

YESIM NAZLAR:

Good morning, good afternoon, good evening to everyone. Welcome to the Consolidated Policy Working Group single issue call on CPE guidelines taking place on Thursday, 16th of April 2020 at 13:00 UTC.

On our call today on the English channel we have Jonathan Zuck, Olivier Crépin-Leblond, Cheryl Langdon-Orr, Vernatius Okwu Ezeama, Gordon Chillcott, Tijani Ben Jemaa, Joanna Kulesza, Joan Katambi, Jose Lebron, Jaewon Son, Justine Chew, Holly Raiche, Marita Moll, Chokri Ben Romdhane, Priyatosh Jana, Bill Jouris, Yrjö Lansipuro, Alan Greenberg, Dave Kissoondoyal, Satish Babu, Roberto Gaetano, Aris Ignacio, Avri Doria.

On the Spanish channel, we have Sergio Salinas Porto and Alberto Soto, and on the French channel, Michel Tchonang Linze.

We have received apologies from Sylvia Herlein Leite, Maureen Hilyard and from Matthias Hudobnik.

From staff, we have Heidi Ullrich, Evin Erdogan, and myself, Yesim Nazlar. I'll also be doing call management for today's call.

Our Spanish interpreters are Marina and Lilian, and French interpreters are Claire and Jacques.

Just a kind reminder before we start to please state your names before speaking, not only for the transcription but also for the interpretation purposes as well, please. And now I'm going to leave the floor back to you, Jonathan. Thanks so much.

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

JONATHAN ZUCK: Thanks, Yesim. Welcome everyone to the single issue call on community priority evaluations and adjustments to the process for a future new gTLD round. The agenda is presentation, discussion of CPE led by Judith. So I think this is a topic of great importance to the At-Large. So Judith, I'm just going to hand the mic back to you to take it away.

JUSTINE CHEW: Thank you, Jonathan. Must be quite an early start for you because it's Justine, not Judith. Never mind. Okay, there are two links you see in the agenda. First one is the presentation which you see on the screen now, and right below it is another link to the Google doc. The Google doc is something that the small team and a few others who are intimately involved in CPE have been working on, and that's the source of the inputs that have been used to generate some of the proposals that we're going to look at today.

So you have an option of just following through the discussion using either the PowerPoint on the screen or the Google doc if you're comfortable with Google Docs. The benefit of having the Google doc also is you see all the comments that have been posted in the document as a basis for some of the arguments that we're using to make certain changes. But I've also tried to transpose and summarize those arguments into the PowerPoint except for the last criteria, which is the support and opposition criteria. So again, you have the option of following just on the PowerPoint or on the Google doc or both. It's entirely up to you.

All right, so if we can just go to the PowerPoint, page two, based on the inputs that we see so far—and I have to say that the inputs also included prior inputs from the other two [inaudible] for the applications that I mentioned, which is Edmon Chung and also Jamie Baxter. Jamie Baxter is a member of the subsequent procedures PDP working group, so he has been providing feedback to SubPro PDP working group. So I basically listed his comments from that forum to consider in this particular forum. So there is some input from the other two.

And the third person that I mentioned is here on the call with us, so I'm hoping that he will provide his input. That's Giacomo. I'm hoping that he will provide his input on the spot. I apologize that there was short notice given to him, but he's also, I consider, an expert in this area so I don't think he'll have any trouble following the call and giving his insights as and when it's needed.

Okay, so based on the inputs that we received and we're considering, basically, we're looking at the areas which are highlighted in red. The blue ones are sort of touch and go. We will have a look at it, but I think more priority and focus will be given to the criterion of delineation, extensions, nexus, and support opposition. Next slide, please.

Okay, here, this is just some background. I'm hoping that most of you would have at least gone through the first 14 slides of this presentation as requested yesterday. But here, I just want to mention that we are trying to focus on the community priority evaluation criteria as well as guidelines. So I'm not too concerned about who the panel is going to be at this point in time. Wonderful, Jonathan.

There is still no decision or process by which the CPE panel for the next round is going to be selected so that sometime in the future it's going to be part of implementation, which will come after the policy has been adopted, which is what we're considering now. So don't be too concerned about who the provider's going to be, who the panelist is going to be. Our focus here is regardless of who that provider or panelist is going to be, we're compelled to follow a set of guidelines and the criteria, obviously. So that's what we're focusing on today.

The criteria itself is reflected in the applicant guidebook, and the guidelines were something that was prepared by the previous CPE provider, which is EIU, the Economic Intelligence Unit. So that is essentially what we are looking at for the combination of the criteria and the guidelines.

So the guidelines were written up by EIU for the previous round, and unless we make some changes to it, then presumably by default that's going to be taken up in the next round, which is why the exercise today is important.

From the experience of some of the parties that went through CPE, we know that there are some very glaring weaknesses, some inconsistencies that have been applied. There are also question marks about interpretation of terms and interpretation of the actual rules that were used. So those are the type of things that we're trying to consider today and to see whether we can put some guiderails or nail down some text changes that could improve the experience for the next round. Next slide, please.

This is a history of the CPE. I'm not going to go through this, except to say that on the left column—we'll come back to the issue of provider as part of the discussion for community-based application, so I'm not going to go into that today. All right? Next slide, please.

