and thank you, everybody, for a frank and forthright discussion here.

[Applause]