Transcription ICANN Toronto Meeting

Consumer Metrics Advice Meeting

Saturday 13 October 2012 at 16:30 local time

Note: The following is the output of transcribing from an audio. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record.

Coordinator: Thank you for standing by. Today's conference is now being recorded. If you have any objection you may disconnect at this time. Sir you may proceed whenever you're ready.

Stephane van Gelder: Thank you.

((Crosstalk))

Stephane van Gelder: Okay can I ask GNSO Councilors please to...

((Crosstalk))

John Berard: And for the record - metrics advice. We are recording and streaming.

Stephane van Gelder: Well that's very efficient. Thank you very much. Can I ask GNSO Councilors please to take your seats? And we will start the next session. So can I confirm that this is - the recording started - if someone can wave to me or something?

John Berard: Yes.

Stephane van Gelder: Cool. Thanks very much. So we'll start this session. Please welcome back everybody and this session then on consumer metrics. I will hand this over to John Berard. John please.

John Berard: Thanks a lot Stephane. The - I suspect that this report will be - have less - fewer wild hairs than the previous report, at least that's my hope. I've...

Stephane van Gelder: Sorry. Can I ask you all to show some respect to the person that's talking? Thank you very much. This is - this does represent work by a Working Group to produce some results, so the least we can do is listen to them. Thank you.

John Berard: Thank you Stephane. As you are likely all aware the work of the consumer trust, consumer choice and competition team was driven by the Affirmation of Commitments Board resolution from I believe Cartagena December 2010.

And I would like to say that not only do I sit between the shoulders of giants, but that this work product is really some of the best that I have been a part of because we've been able to stand on the shoulders of giants, to quote the Sir Isaac Newton yet one more time.

The - there will be on Wednesday a motion before the Council to pass this advice along, but I thought it was - we - well it is important for us to go through it now because when the new gTLDs do get put into the root they will be judged on matters of trust.

And the work of this group has just opened my eyes to just how extraordinary the collaboration and cooperation can be. As you know the Working Group was chartered out of the GNSO but there was aggressive recruiting and participation across ICANN.

And one of the things that has been most gratifying is that the advice as it stands has already earned the unanimous endorsement of ALAC. And Olivier are you here in the room?

Olivier Crepin-LeBlond: I'm right here.

John Berard: Right. Olivier's right behind me and you can - I want to thank you for that. It suggests that we have been, if not completely close to, completely successful in creating a document that can gain broad support.

And so I'd like to turn the show over to Jonathan and to Steve - Berry Cobb who has been extraordinarily helpful as the Staff lead on this. We'll make sure that we don't lag because he'll keep switching the slides. So Jonathan, Steve.

Jonathan Zuck: Sure. Thanks John. Jonathan Zuck from the Association for Competitive Technology for the transcript. If any of you were actually looking for these slides, you can see them on the GNSO site under Group Activities, Active Projects and then the second one on that list might be easier to get to than a link that you're reading off the screen.

So it's the GNSO Web site, Group Activities and Active Projects. So as John said this is all a result of a demand in the Affirmation of Commitments that had review teams that meet periodically and discuss specifically the impact of the new gTLD program on consumer trust, competition and choice.

And there have been a number of discussions throughout ICANN about how best to have those conversations. And one aspect of that at least is to come up with some measures in advance so that you're measuring some things later on to potentially inform the review process when it takes place later.

The Board resolution in 2010 in Cartagena specifically asked for some definitions of those things, to measure things that might be measured or indicators for those things and ultimately some three year targets.

And while the Review Team won't be in any way required to use all the measures or adopt all of the targets, it at least creates some sort of a benchmark against which to manage the program and measurements to be made so that when that review process takes place, there's actually some data that's been collected and some objectives that were set that facilitate that review.

If it's adopted the future Applicant Review Team can use that advice, and hopefully at least take some of it into consideration in the review. This as John said was truly a cross constituency Working Group.

Everyone was invited to it. Lots of people participated. Primarily the GNSO and ALAC were the contributors to it but it was open to everyone. And they submitted the final version of the advice letter on 17 of August, and as John said that'll be discussed further on Wednesday.