Okay, so this was the set of criteria and guidelines that were used for the CPE in the 2012 round. The difference between this slide and the first slide that I talked about is this particular slide includes the scoring matrix and the fact that to prevail in CPE, you need to score at least 14 points out of a maximum of 16. Next slide, please.

And all the criteria, as I said, is actually reflect in the applicant guidebook module four, section 4.2. So if you have access to the AGB, by all means, you can have a look at that there as well. Next slide, please.

This is just to highlight that in the process of EIU coming up with the guidelines, there was a public comment process or invitation to comment at least on the draft guidelines. This was back in 2013, so ALAC did provide comments in that process, so they did provide comments for the draft guidelines, and this particular slide talks about the actual comment itself.

So the comment, I think, goes through another three slides, so it's slide six, seven and eight if I recall correctly. You can just keep scrolling. So slide six, seven, eight. Keep going. Slide nine I think also. Yes. Okay, so it covers from then up to slide nine. I reproduced the comment so that we don't have to go searching for things, and it's just a guide, so it's just background information.

And then slide ten talks about the actual process post the 2012 round. So there was in fact a program review conducted at the instigation of the ICANN board on this, and part of that review report has been considered within the work of the SubPro PDP working group. Then there was a series of public comment for the initial report where we also commented. So moving on to slide number 11. I'd like to get through to the real good stuff.

This is basically executive summary of what we commented in the last round of public comments on the initial report. Next slide, please.

This is where our review proper begins. We're going to be looking at each of the four criteria as well as the subcriteria that applies to each of the criteria and the applicable guidelines. Next slide, please.

Okay, so slide number 13 and 14 is just a preface of the principles that we might want to consider strongly in proposing our improvements to this set of criteria and guidelines. It is something that I drew up. There's five of them. Something that I drew up based on a culmination of the inputs that we received as well as inputs from the parties as well.

So the first one is in terms of fairness. And I want you to keep these five principles in mind when we look at the actual text that's been proposed for changes.

So in terms of fairness, it's arguably the most important goal. We talk about transparency and predictability. Those are desirable, but that's often predicated on what we know or have experienced. CPE was the first time it happened in the 2012 round, so there was no real experience to base it on. But now that we've gone through the 2012

round, we know certain things happen and we know certain things may have—or we'd like to think certain things should have happened which didn't happen or certain things that happened which shouldn't have happened. So we have some basis to move forward on.

The whole point about fairness was the argument of flexibility, and this is something that we've talked about even in our public comments to the initial report, that we need to look at or we need to incorporate some level of flexibility in interpreting the guidelines and criteria as well as the interpretation of communities, for example.

One of the things we thought would help to try and build in fairness would be to have grass roots participation, participation with the right expertise. We brought perspectives either on the evaluation panel itself or at least some direct link to the evaluation panel where perhaps you could compel the evaluation panel to seek expertise of that nature, of grass roots background. And it's important to understand the nature of how different communities are recognized, organized, administered or even developed or galvanized.

So the next principle is communities. The whole idea about community-based applications is meant to be in service for the benefit of communities. The difficulties we had was that communities mean different things to different people. So it's a question of who you ask, really.

So if we're asking the panel to decide what is a community or what is not a community, then we really need to make sure that they understand what we're talking about when it comes to community. And

in the past round, I think—not to put the blame entirely on EIU, but there was a comment that EIU is very business oriented, so they tend to think in terms of strict membership structure where you have card carrying members or paying members that gravitate towards things like trade associations and [business associations] and not so much on loosely organized communities like ones which typically you would associate with homogenized groups or linguistics, cultural, ethnic groups, even traditional knowledge or indigenous communities, which are, as I said, loosely organized, but they are reasonably recognized—or they should be at least—and not necessarily very strictly administered in some way or another.

The third principle is that there was some comment about linking of the subcriteria and scoring. So to say that for example one subcriteria, if you score zero in that, then you would tend to score zero in another subcriteria. So that carries an inadvertent bias, so to speak. So we need to look at whether that needs to be decoupled so you have actually independent subcriteria that you can score independently of each other, and also things like whether the scoring scale is sufficient, whether the weightage given to a particular criterion, whether it should be higher than the weightage that's given to another criteria. Next slide, please.

The fourth principle that we are looking at is double jeopardy. When I use the term double jeopardy, I'm talking about this issue where you have an application that goes through a public comment period. Then you may have oppositions or people who are against the application. Now, if that opposition or comment against is resolved during the public

comment process, then arguably, it shouldn't be carried into the opposition or support process that we have for CPE.

Now, if I can just clarify, you have to think of it this way. When the application is posted up for public comment, there's supposed to be a fixed period for public comment or what we call application comment, actually.

So when it comes to CPE, CPE is, as I tried to explain last time, CPE comes in a later part of the entire application chain because you have to go through evaluation first and basically, you have to go through the application and the applicant has to be pre-evaluated to meet certain criteria before it can move forward. And CPE only comes into play if there are certain things that are prerequisite. For example, a contention set, because CPE is a contention set resolution mechanism.

So there is a contention set, and also, the community-based applicant has opted to go for CPE. So assuming that those criteria are met, then what happens is the applicant who has opted for CPE need to pay a deposit. Once that deposit is paid, then the providers, presumably through ICANN, with the support of ICANN, would invite letters of support or opposition for that particular application.

