ICANN Transcription
GNSO New gTLD Subsequent Procedures Working Group
Monday, 18 November 2019 at 15:00 UTC

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MICHELLE DESMYTER: Well, welcome, everyone. Good morning, good afternoon, and good evening. Welcome to the New gTLD Subsequent Procedures PDP Working Group call on the 18th of November 2019. In the interest of time, there will be no roll call. Attendance will be taken via the Zoom room.

As a friendly reminder, if you will please state your name before speaking for transcription purposes and to please keep your phones and microphones on mute when not speaking to avoid any background noise. With this, I'll hand the meeting back over to Jeff Neuman. Please begin, Jeff.

JEFF NEUMAN: Yeah. Thank you about that. Sorry, everyone, unexpected computer issues but back on. Welcome back, everyone, from the ICANN meeting. Hopefully, everyone got back home safe with no major issues and enjoyed last week.

So, before I get into the agenda, I want to ask to see if anyone has got any updates to statement of interest and I see Anne has

posted that she has been appointed as the CSG voting rep to the auction proceeds CCWG. I don't know if that's a statement of interest matter but it's good to know and doesn't hurt to disclose that. So, thank you, Anne. Is there anyone else that's got any updates to statements of interest?

Okay, I'm not seeing anyone. So, the agenda today is to hopefully finish up or get close to final on the topics we have remaining for the summary doc so that we can really get into the final recommendations moving forward.

These are the last three, I believe, topics that we still have to go over before we start looking at final recommendations. I do also want to note that there is a discussion going on in the mailing list and we are paying attention and I just forwarded an email or a letter from the GAC to the group about the public comment period so you can all see that.

I don't want to spend any time on that today since the leadership team wasn't able to meet last week. We'll meet this week, have a discussion on it and then bring it back to the group, possibly for Thursday's call. So, I do want to use this time to go through the content and the substance. So, it's not to say that that's not important. It obviously is very important but I just think our time on this call be best used by going through some of the final summary documents.

Is there any questions or anything else for any other business that someone wants to raise?

Okay, great. So, then let's jump right into it from registry system testing. The links are on the document but hopefully someone can also put it into the chat. I know that if you try to go in this weekend it may have been a little bit tough because some of the documents were—at least I had trouble getting into it because they were protected but it should all be on lock now, so everyone should be able to get into it.

So, if we scroll down on the registry system testing here, great. So, you'll see that the policy goals and what we stated in the initial report was that it's the same recommendation that was in 2007 which is applicants must—or there's two recommendations.

First, applicants must be able to demonstrate their technical capability to run a registry operation for the purpose that the applicant sets out. and recommendation eight is that applicants must be able to demonstrate their financial and organizational, operational capability. Now, although recommendation eight really refers to—well, part of it refers to stuff that we've already talked about with the financial due diligence, the operational capability is key to this part or this section.

So, as we go through the rest of the section, the main high-level agreement that we think we have—or at least we've had from the initial report, the comments we've gotten in and discussions that have taken place is that there's a number of areas where there are self-certification assessments and because they're self-certifications, people felt that they didn't add as much value and may not be needed, so we'll get through some of that in this discussion going ahead.

So, specifically on that recommendation, there were only a couple of comments on that. One from ICANN Org that some of the self-certifications is [inaudible] related to load testing should be retained, as operational testing of load would be disruptive and not favorable. And it is important to do load testing to ensure that the infrastructure can handle expected traffic.

Just putting in my own hat on this one, being familiar, I think it's actually what ICANN Org is saying makes a lot of sense, especially because we're talking about only evaluating each backend operator once, assuming that they're proposing the same solution for multiple applications and therefore the ability to scale and to handle a certain amount of load is certainly important, so at least the self-certifications with respect to what the registry is capable of handling and how they are able to scale does make a lot of sense.

And remember also just to bring it in line with some of the other topics. When we were talking about RSP preapproval, one of the main high-level agreements was that the testing and questions, or I should say the questions and/or testing that are applied in the main review here also apples to the preapproval, so if there's a backend registry that applies during the preapproval phase to be preapproved, they'll go through the exact same set of requirements, evaluation, testing if applicable that they would go through if they were submitting it during the normal application period. Hopefully, that made sense.

So, getting back to that. At least one registry member came up with an idea that said we should stipulate that removal of the self-certification assessment applies to establish registry operators

who exhibit the exact same business rules across TLDs but there certainly was opposition within the Registry Stakeholder Group for that. So, it was not a consensus of registries that recommended that specific one.

