

**ICANN Transcription
New gTLD Subsequent Procedures Working Group
Monday 11 April 2016 at 1600 UTC**

Note: The following is the output of transcribing from an audio recording of New gTLD Subsequent Procedures Working Group call on the Monday 11 April 2016 at 16:00 UTC. 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.

The audio is also available at:

<http://audio.icann.org/gnso/gnso-new-gtld-subsequent-procedures-wg-11apr16-en.mp3>

Coordinator: Excuse me, the recording has started.

Michelle DeSmyter: All right great. Thank you. And good morning, good afternoon, good evening. Welcome to the New gTLD Subsequent Procedures Working Group call on the 11th of April, 2016 1600 UTC. In the interest of time today there will be no roll call as we have quite a few participants. Attendance will be taken by the Adobe Connect room so if you're only on the audio bridge please let yourself be known now.

All right, thank you. I would like to remind you all to please state your name before speaking for transcription purposes. Please also keep your phones and microphones on mute when not speaking to avoid any background noise. Jeff, you may begin.

Jeff Neuman: Thank you very much. This is Jeff Neuman and just a reminder, if everyone could keep their phone on mute when you're not speaking that would help. We heard some interesting – some good music in the background but I think we need to keep that to a minimum.

All right so the first thing you'll see if you're on the Adobe Connect room, an agenda on the right hand side. We're going to basically – the substance of the meeting is to do a – talk a little bit about a catalog of advice and statements, then we'll continue the discussion regarding the principles from the 2007 final report, and then if we have time to go onto Subject 1, which we wanted to start last week on should there in fact be additional new gTLDs in the future.

Liz, you have your hand raised. Liz? Oh, maybe not. Okay, is there any other business that anyone wants to see covered on this call? Okay, any questions? Jim, you have your hand raised.

Jim Prendergast: Yeah, Jeff, this is Jim Prendergast. And I apologize, I'm going to have to leave early so I won't actually be around for this. But it might be as simple as just asking staff to investigate and report back next week. But I noticed in reviewing an agenda for the upcoming WISIS forum that's being held by the ITU the first week of May in Geneva, there is an ICANN sponsored workshop on the next round of new gTLDs. I haven't seen any further information.

I don't know where to find any further information on that so it'd be good if Steve or somebody else might be able to connect with his colleagues maybe next week just report back to us and let us know what was planned for that since that was the first I'd seen or heard of it.

Jeff Neuman: Great thanks, Jim. Steve, and Julie, if you can add that as an item to get back to everyone on the list. I had seen something – oh Donna just said that she asked for it – saw mention on the GNSO Council list and so we'll try to get some information back on that. I did see an explanation that it was – ICANN had to submit topics early and so that was a topic they had submitted as a placeholder. But let's – I think it's a good question to see what they're planning on covering because I'm not in the loop on that either.

Okay, any other questions before we get started? All right, we've already done a roll call but I'll ask again is there anyone that's – because there was some music in the background – is there anyone that's only on the telephone and not on Adobe? Okay not hearing anything.

I think we are up to date on the Statements of Interest but if you're new to the group, because we sometimes get new people joining every week, please make sure you file your Statements of Interest.

So I wanted to address something that was on – a question that was on the list – the email list last week. And it came up in the context of asking to what extent was the 2007 GAC advice be considered in the GNSO process on future or subsequent procedures. And that got some of us thinking on trying to catalog all of the – not just the 2007 advice, which was taken into consideration by the GNSO before their final report, but also on trying to catalog all statements and advice that were received about the 2012 round after the final policy came out.

And so one of the things that we'd like to task the group with, and I'd like to get hopefully volunteers from each individual constituency, stakeholder group, advisory committee, is to do kind of a catalog of all of these statements and advice that have been issued. And I put up here, or we put up here on the Adobe Connect, for those of you on it, just kind of a format of kind of – of the headings that we'd like to see.

Obviously this is just a model, it's not definitive or in stone, it's just kind of some of the things that I thought would be useful in trying to catalog everyone's statements. So for example, obviously there was a lot of GAC advice that was issued during the last round. And so it would be good to get a good catalog of that advice. And we sent around some links to those topics or to the advice in the emails last week.

But it would be good to fill out something like this where you would say under Group, it was the GAC, a link to the statement, the subject matter that it covered so was it, for example, two characters. Summary of the statement and advice, the date of any board action on it, if there was in fact board action, then the actual what did the board do or should say New gTLD Program Committee, and then was it implemented and how did that show up in the implementation. And then any notes for future procedures.

So another example for this would be something like I know the Business Constituency had issued a statement on plurals and singulars, right, so it would be good to catalog that and say the group is the Commercial Business Users Constituency, a link to the statement, the subject matter would be plural – singulars and plurals. A summary of what the advice was, the date of any board action.

In that case I do believe the New gTLD Program Committee considered comments on singulars and plurals and decided to take no action or just let things be the way it was implemented. And then any notes for future procedures that that constituency or stakeholder group or the representative has.

So it would be good to get a volunteer from each of the stakeholder groups and advisory committees to at least give a start to this. I think what we'll do is probably put it up on Google doc so that it can be edited easily – more easily. But I wanted to know just if anyone had any comments or questions on that. Deafening silence so either it was a great idea or it was – too complicated or – I see questions so let me go to Carlos.

Carlos Raul Gutierrez: Yes, good morning. This is Carlos. Jeff, I think it's an excellent idea. What I – surprises me is that you expect volunteers to do this work. I mean, where is the institutional memory of this process? I don't expect to push a button somewhere in the database of wikis of ICANN and get it automatically. I understand, I think it's very interesting and the volunteers

should check the list. But I really would worry if the institutional memory is distributed in 25 brains and is not hard copied somewhere. Thank you.

Jeff Neuman: Yeah, thanks, Carlos. And I think on that it just, you know, like so for example, I know the Registry Stakeholder Group has a Website with all of its statements on there. And, you know, obviously it's a lot of work for someone that may not necessarily be familiar with the Registry Stakeholder Group. But if someone from the Registries, for example, could collect that information even if it's not putting the summary of the statement or advice but just the advice that was given the group, so Registry Stakeholder Group, a link to the statement and the subject matter would help just to get started.

