ICANN Transcription
New gTLD Subsequent Procedures Working Group
Tuesday, 18 December 2018 at 0300 UTC

Note: The following is the output of transcribing from an audio recording of the New gTLD Subsequent Procedures Working Group call on the Tuesday, 18 December 2018 at 03:00 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to in audible 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:
https://audio.icann.org/gnso/gnso-new-gtld-subsequent-18dec18-en.mp3

Adobe Connect Recording: https://participate.icann.org/p66lwhkrm4e/?proto=true

Attendance is on the wiki page: https://community.icann.org/x/7gXVBQ

The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page:

https://gnso.icann.org/en/group-activities/calendar

Operator: Happy to, recording has started here.

Michelle DeSmyter: Okay. Thanks, Ashley. Welcome everyone. Good morning, good afternoon, and good evening. Welcome to the New gTLD Subsequent Procedures Working Group call on the 18th of December, 2018. In the interest of time, there will be no roll call. Attendance will be taken via the Adobe Connect room. So if you're only on the audio bridge, would you please let yourself be known now?

All right, hearing no names, as a reminder to all participants, if you would please state your name before speaking for transcription purposes, and please keep your phones and microphones on mute when not speaking to avoid any background noise. With this, I'll hand the meeting back over to Jeff Neuman. Please begin.

Jeff Neuman: Thank you, Michelle. Welcome, everyone. And I'm using my computer now as the microphone. If that for whatever reason starts failing, I have my phone next to me. I can quickly re-dial in. Welcome to the last full group call of the calendar year. I believe I have that correct. So thank you, everyone, for coming. And it's good to see a good cross-section of the groups here or representatives from different groups. So that's really good to see.

We have a fairly light agenda, which you see on the right-hand side, meaning that we're just going to do a kind of update on the different subgroups and where we are in Work Track 5, which you may have seen, the initial report from Work Track 5 come out recently, and start their comment period. And you may have also seen a notice, I think, that went out on the webinar that they're holding in the

early part of the calendar year. And then we'll spend the bulk of the time on the action items that have been referred so far to the full working group, and we went through a few of those items on the last call, full group working call, a few weeks ago.

So with that, let me ask if there are first any additions that people want to make to the agenda. And I'll take this opportunity to just add a quick update on the discussions with one of the auction providers. So perhaps we'll just add that as a number four agenda item. And then now do we have any -- and I know we do -- so I will ask Michael if he wants to make any kind of statement about an update to his statement of interest. And of course, if anybody else has an update, let me know. I see Justine in the queue. So maybe that's on the agenda, and then I'll get to Michael. So Justine, please?

Justine: Thanks, Jeff. This is Justine speaking, hoping you can hear me. I may need to (inaudible) updating the SOI, but I suspect not. It's just to let the group know that I've been nominated as the ALAC small liaison, so just to note that if there are any outstanding questions regarding the ALAC comments for this report, any outstanding ones, or any ones going forward, please do send those over to me, so that I can coordinate the responses for those. Thank you.

Jeff Neuman: Yeah, thanks, Justine. It's great to let the group know. I don't think that's an SOI change, as you said. But certainly welcome to the small liaison role and we'll make sure we make that change on our Wiki where we're putting the notice of all small liaisons on there, and certainly we will direct any questions to you, if we have any, from the full group and/or the smaller groups. Michael, please?

Michael Casadevall: Just a note from me, I am co-hand-holder for the public comments of the initial report on Work Track 5. I'll have to update my SOI for it, once I remember how to do so. I figure I'd tell the full working group here on the call.

Jeff Neuman: Thanks, Michael. Is that for the non-commercial stakeholder group or--?

Michael Casadevall: Yes, it is. That's for NCSG. I apologize. I'm not completely here mentally today.

Jeff Neuman: No problem. Thanks, Michael. And yeah, if you have to leave, as we discussed earlier, please feel free. Don't feel compelled to stay on here. They'll be recording this call and of course if you want to contribute and miss anything, just you can always use email. So thank you for being here.

                  Okay, anything else on the statements of interest? Okay, not seeing any, so perhaps we can start. I'm just looking at this roster here and seeing if there's anyone directly from Work Track 5, any of the subs or any of the Work Track chairs. I'm not seeing any. So unless I'm missing, essentially you should have noticed that -- or if anyone else is giving the update or Steve. But I'll start by basically saying that the report has been published, and perhaps a link could be put into the chat. This is for the formally known as Work Track 5. It is technically a supplemental initial report, because it's still part of the initial report of the full Subsequent Procedures Working Group. So you'll see that in its title.

The comment period closes towards the end of January, and there will be a webinar. If you haven't seen it already, your supporting organization, advisory committee, and constituency stakeholder group -- if I'm missing anything -- should have already been notified about the webinar and should have already sent it out to the group. But if not, we can certainly make sure that we -- I can't remember, Steve, did we post the webinar or send a note about the webinars to the Work Track 5 mailing list and the full Subsequent Procedures PDP Working group mailing list? And if not, perhaps we can do that. But I want to say it's January 8th. And I'm not sure why that date is sticking in my mind.

Cheryl is looking. There's some typing going on. Steve will make sure that we'll post here and then make sure we post -- sorry Cheryl, the 9th. Okay. So we will post the announcement to the webinar on the full group mailing list as well as Work Track 5, so to see if anyone's got any questions on that. So anything else that we want to mention on Work Track 5? I'll ask Cheryl or our policy support team. Nope? Okay, the webinar is January 9th at 20:00 UTC for 60 minutes. Thanks, Steve and thanks, Cheryl.