That process in itself, I hope you can already see the fact that because opposition is also invited, but in some sense, opposition could have been already present during the application comment process. So what we're trying to say is to try not to disadvantage a community-based applicant who's going through CPE, if an opposition has already been raised in the application comment period and if it has been resolved,

then it shouldn't come up again as an opposition because that's like giving an opposer two bites at the same cherry. So that's the gist of this double jeopardy concept.

The fifth principle is obviously accountability and access to recourse. This is important and this is entirely new, because in the 2012 round, we did not have an appeals process for a lot of the evaluations, if not all of the evaluations. So someone who did not prevail in CPE and thought that the scoring done by the evaluators was unfair or inconsistent in some way or has a genuine grounds for appeal could not appeal because there was basically no appeals mechanism.

So this is something that SubPro is definitely working to rectify under the topic of accountability mechanisms. We're looking at setting up an entire appeals process to address all the evaluations. Yes, so the mechanism for appeal would therefore be available, presumably in the next round.

Moving on to the next slide, we'll actually look at the text now. The first portion of it is the delineation subcriterion under the community establishment criterion. Next slide, please. And please feel free to jump in if you have questions or input in this process.

Now, just bear in mind the principles that we've talked about, the principles that I've raised, and also the fact that this isn't set in stone. This is just the work of the small team with some input from concerned parties, and this is something that we are looking to see whether it would help improve the experience for the next round, because we need to look at actually exchanges to the criteria and the guidelines.

And obviously, I'm hoping that the collective wisdom of this group would serve our purposes moving forward.

Okay, so in terms of the scoring for the subcriterion of delineation, an applicant would score two maximum for this subcriterion if they have stated in their applications clearly the delineated, organized and preexisting community. So number one is community in the eyes of who, so that matches, from whose perspective do you determine this community. Number two is when you talk about clearly delineated, organized, that sort of would generally gravitate towards what I said before, the structured membership, very clear boundaries on the community so to speak. So we're looking at membership of a club or maybe a trade organization. That is a clear example of something that's clearly delineated and organized.

But in looking at that, there's certain bias towards that sort of community bias against a more loosely organized community. So what we've suggested is possibly to have the score of one be changed to reasonably delineated. So you have a difference between a clearly delineated that scores two and a reasonably delineated that scores one. Holly, you have your hand up.

HOLLY RAICHE:

This particular issue attracted an awful lot of comments, and I guess Olivier also will probably have something to say. I think we've got to decide the extent to which we're happy to extend the idea of organization into community or into [inaudible] [Yrjö's] definition and [as] what happens in the EU. Let me find it. A definition of community,

any group of individuals or any legal entities brought together in order to collectively act, express, promote or pursue.

Now, I think that that's broad, and I'm not sure if it's too broad, because we're asking whether or not we can define or reasonably define a group that can in fact be a registry. And I'm really asking a question of, I suppose, Olivier and Alan and everybody else as to whether reasonably delineated is broad enough or do we have other language that we can describe that would take into—for example, one of the applicants was .gay, and if you look at the reason that .gay was rejected was because not everybody associated themselves with gay. Some people actually called themselves queer and other people called themselves trans, and therefore gay didn't represent the whole group, [which actually was a fairly] silly rejection. But it highlights a difficulty with this one question perhaps more than any other, and I'll leave it there and I welcome everybody else to have a go at what we actually want to achieve by this delineation. Thanks.

JUSTINE CHEW:

Thank you, Holly. Tijani.

TIJANI BEN JEMAA:

Thank you very much, Justine. I'd like to know, as you know, the most important point in such a panel is the subjective evaluation or assessment. So when you say clearly organized or reasonably organized, how the assessment of this clear or reasonable organization? If we don't have objective metrics to measure the clarity or the reason, we will stay

in the same position as before since the member of the panel was deciding according to their way of thinking, if you want. Thank you.

JUSTINE CHEW:

Thank you for that, Tijani. It's a good question. I don't have the answer, except to say that when ICANN appoints the provider, they're appointing the provider based on certain expertise that they came to have. So some of these questions are supposed to be in the domain of that expert. But you're right, we're leaving very important questions at the hands of the so called experts, and in terms of how do we then manage what they're allowed to use their expertise on and not allowed to use their expertise on, there's a fine balance and I don't have an answer for that question. If you think there is, then by all means propose something.

TIJANI BEN JEMAA:

You know, Justine, we had before—not on this CPE but another panel, two panels assessing the same thing oppositely. It was for the string similarity. So I don't think that we have to give it in the hands of the evaluator. It must be at least a minimum of objective metrics. Thank you.

JUSTINE CHEW:

Okay. If you believe there's certain objective metrics, then by all means propose some. I think the group would like to hear. The queue is building up. I would like to call on Giacomo first, if I may, because I think he may have insights into this.

GIACOMO MAZZONE:

Thank you very much for the invitation. On the specific point, yes, it's true that you need to have objective criteria. But I think that we need always to imagine that there will be a certain number of issues that cannot be planned in advance, that are totally unexpected. And this was the case all over the process for the long years that it went through.

So I think that the main problem is to find somebody that is really an expert in the matter. The problem with EIU was exactly that they had no clue about what community [inaudible] and because of a wrong interpretation of the mandate, they refused to have a discussion and to engage in any discussion with any people that was representing the community or that was—because they said, “All of you, you have a vested interest, I cannot talk with you.” They refused to talk.