It was presented to the GAC in Prague in June, and thus far the only government that has responded is the United States government, but they've come back with fairly extensive comments that sent us all back to the drawing board to make revisions along the way.

And there's been a public comment period that we've also responded to somewhat extensively. And then also John said ALAC endorsed this in September.

So we've had a really expansive process, come up with a lot of metrics, et cetera. I'm personally very excited about coming up with some actual objectives to the organization even in this small area.

And I think the Affirmation of Commitments makes it clear that we need to make a rigorous review of assessing the new gTLD program, and one way to do that is through real measures of choice, trust and competition. Steve?

Steve DelBianco: Thanks Jon. Berry next slide please. So we'll quickly summarize what's in this advice letter. And as Jonathan indicated it's on the GNSO Web site, and that link that's the second one down under Active Projects includes the actual advice letter.

It's only 20 pages. Berry did a great job helping organize that and it includes an important Statement of Dissent from Wendy and Alex from the NCSG, so that's important to understand as well.

So I'll quickly summarize the definitions we proposed in the advice letter and some of the metrics. The first element of the definition is to say what does consumer mean and the word consumer trust and consumer choice?

Definition's pretty clear. It's both actual and potential users and Registrants, and when we say user or when we say consumer it's both users and Registrants.

The first definition was trust and it has a couple of elements to it. It's - again consumer trust includes both users and Registrants. And we tried to say that trust involves their belief and confidence in the consistency and performance of the domain name resolution system; also confidence that a Registry operator is fulfilling their purpose and complying with ICANN's policies and national laws, and finally confidence in ICANN's compliance function.

And that last element was added as a result of the public comment period when one government, the U.S. government, insisted that it was important to assess whether ICANN was enforcing compliance because that would contribute to a belief of consumer trust.

The second is consumer choice. This was meant to be the range of options available to a user or a Registrant for domain name scripts and languages for TLDs that had meaningful choices available to them so that a Registrant might have an option, an option other than today's legacy gTLDs would present to him.

Competition was very closely related to choice, because frankly when you're choosing you're choosing among competing relevant alternatives. So since competition was singled out of that third measure, we tried to give it significant meaning that is distinct from that of choice.

And Carlos contributed to this trying to understand this distinction, because they seem to be somewhat redundant. And to make the distinction real we focused competition on supplier side measurements and metrics.

On the supply side Registrars and Registries measure the quantity, diversity and the potential for a rivalry among those TLDs, Registry operators and the Registrars themselves.

Let's go to the next slide. Thanks Berry. So we quickly have three slides to catalog some of the metrics. Now in total there are about 50 metrics. There are 22 alone for consumer trust, and I'm happy to take questions as we go through this if it'll help to make it go faster Stephane.

But the consumer trust metrics again were about the confidence of registration resolutions. In addition to the Affirmation review definitions and metrics there was also three-year targets for each one of these.

Now the Working Group had a very difficult time in specifying a three-year target for a lot of these measurements, so for some of them we didn't indicate a target.

We just suggested these things should be measured so that they could be analyzed by the Review Team one year after the new gTLDs are in the root. Of the 22 total I'll take the first one.

For instance it is very standard stuff for the Contract Parties in the room. It's uptime statistics for both Registries and Registrars. Think about the SRS, the shared services that use EPP.

Today the SLA for them is 98% so for instance we said that the new TLDs and the new - should have the same kind of an SLA. They should achieve a 98%.

Now that brings us to I think one of the most thoughtful comments that have come in. And just the other day Jeff Neuman sent an email over to the Working Group and shared it with Council where he says, "You know, do all of these metrics apply equally to new gTLDs that are open to the public versus those that are closed?"

And I wanted to invite Jeff to sort of expand upon that and then I'll try to respond as I go down the list of some of the specific metrics.

Jeff Neuman: Thanks Steve. Yes, so I think I first want to start out as I did in my comment. You know, it was really some great work that was done by the Working Group.

And I think the work that was done was done in a vacuum in the sense of it was done before we knew what the actual landscape would be. And I think they did a fantastic job in coming up with a bunch of criteria, whether it was for trust, choice or competition, that reflected more of what would we be like in a world with all open TLDs with lots of registrations and, you know, available, open to the public?