Okay, on the subgroups, so I think on subgroup -- and Robin can jump in -- subgroup A, I think we've had several meetings now. You know, at least for our group, and I don't know if our group is smaller than some of the other ones. But it definitely has been tough to get good attendance to these. But we did manage to have several calls, and get through a bunch of items on the overall subjects, as well as we talked about the predictability framework, and about just some of the overarching questions. So I think it's -- from the actual discussions -- I think it's been very interesting. We've certainly had a number of viewpoints. And again, the goal of all the subgroups is really to make recommendations to the full working group, to this group, as to whether the comments produced a patterns of activity, such that we as subgroups could recommend to the full group whether we believe there that there was support for certain recommendations to move them forward or not.

As Cheryl says, it seems like all the groups are kind of undersubscribed. So it is kind of a struggle. But the subgroups are important in respect to although we're not debating the substance on these items, it's certainly important in trying to make sure that we are getting clarity on the comments that have been made, and to make sure that we are understanding the comments. And I know at least from a Subgroup A perspective, where there were certainly comments of perhaps against a particular recommendation. One of the things we're trying to do is to go back to some of those groups that may have just said, we're against this as you proposed. But then going back, saying, well, do you acknowledge that the problems that gave rise to this recommendation -- do you acknowledge that those are problems that should -- for which there should be a solution? And if you're not supporting the recommendation that was presented, is there any other recommendation that you have or that you could present that would address those concerns? So I think that that's one of the important things that I think we need to get out of the subgroups, is not just that so-in-so constituency or stakeholder group was against a particular recommendation, but if they were, do they have any alternatives or areas for which the full group can discuss a potential compromise?

So we do have a meeting with Subgroup A this week. And please make sure you check your schedule. You should have received a calendar invite. And we will continue off here on the clarity of the application process and then hopefully we'll get into actually looking at rounds and the next question. So please make sure you check the agenda when it comes out and show up.

So I'm going to ask if -- I know Cheryl is here from Subgroup B, or I maybe mixing that up. Actually no, sorry, Subgroup B was Krista and Rubens. And I'm not seeing either one of them here. So without them here, if we could just get Steve to post or Julie to post Subgroup B's next meeting date. Then we'll just skip to Subgroup C, which I know Cheryl is here. Sorry about that, Cheryl.

Cheryl Langdon-Orr: That's all right. I'm ubiquitous. I get used to it. Okay, we will say they've been tracking along, Michael, and been tracking along. And we will be meeting on Thursday at 15:00 UTC, I believe. Again, if staff can double-check me, that would be great. And at the moment we're up to -- we'll be starting at Section 2.8.1.e.16, in other words, line 195 on the tab we're at, at the moment. The tab name has somehow escaped me however -- the accountability. With that again, like Jeff has said in the other groups, we would love to have more of our subscribed members turning up. That would be terrific. But we do recognize it is a particularly difficult time of year, or so it seems. But when the volunteer leadership manages to do so, it would be encouraging if we weren't just talking to ourselves and the four or -- well, usually we've managed five each time -- usual suspects. So please do consider joining us. That will be the last one for the year. The January schedule will be going out for all of the various meetings, full group and subgroup, if it hasn't already gone out. I know Jeff and I have approved it to go out today. So we will start off bright and ready for more work in January. Thank you very much.

Jeff Neuman: Yeah, thanks, Cheryl. And while we have January on the mind, yes, that should go out in the next -- well, I guess at some point on Tuesday the 18th, which I know ends for -- we have people from (inaudible). So at some point on Tuesday the 18th, we hope that the January schedule will go out. We recognize that towards the end of January that there is a GNSO Council retreat, and there is also a NamesCon Conference that's held every year. We do understand that some people will have to attend either or both of those, and we will for one of those weeks most likely -- sorry, for the week of the GNSO Council retreat, that's a week that we will be taking off from meetings. But the NamesCon week, we will be conducting some meetings. So just make sure that you check the schedule when it comes out.

Okay, I think that's a good update on the sub teams, subgroups. Why don't we now get back to the document? So just to refresh everyone's recollection of what we're looking at now, there were a number of items that as we were going through them, a bunch of calls ago, we recognized that there were certain comments that related to subject areas that didn't necessarily neatly fit within one of the predefined subgroups, and/or were relating to a topic that actually applied to multiple subgroups, or were items that we thought would be best for the full working group to try to address. And this document will keep being updated as the different subgroups look at certain items that they believe should be referred to the full working group. So we'll hopefully get this document synced on the

Adobe. Because we are actually on page -- oh great. So now I'll scroll along with everyone else.

We are on page 2. And I believe we ended off in reviewing the notes. We ended off on the comment that was -- we finished the comment that was the ability for ICANN Org to make suggested improvements during the implementation phase. We had a discussion towards the end of the call last time that this in no way was intending for ICANN Org to be imposing its unilateral will onto an implementation team, but rather just being a clarification that ICANN Org would be or could be suggesting improvements during the implementation phase, which again is reviewed by the entire community.

The next comment, so I think where we left off or at least may have started some discussion but did not finish, was on the next items, still on page 2, which is the suggestion to be more clear when recommendations seek to codify implementation of 2012 round of the new gTLD program. So this comment again was submitted by ICANN Org. And what this really is, it doesn't really have to be discussed too much, I think, by us. But more is for something for us to make sure that we are being clear when we produce our final report, which is that we should clearly state which policy recommendations, implementation guidance, or sections of the 2012 guidebook or processes that were actually implemented in 2012 round should either stay the same or which ones were recommending changes too.

So this really refers, I think, and Trang can jump in if I'm misstating, but really refers to there are a number of areas in the guidebook that were not addressed necessarily in the policy or addressed in the implementation discussions, but were areas in all aspects of the program where decisions had to be made to do certain things, either from the board or from the staff, and it just depends on the situation. And so ICANN Org would like us to really kind of go through and make sure we're clear that if something was implemented in 2012 round that we address it in some fashion, even if it wasn't necessarily included in the policy documents that were proceeded or the applicant guidebook that proceeded the application round.