So this is a crucial point because we cannot standardize and we cannot imagine the complexity of the process once it is already started. And it's very difficult to adjust it on the run. So we need to be sure that next time, we have people that understand what community is absolutely.

Just to give you a very simple idea of the abyssal distance that we have with these people, I simply said to them when we finally spoke, “You have a representative of this community already recognized in the real world, the gay community is represented within a certain number of global institutions with the clarity of voices. Have you consulted these people? Have you reached these people?”

In the case of .radio, I said there is a union of world radio worldwide recognized as an ECOSOC member. Have you reached them? And they

say, "Ah, we don't care of what the global institutions and the multilateral institutions think that a community is. We want to make our own idea based on the criteria."

So you see that if you identify a wrong subject, then you're discussing from different planets and there is no way that you can reach any consensus or any agreement on any grounds. This is, in my opinion, the crucial point. You need to have somebody that understands what community means. If not, the mess will happen again because we cannot plan in advance all the possibilities of the world. Sorry for being long.

JUSTINE CHEW: Thank you, Giacomo. Olivier, you're next.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Justine. And Giacomo made a number of very important points here. I'd love to see objective measurements, objective scenarios for this, but the problem is that in general, objective parameters are used to reduce the number of application or the number of selected applications. And the problem we had was exactly the opposite. There appeared to not be enough that were recognized as communities at the end. That's all I needed to say, but the points Giacomo made are very important. Thank you.

JUSTINE CHEW: Alan, you're next.

ALAN GREENBERG: I agree with the last two speakers. If we had really objective requirements, we wouldn't need a panel. You could just apply, see if the boxes are ticked or not. the whole problem is communities vary and if we get very specific on how to recognize particular communities, we may catch the last two that applied last time but we won't catch the one that applies this time which has a different sort of thing.

e So it really is the concept we're looking for that we need to try to elaborate on and then pick a supplier that we believe can actually apply those with the right—I don't know, flexibility perhaps is the right term. Thank you.

JUSTINE CHEW: Thank you. I hear what everyone is saying. So we're trying to hit at the problem with a few angles, if I could say that. One is to have a broad enough but still workable set of guidelines that any provider is compelled to follow. The second angle is to make sure that the panel who's evaluating has the right expertise or is compelled to consult with the right expertise in order to make their determination.

So the first problem that we're looking at is the broad enough but workable guidelines. If you don't think that reasonable delineation as opposed to clear delineation is going to help solve that particular problem, then we need proposed text changes.

The question of getting the right panel is a question of selection, which is beyond what we're discussing today. And also, the compelling the

panel to actually consult with the right experts is somewhat addressed in the next criterion, so we'll get there.

So it's a bit hard because you have to somehow be able to connect the criteria and the subcriteria, but yet look at each individually so that the evaluators can score them independently of each other. That's a concept that I found really hard to grapple when I was doing the research for this, but that is something that I need to put forward as an important point, because otherwise, you will be forcing the evaluators to actually carry a bias from one subscription to another.

Giacomo.

GIACOMO MAZZONE:

Yes. I think that this time, I'm not so scared about the problem about the right panel. I think that the natural thing, the natural solution is now that we have established a community of community applicants, that this is the panel that could be entitled to judge about the other community, because those that have been able to survive through this very extenuating and very selective process and have been recognized against any objection as real community, they can be the right one to decide who community are, because they are the most entitled to recognize who are their peers. And there are no conflicting interests because people that are running the domain for the radio will never be scared to be competing with a domain for Roma people or a domain for tennis federation, sport federation domain.

So I think that this is logical. I'm sure within ICANN logic is not necessarily the most appropriate way to go through, but you have

already a panel of people that's been recognized as community after a very cogent and stringent examination. So, you have the panel there already made, and I'm sure people would be more than happy to contribute to consolidate this [inaudible].

That's the first point. About the workable guidelines, yes, when I say that you cannot forecast anything in the guidelines, I confirm that this doesn't mean that you cannot improve what was in the previous guidelines. One of the points that was mentioned before is for instance that denial of the existing reality seems something that we need to end. If there are in the world organizations that recognize who are the representatives of the communities, this is for us a precious repository to identify who this community are and why the ICANN panel or EIU company is better qualified than United Nations to recognize who is entitled to represent an indigenous community? I think that this is a serious issue that needs to be solved in the next guidelines.

JUSTINE CHEW: Thank you. Alan, [inaudible].

ALAN GREENBERG: Just very briefly, I agree that the existing communities might well be a good one. I can't imagine them meeting ICANN's procurement rules and coming in with a bid for it. Moreover, you can always imagine a scenario where someone applies for .broadcast and then .radio would have a potential conflict. So I think conceptually, it's a great idea. I can't imagine it actually being implemented, sadly. Thank you.

JUSTINE CHEW:

Thank you, Alan. Yes, I also foresee problems with that, and the biggest problem is how do we play a part in the selection of the panel going forward. And as I said, again, that's not something that we're looking into today. That's something that is part of SubPro's process. And we have to get in somehow, but not today.