I think as you take a look at the actual landscape and one of the things - all the comment periods were - also occurred prior to what we knew the landscape would be.

So it was all based on our best guess and best prediction as to what we thought the new TLD market would be like. I think we've since learned after June after the applications had been published and then actually trying to, you know, read through them that one of the things you notice is, you know, about 1/3 of the applications are actually brands or closed top level domains.

And some of the criteria, maybe not necessarily in the trust area but the choice area was one of the areas that I picked out a couple of examples, really didn't seem to necessarily apply to the open and brand TLDs, that if you were to look at these metrics, the criteria here, one might come to the conclusion that you wouldn't necessarily have choice, competition and trust because this criteria doesn't map exactly to the way those TLDs are going to operate.

So one example - I'm jumping ahead but in the consumer choice was, you know, does the - I'm just trying to look at the actual - what it says. But it says, "The criteria for consumer choice looks as to whether the Web site clearly discloses the benefits and restriction to the domain name space."

Well I applied for .neustar, my company did, and we want to use .neustar. And I can tell you that if we move our main site to www.neustar - say that that's the main site, nowhere on that site are you going to find a list of benefits of having .neustar.

You will see our normal home page for NeuStar. So it's criteria like that if one were to look at it and look at those metrics and measure them you'd say, "Well no, it doesn't have the choice because it doesn't have the - it doesn't meet that criteria."

I don't think that's what's meant and I know - in fact I know that's not what was meant. But remember this is the criteria we're going to come up with and a completely separate group is going to be measuring it.

So my recommendation in my email, and there's other one's that I cite too in my email, is to really take this work, send it back to the Working Group to look at the current landscape that we have, and to see whether some of these criteria map to a number of the top level domains that have actually been applied for that we expect to be entered into the root assuming that they, you know, pass everything that they're going to pass.

I think we have a unique opportunity. I think we have enough time before - it would have to be done fairly quickly, but I think we have enough time to work on this before the GNSO Council approves it and it gets sent to the Board.

Steve DelBianco: Jeff thanks for that. We did discuss this a little bit before and I don't want to respond substantively to whether all 50 metrics need to be changed pursuant to the very good point that you make.

We may do that as a result of potentially taking it back in as you suggested, and we're discussing that now among the Working Group members. But I did want to note that these metrics, all 48 of them, are there in aggregate.

They are an aggregate measure of the entire new gTLD expansion program. They are never intended to be used to evaluate a single TLD or a single Registry or Registrar, so there would never be an instance where the Affirmation anticipates isolating a given TLD and suggesting it lacks consumer trust.

None of our metrics are designed that way. They're all aggregates. But having said that if an individual TLD or a whole class of TLDs such as the - maybe the closed brand TLDs or closed corporate TLDs - if that whole class

is designed to fail a given metric, well it doesn't make any sense to have it in there.

And the first example was this idea of the SRS using EPP at a 98% SLA. Well .neustar, a corporate TLD, may not even have implemented that in a way because no Registrars are going to be able to sell names in .neustar.

You're going to control that. So if all the corporate and closed TLDs had a really low SLA it would be crazy that that would skew this metric. So we get that.

We definitely get that and we had acknowledged and anticipated that, because three of the metrics actually explicitly only measure open to the public TLDs.

But it may well be as you say that several others bear that investigation. So I won't go into the details of it now but I appreciate that you brought it up, and that I do appreciate the understanding that this would never be used to evaluate a single TLD but only the aggregate.

I'll give you some other highlights. There's a survey. There's a few surveys in here. It's not all just data gathering by ICANN Staff - surveys in there that are done every two years for instance so we can measure over time an improvement.

We did that because the Board asked for a three-year target. Well the three year target gives you the opportunity to do a survey in 2014, another survey in 2016 and evaluate improvements in the new TLD space from survey to survey.

And that kind of a delta will help evaluate what kind of a track we're on in the new gTLD expansion. I did want to say that the - that Bullets 3 and 4 on here

talk about contract items like contract breach notices and complaints and UDRP URS.

We have metrics in there on measuring those items, both decisions and complaints, and the target is that it be lower than the relative incidents in the legacy TLDs.

