ICANN Transcription

New gTLD Subsequent Procedures PDP WG

Thursday, 24 September 2020 at 20:00 UTC

Note: Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. Attendance and recordings of the call are posted on agenda wiki page: https://community.icann.org/x/kAC-C

The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page
http://gnso.icann.org/en/group-activities/calendar

JULIE BISLAND: Good morning, good afternoon, and good evening, everyone. Welcome to the New gTLD Subsequent Procedures Working Group on Thursday , the 24th of September, 2020.

In the interest of time, there will be no roll call. Attendance will be taken by the Zoom room. I would like to remind everyone 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. As a reminder, those who take part in ICANN multi-stakeholder process are to comply with the expected standards of behavior.

With this, I will turn it over to Jeff Neuman. You can begin, Jeff.

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

JEFF NEUMAN: Thank you very much, Julie. Welcome, everyone. We've got a pretty good full agenda today. Before we get started into the agenda, let me ask to see if there are any … Well, I see Phil's got a statement of interest update that he was elected to serve as the Non-Executive Director on the Nominet.uk board. Congratulations, Phil. Anyone else have any updates that they would like to report?

Okay. I'm not seeing any. Again, congratulations, Phil. If you can also just make sure that you update that in the written statement of interest that's on the wiki, that would be great.

Today's agenda, as I said, is pretty full. We're going to go through … There was a question that came up on the last call from Jim. I'm just trying to look to see if Jim is here. And he is good. Hello, Jim. There was a question that came up on … There as a call that took place with some of us from the leadership team and the ICANN execs. So go a little bit into that, and then we'll dive back into CPE. I want to thank Justine for sending around a redline version of the comments that showed the changes from the At-Large members. I know it helped me see exactly what they are trying to accomplish and the differences between what was in the evaluation guidelines and the proposal they would like to see. So thank you. I know that was a lot of hard work in doing that. I just want to say thanks for that.

Then we'll get into a discussion on applicant support, but I should also say that, in between, after we go after the ICANN Board/Org discussion, I do want to go over just administrative things that the leadership team has been talking about this week and make sure

that everyone is up to date on the plan moving forward. I believe everyone should have seen meeting invites go out for the month of October. If you have not seen them yet, let Julie and Emily and Steve know. We can make sure you get those.

I guess it was—I'm trying to remember the exact date … I think it was a week ago that there was a call between … Actually, let me go back and step. If you recall, at the beginning of the year, pre-COVID and pre-the-reorganization-that-was-done-by-ICANN, there were several calls probably once every few months between the ICANN executive team that was tasked with working on this project, which at that time included Cyrus and Goran and Karen Lentz, of course, and others but also the two ICANN Board members who were appointed as Board liaisons to this group— Avri Doria and Becky Burr—and the GNSO Council leadership team (Keith, Pam, and Rafik), and of course Cheryl and I. Those calls were every few months, and they were just really to discuss any kind of issues that arose that we thought might be of importance to raise to their level, not for any kind of decision but just to start thinking about. [We] just brought those issues so that, at the end of the day, the ICANN staff and Board aren't blindsided by any kinds of surprises. So it wasn't to in any way advance the policy or to push implementation or anything like that. It was really just, again, a good thing to just keep them apprised of what was going on. Of course, Avri and Becky have been doing a great job in keeping the entire Board aware of our activities and what's been going on. I know that they're busy preparing a response for our draft final report.

So we haven't had a call once COVID hit and then the reorganization happened—or maybe it was one before then other; at this point, I don't even remember what happened first—but the calls just stopped. I think we all realized that we probably should get those calls going again, especially now that the public comment period was open. So the only real change in participants is that now Theresa is overseeing the … I'm still going to call it GDD, even though I think now it's GDS, which I think is then official acronym now, or GDDS. But anyway, Theresa was on this last call on September 8th. Basically, this was of "Let's get back together. Let's get coordinated again, and let's work on a schedule for future coordination calls so that we don't let this slip again." So it's really just to get things back up and running.

There were no real issues discussed of substance, and that really wasn't the purpose of these calls anyway. So it was more Cheryl and I, for the council leadership benefit, and for ICANN Org, and for the Board, just discussing some of the more contentious issues that have come up. As you could imagine, it'd be no surprise that we told them that there were of course the topics basically that were in the webinar as well that generated a lot of discussion recently, and to which we've had a lot of discussions and comments. So we essentially just outlined those issues [in] some of the different perspectives and emphasized—at least Cheryl and I emphasized—the importance of getting a response back from the Board—not necessarily on everything because that would be a lot, but certainly on the questions that we posed to the Board specifically, which is on that resolution that was passed about the closed-generics issues: what it really meant, what they believe it means now, and if there's any way that they could provide a

response to give us clarification on what they would like to see going forward. When I say "what they'd like to see going forward," I'm not saying what solution they like the best, but did they mean this was still an open issue, or did they mean that they accepted the GAC advice and the only thing open now was how to measure whether a closed-generic TLD could serve a public interest goal? So things like that were discussed—again, not any answers to those questions, but really just the questions themselves. I think the call lasted about an hour, which is usually about what they last. I believe—well, I haven't seen another call scheduled yet—with the ICANN meeting coming up, it probably like will be after that happens.

Any questions? Or, Cheryl, did you want to provide any other information? Or Karen, actually, if I missed anything?

CHERYL LANGDON-ORR: Jeff, [I've just added,] and of course our standing agenda item in these little tater tates, and that is the timeline—how are we going on meeting our project plan and our timeline.

JEFF NEUMAN: Yes, absolutely. That actually as critical so I probably should have said that first.

