ICANN Transcription

New gTLD Subsequent Procedures PDP Working Group

Thursday, 18 July 2019 at 2000 UTC

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JULIE BISLAND: Good morning, good afternoon, good evening, all. Welcome to the New gTLDs Subsequent Procedures Working Group call, on Thursday the 18th of July, 2019. In the interest of time, there will be no roll call. Attendance will be taken by the Zoom room. If you're only on the audio bridge at this time, could you please let yourself be known now? I just want to remind all to please state your name before speaking for transcription purposes, and please keep your phones and microphones on mute when not speaking to avoid background noise. With this, I will turn it back over to Jeff Newman. Please begin, Jeff.

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JEFF NEUMAN: Thank you. Everyone, welcome. We have a lot to do today in a very short amount of time, because as we discussed on the last call, the GNSO Council Meeting starts at the top of the hour. That is going to force us to actually stop this call, most likely five minutes before the top of the hour. So, if I could just have ICANN staff just help me keep an eye on the clock, and make sure we do not go over time, that would be great.

The agenda really is to just review the start on the application fees, and then if we get to it, the variable fees. I think there's so much to talk about in the application fees, I'm not sure that we'll get to variable fees, but perhaps we will. With that said, are there any updates to any statements of interest? Okay. I am not seeing any. Is there a mic open? If you could just put it on mute … Thank you.

Okay, let's get started on this fees discussion. Just give a couple seconds for that to come up. You'll see that I've already gone in and kind of made a couple of revisions, and I asked Steve to move around a couple sections, to group them together as opposed to just being separated. So, if you were in the document before this call, and took a look at it, you might just notice that some things are in some different places, but it's all still there.

On the topic of application fees, as I was starting to say … This could be very easily a very complex subject, but we're going to try to boil it down from a policy perspective to give guidance to an implementation team, ultimately, to help determine what the specific fees are.

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At this point, the policy advice is more towards a formula for determining what the application fees will be, as opposed to discussing actual fees, or getting too deep into the details of what needs to be considered to be, let's say, in a cost recovery model. This is a very high-level discussion. I know that people will want to talk in the weeds, but we're going to try to resist the temptation to do that, and really to focus on the policy behind it.

If you look at the policy goals, this comes from the language that's in the applicant guidebook, which really came from the GNSO policy from 2007-2008. Essentially, "The gTLD evaluation fee is set to recover costs associated with the New gTLD program. The fee is set to ensure that the program is fully-funded and revenue-neutral, and is not subsidized by existing contributions from …" And then, it goes on to list ICANN sources, including gTLD registrations, registrars, ccTLD contributions, and RIR contributions.

I'm not sure how important the specific list is at the end of that policy advice, but more towards the notion that it's revenue-neutral and not subsidized by any other program, or any other aspect of ICANN funding sources, is really the key part. But in the guidebook, it did use this language, so rather than trying to rewrite that, we just …

We had proposed in the initial report to reaffirm this language, and from the comments we got back, it seemed like there was a high-level agreement that cost recovery should still be—that the policy should still reflect a cost recovery component. We'll talk about a potential addition to that, with the concept of a price floor. But at this point, for this bullet point, it seemed like, in going through the

comments, that what we have in the initial report and what the existing policy was seemed to be the cost recovery, revenue-neutral component.

If we look at the first bullet point in the high-level agreement, there was general agreement that excess fees that are collected from the application process … Now, we're not talking about fees from, let's say, disputes, or fees from auctions, or fees from any other aspect—just fees from the collection of application fees, at least in part, should be returned to applicants. Some had said all of it should go back to applicants. Some should say only a portion of it. But in general, most of the comments that we got in said that yes, to the extent there are excess fees, that in part they should be given back to applicants.

Also, whatever mechanism is used to disburse those fees—whether it's back to the applicants, or a portion of it back to the applicants—that this should all be communicated prior to application fees being submitted to ICANN. It's worded in a very specific way. Not to necessarily say it has to be in the guidebook, but it certainly needs to be made known to the community and to applicants, prior to applicants paying any fees.

Let me go back to the chat first, and then I'll go to Christopher. Alexander says, "What on earth dictates that the fees have to be recovery-based? That's insane." Alexander, that was the policy that was … In 2007-2008, that was the initial recommendation, subject to a potential floor, which we'll talk about. Then, that was supported by almost all of the comments that we got in. So, that's where we got that from.