I think that fairly makes sense. I'm not sure if anyone has got any comments on that. It seems fairly self-explanatory. But is there anyone that's got any comments from the list? Okay, so one of the things that the leadership will kind of do some brainstorming on is exactly how we can identify certain areas, whether it's coding or coming up with some code or something in the final report to indicate where it's a change or it's following something which was existing. But we'll certainly keep this in mind and figure out the best way, as we come up with a final report to make sure that it's clear, but whether we're recommending things to stay the same or if the thing needs to change.

Okay, just looking. Steve has posted -- thanks Steve -- with the -- has posted the actual Google link. Okay, starting on the next page, the top of page 3, there was a suggestion from ICANN Org that if the recommendations have an effect beyond just the subsequent new gTLD procedures, meaning for the next round or rounds, that they basically ask us to provide clarity on what to do for applied for strings that did not proceed. More specifically, to read the actual comment,

ICANN Org -- sorry. It says, given that the charter recognizes that changes to the new gTLD program may result in significant differences between registries from the 2012 round and future rounds, or ICANN Org assumes that the output of the PDP working group would only be applicable to subsequent procedures for gTLDs for clarity during the implementation phase, it would be helpful for the PDP working group to confirm this in the final report. It would also be helpful if the PDP working group could provide guidance regarding any considerations which should be given to strings that were applied for but did not proceed in the 2012 round.

And so there's some of the examples where variants identified an application submitted during the 2012 round, applications that received GAC advice, et cetera. So this is again something that we should absolutely keep in mind. There certainly were some statements in the initial report that did say that we shouldn't be processing any applications for gTLDs for which the strings are still in some form of -- I'm trying to think of the best way to say this, because it was better said in the initial report. But essentially, if the string were still in process from the previous round, in this case it would be for the first round 2012, then all of those should be finished prior to receiving applications for that same string in a subsequent round. But other than for what-- thanks, Maxim. Yes, if the items were still stuck, we should not be looking at new applications for those same strings. I do not believe that there are -- actually, let me take that back. There are some recommendations where we talk about the name collision subject. But other than those, I don't believe that there are references to strings that either did not proceed for whatever reason, or the strings that have been withdrawn until this a good place to start a discussion on those items.

So Jim, please?

Jim Prendergast: Thanks, Jeff. Jim Prendergast for the record. I would also throw in there the closed generics issue. I know there were some applicants that revived their business models, based on it. But stepping back from that a little bit, to me it seems like the comment is a little bit contradictory on its own. Because it's asking for clarification on whether or not our policies only apply to future endeavors. Yet at the same time it's asking us what should we do about the past. So I'm not quite sure how we handle that sort of contradiction there. Thanks.

Jeff Neuman: Yeah, thanks, Jim. That's a good point. We should probably break it down, this comment down into a couple different topics or subjects, as you said. So the first one is what, if anything, are we recommending with respect to strings that are (inaudible) received, for whatever reason. And then the second is what -- and I'll get to the second one in a minute. But what, if anything, are we recommending for strings that may have proceeded in a previous round, or what if any -- better way to state it -- what if any retroactivity or retroactiveness -- I'm not sure that's a word -- should any of our recommendations have? And on that latter question, I think for the most part, in general, except where we indicate otherwise, the general rule has been that our recommendations are only on a looking-forward basis. So if we were to make a recommendation, and I'm not saying by any means that we are, but if we were to make a recommendation one way or the other on, as you said, Jim, the closed generics issue; it would be on a going-

forward basis and not to look at those applications that may have proposed some sort of model in the last round.

So our charter in that respect does kind of limit us to looking forward. There is an example in the charter where it does actually make a reference to potentially looking backwards, and that was in the names collision arena. But the main part or the first part of the question is, essentially, do we have any recommendations for any of the strings that did not proceed for any reason in the first round? Trang, please?

Trang Nguyen: Thanks, Jeff. Can I be heard? Can you hear me?

Jeff Neuman: Yep.

Michelle DeSmyter: Yes, we can.

Trang Nguyen: (Inaudible) thank you. This is Trang for the record. So Jeff, the second part of this suggestion was more intended to ask the PDP working group whether or not the PDP working group intends to give priority, if you would, for any of the -- priority or special treatment to any applications or any strings that were identified in the previous round, the 2012 round. If you recall in the 2012 round, there was a special consideration for strings that were applied in the 2000 round. So similarly, we're just asking if there should be any priority or special consideration given to any of the strings that were applied for in 2012 round. And so that's sort of what the intent of the second part of that suggestion is. Thank you.

Jeff Neuman: Thanks, Trang, for that clarification. So that's a good question. I think I will wait to see if people will join the queue. I think that there was a slight difference, if I kind of point out. So in the original 2000 round, there was -- ICANN said -- ICANN never stated any applications would not proceed in the sense that they either didn't pass evaluations or got advice or anything like that. It really was that ICANN had chosen in the proof of concept round or elected to only choose up to seven strings to proceed. And it never formally stated it would not proceed with any of the other applications. So in the 2012 round, when the question came up from some applicants in that first 2000 round, ICANN then was faced with well, we never officially "rejected" those. So perhaps if they apply again, we'll give them some sort of financial -- some money off. I don't think it gave anyone -- it didn't give anyone priority.

So the question here is for us to think about, is there any kind of priority or fees question that we would consider for new -- for this next round, based on things that did not proceed in the 2012 round? And then from the chat, I just want to -- people are piling up. Please raise your hand if you want to say something. But until then, I will go through some of the chat comments. Anne makes a comment, saying, as I understanding it, there are no 2012 applications that are the subject of this Subsequent Procedures PDP, not in the charter as to recommendations, right? And then just to cut down to Anne's next comment or question, because I think it relates. Could you please remind me what name collision issues were described as backward-looking in the 2012 round?