I think, you know, if someone could volunteer from each group to do that, you know, obviously staff could do it. But I think people who know their stakeholder groups or constituencies or, you know, I'm not sure – I know the GAC has a lot of different advice on it so it may be more difficult for the GAC. But I didn't know if it was that big of a job for the advisory committees and the constituencies. But let me let Paul speak.

Paul McGrady: Hi, everybody. Paul McGrady here. So I think this is really ambitious and I'm wondering if it's a bit too ambitious in the sense of what we're trying to do sounds to me is to create – I hate to use the word legislative history but that's the closest thing we have here – to talk about what happened to GNSO policy recommendations as they became implemented in the Guidebook and specifically whether or not any of that implementation was actually policy change.

And then after the Guidebook made its way out the door with intervening GAC advice were those, again, any of the advice – did the advice become policy change so that we can really get a good picture of what the difference was between what the GNSO Council said we should do essentially leading up at Paris, and how did that turn out as of today.

I'm a little concerned that if we're so ambitious that we're actually going to go back and pull every comment or statement related to Round 1 from every constituency that we will end up with a really, really interesting encyclopedia of it, it won't really be useful.

And I'm wondering if we should maybe draw the line a little higher and, you know, pull out the – instead of studying all the inputs, a lot of which were frankly, just rejected by the board without comment I think, instead maybe we should look at comparing – drilling down and comparing the GNSO recommendations to the Guidebook and then comparing the Guidebook how it was written to how it actually was implemented after it went through rounds of GAC advice after publication.

So that might be more helpful to tell us how far afield from the GNSO recommendations we are and whether or not we need to correct anything to bring us back in line with policy. Thanks.

Jeff Neuman: Yeah, thanks Paul. I think – let me try to make the request or say it a little bit differently because it was not – it was not intended to try to compare everything in the Guidebook with what the GNSO had advised. I mean, we'll end up doing that during the course of our review. I think it was more to just make sure that we captured and had a good catalog of all of the different pieces and things that we learned that we didn't necessarily foresee in the original process so that we can refer back to it once we start talking about it so we don't lose all the statements and everything that were filed.

So, for example, on the plurals and singular issue that was not an issue that was deeply thought out prior to or even in the Guidebook but there were obviously groups that were not satisfied with the way that it was implemented.

And so while we got on the topic of someone wanted to see a catalog of all of the advice that was given by the GAC and how that was implemented I thought it might be a good idea, and maybe you guys are saying it might not

be, but I thought it was a good idea to just not get what the GAC advice was but what each of the constituencies and advisory committees and stakeholder groups said about it and why it should just be limited to the GAC.

So I thought perhaps – and what came to mind, for example, were the Business Constituency’s letter on plurals versus singular; the Registry Stakeholder Group’s letter on – or statements given on changing contracts midway.

So that was kind of – it wasn’t – it wasn’t necessarily to tie, you know, the Guidebook and whether everything was policy but it was really to do a catalog not just of the GAC advice but of other statements that were out there and things that we could look back on and say, you know what, wow, we didn’t consider the plural singular. The Business Constituency had this letter, other people said this in their letters. And it gives us just kind of something to look at and not start from scratch on these issues.

So that was – and maybe that is a little ambitious. But that’s really what the thought was. So, Paul, is your hand new or old?

Paul McGrady: Yeah, new hand. Thanks Jeff. Paul McGrady again. So what it sounds to me like we really want to do is annotate the Guidebook. And maybe we need to put a copy of the Guidebook in a document sharing environment.

And as people read through this in preparation of this work, they can pull out their statements of their various constituencies or advisory committees, however they’re participating in ICANN, and provide links in the relevant section so that when we get to that section the prior statements of all the various stakeholders are noted and they’re in the right place rather than creating an omnibus document that might be a bit difficult to work with. Just a thought. Thanks.

Jeff Neuman: Yeah, I mean, that's – thanks. This is Jeff Neuman again. It's – you could either do it to annotate the Guidebook or you could do it just on subject matter. I'm not sure that there was – well let's just see, does anybody else have any thoughts? I'm just reading the chat here. Let's see, so going back, Carlos – it's a good exercise. It would be great if it was searchable instead of static. Let's see, some people have problems with Adobe. Okay, Alan.

Alan Greenberg: Yes, I think annotating the Guidebook is probably the best place. The advice itself came in so many different forms, including in many cases huge amounts of verbal, and discussion, that I think the only solid document we have to work with is indeed the Applicant Guidebook. And I think that's the appropriate place that we should make our annotations or try to relate the various bits of advice to how well it was followed or how well it worked.

Jeff Neuman: Okay. Thanks, Alan. Carlos.

Carlos Raul Gutierrez: Yes, thank you, Jeff. This is Carlos again. We already discussed two or three meetings ago or it was even in Marrakesh where you pointed that there were many changes in the Guidebook after it was approved by executive order, so to say. So if we are going to annotate we have to be very careful what was – what was there in terms of statements or (unintelligible) comments before it was improved and because that's the 2007 question.

And the other one is what was changed as a process, as a procedure, just to make the round feasible without an underlying policy. So I – you're touching a very important point. I agree, it's necessary. My only comment was I thought it was – it was too big just to call a few volunteers and start doing that because it's going to be like a snowball. I mean, we will start with the main ones but three months down the road we won't have finished that and the list will be 15 pages long. Thank you.

Jeff Neuman: Okay. Thanks. Thanks for that. You know what, let's – I'll take this back with the other cochairs and with ICANN staff and using the Guidebook we'll come

back at the next meeting and propose a way forward on this. But I think it sounds like people support a cataloging of the issues and so let's – I'll take that back with the other cochairs and with ICANN staff to see how we can do that going forward.

All right, thank you, everyone. Let's move on to the next subject, which is continuing the discussion regarding principles from the 2007 final report. We're going to put up the document again, hopefully, there it is, yeah, that we started going through on the last call. And again, just to remind those that were on the call and those that were not necessarily on the call, this is taken pretty much verbatim from the final report in 2007 from the GNSO final report on the introduction of new generic top level domains.