So, I just want to stop here to see if there are any comments, especially on the ICANN Org comment and whether you agree with ICANN Org's assessment and the one I just raised on keeping in the self-certifications relating to load balancing and scalability.

All right. I'm going to take it that there's no comments at this point.

So, with respect to the actual testing, before we just jump on this, in the last round in 2012, the only "testing" that was done was pre-delegation testing and the pre-delegation testing involved really just the ability to submit a file to escrow providers, the ability to send and receive EPP commands through the shared registry system. If there was a proposal for internationalized domain names, then you would have to submit your language tables at that point in time to have them looked at and make sure that they correspond to the guidelines.

Other than that, there really wasn't too much else that was tested other than—actually, I should say that the DNS was tested in the sense that all of the nameservers were operational that a registry operator had listed in its application or in its testing file. The registry operator had to submit a bunch of information for the pre-delegation testing, and so it was validated that the nameservers that were listed in that information that backend operator sent to ICANN were actually operational. I'm trying to avoid using the

terms service levels because there was not really a testing of the service levels, per se, because there's really no ability to do that before you're delegated. But once you are delegated—and this is starting to get into the next area—certainly for all of the new gTLDs anyway, ICANN has a series of probes that they have around the world that was used on an ongoing basis to measure service levels with respect to DNS, RDDS, or WHOIS and I guess now RDAP and the other elements that are subject to ongoing testing.

So, with respect to service levels, there were a number of comments that said we should be able to rely on that service-level agreement monitoring for the overall registry service provider testing. So, the BRG and at least one registry stakeholder group believe that that was the right way to go about it but some Registry Stakeholder Group members believe that the question should be clarified and explain if the purpose of the removal of pre-delegation testing, and if so at least one member expressed concerns as SLA monitoring is not extensive, and then at least another member—at least one other member—believed that since the RSP preapproval program is not approved that reference should be made to registry operators and not RSPs. So, there are lots of views within the Registry Stakeholder Group. I guess some of which were dependent on whether the [inaudible] program goes forward or not.

ICANN Org also expressed a concern that we based—we being our working group based—our original preliminary recommendation on their response to a working group request. They want to clarify that the recommendation was that some tests

could be removed in favor of ongoing monitoring of TLD operations against a broader set of contractual technical requirements. So, that's something important to note.

Then, the SSAC did not agree with this recommendation. They would like to discover all potential failures prior to delegation instead of just after TLDs in operation and then they make a famous—not famous but a very well quote that lots of public companies say when they're doing their earnings, that past performance is not a guarantee of future performance.

So, with that, I see Jonathan Robinson is in the queue. So, Jonathan, please.

JONATHAN ROBINSON: Thanks, Jeff. Can you confirm you hear me okay?

JEFF NEUMAN: I can confirm. Thanks.

JONATHAN ROBINSON: Thanks, Jeff. As you've just been through these four bullets—and I guess it was the same in the previous major section—there's quite a lot of things that are pulling in opposite directions and you highlighted that. These things don't reconcile very well. What are your thoughts about how to try and converge these points? Because they really do seem both from the Registry Stakeholder Group, the SSAC, and ICANN Org, they may not be orthogonal

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but they're certainly not all pulling in the same direction. So, how do you think we should deal with that?

JEFF NEUMAN: Yeah. Thanks, Jonathan. It's a good question. What I was going to say is that we really try to drill down on the ones that ICANN Org said could be eliminated in favor of ongoing monitoring and keep in everything else. I think that there's not a consensus to remove those other aspects.

One of the things that I think we should talk about, though—and it'll come up later—is whether pre-delegation testing needs to be done on every single top-level domain individually as they get delegated or whether, like the preapproval program, once an RSP gets approved or goes through this pre-delegation testing once, could that apply on an ongoing basis to all other TLDs assuming that those future top-level domains propose nothing different. So, that's I think something that could be a compromise is doing the full set of testing per RSP once but then afterwards rely on that one-time approval, unless anything major changes in how another TLD is launched. So, Jonathan, your hand is still up if you want to get back in the queue, if you think that makes sense or—

JONATHAN ROBINSON: Thanks, Jeff. I'm just thinking about it. In fact, I could lower my hand. That was a previously raised but just mulling it over. Maybe while we're on this point, did anyone at any point discuss either in the context of this or the previous registry service provider approval program … It clearly has utility to ensure that the

applications go through fast. But one of the concerns is that it— and you've heard this before—is that it creates some sort of potential lowering of the level in general because everyone can say, "Well, I'm ICANN approved." Has there ever been any discussion that you recall talking about this being a useful internal or useful for the application process but not necessarily something that creates authority to speak to the outside world about the preapproval? Has everything ever been discussed about that?