I notice that it's 15 minutes to the hour, so we're not doing too well in terms of time. But I also want to have a proper discussion on these things because it's very important, and we need to have at least some idea or some consensus as to how to move forward on this. Just on slide 16, the second point that was highlighted in red is in terms of the threshold for timing as to whether the community existed, so it was talking about preexisting community, the 2012 program, that particular threshold was that the community has to have been active since at least September 2007, which is when the rules for the program were supposed to be put in place or [fixed at least.]

Obviously, 2007 is a ridiculous timeline for the new round. So the question is, when do we want to move that timeline forward? I'm suggesting that it shouldn't be restrictive in a sense, so I propose that it should be just prior to the launch of the application window. I don't know if anybody has dire concerns about that. If not, I'd like to try to get to the next subcriterion. Okay. Next slide, please.

Okay, so it's still on this particular subcriterion, delineation. Each subcriterion talks about the scoring, and then it talks about the

definitions that are supposed to be used to try and decipher what is it that we need to score.

So within this particular subcriterion, there are things like community. So the word "community" appears all over the place. Again, what do you use to determine what a community is? So here, it talks about community, the usage of community, [inaudible] community should imply more of a cohesion rather than just a [mere] commonality of interest, and stipulates that there should be an awareness and recognition of a community amongst its members and some understanding that the community existence was there prior to 2007. So that's the preexisting criteria. And the third element is the extended tenure or longevity. So it's not a passing fad, so to speak.

Now, in terms of element B, which is the preexistence, that's something that's covered earlier. The longevity, I don't have an issue per se. I don't think we should be awarding, delegating a gTLD to an organization or an entity that we don't see reasonably existing in the future. That'd be kind of a silly thing to do, really.

But coming back to this element of community, what I'm suggesting is, again, back to this thing about reasonable flexibility, with something like "should be interpreted in a reasonably flexible manner but must be beyond a mere commonality of interests." And what I'm saying here now is as to the element of A, an awareness and recognition of the community amongst its members. We extend that to include awareness and recognition by a relevant subject matter or community expert of regional or international standing.

Again, that's the proposal. I'd like to hear people's thoughts about those wordings. Anyone? Nobody has any take on this? Okay, Bill.

BILL JOURIS:

The only comment I have is, do we have some way to determine who is in fact an expert on the topic? Do we have a table of experts or a reference that we can refer to as to who constitutes an expert and who is merely somebody with an interest? Thank you.

JUSTINE CHEW:

I don't have an answer to that. I'm also fairly afraid to prescribe certain things. It really depends on what community is being described, really. So there are a number of questions around that particular point. Giacomo.

GIACOMO MAZZONE:

Thank you. I have some answer for that. For instance, you don't have any universal recognition of community even if for example UNESCO is a place where most of the communities that are linguistic communities, cultural communities, cultural diversity communities, aboriginal communities, indigenous communities are recognized, classified and registered and you know how to reach this community. So UNESCO, if there is one, is one of the biggest repositories worldwide for what community is.

But then you can go specifically case by case. For instance, in the case of radio community, of course, the ITU is the place where if there is an existing community of radio, has all the interest to be recognized and

registered. In fact, the EBU and all the other unions are all sector members of the ITU since foundation 75 years ago once the radio was included in the mission of the ITU.

And similarly for the sports. What was the most astonishing is that some sport federation has been denied to be recognized as community. If you don't recognize the sport federation community as a community within the sport, what are we talking about? Who could judge better than the community itself, recognized, standardized, existing since hundreds of years with the [inaudible] the community?

So I think that we need to look at it case by case with UNESCO as a predominant reference point. The second aspect is, specifically on this point, that I think there is something—so translating what I was saying before in this point, you have to say community [inaudible] recognition within the related worldwide global institutions. This is a point that we can add that makes sense and will help a lot to clarify a lot of this burden.

Then a personal note about broadcast. The observation was made on broadcast and conflict of interest. I don't care if there will be another .broadcast community because it doesn't affect. What was important for us was that our community could use its own brand to gather around. We are not making money out of it. that's the main difference between the community and the others, is that the community are not there for making money but for serving better their members in their own use. If somebody else would do something else like broadcast, I don't care simply, and I will be the first to accept this because I'm not in competition with anybody, present, future and past. Simply, what I

don't accept is what happened to us when Tuvalu, .tv was exploited by private companies. Then they were approaching our members, television members and they were asking them to pay huge amount of money for getting their own brand on .tv.

JUSTINE CHEW:

Giacomo, I need to stop you there. Sorry. My apologies. Again, we're not getting into the question about panels, the makeup of the panel. That's something for discussion at a different time. And two is this business about .tv, that's a ccTLD matter which we do not have any foot in, so to speak. So I don't even want to go there.

GIACOMO MAZZONE:

No, this was the original reason why we went for .radio, to avoid to be blackmailed again in another case. This was [inaudible].

JUSTINE CHEW:

I understand, but that's not a problem that we as At-Large can solve, unfortunately. That's a domain of a ccTLD, which we do not have any say in.

Right, time check. I have three minutes to the hour, so I'm going to just quickly consult with Jonathan as to how we want to take this forward. Do we want to try and get another call? Because we've only scratched the surface of what we need to do. So I'm looking for some guidance here. Jonathan?

JONATHAN ZUCK: Yeah. Thanks, Justine. Perhaps we can ask Yesim if there's another call scheduled right away or if we might be able to continue, or what the status of the interpreters are, I guess, is the other issue.