They were separated out into principles and recommendations. Rather than get caught up on whether something is a principle versus recommendation for now we're just calling them all concepts. And we can decide later on, when I say later on I mean, you know, down the road, much further down the road, if we want to do some sort of hierarchy of principles, recommendations, or anything like that in the future. But for now let's just consider them all concepts as we move forward.

So we stopped at I believe it was recommendation – I think we covered Recommendation 12 was the last one. Let me check. Carlos, is that an old hand or is that something new? Okay...

Carlos Raul Gutierrez: Sorry, sorry.

Jeff Neuman: Okay great. So going back to Recommendation – I think we'll start at – we'll recover 12 which was dispute resolution and challenge processes must be established prior to the start of the process. Now I think this is an interesting one because I think there are – obviously were some processes and procedures that were developed prior to the start of the process but I think in

terms of reconsideration requests – or I'll say appeals and challenges of disputes I think were certainly modified as we went along.

So this was one of the recommendations that we had. But is this, again, the point of this exercise is to say do these recommendations, still, these concepts still hold true? Is this something we want to see carried forward? Liz, that's the – I'm looking at your comment in the chat. When you mean discussion the principles, what are you hoping to get from this discussion?

What we're hoping to get, Liz, is not a – we're not trying a solution but we're just trying to see whether these concepts or principles are things that are – would still be relevant moving forward. So it's really just a discussion of whether we think this is still a good concept moving forward, not whether it was carried out or how we would solve for this. Does that make sense? Liz's sound is gone, I'm not sure why. If someone could check on that.

So I'm seeing comments from Susan that Number 12 is still relevant, to know the process before you commit. Anyone else have any comments on the concept for Number 12? Just giving time for people to chat. Okay, I guess we'll move on to – oh, Alan, yeah.

Alan Greenberg: Sorry, just an irreverent comment. If you contemplate putting the opposite in, that is we're going to spring new processes on you without telling you about them ahead of time, it's sort of laughable. I think we have no choice but to at least try to do 12.

Jeff Neuman: Yeah, I think that's right. I think there are some that are just obvious. But, you know, you also do want to – let's say for Number 12, you could come back and say well, yeah, the challenge processes and dispute mechanisms must be established prior but there should be some basis to have some flexibility if there were unanticipated consequences. Right, that could – that could also be something that could be a recommendation.

Alan Greenberg: Yeah, Jeff, it's Alan. To follow up, I certainly agree. And I think that's indeed what we did in some cases where new rules were put in along the way because clearly we had situations which could not be addressed within the scope – purely within the scope of the old rules.

You know, in this particular case if the board had acted quickly enough would it have been reasonable to say if there are conflicts in outcomes we have a third panel that will meet and decide. You know, I think that would have been reasonable but only if we did it early enough so it applied to pretty much everyone. And we clearly didn't do that. So we're going to – the process going forward is not going to be perfect. And I think our rules have to allow for that. But that doesn't mean we shouldn't try. Thank you.

Jeff Neuman: Okay. Thanks, Alan. Seeing some other things in the chat. Just a question from Paul. These principles up for discussion or is our remit subsequent procedures? Paul, the – what do we – my response to that would be when we get into talking about subsequent procedures and talking about what went – obviously you have to talk about what went right and what went wrong.

One of the things from this exercise that we talked about on the last call was to make sure we had established a baseline and then once we came up with subsequent procedures to then map it back to the concept that we had come up with or that, you know, the policies that we have.

So that's really the point of this exercise. We know we will add additional overarching concepts but, again, the hope is that to tie any change that we have to one of the principles to one or more of the principles that we have. So this exercise is really just going from the 2007 policies and concepts – they were called principles and recommendations – make sure that they're still – they're still relevant and if they are, you know, keep them, obviously change the wording around a little bit if things have changed so that once we get into the overall questions we can tie it back to the concepts.

Like so when we go to Number 13, for example, this is the existing GNSO policy. And unless we change it Number 13 is what must be implemented. So what implemented. So what Number 13 says is that applications must initially be assessed in rounds until the scale of demand is clear.

Now this was our policy back in 2007. Should this be – is this still relevant? Or is this something we want to examine going forward? I'm seeing no comments. But maybe I can fill this with one of the questions that the discussion group had come out with was perhaps we do not go in rounds, perhaps we go with a first come first serve or some other mechanism other than rounds.

So my recommendation for this one would be based on the previous discussions was that this one is one we need to look into further, that is not a concept that we need to accept outright, that this is certainly one that this group wants to look at. Alan.

Alan Greenberg: Yeah, thank you. Something came up at the last meeting and it was pointed out that if we don't have rounds it makes it exceedingly difficult to introduce any changes as you go forward because it's almost, you know, John is coming in, let's make a new rule for him. And we still haven't gotten this anywhere near down pat.

So my gut feeling is we're going to be stuck with rounds at least for another round. Someday we may be in a position to do it on a steady state basis, but I don't think we understand the process well enough and have enough level of assurance of the process – of what the process is to do that. If we had that level of assurance we wouldn't be in this working group right now. So my gut feeling is we're stuck with rounds for at least one more round and possibly more, although sometime in the future after – long after I'm gone that may change. Thank you.

Jeff Neuman: Sure. Thanks – thanks, Alan. And so one could also ask a question about that, you know, what is the definition of a round? For example, I could, in theory, say that we will take applications on a first come first serve until we hit 1000 new TLDs and then we'll stop, assess that, see if any changes, and then move on.

I don't know if that qualifies as a, quote, round. It's not the same way that we conducted rounds previously. But that could be a different way to think about. So again I think this is one of those items that the discussion group had wanted us to consider. So I would – I would put a big bracket around this one until we've done some work.

For example, there's been people that have suggested and I think Liz had this one earlier in the chat, of expressions of interest. We could do that to judge demand. Is demand even something we need to judge? I mean, that's a question too. Do you have to have demand in order to open up a kind of first come first serve process?

