

Terri Agnew: Welcome to the New gTLD Subsequent Procedures Sub Team – Track 2 – Legal/Regulatory Issues call held on Thursday, 06 October 2016 at 20:00 UTC.

Terri Agnew: agenda wiki page: https://community.icann.org/x/Tw_4Aw

Alexander Schubert: Hello everybody :-)

Alexander Schubert: 5: Reserved names. 2nd level or top level?

Michael Flemming: Hello Alex and welcome.

Michael Flemming: Both

Michael Flemming: In a sense

Michael Flemming: We will save that fun for last today :)

jeff neuman: Not everyone gets your humor :)

Cheryl Langdon-Orr (CLO): Hi there Sorry I had to wrap up another call

Cheryl Langdon-Orr (CLO): My morning is all back to back calls it seems

Terri Agnew: Welcome Cheryl, still plenty of time left LOL

Alexander Schubert: Well, if you're going to apply for a prepreviously ineligible string - it's not fun!

jeff neuman: I can provide a background on this

jeff neuman: 3

Steve Chan: As noted, T&Cs are available as Module 6 of the AGB, but also available on the web here: <https://newgtlds.icann.org/en/applicants/agb/terms>

Jim Prendergast: I would also ask - did the community have input into the T&Cs or the ability to suggest changes to them? Seems like everyone was focused on modules 1-5. Im not sure anyone every commented on module 6.

Rubens Kuhl: Jeff's audio is fading

Rubens Kuhl: (at least for me)

Berry Cobb: Another vector for the group to monitor/consider is the changes to RfR and eventual release of the updated IRP as a result of the CCWG Accountability work. It did not specifically touch upon what these mean for subsequent rounds/procedures, but it will be changing in the future.

Rubens Kuhl: For me it seems it doesn't require a charter amendment in this case, but policy staff could enlighten us on that...

Berry Cobb: Request for Reconsideration.

Berry Cobb: Yes

Rubens Kuhl: What we could say at a policy level would be "Have T's&C's to reduce ICANN liability to the minimum level allowed by ICANN Bylaws, California law and US law".

Rubens Kuhl: Reference material: AGB Module 6, RfRs from the 2012 round, IRPs from the 2012 round...

Rubens Kuhl: + lawsuits from the 2012 round.

jeff neuman: yes

Rubens Kuhl: Two stress tests I suggest to T&C is the TAS issues that occurred, (1) freezing the application process (2) data leak...

Rubens Kuhl: TAS was the application system used by applicants in the 2012-round

Rubens Kuhl:

https://docs.google.com/spreadsheets/d/1mA_hTUhLhJSsfcmoQwREtUqxykZ5KfJffzJAAhEvNIA/edit#gid=0

Rubens Kuhl: <https://docs.google.com/document/d/1k1HrFjwzupuJqr33WmGmBUD45SQ5Cv1-vNP7ZRztPk/edit>

Phil Marano (Mayer Brown): Another suggested stress test for the T&Cs: The threatened termination of a new gTLD application by ICANN based on rationale not established within the AGB, i.e. failure to meet a newly established interim milestone.

Rubens Kuhl: I would also add "Sponsored TLDs", which although being a twin brother of Community TLDs, have different regulatory framework.

Raymond Zylstra - Neustar: Question - Is reviewing 'categories' part of this WT? Or is it just if a single agreement makes sense?

Alexander Schubert 2: And there is applications fitting in 4 of these categories in the same time

Rubens Kuhl: Raymond, I believe it's WT1, and that we need to sequence our discussion on WT2 once the types discussion is settled.

jeff neuman: Its the overall group, right

Raymond Zylstra - Neustar: Another Consideration: 1 Size Fits All vs. 2 Sizes Fits All – Introducing version(s) of the Registry Agreement may just change the problem. Within categories of TLDs there will still be differing business models.

Kristina Rosette (Amazon Registry): I have a clarifying question: Does "different base agreement" mean (a) a completely different base agreement for every category; (b) a standard base agreement with additional specifications that differ (like Specification 13); or (c) something else entirely? (If the answer is (c), please elaborate). Thanks.

Kristina Rosette (Amazon Registry): Thanks.

Rubens Kuhl: Note that we already have two different agreements at the 2012-round, and it's not based on specifications... it's the governmental and standard versions of the agreement.

Rubens Kuhl: What Jeff is saying.

Rubens Kuhl: Spec 9 - Code of Conduct (not applied for exclusive use TLDs and for Brand TLDs) Spec 12 - Community TLDs Spec 13-Brand TLDs.

jeff neuman: Any participant of this WT

Julie Hedlund: @Jeff: Not sure I captured your word correctly.

Rubens Kuhl: Just to complicate Jeff's idea, there are Community Brand TLDs... ;-)

Raymond Zylstra - Neustar: Question 'What is the outcome of the 'Scope of Work'? What is it that we working towards delivering?'

jeff neuman: Yes, scope of work is to make policy recommendations and to provide rationale for those recommendations

Gg Levine (NABP): Wouldn't it be simpler to keep single base agreement and then fine-tune specs per category? Multiple specs might apply to applicants.. Doesn't make sense to have separate agreements.

jeff neuman: Gg - Yes that could be one outcome

jeff neuman: My goal is to take the abstract principle and make it more concrete

Berry Cobb: I might suggest that you take a more targeted approach. Brands = Martin Sutton; Geos = RyO from a geo TLD; Community = RyOs that have gone through that. We know that these "categories" for lack of a better word exist today.

Kristina Rosette (Amazon Registry): I would hope that the folks advocating for different agreements have a very good idea about what they do - and do not- want in a base agreement so it shouldn't take too long to articulate. Otherwise, we could be doing this for a long time

jeff neuman: I agree with Kristina. These groups are not going to draft a new agreement now

Berry Cobb: I'd also recommend that it be communicated that the default is a single agreement at this point and only looking for rationale on why the WT should consider different versions.

Terri Agnew: Next New gTLD Subsequent Procedures Sub Team – Track 2 – Legal/Regulatory Issues will take place on Thursday, 20 October 2016 at 20:00 UTC.

jeff neuman: I can reach out to Martin/Cecilia (from the BRG) and relay this conversation

jeff neuman: Cool. Thanks! Good Call.

Cheryl Langdon-Orr (CLO): Thanks everyone... Thanks Michael... Talk again soon ... bye for now

Alexander Schubert 2: bye