JEFF NEUMAN: Yeah. I mean, we did discuss this fairly extensively in the preapproval program discussions where as long as you ensure that the same level of testing and/or evaluations are done in the preapproval process as done in the regular approval process, where it amounts to the notion that the only thing different about the preapproval and the main processes is the timing. If that's done, then there should not be any perceived lowering of the bar at all and really make it clear that it's just the moment in time in which the evaluation takes place as opposed to the aspects of testing that are—or testing and evaluation that are done.

So, going back to the comments. So, let me just go to the chat. It says—sorry, things just jumped here. Paul McGrady says, "What would the utility of testing preapproved RSPs do different? TLDs react in different ways to the same system." I'm not sure that that's necessarily the case, Paul, that the string reacts different to the different systems. Most RSPs have everything running on the same system. So, regardless of what the TLD is, it should yield identical results.

But Jim says, "It's important to recall the info we learned from ICANN staff where there were some failures on initial testing. Not all of it was IDN tables. We shouldn't eliminate any parts of [PTD] that discovered these issues prior to delegation." So, were actual statistics given to us? I don't believe so. We've asked for them. But we can go back and double check.

Cheryl says, "[inaudible] the point in time in earlier testing can then be [inaudible]." Susan says, "I don't understand. Wouldn't the preapproval process essentially involve the pre-delegation testing? So it wouldn't need to be done anytime after that." And Jim says, "I don't think so. I was at the GDD Summit. I think a lot of people were surprised by the info. At least I was."

Yeah. So, a lot of it also had to do with the pre-delegation testing provider changing its testing procedures every few weeks at the beginning as it was learning new things. So, those that may have done their testing earlier on may have gotten a different result later on because they were honing in one what they thought was important to test.

Presumably now since we've done 1200 of the TLDs, it's pretty static and understands everything since then. The requirements are understood.

So, we can ask a little bit more and see if there's more stats coming on the pre-delegation testing. So, I think we can definitely do that. But at a very minimum, we should really try to pick out the ones that ICANN Org believes could be eliminated and separate those out.

Okay. So, if we scroll down on the list of IDNs—sorry. Limit IDN testing to specific TLD policies and that there shouldn't necessarily be an IDN table review. There's agreement from BRG and Neustar. The RSG says this should have been a reasonable thing to do in a prior round. However, in practice, the [PDT] execution related to IDNs actually exceeded the stated boundaries in the testing team both expanded the scope and inserted judgment into the expected results. So, certainly we need better transparency into the exact criteria of passing that testing. I think that's going to be important.

And I think this comment from ICANN Org, the beginning part is similar to the last one but the second sentence reads, "The ICANN Org recommendation suggests moving IDN table review from [PDT] if using tables pre-vetted by the community, or if tables not pre-vetted, then they should be reviewed prior to registry system testing."

So, I guess this could be something that's reviewed in the preapproval process where registries that want to be approved for doing certain languages—sorry, registry service providers that want to approved for doing multiple languages/scripts should or could submit them during the registry preapproval process.

Then, Steve just clarified—and then I'll get back to Elaine's. Steve said that Christie's team shared anecdotal information. They indicated that statistics were not tracked. So, that makes it a little bit more difficult.

And Elaine said there would still be a need for pre-delegation testing light to make sure the nameservers are correctly

configured. Well, Elaine, I think … And that's true, in a sense, because IANA does those tests, right? So, I think what we're saying—and someone can jump in if they think I'm misstating this—but they were actually tested twice because it was tested by the DotSE folks that were hired by ICANN. But then once you want to get delegated into the root, IANA does their own name server tests and it seemed like unnecessary duplication.

So, regardless of if [PDT] or whatever it is called in the next round is done at an earlier stage, when you actually go to get delegated, IANA still does those minimal tests as they do for all TLDs that are either delegated or re-delegated. Any questions or comments on that?

Donna says one of the main challenges with IDN tables is that the testing provider changes the requirements, often without notification. Yes. And that was certainly something a number of us noticed during the last round.

Questions, comments on this before we get to the DNSSEC stuff?

Okay, on DNSSEC. This was not necessarily tested or was not tested during the last round but the topic of including additional operational tests to assess readiness for DNSSEC contingencies like key rollover and zone resigning. Some registries had concerns about this and at least one Registry Stakeholder Group member believes that this approach is inconsistent. Rollovers and [PDT] testing will not reflect the realities of operations [inaudible]. It will be an effort that may not be predictive. Since DNS infrastructure is frequently shared, this may introduce security and stability risks due to side effects to existing TLDs that could emerge through

execution errors to test readiness for DNSSEC, at a minimum, an [RSP] should be able to demonstrate the ability to transition a signed zone of a TLD onto their system and transition the signed zone of the TLD off their system. During the registry transition process, the act of rolling a signed zone is intricate and should be considered a key part of registry testing. This whole paragraph is opposed to by at least one other Registry Stakeholder Group member.