So I think these are issues that we need to look at. We're not saying eliminate rounds at this point but I think that this is one of those concepts that the group will certainly be looking at and not one that's a given that we need to tie back discussions to if that makes any sense.

Okay I'm just trying to look at – as Jim points out on the chat, ICANN accredits registrars all the time and they still make changes in the process over time. So that is one possibility to have an accreditation process. And that's a first come first serve process.

Liz is saying that we did work on potential demand. We did some work on potential demand. No one could have predicted the number of applicants in the 2012 round because many applicants kept their intentions completely confidential. So I think with this one we're just going to keep this one bracketed until we've done more work. There's a comment that said, "I

thought the GAC had dictated rounds.” We can look into that. I’m not – if that’s the case that may be.

But we can definitely look into that GAC advice and see what to do with that. All I’m saying at this point is that this is a concept that we as a group need to look at and may come out with a different principle or a different definition of rounds going forward. I’m not trying to prejudge how we’ll come out.

Okay, getting some good discussion here. Donna says, “Given that there will be some five, six years between the 2012 round and the next it’s not unreasonable to expect another large round but that should not be such a great lag from the next round to the one after that.” Okay.

So the next – I’m going to move on to the next – Number 14 which is the initial Registry Agreement term. So there were several parts of the recommendations that came out from 2007. The next several recommendations all refer to what was called contractual conditions. And this came out of a separate PDP, policy development process, that held by the GNSO that fed into the work of the – of the GNSO’s PDP on new gTLDs.

So the first concept was the initial Registry Agreement term must be of a commercially reasonable length. Now there was no definition as to what that length should have been. There were several different terms of the Registry Agreements. And by term we mean the length of an agreement. So there were several different terms at that point in time. There were some agreements that were for six years, and I believe there were a couple agreements by that point that were 10 years. The new gTLD process, ICANN staff had determined that a 10-year agreement would be appropriate.

So is there any discussion on this particular recommendation? Again it’s not the definition of the number of years at this point, it just says that it’s a commercially reasonable length. Okay, anyone comment on that one? I think that’s fairly innocuous, vague concept. Okay, moving to the next one, and

again anyone could stop by just raising their hand. There must be a renewal expectancy.

This one also came out of the contractual conditions PDP which the rationale was that in order to ensure investment into the registry itself from any of its investors or from companies or not necessarily commercial companies but organizations, that, you know, if you had only a fixed term in which there was no expectation of renewal, then you may not get the sort of investment towards the last half of that agreement that you expect to make sure that the registry has the resources it needs to keep up its – to keep up its infrastructure policies and everything else. So that was – came out of the contractual conditions. Any comments on those?

Okay, moving right along. I see there's still good chat going on with the rounds. This is one of those questions that's going to be – we're going to get to the overall question of rounds probably in a couple weeks. So I think this is some great discussion that we're capturing here. I'm sure we'll go over this again.

Concept 16 I would think is an obvious one so I'm not expecting too many comments. I think this is one that registries must apply existing consensus policies and adopt new consensus policies as they are approved. I think this is the, you know, the heart of the multistakeholder model and the heart of how, you know, how we operate from a bottom up perspective. So any comments or questions on that one? I think that's a pretty obvious one to keep going.

Okay, we're getting – these are – this is pretty good. We're moving along. So if we can get to the overall – first overall question. This one is a little bit interesting because I'm not sure that this was necessarily done but 17 was a clear compliance and sanctioned process must be set out in the base contract which could lead to contract termination.

So with this one, this one came out of the contractual conditions. This one came out of in the earlier new – sorry, not new – but in the earlier gTLD agreements there was a provision in there that only provided for termination if there was a breach. But there was nothing short of termination in there for ICANN staff if a registry was not necessarily following the contract and so it made it very difficult for ICANN Compliance to actually follow through on the contractual commitments because it either had to threaten termination or nothing else. There was no system of find.

At this point there is a sanctions to temporarily suspend a registry or to terminate. But I still think as a concept this one would still apply. We have a lot of discussion still going on on the rounds on the list. Any comments on this one? There's a comment, "As long as compliance is not done at arm's length from GDD it is going to be almost impossible to terminate." So, Carlos, do you want to go into that a little bit?

Carlos Raul Gutierrez: Yes, thank you. I have a very – this is a technical comment. I mean, there is Compliance came late. Compliance is under the GDD so there is probably a conflict in the present structure to be able to fulfill very strong compliance and then terminate. I mean, there are no judiciary so to say for the contracts. If you want to terminate you have to go to an instance outside of GDD because GDD as long as they get the money, and even if they don't get the money they will try to keep the contracts alive. This is a basic separation of powers question. Thank you.

Jeff Neuman: All right thanks, Carlos. And, Alan.

Alan Greenberg: Thank you. Just to clear up the record, aside from the fact that we currently have an interim CEO who is the head of GDD, Compliance does not report to GDD, it reports directly to the CEO. Thank you.

Cheryl Langdon-Orr: Have I lost audio?

Jeff Neuman: Oh I'm sorry. I was talking into mute. Sorry. Alan is correct that Allen Grogan who is the head of...

Alan Greenberg: I hope mute appreciated what you were saying.

Jeff Neuman: Alan is correct in that he was saying that the CEO – once there is a new CEO Allen Grogan will report, again, to the CEO as he reported to Fadi. He did not report to Akram, the head of the GDD, when Fadi was CEO. So I think that's – that is still I believe the plan going forward. Liz says, "On Number 14," well we're going back here, "we need to be careful here. We have to make sure all legacy operators are able to expect renewal on the basis of compliance with their agreement. However, we are also seeing the disruptive market effects of rebids on very large contracts like dotOrg."

Okay. Liz, I think the dotOrg situation is a rebid of the backend provider and doesn't have anything to do with ICANN. Obviously ICANN has to approve the new backend provider according to the dotOrg contract, but that's not an ICANN process so I'm not sure. Alan, you have your hand up again.

Alan Greenberg: No, that's an old hand, sorry.

Jeff Neuman: Okay back to compliance. Is there any – any other comments on that? Compliance is just advisory or so. That's a comment from Carlos. Compliance is just an advisory. So I think one of the things that we'll certainly do is the group that works on Track 2, I believe is the legal track, I'm sure will work with Compliance to make sure that this concept is clear and in effect and this concept is adhered to.