Then, Alexander says, "Can we dig into that again? I don't care what was declared two years ago, twelve years. Times have changed. Is there a consent? How do we know?" Okay, Donna says, "I don't think so, Alexander. I do believe this group has pretty much agreed to maintain the principle." Then, Susan says, "Alexander, I cannot remember which work track. It was work track one, but it has been dug into already." Katrin says, "There's been a lot of debate," which is true. Maxim's comment is more on the variableness of fees, whether you charge some more or some less. That's a separate topic.

Alexander says, "There has to be some hurdle. If we take the financial hurdle, my grandma will run a hobby gTLD." Okay, I'll take that comment for what it's worth. Perhaps, Alexander, I can talk to your grandmother after the call. That's a joke, everyone. Katrin says, "Proposal is to have a fee floor." Okay, that's something we will get into. And Paul's asking what the issue is.

That's the high-level agreement, at least from the policy goal and the first high-level agreement. The second one was, again, the notion of a revenue-neutral principle. There were a number of comments … The Working Group and a number of comments seem to support the notion of a predetermined threshold amount, such that if it turned out that the cost recovery is actually going to be below that pre-determined threshold amount, which we're calling an application fee floor, then we would charge the floor, as opposed to what the actual cost recovery amount is.

That would be used to deter speculation, potential warehousing of TLDs, and mitigate against the use of TLDs for abusive or malicious purposes. This is something I added, looking back at the

comments. Support for the notion of a floor also reflects that fact that that operation of a domain name registry is akin to the operation of a critical part of the Internet infrastructure, which I think gets to Alexander's point.

The next high-level agreement from the comments was that if we do determine that there should be a floor, then any excess fees received by ICANN should be used to benefit one or more of the following categories. There was general outreach and awareness for the New gTLD program. Oops, a typo there from me. It should just say, "Long-term program needs, such as system upgrades, fixed assets, etc., application support program, or to top up any shortfall in the segregated fund as described below."

Then, the final one on here, then I will get to Christopher … To help alleviate the burden of an overall shortfall, a separate segregated fund should be set up, that can be used to absorb any shortfalls, and topped off in a later round. The amount of contingency should be a predetermined value that is reviewed periodically to ensure its adequacy. This would be akin to what we have … It would be a contingency fund, but not the contingency that is currently used, which is more for litigation and unanticipated costs. This is more of a contingency in case we have underestimated the costs for the program and the floor, if there is a floor, doesn't cover it. Let me go to Christopher. Then, I'll go back to the chat. Christopher.

CHRISTOPHER WILKINSON: Hello. Good evening, everybody. Jeff, thank you very much. I'm particularly pleased that you've limited tonight's call to

application fees, because it's quite hard going to plow through the 25 pages that the staff has just sent us. Two comments. First of all, as I've said before, it's not appropriate for incumbents to determine the terms and conditions of new entrants. I don't want to go into that in detail now, but it's quite clear from reviewing the comments that are discussed in this document that it is indeed incumbents that are trying to make the running on this.

My specific point, which relates to my earlier comments about application support … On the one hand, you've got fees, and on the other hand, you've got the principle of neutrality. I don't see how this squares with applicant support. For the sake of argument, I would say that about 25% of the total budget for the new round should be for application support. One in four of the new applications should be completely outside existing incumbents, and oriented towards unsupported or underrepresented applicants.

From there on, I think ICANN's finance could work it out. Either this budget has to be financed out of applicants, or it has to be financed out of other ICANN resources. You can't have significant applicant support, and neutrality, and no subsidies from other ICANN resources.

For the sake of argument, I'm not in favor of subsidizing from ICANN resources. That's up the board and the financial experts in ICANN. The document, as presented, and the comments, as presented, do not reflect the priority for applicant support, which is absolutely essential for the continuing credibility of ICANN and the domain name system. Thank you.

JEFF NEUMAN: Yeah, thanks Christopher. Most of those comments, I'm going to push off to the applicant support topic, which is, I'm sure, coming up soon, if you look at the work plan. This is really just talking about the application fee and excess of the fee. My guess is that, if there is excess, I am assuming you're voicing support for having some of the excess at least go towards the applicant support program.