And then there's discussion about consideration of algorithm rollover exercise in the future when enough experience [inaudible] specific maneuver gets established in the operational community.

So, this is a tough one because there's only really a comment from a couple members of one stakeholder group. It seems to apply more importantly in a transition from one backend to another as opposed to the initial delegation. But possible language that was we can consider in the next paragraph. We can scroll down.

Applicants must be able to demonstrate their technical capability to run a registry operation for the purpose that the applicant sets out, thereby submitting it to evaluation at application time or agreeing to use a previously approved technical infrastructure. That could mean in the same procedure or previous procedures if an RSP program exists. So that means that—well, I think that's fairly self-explanatory, I think. Questions, comments on that?

BRG and Neustar agrees with this language. The Registry Stakeholder Group believes—or some members believe—you should have to identify who that service provider is at application but other members state that this really only serves the interest of

existing registry service providers. So, this is really in the discussion of whether you just have to commit to using a previously approved one or whether you have to specify the exact one you want to use. Go to the next part. Just keeping an eye on the chat.

So, this section refers to feedback on ICANN's technical services group recommendations that were provided to work track 4. There's a whole set of them. And we did talk about these in a previous section when we were talking about the evaluation criteria, so I'm not sure we need to cover that here because I think we—yeah, I know we definitely talked about that in a previous section. So, for this one, I'm just going to refer back to the comments that were made in that specific section as opposed to going over it again here. Questions or comments on this section?

So, just to kind of do a recap, what we're going to do is really drill down into the elements specifically that ICANN thought could be removed and make a recommendation that those be removed but the others be kept and that this could be incorporated into the RSP preapproval program as well.

Okay. Jim, please. Jim, I don't know if you can hear me, Jim. Jim, you're having the same issues you had I guess about a month or two ago.

UNIDENTIFIED FEMALE: I'm going to send him a private chat to see if he'd like a dial-out as well.

JEFF NEUMAN:	Yeah. Well, he says he's going to type it in so we'll give him a moment to type it in as we transition to the next section, if we can. Okay, so while we wait for what Jim has typed in, we'll start on the next section and then come back to Jim's question when he gets it in the chat.

So, this section is entitled TLD rollout which really refers to just a couple of different questions. That is, the timing in which agreements need to be executed as well as—or more importantly, I think—the timing in which delegation needs to happen after a TLD is approved. So, the only policy implementation guideline we have from 2007 still remains appropriate, which is that an applicant granted a TLD string must use it within a fixed timeframe which will be specified in the application process. So, as part of this, high-level agreements. I think these are fairly non-controversial but one of the high-level agreements that we think we have is that ICANN Org should be responsible for meeting specific deadlines in the contracting and delegation processes, so that they adhere … And if there are variables that could slow those deadlines down, that at least the variables are known ahead of time.

So, for example, if ICANN says that they could complete initial evaluation for the first certain number of—or if they say can complete initial evaluation in a certain amount of days unless they get a certain number of applications, at which time it would be extended for a certain period, whatever those variables are, that ICANN should have those spelled out in the guidebook so that applicants and the community are not guessing as to when those deadlines would occur.

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Then, finally, on the high-level agreement—and then I'll see if I can get back to Jim—is that it seemed like through the discussions, although there was a bunch of back and forth at the end of the day, it seems like there's still a high-level agreement to maintain the existing timeframes that were set forth in the Applicant Guidebook, namely that agreements be signed nine months after notify that it's completed the process and not registry operators complete all testing if there is any testing within 12 months of the effective date of the registry agreement. And then there should still be extensions available but they may need to be spelled out a little bit more transparently.

So, let me go back to Jim. Your hand is up. Let's see.

JIM GALVIN: Yes. So, let me see. Is this better?

JEFF NEUMAN: Yes. Thank you.

JIM GALVIN: And no, I don't have helium stored in my office. So, it goes back to the previous topic that we were discussing. I just thought I'd try being a little clearer about what I was suggesting in the chat and that is if we are moving towards removing various pieces of the [PDT] program at one place in the previous round either as recommended by this group or by ICANN Org, I just want to make sure that we are not removing anything that may have caught deficiencies that Kristine was referring to in the previous round.