So I think, Anne, I wish Rubens was on here. Because I think he would know better than I would. I think the charter allowed us to look backwards. But I don't think any of our recommendations actually did. So I want to say that there's no recommendations that we had that would look backwards toward those strings. But the charter did state that that was something we could do, if we elected to. But Anne, please?

Anne Aikman-Scalese   Yeah, thanks, Jeff. It's Anne for the transcript. I think it's possible that you and Cheryl and Rubens would probably all recall that with respect to all the work in Work Track 4, it was repeated numerous times that 2012 applications were -- I think the words that were used were out of scope. And so Work Track 4 did not address those. And then there was chart that was put together where we were factoring in, I guess, some comments. And some of our responses to those were to the effect that all 2012 applications were out of scope. So I think what probably concerns me about all of that is that if we might be trying to develop some new policy recommendation at this point, when all along during the process in Work Track 4, those 2012 applications were characterized as out of scope and not within our charter.

Then secondly I guess with respect to fees, if we do get into this whole topic of like how should ICANN deal with 2012 applications that are still ex-(inaudible), I suppose there's a fairly objective way of determining whether ICANN still has the fees from the 2012 applications or not, if the question seems to be about refunds or lowering fees. But again, I don't know that those items are in scope for our PDP. Thank you.

Jeff Neuman: Yeah, thanks, Anne. I think Steve has his hand raised, and is probably going to address what you just brought up and I may have misstated. So Steve, please.

Steve Chan: Thanks, Jeff. This is Steve from staff. And so at the risk of remembering it incorrectly -- because we have been at this for quite some time -- but from what I recall, the name collisions issue that looked backwards is not to the 2012 round necessarily, but in fact legacy domains. So for 2012 round, there was still the name collisions framework that would be applicable. But that did not apply to legacy domains. So I think to the extent there's anything that looks back in name collisions, it's not -- as Cheryl says -- it's not -- the 2012 rounds, it's legacy domains. And again, from what I recall and also tax my memory again, I don't think we actually got into a substantive discussions about a names collision framework for the legacy domains. Thanks.

Cheryl Langdon-Orr: Jeff, I'll just jump in --

Jeff Neuman: Thanks, Steve. Cheryl?

Cheryl Langdon-Orr: Thanks, Jeff. Cheryl Langdon-Orr for the transcript record. Yeah, I mean we maintain in Work Track 4, and more specifically I've maintained throughout both my membership in this working group and in my role as co-chair that our role is to look at the previous round, and make suggestions for the future and that's our scope. And that's what we should be doing, stick to (inaudible). Thank you.

Jeff Neuman: Yeah, thanks, Cheryl and Steve and Anne. So I think -- so 2012 out of scope, but I guess what the question is asking, and again, we can say no or we could say we're not considering this or whatever. I think ICANN Org is just asking us. We should be clear as to what, if anything, we're going to do with the 2012 (ph) applications that are still outstanding. And what's meant by that is not that we can necessarily change it, but we should probably make sure we're clear that if there's any application still pending in the 2012 round, then I guess the question I'll throw to the group. A, should we just say that those are reserved and may not be applied for; B, should we say they can be applied for but they can't even be looked at until and unless the 2012 ones are resolved in a way which they wouldn't proceed; or C, some other option? So we're not looking back to say what should be done with the 2012 string. We're looking forward to say, what do we do with the strings that weren't resolved in 2012 in terms of new applications? So this is what I think we need to address that's not going again, it's not going back to 2012. It's saying, what do we do with those strings that were applied for in 2012 that are still in limbo? So yeah, so let me -- there's people with raised hands. So Cheryl, I don't know if that's an old one or a new one?

Cheryl Langdon-Orr: I've (inaudible) it's okay, I think, Jeff.

Jeff Neuman: Oh, okay. And then Anne, please?

Anne Aikman-Scalese   Yeah, Jeff. It's Anne. I think that -- I mean we certainly have established previously that those applications are out of scope. But I think more importantly, frankly it's a legal matter. I think that ICANN Org's question should be directed to ICANN legal. I don't think there's anything that -- I mean not only is it out of scope, but ICANN legal had better be figuring out the position of those applications and advising the board accordingly. Thanks.

Jeff Neuman: Yeah, thanks. Thanks, Anne. I guess I'm still just trying to figure out if there's a view in this group. No one is saying that -- I don't think anyone is saying that we should resolve the 2012 strings. I mean they do have to run their course, as Kristine said. So my question is, if -- and let's hope this is not the case -- but if the next rounds start and there are still unresolved items, is our recommendation to say, ICANN should not accept applications for those strings that are still yet unresolved or is our recommendation ICANN can accept applications, but shouldn't start processing them unless and until those are resolved and the resolution of those would allow for the processing of additional applications? I hope that makes sense?

                    So that is what I think -- that's the question I'm trying to see if there's a view of the group. So Trang has her hand raised and Kristine. I'm going to go to Trang and then Kristine.

Trang Nguyen: Thank you, Jeff. This is Trang for the record. This comment or suggestion isn't really about any particular application that may still be pending from the 2012 round. Obviously those that are pending will continue to be processed through the rules of that round. This comment is for intending to ask if the PDP working group would like to create any newer rules for subsequent procedures to apply to either any categories of applications or any particular applications that did not move forward in this round. And again, we're not trying to advocate that there

shall be special exceptions, or special considerations, or rules or anything like that that should be in place. We're just merely asking whether our PDP working group has considered and wants to apply any special rules for any classes of applications. It's really an implementation type of question, so that we have a clear understanding of what the desires of the PDP working group are, when we go to implement the next round. Thank you.

Jeff Neuman: Okay. Thanks, Trang. Let me go to Kristine.