So what are we talking about there? The relative incidents is the number of enforcement actions divided by the total number of registrations. It may or may not be appropriate to include closed corporate registrations in that.

Jeff Neuman: Yes that was another one that some of us had discussed, and I forgot to put in my email that to date there's only been one breach notice to an existing Registry. So when you say it has to be significantly lower, if it's not zero you fail.

Steve DelBianco: Well you don't have that right because what it says is relative incidents. So what you do is you divide that one by the 20 TLDs. That's at 5% of the TLDs.

Everything is on a relative basis, not an absolute basis so I'm not suggesting that disposes of your point but we weren't so crazy as to say it's an absolute number. Milton.

Milton Mueller: Yes I'm just trying to figure out exactly what you do. You said there were 50 different metrics that you're going to be aggregate.

Steve DelBianco: Right and the - yes. No, the entire advice letter separates - there's 15 metrics on consumer trust, 11 more...

Milton Mueller: Okay.

Steve DelBianco: ...with respect to consumer choice and nearly a dozen on competition. And all those metrics are laid out in that 18-page document.

Milton Mueller: Okay so my point is you have 50 different measures. Let's say you find out that the UDRP incidence goes up by 2%. What do you do? Do you tell the Board, "Bring the thing to a screeching halt. Stop. No more new TLDs?"

Or suppose it goes down by 10%. Do you say, "Hey we need more. Let's accelerate the pace here?"

Steve DelBianco: May I reply?

Milton Mueller: You - well I'm still asking a bunch of questions about these metrics. I'm trying to get at what - where they actually lead you to. I mean, a lot of people will do lots of research about, you know, what impact this program had.

And I'm just wondering do these metrics have any special status? For example as a social scientist I might, you know, get a grant to do research about the new TLD program.

I might come up with my own metrics and publish a study, you know, two years from now or three years from now. Would your metrics - these official metrics be something that would have more weight than an independent study? I'm just curious about these kinds of questions.

Steve DelBianco: The first part of your question was what would you do if the metric came back 2% lower or higher? And there's no presumption in here that policy actions and enforcement actions of any kind are taken as a result of doing the measurements.

Think about this Milton. The Affirmation of Commitments requires that ICANN evaluate consumer trust, choice and competition and whether they were promoted as a result of the expansion in the gTLD program.

And they require that just like the other three Affirmation reviews. ICANN is obligated to conduct those reviews and hopefully you'll participate. They have asked - the Board has asked to say they're going in, planning for that review.

Let's begin to identify now what are the definitions in the metrics for those things that the Affirmation requires us to measure in total. So this is an attempt to answer the Board's request to come up with advice on what they are.

No one of these is taken in isolation and there is no action that's anticipated from any one of them. Instead the total will be taken into account when the Affirmation Review Team comes back and says, "In total we think this expansion either has promoted or has not promoted choice, competition and trust."

So I hope you're one of the vendors that might contribute, and maybe you'll be one of the participants on that Affirmation Review Team if you want to lose a year of your life.

But that's probably going to be up to them whether they'll consider these metrics and others.

Wendy Seltzer: So I did want to ask why - and as a matter of procedure for Council why we can't at some point start taking some of these things as read and moving into the discussion.

If we can't do that shall I spend a bit of time now discussing the NCSG objection to specific points on the consumer trust angle, since this is now coming to Council for us to see whether perhaps some of Council agrees that it's more important to develop a generative platform for innovation than to measure the specific compliance level with a set of relatively arbitrary trust metrics in TLDs?

And perhaps we could discuss some of the variety of interests that might have other concerns around those trust metrics.

John Berard: Wendy I think it's totally appropriate to hear what you have to say, so why don't you kick it off?

Wendy Seltzer: Great. Thanks. And so we agreed on many of the competition and choice metrics. We had grave concerns about many of the trust metrics because it seems that we're trying to define or to root trust in the wrong place.

And the Internet is a general-purpose network for which all sorts of people - different people can use it for different purposes. And to assert that there's a trust in the network or a trust in the domain name system sort of mistakes specific purposes for the purpose of the network as a whole.