Okay going on to 18, and this will also be a subject I'm sure that the – I think it's Track 4 will look at which is if an applicant offers an IDN service then ICANN's IDN guidelines must be followed. I think that's in all the agreements now. I think that's a pretty clear concept. I don't think that that's controversial at all.

Okay, Number 19, again some good discussion going on in the chat on Compliance. Number 19 is – now this one is – everyone should pay attention to this one. This one is a concept that's been discussed on a number of occasions and form the basis of a number of rules. This I registries must use only ICANN-accredited registrars in registering domain names.

And then the second part is, and may not discriminate among such accredited registrars. So this one is – this one formed the basis of a number of different provisions in the contract. For those that go back to the contract, including Section 2.9. It was also – an exception was granted for this one for the brand registries in Specification 13 for the second part of it, which is may not discriminate among such accredited registrars. And this was topic of a lot of discussion during the vertical integration debate that proceeded the registry/registrar separation provisions in the agreement.

So the goal here is not to rehash and reopen the debate here but it is one that the Track 2 will discuss when it comes down to contractual conditions and whether the principle is still relevant. So, Liz, on 19 we are going to reopen the debate, I'm sure, not on this call. But I – during this process the debate will be opened up at least to the effect of whether – what the policy is, whether it was achieved and whether that policy needs to be changed or kept the same.

Susan.

Susan Payne: Yeah. Just a comment that I think whilst we may conclude that this is relevant for some types of registry, this will form part of the discussion about whether there are different types of registries that require different rules. And I'm – and you flagged it already, the Spec 13 ones where, you know, there clearly is a desire to either be a registrar or to be able to choose a single registrar and not to be constrained to be having to use – having to appoint all registrars.

Jeff Neuman: Yes, thanks Susan. This certainly does fit in with the – or can play into the categorization discussion that we'll have on whether there should be different classes of new gTLDs. Alan.

Alan Greenberg: Yeah, just to be clear here, my understanding, and it may be faulty, is this – that recommendation allowed a registry to, for instance, go out to tender, say what they were requiring from registrars and have them bid on it as long as they went out to all registrars and allowed them to do that.

But what this recommendation didn't allow, which ultimately we did, is for certain classes of registry to bypass that process and say they would use only one registrar or would be their own registrar, which I believe was allowed for brand registries and perhaps some others, I don't recall. So this is a recommendation which clearly was ultimately not followed because we introduced the concept of different classes of registries. So this one, clearly, we're going to have to redo the wording if we didn't even follow it the first round. Thank you.

Jeff Neuman: Thanks, Alan. I think it was just to kind of clarify, I think it was followed – well the first part was certainly followed, right, that registries must only – registries must use only ICANN-accredited registrars. That's still in place, that's in all the agreements, even the brand agreements with the exception of the 100 promotional and operational names. With the exception of that, that first part is in everyone's agreement whether you're brand, geo, open or otherwise.

The second part of that is, may not discriminate among such accredited registrars. That could be the part that some may argue was not followed in all circumstances. But to be clear, there's no definition of what it means to not discriminate among such registrars so, Alan, your point of, you know, a registry is free to set whatever criteria it wants as long as it applies it equally, that may fit into that definition.

But the – but others do feel and others have said, and have made it publicly known that they would like to discriminate amongst accredited registrars in different ways. So I think this is a topic that certainly people have filed comments on. And I'm certain we're going to discuss this one certainly at length. But I think the first part is still relevant where you must only use ICANN-accredited registrars.

There's some good chat in here. Liz says – or Jannik says, "On 19 we could add some principles on premium names/reserved names here, volume." There was definitely some discussion in some of the comments that were raised for the final report for this PDP, sorry, the final issue report.

Cheryl Langdon-Orr says, "It certainly needs to be reviewed, and – but not necessarily the accreditation part." So Liz says, "It's time to think about the recommendations that can easily apply to all registry operators. Getting exemptions for a particular class is always problematic."

Okay so this is certainly one – oh sorry, Susan, you have your hand raised. Susan? Sorry. She says sorry. Oh okay, it's an old hand. Okay let's go on to Number 20 and then I want to get started on the first overall question.

Number 20 was this was the main part that dealt with a community objection. It says, "An application will be rejected if an expert panel determines that there is substantial opposition to it from a significant portion of the community to which the string may be explicitly or implicitly targeted." This is one that gave rise to a community objection regardless of whether the application was a, quote, community application or not.

So in other words, if someone had applied which happened for dotHospital, as an open gTLD, completely open, if there were an objection from the community of hospitals, they could get together and file a community-based objection even if the hospital gTLD that was applied for was not a community gTLD.

Now one of our tracks is going to look at objections and look at communities. So I think this one of those where we're certainly going to be taking a look at this concept. Maybe not necessarily the concept as a whole but certainly on how to implement it or what can be done to implement it in a way – or to make sure it's implemented in accordance with this concept. Any further discussion on this one?

Okay, great. We're going to have this – we're going to make notes. And for those of you that have not seen it, I believe Steve Chan had sent across a link to a Google doc with these principles or these concepts on there with our annotated notes. We'll update it for – we'll update it for the – to reflect the notes from this meeting. And hope everyone has a chance to review it and then we can start out the next call to see if there's any comments on those notes.

Just to address really quickly, as this is getting posted, Susan says, "What was the reasoning behind this? Did they have in mind a particular type of community, assume it wasn't open ended."

Susan, I think the – from my recollection the reason this was in there was because community was not necessarily – a community application was only being used to establish priority. I'm not sure they have in mind any particular type of community other than if someone had applied for an open TLD if it was – if there was a community of people that objected it – that had a cohesive community they should feel – they should have some way to file an objection.

So and that way it was fairly open ended. I'm not sure that the GNSO had anything particular in mind but just felt like there should be a way if someone applied for something as open if there was a community against it or that they should have some way of filing an objection.