Karen, anything else I may have forgotten from your side?

KAREN LENTZ: No, I think you covered it, Jeff. Thank you.

JEFF NEUMAN: Okay, great. Thanks, Karen. Let me see if there's any questions. Jim, I know you raised the issue. Is there anything else? Any other questions anyone has?

Okay, great. Thanks, Jim. Some administrative things before we get to the CPE guidelines. We had some pretty in-depth conversations on the last call. I thought they were all great. There is just some great comments in—oh, there is a hand. Sorry, Christopher. Was this on the previous topic, Christopher?

CHRISTOPHER WILKINSON: Yes, if you're still—

JEFF NEUMAN: Yeah, go ahead.

CHRISTOPHER WILKINSON: Briefly. My main point regarding the timeline is the consequence of the business recession that is announced through several points of view in the U.K. and Europe and the United States and presumably also in India and Brazil and other countries. I think it would be quite bad for the next round to be launched in the midst of a business recession. I don't expect take-up to be anything like as high as we would have hoped under normal circumstances. So I think "press on regardless" is off the map, and the Board—perhaps not the PDP but the Board—should start thinking about the likely evolution of the economic situation

and the options for alternative dates for a future launch of all or part of the next round. Since our last meeting, the prospects of the economic situation arising from the coronavirus crisis have deteriorated.

JEFF NEUMAN: Thanks, Christopher. Just to clarify, we did not talk about the timeline of the launch of new gTLDs but more the timeline of finalizing our report and when council would then take it up. So it was not on when the next round would actually launch. That's beyond our scope.

CHRISTOPHER WILKINSON: Okay. Thank you.

JEFF NEUMAN: Yeah. So on the discussion since the leadership team met this week, as we do every week, or mostly every week, and in light of the discussions that we had—I guess it was last week at this point—what we wanted to do is just go back to the working group guidelines and be pretty clear as to the scope of how we're going to operate from here on out now that the public comment period for the draft final report is out there. Of course, once we get those comments in, and in order for us to make our timeline in delivering the report by the end of the year … If I could ask Steve—I think it's Steve who's got control; yeah—to put up …

So the important provision here is Section 3.3. In the middle of 3.3—or, actually, no; it's the first paragraph of 3.3—what Steve is

EN

highlighting—of course, I can't read it on that version because it's really small on my screen, so just give me a sec; I will go to my own version—which basically states that working group members should be mindful that, once input comment periods have been closed, discussions or decisions should not be resurrected unless there is group consensus that the issue should be revisited in light of new information that's been introduced.

So it's not meant to just apply to this subject on communities, but it really applies across the board, where our work going forward is not to reopen those doors that have been closed unless there's a consensus of the group to reopen those doors based on new information that's given during the comment period. So I just want to keep that in the back of everyone's minds because, if we don't operate like that and we relitigate everything—I hate the term "relitigate—we'll never finish this thing, and people will always try to bring up issues that have been closed. It's not to discourage—I know there's some new people in here, and there's no restriction on new people joining—their input, but it's more mindful of the concept that, if we do have new people who participate or new comments that come in … It's just mindful of the previous work that's taken place. So I just wanted to point that out.

I'm sure we will bring this up time and time again, but I wanted to just start with that. Again, that's not to say that, where there is consensus to open things up because of new information that has come in … That's great. Of course, areas where we asked specific questions … Then of course those are open because we've asked questions for a reason to get comments on them. So that's a little bit different than what we're talking about here.

I see Jamie has got his hand raised, so, Jamie, go ahead.

JAMIE BAXTER: Thanks, Jeff. I absolutely appreciate what you are highlighting to the group here. I think it's important, though, to speak out and say that, during this process, there have been many issues that there hasn't been opposition to but that the leadership team hasn't necessarily taken on. I highlight the one specific issue around the public comment period. As Justine had pointed out in the discussions, there wasn't really expressed opposition to it, yet it wasn't something that was taken on. What we've heard since then is that there wasn't consensus on it, so therefore it wasn't taken on. It feels like[, in] a lot of these discussions, especially in the CPE scoring and CPE guidelines, there wasn't final discussion on a lot of this stuff. I don't ever remember there being a poll of whether the group is for or against some of these suggestions, so, from my opinion, I will continue to litigate some of these issues and highlight them as absolutely issues that need to get fixed and addressed going forward. Thanks.

JEFF NEUMAN: Thanks, Jamie. On the guidelines themselves, you're right—we have not had discussion on some of those—but, remember, things like the scoring itself—not how you interpreted the scoring, but things like the scoring itself, the definition of communities or a lack thereof, or unhappiness with trying to come up with definitions of communities—has been going on for a few years. I went back and looked at things from Work Track 3 when I think it was Karen Day who was leading the discussions on those several years ago. We

also need to be careful that a few vocal people on one call and no one objecting does not necessarily mean that there's agreement to revisit something. So we need to be careful because not everyone feels comfortable talking on calls. Even if everyone did, we have actually pretty good attendance today—39 people—on the call but 200 people on the work group list. So we just need to be mindful that, just because something is raised on a call and doesn't face objection, that doesn't necessarily mean that is ripe for reopening. But, again, it's balancing act and we just need to be careful. Of course, this could all change because comments could come in. Of course, if there's a ton of comment on this particular area, then obviously we've heard back from the community that that's something we need to revisit.

Jamie asks a question that says, "So where is the transparency, and why was it rejected if no one spoke out against it?"