CHRISTOPHER WILKINSON: I would accept that as a partial response to my suggestion, but reading the document, I don't think that the people who have responded so far—except perhaps ALAC … It's difficult sometimes to decipher exactly what ALAC wants to do. This is a significant, major reorientation of ICANN's funding of a new round.

JEFF NEUMAN: Okay. Thanks, Christopher. Any other comments before we go into the last bullet point in high-level agreements? Susan, please.

SUSAN PAYNE: Yeah, thanks. I'd just like to request, please, that if someone's going completely off-topic, and onto a topic that's scheduled for a different call, could they just be cut off, rather than us have to spend our night listening to it? Thanks.

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JEFF NEUMAN:	Okay, thanks Susan. I will do a better job in monitoring. Moving on to the last bullet point … To help alleviate the burden of an overall shortfall—this is what relates to part D above, the bullet above—a separate segregated fund should be set up that could be used to absorb any shortfalls, and topped off in a later round. The amount of the contingency should be a predetermined value that is reviewed periodically to ensure its adequacy. Thoughts on that one? It's pretty straightforward. There seemed to be a lot of support for that in the comments.
	I'm assuming, Christopher, that's an old hand, so I'm going to move on at this point. There were a number of alternatives. What we talked about was the high-level—what it seemed that almost all of the comments had agreed. Now, there was lots of additional comments that we received. There were a couple divergents, or comments that diverged. For example, Neustar basically said … It's not a divergence, but said that if there's no ability to really determine cost recovery, then it should just go with what was the fee in the last round.
	Then INTA, the International Trademark Association and the registrars have expressed a preference for keeping the fee high to dissuade frivolous applications. But I will note, in reviewing the comments from INTA … If you skip ahead to page eight, which you don't have to right now, you'll notice that it also supports cost recovery. We have a little bit of a conflict in the INTA statement. I don't know if INTA is on this call, and can clarify why there is a conflict, or maybe they can be read together. That's certainly something I was … Yeah, and I don't see Lori.

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Just to show you … Sorry, Steve. Can you just go to the last—page eight, I think it is. Just to show you that there is a little bit of a conflict. If you go to page eight … There you go. New idea: INTA supports a pricing system that reflects actual costs to ICANN. Then, it talks about how that would encourage competition and innovation. Emily's sharing it. Sorry, Emily. So, those comments seem to be a little bit at odds. Paul, great. If you know why they're at odds, or can help explain that, that'd be great.

PAUL MCGRADY: Yeah. I'm the chair of the Internet Committee for INTA. I don't claim to have intense personal knowledge of this comment. I review a lot of them. One way, obviously, for the cost to be relatively high would be on a cost recovery basis. ICANN spends a lot of their time and effort in reviewing these things and all that. So, I don't view these two comments as conflicting. I think, perhaps, maybe what INTA was saying was that the cost that ICANN is going to expend per TLD application should not come from other sources, therefore driving the application price down below the cost recovery point.

For example, ICANN should not use the bajillion dollars they have in the auction fund, for example, to subsidize the next round of new applications, thus resulting in an enormous number of frivolous applications. So, I don't think the two sentences conflict with each other, because there are ways to imagine the application price being lowered below cost recovery. And also, I don't think INTA would support the notion of having it being more than cost recovery—being unnecessarily expensive. I don't think

they want that, either. That's my best guess, as the chair of the committee that put that comment in. Thanks.

JEFF NEUMAN: Yeah, thanks, Paul. That makes sense. The only thing, then, I would—and we can confirm it. If you go back to where the original comment was, I think then it's not really divergent with the concept of cost recovery—sorry Emily, it's a little bit higher up—as, I think, it's labeled there. Keep going. There we go. It's not really divergence as it's reflected there. It's okay with cost recovery, so long as it includes all the costs, I guess, is what I took from that.

Okay, that helps, Paul. And Paul, if there's anything different … If you could just confirm that, then that would be great, so then, we can … And if it's okay to remove the divergence there, I think that would be great. I do have Christopher's hand up, so Christopher, please.

CHRISTOPHER WILKINSON: Yeah, thank you. I had already highlighted this particular paragraph on page eight, when I reviewed the document. First of all, Susan, please. This is the main subject of this discussion. I do not expect to be biffed off the discussion by other interest groups.