So, they served the purpose then in preventing potential delegations with deficiencies. So, I don't think we want to be in a position where we're removing parts of the [PDT] that could in fact be beneficial. And really Kristine and her team are going to be the ones that are going to know, generally speaking, what areas those refer to. So, that's what I wanted to make sure everyone is clear on. Thanks.

JEFF NEUMAN: Yeah. Thanks, Jim. And that's what we're going to back to see what they proposed eliminating and also this really only applies to the self-certifications, not to the actual testing. So, there were a number of areas in the pre-delegation testing that was you had to just certify that you met certain requirements and things but ICANN didn't test that because they were just self-certifications. So, I think that's important and we're going to go through and see if we can narrow down the specific ones that ICANN was recommending be removed.

As we go to the outstanding items, Phil posed a question saying, "What's the definition of use?" and that will get us into an area that's talked about in here. But in 2012, all use meant was that you had passed pre-delegation testing and that you were delegated in the root with the ICANN-mandated NIC.TLD page that was required. And WHOIS RDDS page that was also required. Other than that, that's the only definition of "use" that ICANN had in 2012.

On the area of maintaining the existing timeframes, ICANN does express a little bit of a concern that said that extensions cause

some extensive delays. These are voluntary extensions asked by the registry operator. So, ICANN already says that they consume significant resources and then the lack of a time limit for launch in the gTLD created significant burden and cost on ICANN operations to support a number of activities that take place between delegation and launch. And then this impacts the program financials, etc.

So, what ICANN is talking about here is not the time period between a contract and delegation but between delegation and, let's say, launching your sunrise or your … Well, first, launching your name collision mitigation framework, then your sunrise, your IP claims period, and all your other startup processes.

I don't think there's been a suggestion by anyone in the community that we should mess with those or create timelines, because at the end of the day, the uncertainty of when ICANN was going to get around to approving the contract combined with the uncertainty of when it goes through the delegation testing and delegation. It's hard to then mandate when you have to launch your sunrise or anything like that because every business model for every TLD is different, and when I use the term business model, I don't necessarily mean that it's commercial model. It could be a non-commercial model. But either way, there's a lot of reasons why registries may choose to launch within a given timeframe or not launch within a given timeframe and I don't [believe] it's possible, just in my personal opinion, on a mandate or legislate [dot].

So, for example, you could just turn to a new launch that's coming out next year I think which is DotGay. It took how many years for

that finally to get through the process? And once it gets through the process and sign the agreement. They can't really start their business planning before the agreement is signed and before delegation, necessarily. So, all of that has an impact on when a registry [inaudible] launches its sunrise or IP claims. It would be very difficult to delve into and create these artificial deadlines because it may be a little bit of a burden for ICANN Org.

So, then, the question is what can we do to address ICANN Org's concerns? I think, with respect to the concerns between contract signing and delegation we can be a little bit clearer on what is needed for an extension, but afterwards, I think it's going to be difficult to address that concern from ICANN without interfering into TLD's models. Does anyone have any comments on that? Are there other things that you can think of to do that would help to address ICANN's concerns?

Also, I'd like to add, presumably, once we have the next round and maybe one round after that, as soon as we get into some kind of steady state where rounds are happening in a predictable period one after the other, at that point, hopefully the resource drain … Things should become predictable and the resource drain won't be as great once you're in this steady state of operations.

Okay. So, then we have the question that was raised about what is the purpose of having the delegation deadline? Does that purpose still exist? Initially, it was said to exist because there was a concern about squatting on top-level domains or warehousing top-level domains even though that's an undefined term. So, the question was, really, are we still concerned about this?

The BRG says that, yes, I think we should keep the delegation deadline. Doesn't appear that there's been squatting or warehousing of the type that the community was concerned about according to the BRG and therefore we can assume that the deadline did its job.

The RSG, there were some members that agreed, some that disagreed. So, some said that the guidebook had sufficient measures but they don't actually believe that warehousing is an actual concern for registries. But then there was a second new point that said that we should define what warehousing is and why it's relevant. Tightening the existing restrictions against squatting and warehousing may be an option so that more than a NIC.TLD is required to satisfy the requirement. But we could not find any other comments that agreed with that viewpoint that there should be more required in "using a top-level domain". And MarkMonitor agrees with the notion of keeping what's in the guidebook, that it's got flexibility and that it's the right measure.

Phil is saying we have 200 brand TLDs with only a NIC. They have no intention of launching anytime soon. So, regardless of whether that's true, because we haven't verified that—I'm sure that there may be a number of TLDs like that. Is this really a concern? Why do we care?