Jamie, I understand why you're phrasing the question that way, but I'm not sure that's the right framing of the question. The right framing of the question is, "Was there discussion about the topic in general. Were there recommendations that were made going back to the work track and in the initial report and the comments that were received from the initial report and then ultimately things included in the draft final report?" All of that needs to be taken into consideration when deciding whether to reopen something.

Now, again, there may be things that we just accidentally omitted. Again, it's going to be a case-by-case type of thing. It's not really one-size-fits-all.

Christopher, go ahead.

EN

CHRISTOPHER WILKINSON: Thank you. Good evening again, everybody. Jeff, I just want to reserve my position. For me, "litigation" is a big word. Since I haven't done an hour of law, I'll pass on that. But there are points where you say the working group has a consensus with which I beg to differ for important economic and practical reasons. So I reserve my position.

Part of the problem is your famous mantra. The leadership and the staff have felt that they could endorse the 2012 text if there was no consensus again them. That default is not acceptable to me in several respects. Thank you.

JEFF NEUMAN: Thanks, Christopher. Just for the record, that default was not a decision just by the leadership team. There was certainly evidence of that in the charter and from the instructions from the council. But I understand your reservation and—

CHRISTOPHER WILKINSON: Yeah, but the council had on business dictating that to the other SO/ACs who were in the working group. Absolutely not acceptable.

JEFF NEUMAN: Okay. Jamie, go ahead.

JAMIE BAXTER:	Thanks, Jeff. I think what also has to be kept in perspective when we're talking about specifically community applications is that a large portion of this group did not participate in community applications and therefore may or may not have opinions about it—strong opinions, weak opinions; either opinions. Those that made the effort to stick around during this entire PDP process to contribute to this that actually were participating in community applications I think is an undervalued asset in this discussion. Therefore, I'm still troubled by the fact that, just because there weren't a lot of comments or people aren't speaking up about it, that is assumed that they disagree with the opinions of those who participated in the community application. So I think that's something that you really need to take deep consideration of because most don't necessarily fully understand how the community application process worked and they don't have the direct experience of participating in it. That needs to be balanced in this discussion. Unfortunately, sometimes it doesn't feel like it is. Thanks.
JEFF NEUMAN:	Thanks, Jamie. Again, as Cheryl put into the chat, things are going to be on a case-by-case basis. Of course, Jamie, certainly those that are or were more impacted by certain decisions that were made back then … Obviously that's taken into context and taken into the decisions that leadership is making. But, again, the purpose of this was not—because we'll get into the community topics—specifically related to just communities but rather that this section … that if there are areas that leadership believes have been closed, then we're not going to reopen those areas. So that's

the general premise. So just keep that in mind as we go through all of the comments and not just these from the At-Large.

Let's then go back to the specifics. We're talking about generalities and extrapolating that to communities anyway, so why don't we just go to where we left off, which was Criteria #2? What we're displaying now is the clean version. When I say "clean version," I mean there are a couple redlines in here, but those redlines are from what working group members had made going all the way back when, for a while now. But this is not the same thing as the redlines that Justine has made from the At-Large proposal.

Sorry. Can you scroll up a little bit more so we just get the title in the section? So what we're talking about here with Criteria #2— thanks, Steve, for providing the link; just to be clear, that's the link to the clear version as opposed to the link to the redline that Justine provided; if you want the link of the redline Justine provided, that was sent in the agenda … So the second element was dealing with the nexus between the proposed string and the community. Like the previous criterion, this one also has a maximum, at least the guidebook, of four points: two for nexus and two for uniqueness. The Applicant Guidebook talks about that, if the string matches the name of the community—sorry, I shouldn't say "if"—you would get a score of 3.

If the string matches the name of the community or is well-known short-form or abbreviation of the community: 2. If the string identifies the community but does not qualify for a score of 3 … And a 0—so there was no 1, but there was a 0—if the string does not fulfill the requirements for a score of 2, which doesn't give a

huge amount of guidance to evaluators. So the EIU filled that in with establishing guidelines, where they said that the following question must be scored when evaluating the application. Then they added this: "Does the string match the name of the community or is a well-known short-form or abbreviation of the community name?" which is very close to what it said. Then they said the name may be but does not need to be the name of an organization dedicated to the community.

The rest of this section goes on to define a bunch of the terms and where the first issue that was raised by Jamie—I'm trying to switch back on at least my own computer to the redline from Justine because … And I'm hoping Justine is on the call, although I haven't checked, to raise things if we missed them. Okay. So Justine is on the call. Great.

So the first one I have at least on the screen is the definition of identity. The identity means that the applied-for string closely describes the community or the community members without overreaching substantially beyond the community. Then here's a definition that, yeah, you added of match identity overreaching substantially and then a couple of questions to consider.

Jamie made a comment. Actually, Jamie, since you're on, rather than me just reading the comment—sorry to put you on the spot, and I can read it if that's what you want me to do—did you want to …

EN

JAMIE BAXTER:	Sure, Jeff. I think what I really want to highlight before I start is the fact that you just clearly stated that the EIU added these additional definitions. That's really what the biggest problem is here.
	But going back to the "identify" issue, if you read that, I want to put emphasis where emphasis should go, and that is that it says, ""Identity" means that the applied-for string closely described the community or the community members." Nothing in that definition says it has to apply to both. Therefore, it appears, from the perspective of the Applicant Guidebook, where is where applications wrote their application, that you could take one of those track when applying "identify."
	What the EIU did in their guidelines is they brought something over that was similar to that, but what's of more concern is the way they actually implemented it, which is to require applicants to fulfill both of those identified pointers. That is where the issue is. I think it needs to be cleared up and either stripped out, or very specifically noted in the guidelines that it could be either/or. It does not have to be both, which is the way they actually implemented that note. Thanks.
JEFF NEUMAN:	Thanks, Jamie. See, this is the type of issue that is perfectly ripe to discuss, especially because it was added by EIU. As a group, we may feel, as Jamie has said, that it did not faithfully what was in the guidebook. So this is precisely the type of issue.
	So, Jamie, the language that the EIU added in terms of match identify overreaching and then the questions you don't necessarily

have an issue with, but you think there should be an added guideline that emphasizes the either/or as opposed to the way that they may have implemented [it,] which is the "and"—"the community and its members."