Okay so moving on to the – to the next exercise. So the very first question, overall question, was for us to consider should there in fact be new gTLDs – it was being shared there for a second. I lost it. But essentially should there in fact be new gTLDs. So what I thought we would do is that the existing policy right now states that there – if we were to follow the existing policy it would say, yes, there should be existing new – or there should be new gTLDs for the reasons that were set forth in the final report of – not this final issue report that's up there but the final report of the GNSO.

So what I thought we could do to get started with this is a little exercise where we could – and I think this is why it's being put up on the – the notes are being put up on there – was to throw out both reasons for or against having new gTLDs, not for us to evaluate those reasons at this point but that we could have a good list of the pros and cons of more new gTLDs. Does that make sense? So what we'll ultimately do is kind of do a pros and cons chart and then go over and assess those pros and cons.

Everyone understand the exercise? So we're just – we're not going to discuss whether the pro or con that anyone puts up on the board is right or is – has been evaluated, it's just one of the – just the reasons both pros and cons. So is there anyone that wants to get this one started on the list either a pro or a con.

We have a very talkative group this time. So why don't we – why don't we put up some of the pros from the last round? So in the last round the pros that were put out were, let's see, it said that in – in 1999, obviously the community had come to consensus that there should be new gTLDs to stimulate competition.

All right, it was also said that having new gTLDs would stimulate innovation. And a lot of people participating here. Okay, is there anything in the chat here. Liz says, "Jeff, this question has already been answered." Liz, the discussion group has – I see that there's a lot of plus ones. If everyone in this

group wants to concede this question that's totally fine too. But it is one of the questions that we've been asked to take a look at.

So understand people think that there's an answer for this but I want to make sure that this group has considered the pros and cons because – okay Jorge has said, "This is a 'whether' question more relevant is how and the answer depends on the multiple reviewed being carried on right now." So would someone say then that one of the cons are at this point introducing new gTLDs before the reviews is premature. Is that a con? Reviews have not been completed.

What are some of the other pros? Con, enough data to be – so we're not sure we have enough data to determine whether it was success? Liz, that's the second part – so Liz has posted, "It's easier to ask the question in reverse if stop all new TLDs now, we stop the PDP and we all stop doing what's going on now."

So, Liz, the second part of this question that the discussion group asks us to consider would be what are the ramifications of stopping it? So I want to park that question because we are going to consider that. Alan, your hand is raised.

Alan Greenberg: As attractive as saying there will be no more rounds and therefore we can cancel this PDP and free up all of our time, is there was an implication on the first round that there would be second rounds and you didn't have to apply that time if you didn't want to. So it's going to be really difficult not to have any more in any form.

Jeff Neuman: Okay so I would put...

Alan Greenberg: I'm not deciding the output, just pointing out that we have made commitments to the world. Thank you.

Jeff Neuman: Okay so I would say for a pro it's the – pros are that it's an expectation that there will be new gTLDs and that you did not have to apply in the first – in the 2012 round. Okay. Greg.

Greg Shatan: I'll throw out a couple of cons, at least for the sake of argument. You know, that the, you know, new gTLDs have been a playground for rampant fraud and abuse and are incredible drag for trademark owners and others, to police, this ever-expanding universe looking for (malfeaserd) and also that, you know, the, you know, issue of future demand given the, you know, trillions of potential second level domains that are now available is – is questionable.

I'm not saying I agree with all of those but – or to the extent that they've been stated, but I've certainly heard others say them. So we might as well put them out there.

Jeff Neuman: Okay thanks. And there are some reviews that are going on to look at those issues so I think that those have certainly been put out there. Again, we're not – the goal here is to not assess whether these are true or not, these are just to state all the pros and cons.

Martin Sutton says that one of the cons could be that this is viewed as anticompetitive. Martin, are you saying not going forward would be viewed as anticompetitive? Yes. Okay, so that would be a pro to go forward I think. So, Julie, I would take that could be viewed as anticompetitive and put it as a – in favor, a pro, if we don't go forward. So could be viewed as anticompetitive if we don't go forward.

Let's see, Karen said, agree – oh sorry, "costs of the application processes cost," sorry, "is cost prohibitive." Is that a reason why we shouldn't go forward because it's cost prohibitive, Karen? Background, so all right so one of the cons that Karen has in her later comment is that applicants game the system to get around background checks.

Christa Taylor puts one of the pros as, “Additional brands could help propel the current level of registrations.” By the way, Julie is doing an incredible job capturing all this so thank you, Julie. Karen also says to have – to allow other groups or underprivileged, underrepresented groups to apply. So I would say another way to say that is maybe to promote more geo diversity – more diversity in new gTLDs you could say.

There is a pro. “There is likely to be further demand for IDNs for those whose first language is not Latin script.” That’s good. Jannik says, “A pro if there is just one new applicant there’s proof that there is need in the market.”

Another pro is “New gTLDs have higher security demands than some of the legacy TLDs. The more new gTLDs the bigger the protection of registrants.” Okay. “Jeff,” sorry, from Liz. “As part of the information gathering would it be helpful to do a stakeholder applicant expression of interest?”

Liz, one of the topics in one of the tracks is to look at a potential expression of interest as we move forward. So I think that that’s something that we are going to definitely look into. Well, the group will look into. Not saying definitely we’ll have one but that the group will explore.

So Carlton has a question on how does the gaming – so, Carlton, I’m going to ask you save that question for later because we’re going to analyze these pros and cons. So I hope people that are listening to this call are actually looking at the Adobe room as this is going on because it’s probably hard to follow if you’re just listening to call without Adobe in front of you.

One of the – Phil Buckingham, “A pro for more new gTLDs is to further enhance consumer choice, trust and competition,” which is obviously something that’s being looked at by the CCT Review Team to assess that.

Jorge from the GAC, Switzerland, says, “just to have on record the Marrakesh GAC advice on the issue of moving forward to new rounds, the GAC therefore reiterates previous advice to the board to ensure that a proper assessment of all relevant aspects of the new gTLD program is made, taking into account feedback from all stakeholders and the development of future rounds should be based on the conclusions of this assessment.”