YESIM NAZLAR: Hi Jonathan. The call is scheduled for one hour. I can ask the interpreters for an extension. However, I don't think we'll be able to cover the entire slide deck that Justine would like to present. Maybe we can schedule a second call. I'm not sure, maybe next week or however Justine and yourself would like to proceed.

JONATHAN ZUCK: Yeah, I think we need to schedule another call as well. I was just trying to figure out if we could get further on this call. So I guess [inaudible] both questions.

YESIM NAZLAR: We can move on, we can go further on this call. I just received the confirmation from our interpreters. Let's please continue, and meanwhile, I'm going to let you know how much more extension we can get. So Justine, please continue. Thank you.

JUSTINE CHEW: Thank you, Yesim.

JONATHAN ZUCK: So go ahead as far as we can, and then we'll try to schedule another call.

JUSTINE CHEW:

Okay. Thank you so much for that, Jonathan. Yes, I see your note in the chat, Giacomo. Absolutely. The link to the Google doc is there. It wasn't available earlier than yesterday because, you probably don't know this but we have a small team on SubPro within At-Large that's working through a lot of the topics on the SubPro, and I wanted to give them a chance to actually come up with something first before we present. Otherwise, where do we draw the line of who's commenting and who's not commenting? And we need something to work on or work off.

So now that the Google Doc link is open, I definitely invite people to come in and have a look and see based on our discussions whether they can propose more suitable text. The only thing I ask is anyone who wants to make comments, please do so in suggest mode. Don't edit—you shouldn't be able to anyway. The Google doc controls are set properly. But if you happen to be able to edit, please don't. put in a comment in suggesting mode. Okay?

So we're going to continue until Yesim gives me the white flag to stop. Next slide, please. Okay, the next definition in this same subcriterion is delineation. Here, clearly, you see there is a bias, I would say. I will be blunt and say there's a bias here, because they talk about delineation relating to a membership of community where a clear and straightforward membership definition scores high but an unclear, dispersed, unbound definition scores low.

So again, clear and straightforward membership, we tend to think about a member structured community like something like a club or trade

association. So there is clearly a bias, so to speak. Of course, it would be the easiest to identify and arguably be the easiest to score, but that disadvantages other communities that we are hoping to be able to get into the act, which is communities like marginalized groups, linguistics, ethics groupings, something that doesn't necessarily have a clear delineation when it comes to boundaries for their membership.

So there's a bunch of proposed text that we've come up with to try and build in certain flexibility when we talk about delineation. So moving away and giving more credence to less delineated or less clearly delineated community membership, so to speak.

So the proposed change is "as the case may be," because we're not saying that it's a bad thing for community to have clear delineation, but we should not forget that some communities may not be so clearly defined or have such clear delineation boundaries, and they have to be taken into consideration as well.

So again here, we're talking about "as the case may be," and depending on who actually defines the community, so who can be perceived to be part of the community even if they're not actual members. So what I had in mind is not entirely a good example, but say for example .kids. Obviously, the target community are children, but you wouldn't expect this particular community of children to be the members of this gTLD, because they're children, really, and would they have awareness of them being in a grouping? Not necessarily.

So that's where the parents and adults come into play, because they're the ones that are guardians of children. So you'd think that it's the

parents and those type of people who'd actually be the members of this community per se rather than children. But are they considered as members of the community? So maybe if not, then there should be some kind of extension to allow those people to be considered as part of the community.

So therefore, the proposed text change is talking about flexibility in the interpretation of the term "community" to include a community that exhibits clear and straightforward membership, again, from the past description of delineation, but also includes a community where for example a relevant subject matter or community expert says there is a community. So clearly, say for example, some lesser known cultural community that maybe not all the world knows about but certain experts know about. So unless you actually consult the expert and ask the expert, "Does this community exist?" Nobody would say yes apart from the expert. But yes, this community is important enough to be considered as a community. So therefore, that's the second bullet in terms of what we could arguably consider as a community.

And then the third bullet talks about reasonably delineated and preexisting. So we tie those two together so that you can't have just two or three people out there that say, "I'm a community" and you take their word for it. And the last bullet is where it's unclear or totally obscure, you can't really put anything around it, then it would score zero, really.

So, comments. Anyone? This is in the chat. Okay. 1a, delineation, suggest to add specific criteria that is recognition by international organizations specialized in that specific field.

Okay. Any other comments? No? Okay. Well, folks here will have a chance to actually digest the text a little bit more. I have to say that this is based on first round work, really. I don't claim to be perfect in coming up with appropriate text, it's just a suggestion based on the interpretation of all the comments and complaints that we've received that we think need to be addressed. So by all means, have a look again at the Google doc. We can pick it up again at the next call, but for now, if there's no immediate comments, then it would be good to move on.

Okay, we're extending for the next 30 minutes. Is that extra 30 minutes from now, or do we stop at half past?

YESIM NAZLAR: Half past.

JONATHAN ZUCK: Let's stop at half past.

JUSTINE CHEW: Okay, great. Can we move on to slide number 19, please? Okay. More of the definitions. Preexisting. There isn't really controversy about it, except for the fact that it talks about September 2007, so that's something we need to change. Again, reflecting back to what I mentioned before. We're proposing that so long as it exists prior to the launch of the application window, then it should be considered as preexisting.