And so I - in order to permit that sort of innovative new use of the platform of the Internet and the domain name system, I think a lot of the metrics of trust are too narrow and focus us on the wrong aspects of what a domain name is or can be, and would push Registries toward offering sort of cookie cutter services rather than services that might offer new and different models for what it is we can do with Internet and with names registered thereon.

So we have a listing of specific trust elements that we disagree with, and would invite others to consider whether asking for all of these things to be measured doesn't drive people toward a particularly narrow conception of what it is they might do with a new domain name application.

John Berard: Well I don't want to suggest that everybody agrees with everything, and I don't want to suggest that the Working Group did not have this discussion that your views were not expressed.

In fact I think the key point here is that a consensus was in fact reached by the definition of consensus, but that there continues to be interest in

continuing to expand the possibilities, which is really what the new gTLD program is all about.

And from a policy perspective I think the Working Group did a masterful job in giving people platform to express their points of view and to drive the consensus that is now the subject of the motion that will be before the Council on Wednesday. From a technical perspective Jonathan did you want to add something to that?

Jonathan Zuck: Well I guess I was just going to make a somewhat broad substantive point about the way people use gTLDs, et cetera that - what you raised. I think one of the issues that we had that you and I discussed Wendy was about the commitments that applicants made about how they would use their TLD and holding them to that.

And I guess it's never been a requirement that anybody make a commitment about how they're going to use their TLD, but it is how they're justifying their application.

It's how they might get past the review process that the GAC will be doing and the governments were doing for their objectives. So they will be in fact making promises that say, "Dot Bank will only include banks."

If they break those promises I think it's reasonable to conclude that that will lead to a decrease in consumer trust, and it's not necessarily at the cost of innovation that that's in fact measured.

It's ultimately going to be up to the Review Team to make the decision about which of these measures is relevant in the end. It's not something that the - ICANN is managing to.

It's - the idea is to get some things measured more expansively up front so the data is available for analysis once the Review Team convenes and

comes up with their own definitions and their own prioritizations of these different metrics.

John Berard: Does anybody else have comments on this? Mason?

Mason Cole: Just a question to follow up on that. What - in the instance of a Registry applicant documenting its intentions for the TLD in the application and then later deciding for whatever reason not - but let's assume it's not for a bad intent reason to change its business model. What's owed in that situation by both sides, the applicant and the reviewer?

Steve DelBianco: Yes. That - the question almost presupposes that applicants are supposed to do something as a result of being measured, and that isn't what the Affirmation says but it's a reasonable conclusion.

So on the bottom of Page 12, Metric Number 22 says, "Do a qualitative comparison of the mission and purpose set forth in Question 18 of the applicant's proposal.

Do a qualitative comparison of that with the current actual use of the gTLD." And this of course would be one year after they're delegated because that's what the Affirmation requires.

And there is no target set for that in this advice. This advice do a comparison only because remember applicants and Registries are allowed to change. This is simply let's ascertain to the extent to which they did deviate, change, amend and improve upon what they promised in their application.

So there isn't supposed to be an action stimulated by that measurement. But there is definitely an analysis of that because as Zuck - as Jonathan Zuck said Registrants will rely upon those promises when they change their business cards and their names on their shirts and their trucks, when they

change their URL and then if that Registry then failed to live up to the promises, that is a disappointment for Registrants and potentially for users.

And I'll simply note on this slide since (Gary) notes in the aggregate - that's right. In the aggregate, not singling them out. There's a - there's two bullets on here about getting data from law enforcement, data on legal actions and the relative incidents of spam and fraud as measured by spam house and APWG.

These are in here to measure the degree to which consumer trust is being upheld in the new gTLDs relative to the incidents in the legacy. And I fail to see Wendy how those are anti-innovation measures of trust.

We do not want to frustrate innovation but we definitely do want the new TLDs to be at least as good if not better than the legacy TLDs when it comes to these measures. Let's go to the next slide and we'll wrap up.

Stephane van Gelder: Well hang on Steve. I'm going to have to stop you soon and you've got two minutes left. Wendy has a question and Jeff has a question, so it's up to you how you want to wrap this up but you will have to wrap it up please.