JAMIE BAXTER: I mean, I certainly have issue with the fact that they added stuff after the guidebook was published. I will always have issue with that. Going forward, however, if this is going to be the standard that is adopted, I absolutely think it needs to be spelled out, as you could said, that it could be one of two approaches. It does not have to meet both of those. Otherwise, what's in the original guidebook is not being followed correctly.

JEFF NEUMAN: Thanks, Jamie. I think that's a good point. It's certainly something we could add as a comment in the evaluation guidelines, but let me hear from others. Does anyone have any issues with adding, let's say, an implementation guidance or something into the guidelines that emphasizes that the "or" is—we'll think of the exact words—is truly an "or" as opposed to an "and"?

Justine, go ahead.

JUSTINE CHEW: Thanks, Jeff. On that note, we have provided some text as guidance to actually detail this separation of X or Y concern that Jamie has raised. So [it's] just to be clear that something that is

meant to score a 3 should be clearly said to score a 3, and there could be different circumstances which could score 3. Thank you.

JEFF NEUMAN: Thanks, Justine. Steve, is there a way—I know I'm asking you to switch back and forth—to pull that up (the language suggested)? Because … Okay. What the At-Large proposal does, as Justine has mentioned … For now, let's just ignore the left side of the chart and pay attention to the right side, which is respect to nexus. Then it goes on to help define what would fit into the category of the 3 versus a 2 versus, I guess, a 0.

Thoughts on that? Again, this is not final thoughts, and I know that not everybody has read it. But let me first go to the concept that Jamie has raised because I think it sounds like a logical one, but I want to make sure there's no opposition in general to make it clear that, in the "identify," it is definitely an "or" as opposed to an "and." Then we can come back to the second part, which is providing further guidance around what would score which number.

Christopher, go ahead.

CHRSTOPHER WILKINSON: Thank you, Jeff. I don't want to take your time. I just want to take this opportunity of emphasizing the point that I made in a message to the list a day or two ago. It is quite important that staff, applicants, and, above all, if the staff is going to outsource of this evaluation process, the evaluators understand that they're dealing with text and principles coming directly from the working group and ICANN. We do not want the

evaluators scuttling off to the Economic—whatever they're called; the EIU—and asking them what they meant by this or that text. For me, this is an important principle with respect to the balance and independence of the working group and ICANN, particularly, without going into details—I don't know the subject any better than any of the rest of you … There's a lot of reservations about the EIU's performance in the last round, and I don't want any text to come out which refers explicitly or implicitly to one particular company. Thank you.

JEFF NEUMAN: Thanks, Christopher. I think we've made the point within our recommendations as a whole that we did not support the fact that things were added, like criteria, after the process was underway and applications had already been submitted, etc. So we've been pretty direct on that.

But, putting the last round aside, I don't want to fault the EIU unnecessarily. They were put in a position where they had to evaluate things that were pretty vague. So they came out with these guidelines. I think, at the end of the day, it's good to have guidelines. Now, it should have come out before the applications were submitted. I agree that that's why we're working on these guidelines: to make it clear who gets what scoring, and what criteria is going to be used—so that we don't put an evaluator in an unfair position going forward, where it's left to its own devices to define things. So I think that's why we're doing this exercise.

Alexander has a comment in there about maybe showing the AGB before we finalize it. Well, that all assumes—and we hope this is

the case—that we know who the evaluator will be prior to the finalization of the Applicant Guidebook, and that may or may not be the case. So I think it's incumbent upon us to do our best to close any holes that we think exist.

I'm not hearing at this point any objection to at least Jamie's initial report, which is: making it clear that "identify" truly means "or."

Now let's turn to this, which was introduced by Justine, which is on display right now, which is, should we be providing more detailed guidance on what scores/which number? And, if so, then this is as good as any of a proposal to start with to look at and provide comments on within the group.

Justine, go ahead.

JUSTINE CHEW: Thank you, Jeff. Look, at this point, we're not suggesting that our checks be adopted whole. We're just trying to make sure we are understood very clearly [on] what is meant. The best way to do that is actually to describe the thing in detail rather than just relying on general statements which are then interpreted however so by however reads them. Thank you.

JEFF NEUMAN: Thanks, Justine. I think that makes a lot of sense. You all took the time to draft the text, so we might as well start here and at least get feedback from the working group members as to whether this text accurately conveys the purpose of the policy and, certainly, this nexus category. So actually I'm happy that you all did that

work so that we have a place to start. And who knows? Maybe it's also a place we finish. So thank you.

So the takeaway from this one is for the group to review ... What I'm hearing anyway is that at least there's no objection from people on this call to provide further guidelines on what would score the different categories of scoring. Sorry. I just wanted to generalize it as opposed to it being specific.

I saw your hand, Jamie, but I don't know if it went down.