Organized. We may have some comments on this. I'm hoping that some people will jump in. It talks about organized implies that there is at least one entity mainly dedicated to the community with documented evidence of community activities. And then it says—the evaluation guideline says that mainly could imply that the entity administering the community may have blah-blah. One of the comments that we received was that administer is actually not really the best word to describe this function of organizing, because administering seems to imply that there is a fixed structure for things.

Okay, so what I'm trying to get at is if we could add the word “or supporting” in order to have [bifurcation] of this concept of organized. Yes, Giacomo.

GIACOMO MAZZONE:

There is another element that we need to consider here that was very clear in the case of .gay. One of the reasons why .gay was rejected was because it was not organized and was not existing all over the world, because the lack of presence across the place was considered weakness of the community.

This criteria, as has been said before by others, applies to economic communities that are structured like [inaudible] broadcasters for instance, but it's very difficult to be recognized and to be obtained by civil liberties association. In some cases, and this specifically was the case for .gay, in some countries it's something that is against the law. So you need to introduce this distinction that you cannot apply the same measurement, the same criteria for all the kinds of communities. Some

communities, the ones that may have difficulty to express themselves, deserve different criteria for evaluation. And the delineation is one of the parts of the problem that need to be tackled first.

JUSTINE CHEW:

Thank you. You're absolutely right, Giacomo. Yes, .gay is a very good example of what the problem is per se. So in terms of—that's why we tried to look at expanding or increasing the flexibility in what we term as community. As you say, some members may not necessarily be classified as members, because for legal reasons, it's forbidden in the country, or they may not actually be a member but they're still supportive of the cause.

You don't have to be gay or whatever to support that cause, really, but you would still like to be considered as relating to that community. So that's something that could be considered as well, not strictly, but I don't know whether it goes beyond what we're thinking of, really. Somehow, we need to draw that line where it's not to open but still open enough to not disadvantage groups that are clearly groups in the eyes of certain people. Any more comments? Any specific text changes that people can think of at this point in time? Dealing with administering or supporting or any other part of the text here. Marita.

MARITA MOLL:

Hi Justine. I don't know, might be too open ended, but the ideas of advocating or speaking for communities, is that something that we can kind of roll in here somehow? I know it's very broad, but in the end,

there are a lot of these communities that are advocating and giving a space for that community to speak. That's my comment.

JUSTINE CHEW: Does the word "supporting" cover what you have in mind, or still too restrictive?

MARITA MOLL: The word "supporting" can have a financial implication. It can mean actually financially supporting, or in some administrative way supporting. So I think "advocating" or "speaking for" is a little broader, but maybe too broad for this depending on how other people feel about it. Thank you.

JUSTINE CHEW: Okay. If you don't mind, since you're in the small team, if you could just pop that potential text change into the Google doc so that we can pick it up.

MARITA MOLL: I'll do that. Thank you.

JUSTINE CHEW: Great. Thank you. Moving on to the next slide, slide 20. This is the—they have this funny way of putting forth the document where you have the scoring and then you have definitions, and then you have the guidelines

for the guidelines for some reason. This is something that they came up with, nothing to do with me.

But okay, so in terms of what they're talking about here is general guidelines in terms of how you apply the definition. So they're talking about with respect to delineation and extension. So now they're talking about linking two subcriterion together. So delineation is one and extension is another subcriteria. So why should there be a linking here?

And if you look at the text highlighted in yellow, they talk about, provided that the requisite awareness and recognition of the community is at hand among the members. So we have this question about who should the members be, who are the members that you're talking about. Members as described in the application by the applicant, or can you extend that definition to other people who are associated with those kinds of "members?"

And it talks about, otherwise, the application would not be seen as relating to the real community and score zero on both delineation and extension. So they'll score zero on both, there's a bias that's present in two sub-criteria, which shouldn't be the case.

So what we propose is to eliminate those kind of language that allows for the bias to be carried between and to for each subcriterion and to again insert this element of community being able to be recognized by the relevant subject matter or community expert. Okay, comments or questions, please. There is the point that killed .gay. Yes, okay. Christopher, nice to see you here.

CHRISTOPHER WILKINSON: Hi. Good afternoon, everybody. Thank you, Justine. I'm sorry to have come in quite late. It was one of the times which I showed in the Doodle that I would not be available, so here we are.

All I would say at this stage is that it's a matter of the ontological testing. These texts, especially the originals but also the ones we come up with should be translated into three or four different languages to establish whether or not this rather convoluted style and highly negotiated compromises from 2012, whether this is remotely understandable in, for example, French, Spanish, Chinese and one or two other languages.

It would not be difficult to copy paste significant paragraphs out of these texts, run them through automatic translation and ask a mother tongue member of ICANN staff or the community to review the results. I continue to have significant reservations both about the scoring policy but more generally about whether or not internationally we will be seen to be talking about the same thing or different things in different cultures and languages. Thank you.

JUSTINE CHEW: Thanks, Christopher. Okay, if there's no other comments to this particular point, let's try and get on to the next slide. [We'll probably be starting another] subcriterion. Yes. Okay, so now we come to the other subcriterion under the same criterion of community establishing, which is extension. Next slide, please.