Steve DelBianco: Let's take the questions. What's in the queue Stephane?

John Berard: Wendy and Jeff.

Steve DelBianco: Wendy and Jeff.

Stephane van Gelder: Wendy and Jeff.

Wendy Seltzer: Just to raise one very specific point, I note that these refer to unverified complaints as a source of measurement. And I think that that's a serious problem because simply raising a number of heckling complaints against a

Registry should not be a reason why it's downgraded or why the new gTLD program as a whole is downgraded in the rankings.

At the very least there should be sort of a verified and accepted barrier to that.

Jeff Neuman: Thanks. I think, you know, that this is - obviously at the Council level there's a motion to approve the report. But it's my recommendation to actually send it back to the Working Group to look at the current landscape as it exists.

Wendy if you can find examples in current applications where you see them state uses that may not be the traditional sense of uses of domains, because I think a lot of your points - some of them are kind of the what if variety and we really don't know.

We could spend years talking about the potential uses of domains, and we don't want to set metrics now because we don't know how it's going to be used later.

I think we do - time is pretty much of the essence because we do need to send some metrics forth so that ICANN - the Board can start its processes of constituting the Review Team and having some baseline criteria to use.

So I do recommend that we send it back for a few weeks' worth more of work and looking at the current landscape if we can point to actual uses. You know, I - we've pointed to actual brands that have applied, a closed TLD.

I think that would be very productive. I think the work that they've done has been fantastic and, you know, that's my recommendation is we just do a brief deferral and then get that work finished so we can approve it in hopefully November.

Steve DelBianco: Stephane are there other questions in the queue?

Stephane van Gelder: No.

Steve DelBianco: That's great. Well thanks for that Jeff and probably don't need to wrap up the specific details but go to the next steps. Again this advice was already endorsed by the ALAC, so if we reconvene the Working Group to take a look at some of the points that Jeff - one you have raised - we'll come back with another set of advice but we need to do it quickly.

We want to get this in front of the Board. There's a very interesting timeline that Berry prepared showing the sort of waterfall effects that would have to occur because the Board would get this advice.

I don't know that the GAC and the ccNSO will bother giving advice. The GAC has weighed in through the USG but not directly. And then the Board would consider whether to instruct Staff to begin measuring these things.

That is not the Board saying these are the official metrics that the Affirmation Review Team must use a year and a half from now. That's up to the Review Team to do that.

All that the Board can do is instruct Staff to begin gathering the measures necessary, so that if the Review Team embraced this advice it would have something to rely upon in drawing its conclusions.

So Jeff the Working Group will talk over the next couple of days. We'll be in conversations with you and Wendy, and I hope that we can see clear to accommodate some of your good suggestions in a way that still doesn't mess up the timeline and I'm confident we can do that. Stephane?

Stephane van Gelder: Thanks very much Steve and we'll have to stop there. Oh sorry.

Claudio DiGangi: Stephane, my hand raised earlier. Steve I was just wondering in terms of the comparison of now versus then, a lot of it seems to be done like for - on the trust issue for example through surveys.

It seems like we need to understand what the current landscape is now, so is the Working Group planning on recommending that these surveys take place now so we have the sense of what the level of consumer trust is now with the current set of gTLDs?

Steve DelBianco: Thanks Claudio. There are two surveys in here and they're anticipated to be biennial surveys. We would invite the Board to include in its instructions to conducting one of those surveys now, but the way we have written the questions don't require it.

And that is because the questions to both Registrants and users will ask them, "What is your perceived level of trust before and after the expansion?" So we've structured some of these survey instructions in here so that we hope the surveys could be done either before or after.

But when it comes to metrics - not surveys because you mentioned surveys and I understand that. But when it comes to the metrics in here, the non-survey metrics, it's essential that ICANN Staff begin to capture the data so that you can have a pre- and post-comparison.

So that is one of the reasons that this is on a short fuse to get it measured before delegations begin late next year.

Stephane van Gelder:Thank you very much. We'll have to stop there and start immediately with our discussion of motions. So operator, please end the recording for this session and restart for the next one. Thank you.

Coordinator: This concludes today's conference. Thank you for your attendance. You may disconnect at this time.

END