You can't have it both ways. The INTA position indirectly opposes any financing of applicant support, provided that you maintain this—to my mind, rather false and arbitrary, but that's up to ICANN—principle of cost neutrality. I do not accept those kinds of comments until the principle and budget for application support has been integrated fully into this stage of the process. Thank you.

JEFF NEUMAN: Yeah, thanks Christopher. We will talk about applicant support. I think INTA has a bunch of comments on that. I don't think we should extrapolate from this their thoughts on applicant support, because I do remember that they are supportive of it from reading those comments.

CHRISTOPHER WILKINSON: I accept your guidance as co-chair, Jeff, but the overall implication of the documents that you've got to date, and the comments that you've got to date, are not favorable. Thank you.

JEFF NEUMAN: Alright, thanks, Christopher. We'll get to that. Then, there were some comments on what should be included in the scope of cost recovery. I think the ALAC had said that perhaps we should consider things like the cost of contract compliance. The RySG had said that perhaps we should include other efforts, like universal acceptance. Applicant support is mentioned by the Registries here, and Security and Stability. Then, XYZ says that perhaps we should take into consideration an amount from future auctions.

I will say, on the first idea, on the contingent programs, such as expansion of contract compliance, I had not seen any support from other groups on that. The comment I would offer is that when think of application costs and cost recovery, one of the things we're going to need to define is what goes into the costs, or the timing of when things go into costs. In other words, you measure

costs from the date a program is launched to the date the TLDs are delegated. How do you determine the cost?

I would think that contract compliance, the costs now are generally funded out of the annual fees that registries pay and registrars pay. So, if there's any thoughts from anyone here … Again, these were just a couple new ideas that were raised. So, I will ask. Is there support from the group? It would be great, even if you put something in chat, to include any of these elements, in the setting of the cost for a cost recovery in the formula.

We're not talking about the excess here, if there's excess, which others have already said would be a good idea to go into things like universal acceptance awareness. We're talking here about what should go into actually determining the cost. Thoughts? Katrin's saying, "If there's no further support, let's move on." That's what I'm trying to judge. Is there any support? It's be great if people could type in yes or no, or something. I'm going to take silence as "no." Christopher, is that a new hand or old hand? Alright, I'm going to assume it's old, so let's go on. If we could just put a note that there did not seem to be support on the call for those three.

Paul, that was in the … Sorry, can you just go off, just to remind … This section comments on the scope … These were three new ideas that were presented, but it doesn't seem like there's enough to support to further expand on these.

Yep, cool. Okay, so for the fee floor, there was support from a number of commenters that we should establish a floor. What this means, again, is that if as ICANN or whoever's going through to

determine what the costs are, to determine how to recover those costs, or revenue-neutral, it turns out that it is a low number. Let's not get into the discussion of what that should be at the moment, but let's say it is a lower number than what the community thought it should be, then that number in which the community thought it should be, also known as a floor, would be charged as the application fee.

So, if we determine that the costs are $10,000, but the community thinks it's outrageous to charge such a low fee for something like this, that we should set a floor of $25,000—whatever it is. It doesn't matter what the number is at this point. Then, the application fee would be the higher amount, the $25,000.

There was a bunch of support from a number of groups—including the registries, ALAC, BRG, INTA, MARQUES, Valideus—of the concept of a floor. In guidance to establish that floor, the ALAC said that they didn't believe that … Based on experience from the first round, it is clear that the price used then was not a deterrent to a large number of often speculative applications. If an application fee floor is used for AO, this reason, it would need to be determined at what level the floor sufficiently mitigates the risk of speculation, warehousing, abuse, etc. while still making it attractive to invest in the introduction of new gTLDs.

Valideus has said there should be an analysis on whether there's a floor, which would mitigate the probability of applicants speculating on applying for TLDs or for TLD warehousing. ICANN has three rounds of new gTLD applications, 2000-2005, where the fee for an application was approximately $50,000. There was no evidence brought forward that there was any form of speculation

or warehousing. Therefore, taking that into consideration, there's no reason a floor for future rounds would even need to be that high, much less anything over $50,000. They oppose completely the use of the 2012 new gTLD application fee as the basis for a floor.