And Justine said brand TLDs not launching is less of a concern than non-brand TLDs. And even if they only have one NIC, they could still have email and other services so that may be a little bit misleading.

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So, let me just see if there are any comments. Does anyone feel like this is an issue that we should consider additional comments on? Anne is agreeing with Justine about brands not really being an issue. So, I'm not hearing an overwhelming support for additional use requirements.

Then, if we just scroll down, I think this next part really just deals with what we have already been talking about. And there was one comment from Christopher Wilkinson that said that there should be a report about how many TLDs have not been implemented. That was Christopher Wilkinson's comment. Christopher says he's particularly concerned about the political repercussions of warehousing of geo-names outside the corresponding jurisdiction. Christopher, is there an example of a geo-name that you were thinking about or is this just one for the future? And while you're thinking about that, let me go to Kathy who has got her hand up.

KATHY KLEIMAN: Hi, thanks, Jeff. Good to see everybody in Montreal. Sorry to be coming in late, but yeah, I think there's a huge problem with warehousing. That wasn't the idea at all with new gTLDs. The idea was that registries were supposed to roll out these gTLDs, not sit on them. So, even with brands I think there's an issue, especially without brands. So, I'm going to agree with Christopher. I'm wondering if we've heard from the GAC n this. But the idea was this wasn't a registration with parking. It's not like second-level domains. The idea was if you're going to apply for it, use it. And I can imagine some gaming scenarios with the warehousing that we would not want to have.

Yeah. I think if you're going to take a part of the TLD space, use it. I think that was always the deal. So, why would we be changing that? Thanks, Jeff.

JEFF NEUMAN: I don't think we're changing anything. In fact, we're arguing that nothing should be changed from the [inaudible] Applicant Guidebook. There was never anything in the guidebook or elsewhere that had any kind of requirement of use, other than, Christopher, you and I guess Alexander I'm not seeing overwhelming support for adding a use requirement. But let me go to Christopher and then [inaudible].

CHRISTOPHER WILKINSON: Good morning, good afternoon, and good evening. Jeff, I speak with some experience in this area. First of all, in the DotInfo TLD, I recall that many governments were particularly sensitive about the risks of their country names being registered outside their jurisdiction and used for speculative purposes.

Secondly, I have long experience in the GAC and as a member of the ICANN community, long experience with the problems that arose in the early days of the Internet of ccTLDs were delegated to enterprises which had nothing to do with the country concerned, and in some cases, refused for many, many years to negotiate an agreement with the country concerned.

When we designed and successfully implemented the DotEU registry, there was a major concern as to how to, in sunrise,

ensure that geographical names, among others, would not be hijacked and retains for speculative purposes.

In work track 5, I have argued and will continue to argue that, first of all, the registries should be incorporated in the geography to which they refer. And secondly, that the registry organizations should not accumulate multiple portfolios of domain names, particularly geographical names.

Believe me, I have 30 years of political and administrative responsibility and experience in this area and this is a time bomb for ICANN. You must regulate and prevent multiple applications and delegations to sole registries. You must ensure that the geographical of domains are registered and then incorporated with agreement of the communities and governments concerned in the jurisdictions referring to those domains.

There's a clause somewhere in the Applicant Guidebook to the effect that the registry must respect the jurisdiction in which the registry is incorporated, so that you could escape any reference to the jurisdiction of the geographical area by that means. This is provocative. Thank you.

JEFF NEUMAN: Thanks, Christopher. Let me go to Kathy.

KATHY KLEIMAN: Hi. Thanks, again. Jeff, one of the questions—and I put it in chat—is what's the data of the 2012 round? How many top-level domains have been delegated and are not in active use?

The other is that I've been reviewing the Applicant Guidebook and I would say that I respectfully disagree with your interpretation. When you look at what is expected of a registry, it clearly implies registering domain names, rolling out, opening up, and then implementing a number of post-launch measures. And this is part of the expectation of how they're going to run the TLD which implies that they're going to run the TLD.

So, I think we should put this one out if we're going to let people— especially, if I understand, we're going towards unlimited applications, which you know I, in non-commercial, object to. But if we're going to have unlimited applications, we're potentially seeing people sitting on tens, hundreds, or even thousands of TLDs. I don't think anyone intended that. So we're going to have to figure out how to stop it. Thanks, Jeff. But again, the count. How many are not in use?

JEFF NEUMAN: Thanks, Kathy. It's very important when you're going to look at something that says not in use. You have to define that. Just to be clear, this actually did go out for public comment and the only comments we got back on that were the ones you see above or in the chart there—sorry. In the document that's posted which is from the BRG, the Registry Stakeholder Group, and Registrars, and Christopher Wilkinson. Other than that, [inaudible]. Whoever has got their mic on, please mute.