Kristine Dorrain: Thanks. This is Kristine Dorrain for the transcript. I was going to start by saying something that Maxim said in the chat. So I'll read it in. It says, if we want to avoid mixing rules from different rounds, the new applications for old stuck strings should not be added. And I agree with that. I think that one of the problems you're going to have is if you have applications pending in a round under one set of rules and then you have a whole new set of rules with a whole new set of applicants; not only do you create a brand new contention set where there wasn't one, possibly prejudicing people from a former contention set related to that string; but then you also mix rule sets. It's much cleaner to keep the two completely separate.

It's my understanding that at this point we aren't talking about sort of endless rounds, sort of like 10 more years until the next round. But I could be wrong. But it's not like people are going to have to wait forever. Once an application is resolved, then it stands to reason that people who are waiting in the wings for that string just in case they want to try for it later, they can wait until the resolution.

Furthermore, just to throw out a random idea, I mean what if the applicant for the string doesn't make it under the 2012 guidebook, but the rules change such that that application would now be successful under the, let's say, 2020 guidebook. Maybe the former applicant gets into a contention set with all the new applicants. I mean there's a lot of variations here. And I think that mixing strings and creating contention sets where there was none, is only going to create problems. And I guess I agree with staff's point that we should probably spell this out super, super clearly.

I disagree with Anne. I don't think that this is a legal issue. I think this is just a straight up procedure issue. I just don't think it makes sense to mix up applications under two different rule sets and one contention set. Thanks.

Jeff Neuman: Yeah, thanks, Kristine. And also looking at the chat, it seems that there is some agreement and I think Justine has stated it fairly well. Justine says that we should not accept new applications for strings whose existing applications are still in process, because that would cause contention and similarity conflict. I think that's -- Donna agrees. And I think Kristine and Maxim are in line with that as well. So that's kind of what I was trying to elicit. So you guys got there, not thanks to me. But you got to where I think a recommendation -- again, this needs to be vetted. But I think that that does set a good basis. So let me just ask the question and then I'll get to Anne.

So we're all of the -- I started to say we all -- there is a view that certainly between the 2012 round and then next round that there should be no -- that once strings are applied for, if they're still in process, there should not be in the next round, we should not accept applications for the string. I just want to ask. Is that a question -- presumably let's say is there was a round every year, again, I'm just hypothetical, or every two years; would that same principle be -- do you all view that same principle being carried through? So if we had a 2020 round and then a 2022 round, that in 2022 for any strings that have been applied for in that 2020 round and they're still left unresolved as Justine put it, that we should not allow in 2022 any applications for any of the strings that were applied for in 2020. I just want to make sure that everyone believes that this is kind of an ongoing policy statement. And I think Maxim just said, yes. I think that was to my comment. But it could have been to Kristine's.

So let me go to Anne, who's got her hand raised. And then we'll go back to the chat. Thanks.

Anne Aikman-Scalese   Yeah, thanks, Jeff. It's Anne for the transcript. And I see why staff would want some clarification on this, because they're faced with having to deal with it. But in fact, what we're seeing here is that policy can change in this round. And I think Jim is right when he uses the example of closed generics as the biggest potential issue here. Because let's say that we all said, oh yeah, we'd like to venture a policy recommendation here that all the closed generics that were applied for in 2012, nobody can apply for them in the next round. The fact is that those closed generics were applied for under one set of existing policies and one set of GAC advice, and then we as a PDP are kind of trying to say, well, yeah, but it's in scope for us to give those applications preference, even though -- I mean I can see why you would give them preference as to fees possibly, the amount of the application fee, if it's still on file. But it strikes me that there is first of all, GAC advice that closed generics need to be operated in the public interest. And when you start evaluating those, are you saying that you're going to close out any new applications that might be even more in the global public interest? I mean I see a problem with a couple things.

I do think there is a legal issue here in terms of what's the contract between those applicants and ICANN to begin with from the 2012 round. And then secondly, I see unfortunately for people that -- new applicants for these, for example, closed generics that would maybe comply with whatever new policy we make on closed generics; will file a request for reconsideration when the original ones get awarded an agreement. And this kind of danger of disputes that we constantly face within ICANN is the reason that I'm suggesting somebody needs to talk to ICANN legal about this, about what is the legal status of those applications that are still on file. What's the obligations to those original applicants? Can we legally even prevent new applicants under a new policy in the new round who may want to prove that they have a greater public interest served? And if we don't have some legal advice on this, we're just really asking for it -- for trouble and requests for reconsideration, an independent review panel, and blah-blah-blah. So we've got to talk to legal. Somebody's got to talk to legal. Thanks.

Jeff Neuman: So thanks, Anne. I think, Steve, if you can -- in line with what Anne is saying, if you can see if legal has got any thoughts on some of these things that may help to see what their view is on the status of existing applications. I think a related question was brought up by Steve, which was good and I think it's something we should discuss, because it is related to all of this; and that is that in the 2012 round, ICANN would or could put applications on a, quote, "will not proceed" status. And applicants could at that point or at any point following, withdraw their application. But they did not have to withdraw their application.

And in fact, many that pursued accountability mechanisms or are still pursuing accountability mechanisms, have not withdrawn those applications. So one of the first questions is, if we go along with the concept that if a string or an application for a string or applications for a string are still in process at the time that the next round begins, and then what does it mean to be in process? Can it be gains in such a way as to continually be in this "will not proceed" but the applicant has not voluntarily withdrawn? Or should we start to think about some practical policies/procedures that if string is or application or applications are in the "will not proceed" for a period of time, and the time period passes in which an accountability mechanism could or should have been filed, can we force the string into a forcible withdrawal? I think these are questions that we should discuss, but also should see if legal or others have opinions on it, or as Christopher puts it, a cut-off period.