In setting the fee in subsequent processes, ICANN Org, if you could scroll down a little bit, has some concerns with regard to the floor. It looks forward to receiving guidance from the community as to what the floor amount should be, or criteria of how to establish it, as well as any thoughts on ongoing reviews of the floor amount. Let me stop there to see if there are comments. Donna, please.

DONNA AUSTIN: Thanks, Jeff. I don't think I see Christa Taylor on the call, but I just have a question, because I know Christa spent a lot of time on this. I was certainly in the working group when we had the discussions. I thought the idea of the floor was that the floor is separate from the application fee, in that the floor is used to determine what happens with any excess funds. I know I might be confusing that, but it just occurred to me as we were going through these comments that it's not about setting …

Setting the application fee, and what that looks like, is different to setting the floor. The floor becomes a part of the application fee that is not returned if there's excess funds. I'm sorry if that sounds confusing, but that was my understanding of it. Maybe I've misunderstood. I don't think the intent was that the floor would become the application fee. The floor is just a line in the sand of

how you deal with excess application fees. But I could have that backwards, because we discussed that a long time ago.

JEFF NEUMAN: Sorry, it took me a second to get off mute. Donna, I believe if you look back at the initial report, it does talk about floor in being … If it turns out the costs were below a certain amount … Or put a different way, the application fee is the greater of the cost—what's determined to be the fee because of cost recovery, or expected cost recovery and the floor itself. It's the greater of those two components. It's not in addition, or it's not a component of the fee. I'll look to see, maybe, if anyone at ICANN understands it differently, but that's the way that … From those discussions and from the initial report, that's the way we worded it.

Just to look at the chat, Paul does say plus one. The way that ICANN … It seems like can figure out the absolute minimum, or what it costs to process the ideal application from the ideal applicant. Paul, I think the issue was, or is, that every application, in theory, would cost a different amount, depending on whether it had to go through additional hurdles, clarifying questions—whether it had to go to different types of evaluations, like the geographic names panel and other stuff in that component.

Essentially, what ICANN has to do is figure out the total costs of the program, and it can't really divide that up by … We'll see this in the variable fees comments. It can't really divide it up to figure out how much each ideal application would be. Therefore, that did not seem like something that was feasible as discussed by the group.

Jim says, "If you divided the excess funds by applications, does anyone know what the reduction in application fee might have been?" Jim, I did do that, I guess, about a year ago when we were talking about this in that work track. I actually did do that. It was off the cuff, and I did do that computation. It seemed like if you took, at the time, the $80 million divided by the number of applications that were submitted—not even taking those that were withdrawn, but all of them—it came out to something like $35,000 per application or something like that.

The point is that we're not going to be determining … We're going to basically set a policy, and maybe a formula, to determine what cost recovery is, but the actual costs are going to be determined by ICANN and its modeling, and not by this working group. Christopher, sorry. Is that a new hand? I can't remember now.

CHRISTOPHER WILKINSON: Yeah, that is a new hand. Just a couple of points, which I think are relevant, though others may feel they're not. First of all, this discussion does not really address the control and regulation of warehousing. I don't want to comment on whether or not the 2012 round resulted in warehousing of top-level domains. I believe that there are other participants who have better information, and have views about that.

Looking to the future, I think the risk of warehousing and speculation is an extremely dangerous element in this new round. Since I spent a lot of time with work track five, allow me to say that the warehousing of geographical names could become politically extremely sensitive and controversial. I think the comments that's

you've received to date are very partial, and do not really address the methods and the techniques.

Of course, some people that would say that just increasing the price of the application would be one of the techniques. But I'll pass on that for the moment. The position that you've got to date does not address how to control warehousing and multiple applications by individual registries and registrars. Thank you.

JEFF NEUMAN: Okay, thanks, Christopher. I think that's right. This is not meant to define TLD warehousing or anything like that. It was just brought up as part of the rationale, as to why not to have it go too low. I agree, this is not intended to stop that, if even it's defined. If you could scroll down, Emily. While Emily's scrolling down, we do have a phone number in here that ends in 800, I think. It's a 310 area code. If someone can just let us know who that is in the chat, that would be great, because we try to figure out who's on this call.