Great. That’s definitely something we need to take into consideration. And right now we’re not talking about the timing of when, we’re just talking about the whether or the if. So I guess the first con does relate to the timing that the reviewed have not been completed.

At Jeff, “Wouldn’t that answer the question, why waste the group’s time if there’s no interest in future rounds? I hope that there are heaps of rounds that are simple, cost effective, predictable, but we need to ask to do – we need to do outreach, actually ICANN should do that.” Thank you, Liz.

I do think at some point there will probably be an expression of interest. But, Liz, I think at this point in time because it’s so early I don’t know if there were many groups that are actually thinking about it seriously but I do think that one of the tracks will be discussing expressions of interest and that may have helped to do an expression of interest prior to the last round.

Any other – I know Alan, do you have hand raised, Alan? Sorry, I didn’t look to see whether that was old or new. Okay...

Alan Greenberg: That’s a very old hand, sorry.

Jeff Neuman: Alan, you shouldn’t put yourself down like that.

Alan Greenberg: I just had a birthday, it is a very old hand.

Jeff Neuman: That was a joke, everyone. Greg, your hand is up, is it...

Greg Shatan: My hand isn't quite as old as Alan's but it's an old hand.

Jeff Neuman: Okay. Let's see, what else is there? Grace says, "It would be nice to have other ways of getting new gTLDs other than competitive bidding." So, Grace, your comment is on the how which will be dealt with if there's contention and that is Track 3 I believe. Okay any other pros and cons that we want to list?

Okay so going back to the overall question, which I agree, if the answer to this overall question is no, there shouldn't be more new gTLDs, then I guess we fold up, pack up and make that recommendation to the GNSO Council. So obviously this group was started under the presumption that there – I shouldn't say the presumption – under the existing policy from the GNSO is that there will be additional gTLDs.

So if we take a look at these pros and cons, and I'm not going to ask for a decision at this point because we're not making decisions, but it's really at this point to just look at the pros and cons to see whether there are additional pros and cons out there at to compile the full list because one of the things that all of the groups are going to ask us as a PDP working group is did we consider the question – did we consider this question, did we thoroughly consider the question of whether there should be new gTLDs.

So I think we should keep these on file, the pros and the cons, and then talk about an assessment of the pros and cons on the next call. Let's see, "Dear Jeff," this is a comment, "we need to wait for the result of the reviews to consider all the pros and cons."

Jorge, I think that's a good point. So for right now I just want to document all the pros and cons for this call. I think ultimately the reviews are going to come back and we're going to have to look at the reviews – this question in the context of those reviews as well. So I do agree with that.

Okay, any other questions or comments? So for right now we're just parking these pros and cons and we will come back to it. Another pro from Martin before we close this out, "The latest round delivered hundreds of new gTLDs," so, Martin, what is the pro there? That there obviously was demand in 2012 indicating that there's likely to be demand in the future? Is that what – okay. So why don't we put that as one of the pros is that there was demand and delivery and there's been ongoing delivery which indicates that there would be future demand as well. I think that's a pro.

Okay so the second thing I want to get to on this call because we do have a little bit more time, there's been a discussion of one of the questions that we need to look at is on differentiation with TLDs meaning categories. Now this is a subject that I know was discussed an awful lot by the GAC even before the Guidebook came out – or I should say, even before the final Applicant Guidebook and the proposals were solicited. But the ICANN staff had decided not to categorize at that point in time.

There are some advantages of categorization and we ultimately did see a couple different categories come in this round – or sorry, in the 2012 round. For example, we saw that there was a category of open registries, there was a category of geographic registries, and there were a category of brand registries.

And each of these – and, sorry, there was a fourth one, so there was, yeah, there were brands – just waiting for Julie to catch up – and then there was intergovernmental organizations where another type of category in the sense that they had different contractual conditions.

So what I want to do now is, again, without any value judgments on this question of whether it's good or bad to have these categories what I thought might be a useful exercise is to kind of do a brainstorm of different types of categories, what we could foresee as different types of categories.

Ultimately what we want to do then is to look at the traits of those – of what we would think would be in those categories and then we'd want to see what commonalities these categories have and what differences they have. And I think that would help for the tracks that are ongoing to look at. So, for example, Track 2, which is looking at contractual conditions, if we do agree that there are or should be different categories then that second category – that second track can look at okay what are the different contractual conditions that may apply to those different categories?

Going back to some of the comments – so I want to brainstorm on different types of categories and then well go back and look at the characteristics. So I'm seeing some discussion in the chat, but let me go to Susan and then I'll catch up on the chat.

Susan Payne: Thanks, yes, Susan Payne for the record. I think there's another category which is perhaps a sub-category of the open ones, which is something like restricted open or validated registries, so ones that are – not a brand but they're not open to everyone, there is a kind of qualification criteria for joining the registry, if you like.

Jeff Neuman: Yeah, thanks Susan. And actually we should add – and I do think this is – what you said is different. But I'm thinking in 2012 we should add community registry. I don't know why that was not – why I didn't say that. So there's community registry but a validated registry is actually a little bit different. That's an open – technically an open registry, didn't apply for community status but has restrictions in some sort of way that are verified.

Okay I also see in the text there is a not for – sorry, who said this? Jannik said he would toss in a new category called not for profit or nonprofit gTLDs. Jorge says that, "The 2012 Applicant Guidebook, in a way, said that there were certain categories and established them but didn't establish consistent rules."

I think that's – okay, Martin has a highly regulated category. Or, Martin, yours is saying "restricted" is that the same? I think that might be different. I think validated is kind of self-selected and may not be highly regulated. So why don't we put that in there as a different category, highly regulated.

Liz said, "Susan, that's domain name registration policy. We shouldn't be tying ourselves in knots about the registry label. We should only focus on whether an applicant has articulated their domain name registration policy."

Okay, Liz, I want to capture that comment for the next call because that's when we're going to talk about traits and whether certain things should be categories or not. So let's capture that comment. Greg.

Greg Shatan: Hi. Two quick points. One, to not for profit and nonprofit I would add NGO to that type of potential category. Second, somewhere along the way here, and I think it may have been noted, just note the incredible, you know, difficulty in coming up with appropriate categories and, you know, criteria for when something is or is not in the category and what the effect of the categorization is.