So again, I think it would need to -- if we do have a cut-off period for applications, if something is put in the "will not proceed," we do need to leave enough time to file accountability mechanisms. And for those accountability mechanisms to work their way through before forcing that cut-off. But if no accountability mechanisms have been filed or appeals or whatever; and it's past the time in which those could be filed, then perhaps a forcible withdrawal can be imposed.

So let me go back to the good stuff in the chat. Let's see. Okay. How far back should we go? So Jim says, Kristine, some applicants withdrew because the prohibitions suddenly appeared post application. Okay, I think that was on closed generics. Then there was some discussion about ICANN legal, Trang, she's trying to clarify what the questions are. She'll get them to legal if we can help formulate the questions. So we'll take that as an action item.

Justine says, at the very least we should have ICANN legal look into how we can appropriately terminate those applications that have not been withdrawn, but are clearly not looking to proceed. Okay, so there's -- I'm not going to bring up specific -- Anne's got a comment on a specific application. Steve's asking for the working group to help formulate the questions. And Christopher talks about the cut-off period. And sorry, just going down. Good. I would love for people to raise their hands. It's a lot easier than going through the chat. But I think we've kind of covered it. There's a caution about random cut-off points. I think that makes sense. We wouldn't want to just randomly cut off these things. But that has to be balanced with just kind of an everlasting openness. So Kristine, please? And then Michael.

Kristine Dorrain: Thanks. This is Kristine for the transcript. So I think when you look at it in practicality. I mean maybe for the next guidebook, you put in a limit. And again,

I'm cautious about a randomly assigned one. Because ICANN's accountability mechanisms can take a very long time. So at a minimum, they would have to have run out all of the exhaustisms before the time period started to toll for withdrawing. A lot of applicants had a lot of ambiguity, which would lead to a reason why people would not want to withdraw strings, waiting for ambiguities to be resolved and worked out.

But if you look at the number of strings, I don't know if I've done it right. But if you look in the applicant status, there's 24 applications that are still listed as active. And many of them are duplicates, because they're part of contention sets. So there's 2-3-4 people applying for one string in one or two instances even. So it doesn't seem like there's that many application words that sort of would be on this, quote-unquote, "reserve list." So lest we go down the road of making very big Draconian rules that apply overall retroactively to the 2012 guidebook, maybe we think about if the original thought which was to put these handful of names on a reserve list until it's done. And say, you know what? These 2012 names they're not, you can't apply for them.

Going forward, however, yeah, we maybe could talk about putting a time limit on TLD applications at that point, because that would be expected. At that point, there would be that agreement in the guidebook. You would have expected that. But the people that applied in 2012, did not expect to have to have a tolling period of how long their application should stay open. So I think that's a changing of circumstance that would be impermissible. But again, I think if you look at the number of strings that would actually be affected here, we're talking about a very small, small number of strings that would be impacted.

Jeff Neuman: Yeah. Thanks, Kristine. I have Michael in the queue, and then I'll go over some of the chat stuff. Michael, please?

Michael Casadevall: So my point here I don't know how strong contention is of those 24 strings. But I'm in strong support that we put some sort of limit on the revised guidebook. Because it would be completely possible to lock out all parties of a different string, if you could tie it up in accountability mechanisms. So there needs to be a mechanism where an applicant is forcibly withdrawn and it goes back into the pool, so you can try it again. Because I could see if two parties are having a dispute and the dispute basically comes to the point that no one gets the string, and I don't think that's a desirable outcome. The 24 strings as is, I think may have to be grandfathered as a special case. But going forward, I would think the cut-off is that if there no progress moving forward with the objection, so basically if the accountability board is doing its job and it's moving forward, the time limit doesn't kick in. But then if it stalls for x months or x years, then it basically gets kicked back out.

But then it would stop the cycle from repeating itself. I mean with the string back in the pool where people can apply, but you could just have people try to block the string again, by forcing contention issues.

Jeff Neuman: Yeah. Thanks, Michael. I think the way it sort of sounds like, at least from the comments and then looking at the chat, it sounds like there's some agreement to not -- that there's some agreement to placing any strings that are still in process

from the 2012 round, if they're not resolved by the time that the next round begins, then we should not be allowing any applications for those strings period. But for future rounds, that whereas Kristine said, we could be providing notice to those new applicants or the applicants for the next future round, we may want to consider a cut-off point, not a random one, but one that's got some basis and would take into account applicants using all accountability mechanisms and things like that to have some sort of cut-off period. So it sounds like we're all, I think, on the same page on that.

But then there's a question of -- or a couple questions still. One of them is on the -- Trang had pointed out that there may have been a couple applications that did not proceed because variants at the time were not allowed to proceed, because there was not variant policy. And so the question is, if someone had applied and we are allowing variants, and again that was a lot of assumptions, then is that in any kind of special status?

But let's put that one aside, park it for a second. I saw Anne had put an x after I tried to summarize it. So let me go to Anne and figure out what -- Anne, please?

Anne Aikman-Scalese   Yeah, Jeff. It's Anne for the transcript. And I definitely don't agree that there is (inaudible) agreement within this group that all new applications for that string are prohibited. And the problem again that I see with that is that I think that, for example, on the closed generics, the reason they didn't proceed is because the board or somebody asked us to develop policy further on closed generics. And so they're stuck for a lack of policy, right? And the current applications for those generics would -- we're kind of assuming that those would somehow meet whatever our current policy is that we're going to make for closed generics. But in fact, those applications don't -- they don't even know what those policy recommendations are going to be, and they were developed under an old set of policies.

So if you're saying, well hey, no new applications; are you then saying that what you want to do is go back to those applicants and ask them if they're willing to meet the new requirements? Because I mean maybe you could ask them all that. But meanwhile suppose they all say no, because they know that there aren't any new applications permitted for those under the new policy. I don't see at all how you're saying that this is workable, when they've applied under the rules of the 2012 round and we don't yet have our recommendations together for this round.