Okay, so then we get down into … The new idea from INTA was that if we had a brand-only round, perhaps the costs wouldn't be as great, and therefore there may not be a floor for those applicants. There was a concern by ICANN. They're not aware of any 75-steps document. It's unclear what documentation related to the process used in setting the fee in 2012 round is being referenced in this section. So, I think we should put that as an action item to clarify that. I think XYZ doesn't agree with the notion of a form to be complete cost recovery. Okay, Paul, please.

PAUL MCGRADY: Thanks, Jeff. I think you may have just misspoke when you read the INTA new idea, and you seemed to couch it in the dependent clause, "If there is to be a brand-only early round." But that's not what that says. I just wanted to highlight that. Thank you.

JEFF NEUMAN: Yes, I'm sorry about that. Yes, you're right. I read that too quickly. It is perhaps a floor on a brand TLD application could be lower because it's a brand application. Valideus kind of supports that by saying that they shouldn't have to pay any more than $50,000. I think this goes into the variable fee pricing, so I'm going to save discussion, then, on that item, to the variable fee section, which addresses whether costs for different applications should be treated differently.

Going in, then, to the next subject … There are two ways to have excess in this program. If there is no price floor … Whether there is or is not a price floor, you can have excess. If there is a price floor, you're going to have an excess fee by definition, because if the floor is higher than the cost recovery, and you end up charging the floor, then you're going to have excess. And if you just do a cost recovery basis, it's always possible you underestimated the cost, and there could be excess.

The question there was, even though there was high-level agreement that at least a portion may go back to the applicants, there were other comments filed on excess fees. Neustar, for example, had a new idea of returning up to a maximum of 50% of

the application fee to the applicant, and then taking the excess that's maintained by ICANN to use it for the purposes that were described above, the 4a through d.

The Registries Stakeholder Group's new idea is that if they fees do not go to the applicants—so, if there's a decision by this group that it shouldn't go to the applicants—then there should be programs that this money goes to, that support the overall health of the New gTLD program. Then, they list some of them, so that at least the funds are used for the program itself, and that they're made known prior to the fees being received.

Then, the ALAC had a new idea. They did not agree that some of it should go to the applicant, but they think the money should be spent on endeavors that promote the public interest, and not to the applicants. That could include universal acceptance, awareness, and long-term needs. It's saying that—promoting the public interest, but it does point to new gTLD-related programs.

Then Vanda had submitted her own comment, and supports the ideas that were above. Those are the other ideas. I'll ask the same question that I asked before. The high-level agreement was that part of it goes back to the applicants. Neustar proposed only up to 50% should go back. And then, the high-level agreement was on the rest of the excess funds going towards those four purposes that there was high-level agreement on.

So, do we think that the high-level agreement is enough, or do people think we should be a little bit more specific, as in some of these new ideas? Okay, I'm not seeing any additional conversation on this, so we'll assume that the new ideas are not

… To the extent that they're inconsistent with the above recommendation, I'm not sure we're going to spend more time on them.

Okay, moving on to the next subject. Sorry, can we scroll over? I seem to have some of it cut off, or is that only mine? Nope, that's just me. Emily's typing in a comment, sorry. Great, thank you. This kind of covers the same thing. It's really about disbursement of excess fees.

I think I'm just going to skip down to the new idea from INTA. INTA does say … And I'll do a better job, I think, when we revise this a little bit, of grouping stuff together. The other comment from INTA was that … I think it's a little bit like Neustar's comment—not 50%, but a limiting of a refund, which should be to anything above the cost floor … The refund should only be the amount above a cost floor, if there are refunds to the applications. I'm not sure I fully understand that, but I'll have to review that again. IPC believes that excess funds ought to be used to advance the public interest. Any questions on those? Jim, please.

JIM PRENDERGAST: Yeah, thanks, Jeff. Just a point on procedure, Jeff. I'm a little concerned that you're asking for people to either object or agree in the way that you are, because I remember going back to early discussions within the working group, and the methods that we'd be using. Cheryl, and I believe you, made it pretty clear that there would be no one-call decisions made because of the rotation of the times of the call.

What I would recommend is that areas that you're trying to close off or take the temperature of, that we use not only this call, but we use the summary and the notes that are circulated to everybody on the mailing. Then, specifically call out that a decision may be taken at the next call, so please join in and be prepared to discuss it. Thanks.