So, if we're just staying with the same language again that was recommended in the initial report that is also in the guidebook, that's not something that needs to necessarily go out for comment

but that's related to the overall question of what goes out for comment and what doesn't. So, I'll put that aside. But at this point, there is no changes being recommended to what's in the guidebook. There just doesn't seem to be adequate support for that, and in fact most—or the ones that commented were not in favor of changing that.

So, while I understand the comments that were made, it doesn't lean towards making any changes. Kathy, please.

KATHY KLEIMAN: Jeff, you mostly heard from registries, so that's what the comments say. And as you know, it was 300 pages of choices and thoughts and ideas. It was a good interim report. But you didn't hear from the broader community and I think the broader community is going to want to talk to you about this one. And I think the expectation has always been that if you take a part of our TLD space, you use it.

I don't know where we go with that. No one has provided the data of how many TLDs are being sat on right now without being used but I think we have to know that before going forward. So, maybe we come back to this. But I think this one really has to go out because the expectation was in 2012 that you did have to use it. You couldn't just sit on it. That wasn't the idea. At least that wasn't the understanding. So, if we're going to codify that understanding, I really think we have to emphasize that.

	You got very, very limited comments I think probably because it was comment fatigue by the time they got to this part of the comment. Thanks.
JEFF NEUMAN:	Yeah. Thanks, Kathy. My fear … You're kind of also hitting on a fear that I have with putting out the full report is that by the time people read the section, they're going to be so tired of commenting on all the other sections of the report which is one of my concerns of putting out the entire thing for comment. But again, leadership will be talking about that this week but I just do want to be transparent as to one of my concerns.
	So, Kathy, in order to answer our question of "are not in use" we need to create a definition of what does it mean to be in use. Also, as Martin says, what is the problem we're trying to resolve here? Do we have people complaining that they are unable to use a TLD or do something with a TLD? We really need to have a specific question in mind and a problem that we're trying to solve as opposed to a theoretical what this implies. Christopher, your hand is up but I don't know if that's new or an old one. Sorry.
CHRISTOPHER WILKINSON:	That's a new hand.
JEFF NEUMAN:	Okay. Go ahead.

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CHRISTOPHER WILKINSON: I have a [inaudible] on my screen that my Internet connection is unstable, so thank you, everybody, and if necessary, goodbye. But meanwhile, two things, Jeff.

Without being personal, I think I have more experience and knowledge about this issue than a great many other participants put together. I do not really accept your chairman's conclusions that you're talking about one random external opinion.

But more to the point, in order to forestall the likely comment, if not criticism, of insider trading, I think you should also assess the consensus and the balance of comments by abstracting a null of comments and opinions and abstentions from interested parties, notably those who wish to register large numbers of TLDs. I think we're very close to what in other sectors would be called insider trading. You cannot accept a consensus based primarily on the interests of those who wish to take advantage of the outcome of the results. Thank you.

JEFF NEUMAN: Yeah. Thanks, Christopher. I do want to point out for the record that everyone had the opportunity to comment and you did—thank you, Christopher—on these questions. But other than registries, registrars, and the BRG, those are the ones that chose to respond. We can't force people to respond to comments.

And while I understand your comment on insider trading, if you will, the reality is that those that proposed and are using their top-level domains are actually the ones that—they know about these

issues. So, we can't just discount [it] simply because they may have [inaudible].

CHRISTOPHER WILKINSON: Jeff, one very brief. No, I'm not muted by the host, actually. One brief comment. The public interest is a responsibility of ICANN and insofar as this domain has been largely delegated to GNSO and the PDP. The public interest is the responsibility also of the PDP.

We are supposed to be creating, if necessary, a counterweight of moderation and, in some cases, a qualification of the cumulative interests of registries and registrars, as you put it.

As for myself, I generally know quite a lot about this over and above what registry and registrars operational experience is. Thank you.

JEFF NEUMAN: Okay. Thanks, Christopher. If I could just go to the chat because there's some dialogue going on there and I want to make sure we cover that. So, if I go back in the chat, we have Anne says, "To address ICANN's concerns, minimum payments could be required for TLDs not yet launched within years after delegation signed contracts." Susan says, "There's a minimum payment already. It's $25,000 each year. And this already has gone out for public comment." Kathy asks how many new gTLDs are not in use. Martin asks, "What is the problem we're solving?" Anne says, "@Susan, I meant a minimum payment that correlates with ICANN cost data. I assume this is more than $25,000." Then Phil says,

"Maybe we can [inaudible] that a brand application being closed doesn't need to use/launch a TLD." Then, "Phil, d be very interested in seeing all the stats." That's from Kathy. Martin says again this was all discussed in depth within the working group prior to the reports—and that's true.