JAMIE BAXTER: Thanks, Jeff. I'll just pop in this point as well. I think what's good about this guidance that Justine has put forward is that it gives flexibility to adopt to the type of community and the nature of the community in a way that makes sense. I think having too much restriction here really puts us in the same place we were in the 2012 round, where it seemed like only if you're part of an industry community will you actually get through. I think this keeps the door open wide enough to make allowances for different types of communities, whether they're recognized themselves in a certain way or whether others recognize them that way. I see that this is really strong guidance. Thanks.

JEFF NEUMAN: Thank you, Jamie. You actually said something I probably should have said earlier, which is that one of the key takeaway from the last call was to keep a watch out for a bias that was clearly introduced by the EIU towards economic communities and against

other types of communities. So I think that is important for us as we go through these guidelines.

Can we scroll then down in the clean version? Just to summarize before we get to 2A, what we're going to do on this one is, on the nexus on the first part, emphasize the "or" element and then we will also incorporate further guidance on what gets what scoring and start with the language from the At-Large proposal.

But once we do that—let me just double check—it seems like the definitions (once we make those changes) I'm not hearing any objections to changing definitions of name identify, or for that matter, changing what's in here in terms of match identify and overreaching substantially or even the questions that are asked by EIU below that. But let me stop and double check.

Okay, good. So then let's go to Criterion 2A, which deals with guidelines. It said above that, with respect to nexus for a score of 3, the essential aspect is that the applied-for string is commonly known by others as the identification/name of the community. Then it goes on to talk a little about, for a score of 2, that it closely describes the community or community members.

So let me just ask the question. In light of the At-Large proposal, how does that relate to this part here on 2A? I guess that's just for Justine.

JUSTINE CHEW: Thanks, Jeff. I think, from memory, we actually [discovered] this all together because, if I'm not mistaken, we thought that each criterion should be scored or evaluated independently of each

EN

other. So we were very concerned that certain things that were being scored or evaluated under Criterion 1—delineation and extension; those two sub-criteria—were … Whatever bias that arose from those two sub-criteria was then carried into the second sub-criterion nexus, and that affected the scoring because essentially what the EIU panel did was, if it scored a 0 for Delineation 1A, then it would automatically score 0 for 2A nexus because of the link. We thought this was rather unfair because we think that, as I said, each criterion should be evaluated independently of each other and there should be no carrying forward of any bias from one criterion to another. Thank you.

JEFF NEUMAN: Thanks, Justine. So I think we put a note in this version (the clean version) to say that, if we adopted the guidelines that are proposed above by the At-Large, that would then operate to eliminate this last row. So it's important for everyone to, when they go back and review this, please—we'll submit our own redline as well—take that all into consideration when you're thinking about the insertion of the scoring guidelines that the At-Large has proposed.

I'm seeing some support for that.

While 2A –the nexus—had a score out of 3, then you had the next part of that (2B) uniqueness. You could either get a 1 or a 0. The language in the guidebook is there on the left. The EIU added the question, "Does the string have any other significant meaning to the public in general beyond identifying the community described in the application?" Then it goes, "And these definitions identify"—

EN

I'm assuming, although maybe I shouldn't assume, that the definition here of "identify" is probably the same as the above definition of "identify" … Then the significant meaning as well. For that, there's some definitions there. There were no comments from this group on that section, but, Justine, let me go to you now. Actually, Jamie, let me get to Justine if Justine wants to explain changes that the At-Large is proposing, and then I'll come back to you, Jamie.

JUSTINE CHEW: Sure. I think Jamie will probably be a better resource in making this clear, but, to the extent that the At-Large proposal stands at the moment, I believe much of it is a reordering of things so that it just makes it flow better.

But, in terms of uniqueness, I think [it's] a question of who is our reliance on in terms of what is unique, really. So, in terms of, for example, the string "gay," which is why I said Jamie is probably going to be a better resource on this, the EIU took a certain position that it wasn't unique enough to score a point, for example. But that is EIU's perspective, obviously. But it is also important to take into consideration the global community and what they think is unique.

So I'm going to defer to Jamie at this point.

JAMIE BAXTER: Thanks, Justine. If I remember correctly, we didn't even qualify for a point here because we didn't score in the first part of the nexus. But what I wanted to point out here and add to this discussion is

that uniqueness needs to ensure that void of "better than the other possible names." I think that's a huge issue that really needs to get addressed in this next round: there seemed to be an effort in the scoring process to say, "Well, that may be a name, but it's not the best name that that community could use." I think it should be widely acknowledged that some communities have multiple names, and it's really the community that has chosen the name. Therefore, it seems odd that somebody would tell them, "No, that's not the right name for yourself."

So uniqueness and this whole nexus scoring I think needs to somehow address the issue of there not being the ability of the evaluators to decide that, even though that is a name, it's not the best name for that community because there may be segments that prefer a different name. Somehow that crept into this evaluation process, although it was never specified or outlined or detailed in the guidebook, and I think we just need to make sure that we ensure that there's some guidance here that prevents that from happening for any other communities going forward. Thanks.

JEFF NEUMAN: Sorry. Took me a second to get off mute. If I'm hearing you correct, we need to make sure that it's not a qualitative assessment of, are there better names out there that an evaluator thinks is more descriptive of the community? but rather a … I'm trying to think of how best to phrase it. So I completely understand your point, Jamie. But, if there are names that apply not just to that community but could apply to many other things, how do we differentiate that? So we're not saying it's the best name for the community that the community chose, but let's say it's a term

that's often used to describe lots of things other than that community because I think that's what uniqueness was supposed to get towards.

Paul is saying, "For example, if the Southern Baptist applied for .christian, we don't want the evaluator to tell them they aren't Christians and can't have it."