JEFF NEUMAN: Yeah, thanks, Jim. That's a good point. Everything will be sent out in the notes. We're not making a decision on … I guess I don't see this as decisions, because we're not deciding a point of substance, but I take your point, because we're deciding on whether we should have further discussions on it. I just think that if we're not getting interest expressed, both in a call and then follow-up e-mails, on some of these new ideas, then at some point, we have to let some of the new ideas go, in terms of further developing them. That's what we're trying to accomplish. But I do take your point, and we will reference that in the comments.

I know that we … I'm just getting to … I want to close out on the disbursement ideas, just to make sure we've covered all of those before we end the call. We'll stop at the timing of disbursements. But essentially, I think what we're getting from most of the comments is that if there are excess funds, there's high-level agreement, again, on a portion of it going back to applicants. But everyone else seems to support the idea of excess funds, above and beyond a refund, should be given to these new TLD-related, or TLD-related programs, like universal acceptance awareness and other parts that are mentioned in the high-level agreement bullet that has parts a through d.

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I think that also fits in line with the public interest comment from ALAC and others. INTA says that they would like to see excess fees towards initiatives and improved trust in the DNS. They're saying threats, malware, fraud, and intellectual property infringement. That, I think, is outside those a through d, so were going to have to check to see whether there is support from other community members on the INTA comment.

Again, following the same principle we were talking about before on contract compliance, usually that is funded out of the ongoing registry and registrar fees, as opposed to the fees from applications. If we follow the whole principle behind cost recovery and revenue-neutral … In a revenue-neutral concept, we're saying that ICANN should not use funds from other areas to fund the New TLD program. And I think the converse should be true. If we're not using any funds from outside the New TLD program, to fund things related to the New TLD program, then should we be recommending using New TLD funds to program things outside of the New TLD program, or outside things like universal awareness or other aspects that touch it?

I think compliance would be one of those areas that would be sort of outside, for determining … In other words, you don't use money from contract compliance to fund the New TLD program. Should you use funds from application fees to fund compliance? I think those might be considered two sides of the same coin, but certainly want to hear thoughts on that.

And then, before I get to Jamie, I think that does cover most of them. The registries have a little bit of a formula in there that could be used. INTA says, "Any excess funds should be refunded to the

applicant," but that sort of conflicts with the new idea. So, there is another conflict that maybe, Paul, you can help us with through e-mail, as to why INTA says that … In one case, there's a new idea to give it to all these other initiatives, and then there's opposition later on that says nothing should be done with it except for a refund. Let me go to Jamie.

JAMIE BAXTER: Yeah, thanks, Jeff. I think what's missing for in the discussion around funds being used to support various elements of the gTLD program … What's missing in that discussion is who's going to decide the proportion those funds, and prioritize the different elements. I think that would be a very important part of the discussion, before some decisions can be made on whether that's a route to take or not. Thanks.

JEFF NEUMAN: Okay, thanks, Jamie. I think that gets a little bit for the next call, where we'll start with the timing of disbursements and get into some of those other areas, like, Jamie, you mentioned. I know staff has to go, and I know other councilors have to go. Paul and Chris, I know your hands are up, but I know you have to drop as well. Paul, real quick, please.

PAUL MCGRADY: Thanks. Real quick, one, the issue about the INTA, new trust ideas … Some on the call, and I don't disagree, believe that universal acceptance ties into the success of the New gTLD program. Obviously, threats, and malware, and fraud, and

infringement also tie into the success. So, I don't think that that idea is all that different from universal acceptance. I don't think that tying it to compliance, in order to avoid it, when it's really a New gTLD program success issue is … I don't think that's giving it the full thought that it deserves.

Secondly, in relationship to the other—the cost recovery item, the floor—presumably, the universal acceptance will be baked into that floor cost. Again, I don't see the INTA's suggestion on combatting abuses inconsistent with any amount over the floor being returned. Thanks.

JEFF NEUMAN: Okay, thanks, Paul. Let's follow up with some discussion on e-mail. I know people have to drop for the council call. Next call is Tuesday the 23rd at 03:00 UTC, which is Monday for some people. So, we will talk to everyone at that point. Thanks, everyone.

[END OF TRANSCRIPTION]