For instance, I had a client who couldn't apply for their exact brand name because it's also – or at least their commonly used name because it's a two character code, it's an actual country code. And so they applied for that with the word "company" after it, which is often a way they refer to themselves but not a trademark per se. They were not allowed to consider themselves a dotBrand. You know, kind of silly stuff.

So there's a lot of, you know, just difficulty with, you know, the categorization comes with, you know, a high degree of issues and then also – and also objection processes and validation processes. So that's in essence a kind of a con of categorization but probably a necessity as well.

Jeff Neuman: Yeah, thanks Greg. I think at the next meeting we'll talk about the pros and the cons of differentiation and certainly what you mentioned about the difficulty of drawing the boundaries and coming up with concrete ways to judge or evaluate is certainly one of the difficulties of setting out these categories. Alan.

Alan Greenberg: Yeah, thank you. We're certainly going to have to make a decision, do we have categories? And ultimately what the categories are. But I think trying to list categories right now other than to demonstrate there's a bunch of them, I don't think is a very fruitful way for us to spend our time. As you say, we haven't had the discussion of whether we should have them or not; deciding which they are I think is a bit premature. Thank you.

Jeff Neuman: Yeah, thanks Alan. This is Jeff. Yeah, and I should have made this clear, this is not to establish a definitive list of categories. It just helps when we discuss the pros and cons of having categories, the fact that people have category ideas in their mind. So it's not an abstract concept, it's something we could point to. But I completely agree with you, Alan. If we were deciding the issue of what the definitive types of categories are that it's premature for that. But I was just hoping to get some less abstract thinking for the next call when we talk about the merits. So I hope that helps clear it up a little bit.

Going back to the chat, we should also discuss whether a gTLD operator can change category so change – yeah, so thanks, Jannik. Obviously that's one of the complications. There's a lot of things – if we decide that there should be categories then, yes, we're going to have to talk about what if someone wants to change, what are the different contractual conditions, does that discriminate against the existing legacy operators?

Is it something that people can object to? So there's a ton of questions that come up if we decide there should be categories. But again, I think we're going to have to – I think we're going to have to address this and it's certainly – was on a lot of people's minds during the 2012 process.

Cheryl Langdon-Orr says, “I, and always, have been comfortable with the notion of using categories but if and when we decide on using them then we have lots of work.” Agreed, Cheryl, we have lots of work if we decide to use categories.

And then Jorge says, “At the same time, clear and consistent categories may improve legal certainty.” I agree with that as well. So I think there’s some very good comments. Greg, is that a new hand?

All right, I think this is a good place to – unless there’s additional comments – I think this is a good place to stop. I would like to continue this discussion on the list so when we do the pros and cons when we come out with the notes I’d love to build the list – the pros and cons for should we have new gTLDs.

And then also for the differentiation to continue the discussion on these two overall questions on the next call but get a little bit more detail so that we can, again, put out – and it’s possible on the first question of should there be new gTLDs, that also first of all is a question we’re going to come back to after the reviews, but also is a question what we’re trying to do is come up with questions that we can go out with ultimately to the constituency, stakeholder groups, and advisory committees as kind of the initial public comment period.

So hopefully we can list the pros and cons that we’ve come up with but then ask the stakeholders, constituencies, advisory committees, etcetera to add to that list as well. Cheryl, you have a comment, question?

Cheryl Langdon-Orr: No, well, a comment and a question I guess. The question first, would there be merit with the pros and cons because this is something that we recognize we’re going to have to come back to not the least of which is it posts the reviews but not doubt we’ll have to revisit at a number of points in time during our work.

Can we put it up in some sort of shared doc format where we can, be it wiki or otherwise, where we can keep a running tab on it, I for one, if it gets into a mailing list amongst, you know, 13,000 other mails I'm not going to get back to it. But if it's somewhere where we can all go and have a look at it and go oh we need to add that or that's already been added by someone else, it might help.

And secondly, as a plea from a couple of us that were committed to another very important call that was to last 90 minutes, we had a minimum of a 30-minute overlap, if we could avoid that sort of overlap, just get staff to look closely at that other advertised call commitments that some of us are on, we managed but it would have been nice to have all of Greg and mine and Donna's attentions and Alan's attentions for the first half hour of your call.

Jeff Neuman: Okay thanks, Cheryl. On the first point, absolutely, we want to put it up on either a wiki or Google doc or something where we can always come back to it, update it as necessary. I think we tried with the overlapping calls but I – this call is kind of set so we know, like, for example next Monday there's a call, I believe it's 2200, someone could correct me if I'm wrong.

So I can't help if someone schedules a call kind of last minute. I know this bylaw discussion is something that kind of came up, you know, last minute. But, yes, to the extent we can absolutely, we're going to try to avoid overlapping calls. Steve.

Steve Chan: Thanks, Jeff. This is Steve Chan from staff. And I just want to make a quick comment on how we hope to capture the discussion on online resources. So I think we'll probably create dedicated pages on the wiki for each of the subjects. And then to your point about having some sort of a living discussion on each of like for instance these pros and cons, I think we'll probably create those in a Google doc and so the Google doc will be linked to on the dedicated page on the wiki. So I think we'll probably use a combination of

Google docs and wikis to capture the entirety of these discussions. So just wanted to add that. Thanks.

Jeff Neuman: Yeah, thanks, Steve. Okay any other comments or questions? All right then the next call is 2200 next Monday UTC. Did I get that right? I know it was on the top of the agenda – the notes or the agenda that was up there. Yes, 2200. Great, well thanks, everyone. I know this is a lot of work. It's going over a lot of past things and I know we want to move on but I think this does set a good baseline. We're going to continue to make progress.

And this week, just so you know, we're going to have a call with – the chairs are going to have a call with the leadership of the CCT Review Team to make sure we're not overlapping and making sure that there is a consistent path forward. So thank you, everyone. And talk to you next week.

Cheryl Langdon-Orr: Bye.

Greg Shatan: Bye. Thanks, Jeff.

END