Yeah. I'm trying to think of an example where … And I can't. So I think that makes sense, Paul, and I think that's in line with Jamie said. I'm just trying to think of an example where there could be a string that's the name a community goes by, but that same term has many other meanings other than that and, therefore, it's not unique to that community. If we can figure out how to phrase that, I think that that's a good add as well because I'm not seeing any objection. So we want to make it clear that it's not a subjective determination of whether there are better names out there for the community but rather, is that a term that most people associate with that community as opposed to many other things?

Sorry, Jamie. You had your hand up but … Okay. Thanks.

Hopefully, Steve, you captured that. We can always listen back.

Once we do that, I don't think other changes have been recommended to this part of 2. Can we scroll down, Steve? Okay. So this guideline section. Sorry. Like we did on 2A … I'll actually turn this over to Justine. Did At-Large do a similar analysis of giving more detail of what should get a 1 versus a 0 on this part?

JUSTINE CHEW:	Thanks, Jeff. I think we did, although, in context, it wouldn't be very different to what the EIU had, except for what Jamie tried to describe and what you tried to describe. So what we did in the At-Large proposal is, for each of the columns or the boxes where there the scoring appears, at the top—we've actually gone to the right-hand side, the right box, to actually describe how you would apply the scoring and give actual—how do I say?—descriptions of circumstance which would score 3 or 2 or 1 rather than put it down as a separate guideline at the bottom because the reason why we did this was because we thought our approach was more logical and, two, this whole thing is a set of guidelines. At the bottom, what EIU did was they had their own guidelines. So it's a little bit awkward that way. Thanks.
JEFF NEUMAN:	Yeah. No doubt—thanks, Justine—that a lot of these things could be written better. When an implementation takes this and includes it either in or with the Applicant Guidebook, hopefully they'll make it flow a lot better.

There's some interesting discussion going on in the chat, and it's related to .christian. I think there's a discussion … The one thing I wanted to point out from the chat. Christopher said there's many Christian denominations, so, if one denomination wanted to apply for .christian, and excluded all the others … I think that would actually go towards other elements of the analysis as opposed to this one. So I'm not … because I don't think what we're saying here … Yeah, I think that goes towards other elements and also for objection. |

Paul says, "But all the denominations could pass and then it's auction." If each denomination had its own, I'm not sure it would meet community definitions or all the different elements. We'll probably see why going forward. And of course there'd be objections, yeah.

Let's go forward to Criterion 3, which is on registration policies. This one has four elements to it or sub-criterions—A, B, C, and D—dealing with eligibility, name selection, content and use, and enforcement. Each sub-criterion had a possibility of one point for a total of four. For each of these, you could either get a 1 or a 0. There was not much room to play around in here. So each element … If you drop down a little bit, let me just see if what the next comment from our group is on this. I don't think there were any of this section, if I'm remembering. Let's keep going down to the enforcement. Yeah. Let me then ask Justine, as I turn to my own copy of it, what are some of the things from the At-Large proposal on this Criterion 3 that you want to maybe point out or have us pay attention to?

JUSTINE CHEW: Thanks, Jeff. For Criterion #3 (registration policies), I think essentially we have stuck to what is already in the existing document. It's just a question of rejigging the flow to make it more easily comprehensible. But, yeah, essentially, the scoring mechanism hasn't changed at all. Thanks.

JEFF NEUMAN:	Okay, good. Like I said, to make things flow better, we can always come back and revisit that and maybe change things around, but right now I want to focus on the substantive differences. So I'm not ignoring that part, Justine, but, if all we're left with at the end of the day is making things sound better because we've solved all of the substantive betters, we're in a fantastic position. So I'd like to see if we can focus on those.

Let's see. A comment here from … Lots of good stuff in the chat, so I apologize if I miss some things, but Giacomo says, "I think that the CPE evaluators need to have the power to ask all pretenders to find an agreement among them using the stick, not to assign it at all."

I think, certainly, with something—hmm; I'm trying to pick my words carefully—like religion, I can easily see that being a topic of many comments and other aspects. So that would be certainly something that would be very unique. I would think that, for most communities, they wouldn't be as exciting as a [threat] to not assign them at all. I don't mean "excite." I'm not using my words well today, but I don't want to offend anyone with saying something I shouldn't. But I know religion is one of those heightened subjects that would certainly be more controversial than, I would think, 99% of the communities that apply.

Let's go to Criterion 4. Now, we've already had a number of discussion on Criterion—"hot-button issue." Thanks, Cheryl. That makes more sense. Community endorsement is a topic that we've discussed several times in different areas and actually made the body of our recommendations in the sense of making sure that there's appropriate balance in consideration of support and

opposition and that there's an ability for evaluators to ask clarifying questions of both letters of support and letters of opposition. So certainly we've already talked about a lot of—or some at least—what falls under this criterion. So just keep that in mind as we go through these criteria and the evaluation guidelines.

On this, there was a 4A and 4B, each one of a maximum of 2 points for a total of 4 points, like the other four criterions. For this one, there was AGB criteria which said that the applicant is or has documented support from the recognized community, institution, member organization, or otherwise has documented authority to represent the community. Then a 1 is document support from at least one group with relevance but insufficient support for a score of 2.

To this, the EIU added some questions. The first question is from the scoring itself: Is the applicant the recognized, community, institution, or member organization? Keep that in mind because I think there's an assumption in that question that there can only be one with the way that they're asking this question. Then the second part is: "To assess this question, please consider the following. Consider whether the community, institution, or member organization is the clearly recognized representative of the community. And, if the applicant meets this provision, proceed to letters of support and their verification. If it does not, or if there is more than one recognized community, institution, or member organization, consider the following." Then there's some questions that follow that. Sorry. Can we scroll down a little bit here? So there's a bunch of questions that are added.