Jeff Neuman: Oh, sorry. I see Kristine has made a comment and I see Trang and Michael in the queue. Anne, I'm a little confused. Because I think all I said was, I'm not talking about any applications that are withdrawn.

Anne Aikman-Scalese   No, no. I'm not either. I'm not either. No, I'm sorry if I created that impression. I am not talking about any withdrawn applications. I'm talking about ones that are stuck.

Jeff Neuman: I guess, well, let's see. The 24 that are still in some sort of limbo, if there are any that are still in limbo because they're awaiting policy on the closed generics, I'm not sure they still are. I think all of them have withdrawn or changed their applications to a closed TLD. I could be wrong. There might be one or two still in

limbo. But I think all we're saying is that if any application is still in limbo that -- okay, I'm not seeing what you're saying. Trang, I guess the question is, are there any on the closed generic issue specifically, because I think that's pretty unique; are there any applications that are still in sort of this limbo state which haven't been withdrawn, haven't changed their things over, but are awaiting for what the policy might be in the next round? Because I think that may be the one area where we can't just say, no new applications. We might have to figure something out for that.

Trang Nguyen: Jeff, this is Trang for the record. If memory serves, I don't believe so. I believe that applicants, the closed generic applications have either been withdrawn, the application themselves changed, or has decided to move forward in kind of a registry agreement. I don't think all of them have been delegated. But I don't think any of them have told us that they want to wait pending future policy, if memory serves correctly.

Jeff Neuman: Yeah. Thanks, Trang. If we can clarify that, that would be great. And if that's the case, then Anne, I don't see the issue. But maybe I'm missing something. Let me let Anne respond, if she wants to, and then I'll go to Michael.

Anne Aikman-Scalese   Yeah. Thanks, Jeff. I think what would be extremely helpful if we're trying to come up with some policy recommendation here, and again, I do think that we've got to consult with legal about what contractual obligations there are. But we really need to know what applications we're talking about. I mean are any of them community applications? Is there reformulating policy on community evaluation? What are they stuck applications and what are the considerations associated with those? It's really not been considered.

If we could have a list, if there are only 24, let's see what they are. Thank you.

Jeff Neuman: Yeah. Thanks, Anne. I think that's a good action item. And we'll definitely put that on there, so that we can understand a little bit more. Michael, then Trang?

Michael Casadevall: So one thing that occurs to me since we're talking about applications, we're going to be having the new applicant guidebook and coming out. Is I think for applications that are in the 2012 round and for future rounds, there's a legal term I'm thinking of, ex post facto. Basically we should not be retroactively placing rules on applicants. Applicants should be evaluated under the terms of what the applicant guidebook was at the time they applied. Legal, notwithstanding any legal specific changes that have to be made, but if anything happens to those 2012 strings, I think the 2012 guidebook should be in effect, unless we have a path of clarification in the new guidebook, and then we have a 2019 guidebook and then a 2020 guidebook. These strings that were applied for, I don't think we should ever look at to retroactively apply. Because that just opens the door to madness and confusion. That may be the easiest way forward.

Jeff Neuman: Yeah. Thanks, Michael. It is kind of -- I see what you're saying. I just want to respond to Kristine. Kristine has a couple comments on there. So I just want to reiterate. And I don't think any application and Trang, doesn't think so either, was an option under the board resolution that someone who applied for a generic, the closed generic, they could either withdraw their application, they could convert it

to an open by signing the agreement, or the third option which again I don't think anyone exercised and there's any applications to exercise. But it did say it could await to see the results of the PDP and decide whether it wanted to be processed under the new -- any new policies that were developed for subsequent rounds. So Kristine, that's the only reason why in that one really unique scenario where it would have had a little bit of a different treatment. But like I said and Trang is going to double-check, I don't think any applicant for a closed generic exercised their right under that third option. And so that's just why we brought it up.

Trang and then Michael again?

Trang Nguyen: Thanks, Jeff. This is Trang for the record. So I just wanted to ask that -- make a request that if you would like us to look into the stats around the closed generic applications and whether or not any of them are still pending, if that could be submitted as a formal -- captured and submitted as a formal (inaudible), I would really appreciate it. It would allow us to then circulate the question internally and get the SNEs to provide a response.

I think the questions from ICANN Org is generating sort of two streams of conversations here, which is great. I think one of the streams of conversation clearly is about the pending applications from this round and what should be done, in essence the closed round, if you would. But really the original intent of the ICANN Org's comment really was about for the next round, does the PDP working group want to institute any rules for any of the applications that were applied for in this round. And if there isn't, that's fine. But it's not a backward-looking -- it's a forward-looking question.

So I'll give you an example. Some of the applications from this round proposed to change the string name and of course that was not something that was allowed in this round, so we said no. Some may feel that they have first dibs on the name of the string that they wanted to change it to, but were not permitted to do so in this round. So should any special considerations be given to those? And it's fine if the answer is no. We're just merely asking what should any special considerations -- what, if any, special considerations should be given to any particular string or category or strings in the next round? And it's more of a forward-looking question than a back-ward looking question. Thank you.

Jeff Neuman: Thanks, Trang. That does clarify things. Let me just go to Michael and Anne. Let's try and finish this one out and then maybe get to one more topic before we close this out. So Michael and then Anne?

Michael Casadevall: So one other thing that occurs to me under the board provide the option for applicants to be considered under new policy, is that something that we want to codify in the PDP for the next application round? Essentially, if a string is under contention due to policy issue, to formally have an option in the applicant guidebook to wait for updated policy. I don't know if that's something that should be codified. I don't know what the group does. But it would allow an option to move forward for (inaudible) in contention, assuming all policies agree. That's my last comment on this topic.