Here, again, the nature that's set out is you have scoring and definition, and the guidelines to the guidelines. Okay, so now the scoring talks

about if the community is of considerable size and longevity, then it scores two. If it's either of considerable size or possesses longevity, then it scores one. So I'm just proposing that we delete the words "but not fulfilling the requirement for a score of two." That's just confusing, and I think [inaudible] Why should it be two or not one, really?

So it clearly should be that if the applicant meets—or whatever stated in the application meets both considerable size and longevity, then it scores two. If it meets either one or the other, then it scores one. If it doesn't meet both, then it scores zero. So, clear cut, really.

But here, we're talking about which community. Again, community as described by the applicant, or should we be able to extend to related parties? So I go back to the example of .kids. In .kids, they talked about, if you can imagine, the target community being children, but what was described in the application itself is their community extends to parents, logically speaking, but they also extend it to government agencies that deal with childcare.

And that third group of so-called community members was considered by EIU as not being—should not be part of the community. It was too much of an extension, really, so it failed that way. Comments or questions? None? Okay, so I just wanted to make the point that we should try to advocate for a delinking of the bias that gets carried when they mention about both extension and delineation scoring zero if you don't meet certain things. I believe we should try and keep it separate, and you don't have this carrying over of the bias. So I think that that is important to try and capture here and to keep advocating.

Okay, seeing no hands. "Fine with the cosmetic change proposed. The real issue is the scoring mechanism." Okay. Giacomo, if you want to just explain in terms of what the real issue is in the scoring mechanism means, that would be appreciated.

GIACOMO MAZZONE:

Sorry to intervene all the time, but for me, this topic has been discussed so many times. The point is that 14 out of 16 was nearly impossible for any community applicant to be matched as a result. Some failed because they were illegal in some countries or the region, criteria cannot be met. Either not structured or they were too small, others are very limited, etc.

So we have seen that the point of 14 out of 16 was too high. When we raise this issue in front of the ombudsman and GNSO people that worked on the applicant guidelines came to explain [the reasoning.] They explained that their main concern at that time was that the community applicants could be used as a horse troy from some specific [pirates,] let's say, that want to exploit highly promising in terms of profitability common names, and they were making the example of .music, .kids, etc. And they were using this shortcut to avoid to go to the competing bid that was forecast as a solution.

So if you look at all the process about the CPE and the criteria, it's based on the fact that they want to prevent a community to gain the [principle.] On the other side, all along the experience as a community we had in this process, we experienced the opposite. The commercial company exploiting domain name using all possible means, including

threats, including bribery, including fake opposition, including fake documents being used, to gain and to kill the real community application.

So I think that we need to revise the old principle and start from the point that we want to improve and implement the community application participation and reduce the prevailing and abusive use of the tools that ICANN allows for the commercial brand looking for exploitation of domain against the communities.

So we need to revise the old philosophy. The first point of this revision is that 14 out of 16 [inaudible] even if you improve it, is impossible. If you look at the scoring, you see that many people fail by a lot because the criteria were impossible to be met.

JUSTINE CHEW:

Okay. Thank you for that. That's possibly something that we could look into at the end of this consultation, because we'd like to look at each subcriterion and then possibly—yes, because you need to score 14 out of 16 to prevail in the last round. So perhaps if we were to maintain four criteria and each being a maximum of four points that you can score, then perhaps three out of four for each criterion giving a total of 12, if you meet 12 or more, then you could possibly prevail. Something like that. But certainly something to consider. Thanks for that.

If there's no other comments here, I would like to move on to 23 because we've got three minutes left of the half hour. Still on extension. So now we talk about size, what size means and longevity means.

The comments that we got here, this is something that [inaudible] I believe. No issue per se, but [sole focus] must be on examining the designated community without any perception that the community must have a legal organization or organized group to coordinate it. And again, there should be no linking of extension to delineation. Make sure that the two subcriteria are independent of each other. Next slide, please.

Again, this is a funny one, the guidelines to the guidelines. So now again, they talk about the same thing of linking delineation and extension. So that's something that is actually, I believe, a repeat of what they had under delineation. So it's, again, the attempt is actually to deconstruct the linking and just to delete the entire paragraph which is irrelevant, really, and just really on the fact that with respect to extension, if the application satisfactorily demonstrates both community size and longevity, then it scores two. If it's either or, then it scores one. If it's both, they don't demonstrate both, then it scores zero. Just keep it simple.

Can you just quickly scroll to the next slide? Yeah, okay. So this may be a good time to stop the call because we are one minute of the half hour, according to my clock anyway and it's a common, logical point to stop.

So we can pick this up at the next call to be scheduled. We can talk about some times if Jonathan wants to. But again, I would like to invite people to have [a greatest idea of this] presentation and/or have a look at the Google doc if you want to make comments to the text change that's being proposed.

Jonathan, I hand the floor back to you. Thank you.

JONATHAN ZUCK:

Thanks, Justine. Thanks for all your work in preparing for this. I think we're best off doing a Doodle poll rather than an informal poll of 27 participants right now. So thanks, everyone, for participating, and let's see if on the next call we can reduce the amount of presenting that Justine needs to do and instead jump right into the conversation based on having read the material.

Thanks, everyone, for participating today, and expect a Doodle poll to schedule the next one. Okay.

YESIM NAZLAR:

Thank you all. The meeting is now adjourned. Have a lovely rest of the day. Bye.

[END OF TRANSCRIPTION]