Jamie, your hand is up, so you go ahead first, please.

JAMIE BAXTER: Thanks, Jeff. I believe I raised that on the last call: that I have the same concern that some communities may not be led by one organization but they may be led by a network of organizations. And this criterion as the EIU structure ruled out the possibility of there being a network of organizations that oversee or are a head of a community. I think that is what the guidebook suggests, and I'm completely against keeping that guideline in there. I don't think it is the proper way to evaluate the community. I think that, if I'm looking at my experience when we received a score of 1 out of 2 on this with 260+ organizations from 65 different countries all supporting the application, we still got a 1 because it was difficult for them to identify that one organization that oversaw the entire community. It just seemed a little bit out of touch and certainly not conducive to varying structures and types of communities around the world. Thanks.

JEFF NEUMAN: Thanks, Jamie. I'll put on a personal hat on here. What always struck me as I read the decisions was that, if there were letters of opposition, you almost got double-penalized. So you got a penalty for letters of support because you may not have had letters of support from everyone organization out there that could claim to represent the community. Then of course you got a point taken away in the opposition section.

So, I don't know, Jamie, did you have that feeling as well? But I know personally I had that opinion.

JAMIE BAXTER: Yeah. The way that the EIU interpreted it … I don't think that the guidelines in the Applicant Guidebook were incorrect. They were very clear. But the way that the EIU then decided they were going to score and then they implemented their own guidelines I think really played against community applicants. We've had this discussion about how one miniscule community group could actually have a tremendous impact on scoring because they expressed opposition when it wasn't compared against the large-scale support that that application had. I think the analogy I'll put forward is that one angry person in a crowd shouldn't be able to start a riot. That needs to be addressed in the way this is rewritten for future guidance [in] subsequent procedures.

JEFF NEUMAN: Thanks. I guess then, if I'm hearing you correctly, Jamie, you think that the scoring in the guidebook itself was fine, but, first, the question there that says, "Is the applicant the recognized community institution," probably should be changed to an "a recognized community institution," so as to not imply that there only is one. Sorry, it's a little bit higher up there, Steve. Yeah. So, underneath "The following questions must be scored," it says, "Is the applicant the recognized community, institution, or member organization." I think the word "the" should be changed to, "Is the applicant a recognized"—oh, it's maybe there, too. Yeah. Steve put in, if there's one, to emphasize that aspect. That's right.

The second part is to make sure that, as implemented—I'm not sure if this requires actual changing of any of the guideline terms … But it's to avoid the double-penalty because, if you got a 1 on documented support … They shouldn't get a 1 on documented support because there are letters of opposition because then you're double counting or double penalizing.

Let me then now turn over to Justine on the support part. Were there any points you wanted to draw out for us from the At-Large proposal?

JUSTINE CHEW: Yes. Thank you. Yes, there is an overarching change that we want to propose, but I will maybe pick that up later.

Just to address your point—the exact point that we're discussing now—yes, we did look into that as well. What we actually did is, if we go to the At-Large document, under Definitions, where it says "[on recognizing,] and so forth … Just keep going down because we're looking at community … Yeah, Criterion #4. Correct. Yeah. Just keeping going down a little bit more – the next row—where it says, "Definition"—yeah, okay. There. So you'll see on the right column that we actually again were quite prescriptive in getting the evaluator to apply their minds to different scenarios. So we did retain the reference to the recognized community representative. The point to note here is also, because, in terms of definition of "community," we did introduce community recognition by way of recognition internationally by, say, for example, an international organization—I'll come back to that later—we also added further qualifying questions, if I could put it that way. So you have, "A) Is

the applicant the recognized community representative?" Then we go to B: "If the applicant is not the recognized community representative, then what happens? Is it a recognized institution or member organization of the community?" Then it goes down to C, another avenue, where, if it doesn't satisfy A or B, then you look at C. Then there is a question to be asked. Then it goes on to D. So it provides a staggered kind of approach as to which could apply so that … As I said, we're trying to get the evaluators to apply their minds to different scenarios and not be just stuck on whether the applicant is just the recognized community entity. Thanks.

JEFF NEUMAN: Thanks, Justine. If we make it clear that, as Jamie and I were talking about earlier, we're not looking for the one organization that represents the community but rather an organization that is recognized to represent the community, do we necessarily need all these different scenarios?

JUSTINE CHEW: Again, as I said, we have been prescriptive in the way we're describing our approach so that there is clarity and there's no confusion. I'm not asking—again, I put this point forward—for the working group to adopt our text as is but just to consider where we're coming from. Essentially we're describing exactly the alternative circumstances of what you and Jamie are proposing, really. Thank you.

JEFF NEUMAN: Okay. Thanks, Justine. Can I ask a question? Then I'll get to Jamie and then Alexander. One thing that also stood out for me from the At-Large comment was including the notion of comments that come in during the comment period as—I'm using air quotes but you can't see me—as documented support. Jamie and Justine, or whoever knows, did the EIU consider comments that came in during the comment period to be documented support, or do they actually have to be a hard-copy letter or something like that? Jamie, if you want to respond to that and then bring up your other comment.