Jeff Neuman: Thanks, Michael. I'm not sure if that's -- let's think about that one. That was kind of an ad hoc thing that the ICANN board did. I don't think we know enough yet as to whether that's something that was a good thing, a bad thing; it created and made that up. So that's probably something that we just need to put down as a question to consider. Let me go to Anne and then we can get on to another topic before we close it up.

Anne Aikman-Scalese   Yeah. Thanks, Jeff. It's Anne. I see what Michael is saying about you could potentially create a recommendation with respect to applications coming in, in the next round that if they get stuck for some reason that the party applying agrees to put off being considered until a policy is determined or something like that. But it's pretty loosey-goosey stuff. But what Trang is really asking about, she used the phrase "first dibs." And so she's asking about, for example, by way of an example, somebody wanted to change their string in this round, but it was permitted. But should they have first dibs if we decide in this round that we're going to recommend changes in string names should be permitted.

These special considerations that are being discussed are very definitely legal issues. And I think that the other thing about this is we need to know before making sweeping policy recommendations, we need to not only have the legal advice about this first dibs stuff, but we need to know what applications are actually stuck, all of them? Thank you.

Jeff Neuman: Yeah, thanks, Anne. Just to be clear, there's been no discussions that I'm aware of or any recommendations or anything like that of giving anyone first dibs on anything. So before you get kind of concerned, I think Trang was just--

Anne Aikman-Scalese   Well, Jeff, I'm sorry. But that's exactly what Trang just said. If you look at the transcript, that's exactly what Trang said.

Cheryl Langdon-Orr: It's just a turn of phrase, Anne. It's just a turn of phrase. I think she can put in long form if you need the turn of phrase identified. But she was asking whether or not there would be any presumption of some sort of preference.

Anne Aikman-Scalese   Exactly, mm-hm.

Cheryl Langdon-Orr: And she also said, the answer can be no. And if you want my personal view, it should be no. Thank you.

Anne Aikman-Scalese   Right.

Jeff Neuman: Yeah, thanks, Anne and thanks, Cheryl. So the general question is, are there any special considerations that should be given for strings that apply but did not, for whatever reason, get their string. And at this point, there have been no suggestions I can recall, nor any public comments that I've seen that suggest the answer to that should be yes. And if that's the case, and the answer is no, I think Trang's point was we should make sure that we clearly document that, so that ICANN staff is aware of what our recommendation is.

Jim Prendergast: Hey Jeff, it's Jim Prendergast. I'm sorry I lost power so I'm not in the Adobe Connect room anymore. Can I just jump in real quick?

Jeff Neuman:	Yeah. Let me just say that that's some real dedication, losing power and staying on the line. You go for it.
Jim Prendergast:	I don't know off the top of my head, but with the resolution of the mail, corp, and home; was there some language around giving those applicants who were eventually refunded their money, if those were freed up to go forward, giving them sort of preference in the next round? Like I said, I don't know off the top of my head. But that may be something we need to look into as well.
Cheryl Langdon-Orr:	I think Jeff might be muted or something. Oh, there you go. See. Anne, over to you.
Anne Aikman-Scalese	All right. Thanks, Cheryl. I just -- I mean we lost Jeff. But certainly on .mail, .home, and .corp throughout the discussions in Work Track 4, those were listed as out of scope for Work Track 4. And I think we have some kind of a chart in relation to that. I would also note that the board directed that those applications be refunded and so they are not, unlike the ones that we're calling stuck, those aren't stuck. They're gone. Thank you.
Jeff Neuman:	Okay. Let's try that again. Can you guys hear me?
Cheryl Langdon-Orr:	Yes, we can.
Jeff Neuman:	Yeah, okay. Cool. So yeah, Anne is correct that those were out of scope. We decided in our recommendation, those are out of scope. We did not make any kind of recommendation with respect to corp, home, mail, et cetera. But there is a discussion as to whether those should be contained on a reserve list to not be applied for in the next round based on the resolutions and recommendations from the SSAC. So they're not stuck. There's just a question as to whether those should go on to a do-not-apply type list. Justine said it earlier. So I probably should have read what she said, as opposed to going into it myself.
	Okay, I think we are -- we're not going to have enough time to go into any of the other last two items. And I think the next one, incentivizing certain models, is probably a much longer discussion anyway. So in the any other business, I just wanted to let you guys know that we are going to have a call -- well, we're going to have several calls or two calls, I think, in January. For the second call, I believe, or maybe the first call in February, we're going to have Monte Cahn on from Right of the Dot to talk to us about the private TLD auctions as we discussed on a previous call. So we're finally able to catch up with him to just let him know about what the group has been discussing and make sure that he's reading the supplemental initial report that we did on that. So he'll be ready to comment on those, plus his experiences and some recommendations, having seen these things firsthand. And I think he'll provide a good -- it will be a good discussion to have.
	Just so everyone knows, I have tried several times to reach out to Applicant Auctions. I think that's the name of the other provider. In fact, they're the main one that did most of it. They are not very responsive. So I have not heard anything back on them. But I'm still trying, and if I can, I'll get them on the same

call. But I can't force them to return our emails. So at the very least, which is not least at all, because Monte is very, very knowledgeable on this. We're going to have him on hopefully one of the calls in January if it doesn't conflict with NamesCon. And if it does, then maybe first thing February. So we'll get that call underway.

So any questions from anyone on that? Okay, not seeing any questions, anyone else have any other business? Okay, not seeing any other business, everyone have a great holiday season and happy New Year to those that celebrate the New Year now. I look forward to talking to everyone in January.

[Multiple speakers]

Michelle DeSmyter: Thanks so much, everyone. This meeting has been adjourned. Ashleigh, please stop the recording for us.