JAMIE BAXTER: Sure, Jeff. I think, if you look at all of the CPE final scoring cards, you'll realize that there was never a lot of detail provided in those scorecards. In fact, the EIU avoided even mentioning which organization that expressed opposition was the one that took our point away. So they tried to score us without really being very transparent. Therefore, to answer your question, it was certainly made clear in any way, shape, or form how reliant they were on public comments that may have come in, whether that was included in the support. In the opposition they mentioned, they mention an organization in concept, but they don't actually name that organization. So I think they were very careful and somewhat non-transparent about the way they wanted to put it forward. So that's my experience.

I think the point that I wanted to add to this was related to the way … I'm following how Justine wants to take you through a process, and I agree with that approach. I think that's a very valuable approach. I think, in the example that you and I had discussed

about changing "the" to "a," there could also be additional bullets that highlight some of those approaches, whether that be, "Is it an organization that has a formalized membership?" which is one of the ways that the EIU used in the last round," and, "Is it an organization that speaks on behalf of that community publicly, whether it's in a recognized governmental body or whether it is in an internationalized body, like the United Nations?" I mean, there could be a series of examples that highlight what "an" organization could be to fulfill that criteria. So that might be a different way of approaching what I think Justine is trying to get out to help the evaluators walk through a series of questions that help identify whether the organization in question is of standing or value or however you want to classify it. Thanks.

JEFF NEUMAN: Thanks, Jamie. I'll go to Alexander—oh, Alexander dropped, I guess, his hand.

ALEXANDER SCHUBERT: [inaudible]

JEFF NEUMAN: Oh, okay. Go ahead.

ALEXANDER SCHUBERT: I have to drop because it's almost half [past] the hour. So it's fine. Thank you.

EN

JEFF NEUMAN:	Okay. I think we'll end up picking it up from here on the next call anyway. But, Justine, go ahead.

JUSTINE CHEW:	Well, if you're going to pick up this on the next call, then I'm happy to defer my points as well. But I actually wanted to [inaudible] people. Two things. One is that we'd really like to go back to just talk about Criterion 1, if I could, next time. Two is that we are proposing substantial changes to the way that community endorsement is evaluated in terms of the source of things that are to evaluated. So I'll leave it there for today. Thanks.

JEFF NEUMAN:	Thanks, Justine. To get an understanding of that, you would then encourage people to read the beginning of the redline there? Is that where they're going to get that information so they can look at that before the call?

JUSTINE CHEW:	Insofar as Criterion 4 is concerned, yes, you can read from the top of Criterion 4, but what I was trying to allude to in Criterion #1—community establishment—is what Jamie highlighted just now. Taking a point from what we discussed on the last call, we're trying to find a flexible way of defining "community" such that there is no bias against structured communities like the ones that EIU clearly identified relating to trade and business. As I said before, we don't really want to disadvantage or place a bias against more loosely structured or even unstructured communities which don't typically carry a membership structure or don't have members with

membership-carrying cards and that kind of thing and also to introduce a community expertise into it whereby a community could be recognized by an internationally accepted body like the United Nations, for example, or an internationally recognized community or field expert with international or regional standing. Thank you.

JEFF NEUMAN: Okay. Thanks, Justine. So we'll cover that on the next call. So we'll start with the opposition in Criteria 4 and then go to the general discussion /concept overall of making sure we are accounting for communities other than an economic-based community.

We have two minutes left. I just wanted to—sorry, Jamie. Is that a new hand?

JAMIE BAXTER: Yeah. It was a quick point I wanted to make and I think I want to make it now because we're talking about Criterion 4. It includes a separate conversation we've been having about public comments. I just people to understand that, if we get to CPE, and a last-minute opposition is file as it was in the 2012 round, and in this new subsequent procedures, community applicants are actually allowed to change their application, which they were not allowed to do in 2012, I just need people to really fully understand what they're imposing now. That is a last-minute possible change to an application which will then trigger another public comment period. But it would prevent other community members from actually filing

an objection because, to that change the applicant may have been forced to make to get through CPE, they would have lost their chance to file a community objection because those are long past. So, again, this really does build the case for why there has to be an absolute deadline and set process for accepting and using public comment at the beginning of this process and not all the way through it, leading up to the beginning of when CPE commencement.

So it's important to just tie that all together because, for those who didn't participate in community applications, I think this public comment thing is still an unknown and they don't quite get why we couldn't just do it at any point. There's a lot of implications, now that we've changed some of the process going into subsequent procedures, specifically around allowing applicants to make changes to a community application, which they couldn't do in the previous round. Thanks.

JEFF NEUMAN: Thanks, Jamie. And of course there's reasons why the public comment period would reopen. So we'll, I guess, go back into that.

I know we're out of time, but I do want to just mention that, again, just to remind people, the invites have been sent out for October. Also, I guess we're waiting for the final schedule to come out for ICANN. But essentially the plan for our group is to have two meetings. I believe they're back-to-back on the same day, or at least they're on the same day. Then what we'll be discussing is … After the public comments come in, we're going to try to pick out the comments on some of the areas—frankly, the areas that we

EN

had discussed in the webinar and the ones we've been discussing for the last few weeks, putting aside communities. So we're going to try to start covering those areas. So we won't have the public comment summary or the tool for all of the sections by ICANN, but we will aim to have the ones done for the sections we're going to talk about.

With that said, the next call is—thank you, Julie—October 1st at 03:00 UTC for 90 minutes. So, yes, there are technically three meeting scheduled for the … Well, there's—yeah. We'll go over that the next time, I guess, on October 1st.

All right. Thanks, everyone. Let's keep discussion going on the list. Thanks, everyone.

CHERYL LANGDON-ORR: Bye for now.

[END OF TRANSCRIPTION]