Annebeth asks again the same question that I've posed a couple of times, "What do we mean by use?" This has always been the problem for second-level domains and that's not been solved. There's some comments on insider trading. Kathy said, "I think prevention of squatting/warehousing is still relevant." Susan responds to Anne saying, "1200 TLDs is $30 million per year. Be astonished if that doesn't cover ICANN's cost," bearing in mind that that's on top of the application fee.

Then a question said, "Well, how do we prevent squatting?" Then my question of how do you define squatting. So, Kathy … Phil says this info is on [NTLD stats] and Kathy says I was quoting Justine.

So, let me go to Martin and then I'll read Kathy's comment on the chat.

MARTIN SUTTON: Hi, Jeff. Thanks for this. I was just wondering whether it's worth pointing to the previous calls and perhaps just sending that out as a link for people to review the content that may not have participated at that time. I do get a sense that we're repeating similar discussions that were had at the time—and they were quite in-depth as I recall.

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So, I think in terms of where it's been summarized here and what we had in from public comments is what we should be focusing in on. Those that perhaps were not around at the time, they could be given access to the relevant discussions that were had within the working group. That may save us a bit of time as well. These are the same sort of conversational pieces that we had at that stage. Thanks.

JEFF NEUMAN: Yeah. Thanks, Martin. That's definitely a good point and that applies to all of these discussions, so maybe we can reference to that. But let me read Kathy's comment. "Alexander wrote above if you don't make available domains to the community, then others should be granted the opportunity to steward that string. At the very latest, once the first ten years went by without measurable use. A few registered domains aren't sufficient. So, no use equals contract cancellation. It seems the record should reflect that there is deep concern for many in the non-registry community on this call."

Let me ask. We have 37 people on this call. If people could look at … I'll ask the question, and then if you could indicate with a yes or no and I'll ask just to get a feeling, at least on this call. If you are concerned with this issue, namely if you believe that there should be additional conversations and definition of use, please mark a yes. If you believe that the guidebook and as the comments came in that we don't need to go further on this, if you could indicate an X. I'm just trying to get a temperature sense and I know there's some that don't want me to do it, but if you could please just …. I will repeat it one more time.

If you believe that—and by yes I mean the checkmark. That's yes in Zoom. And by no, it's the X that's in Zoom. So, if you believe that there is concern or that you are concerned about this issue and would like to discuss additional qualifications for use above and beyond what's in the guidebook, please indicate yes. If you are fine with what the guidebook says and the comments that have come in and do not believe we need to look at this any further, please indicate no.

All right. We're getting a smattering of comments here, so I will go down this list. I see that Alexander supports looking into this further. Anne Aikman-Scelese does not and she's with the IPC. Krista Taylor does not and is with Minds and Machines. Christopher Wilkinson believes. {NADPGG] is with the National Association [inaudible] Pharmacy. Greg Shatan is both At-Large and IPC but I don't think it indicates on which. Nick Wenban-Smith, Robin Gross, Sophie Hay, Susan Payne. So, I think … Taylor indicates that he would like to look into this more. He's with the Canadian government.

It's really mixed on this. Sorry, Greg. Shatan rhymes with Manhattan. I will get that for the next time. Thanks. That was helpful. We'll also likely ask this on the list as well to see if there is interest in this, pursuing this further and that interest is as Kathy puts it, deep concern within the non-registry community.

All right. Let me go to Martin. Your hand is raised.

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MARTIN SUTTON: Hi, Jeff. And mine was a no as well but I kind of flipped back to the hand up as well at the same time, so you may not have seen it.

I was just wondering whether it was worth suggesting something along the lines of—again, casting back to previous discussions that we had on the working group—is whether we need to monitor for evidence of problems that this may create, so that if that arises, then we create a review of that and see what we can do to prevent a specific issue from arising. At the moment, I think we're struggling with evidence of what the problem is and what the ramifications of it would be. So, in the absence of all of that, it was all very much hypothetical.

Given that there is a high-level entry requirement, not just financially but resource-wise to apply and run a registry, that I think was one element. But just thinking this through a bit more fully, I think we were lacking that evidence and issue base for trying to come up with any agreed way forward on this other than what's been posted by public comments and from the discussions within the group. So, it might be one that we just reference in our final output that it needs to be monitored so that we can identify issues as time goes on and deal with those appropriately. That might be more of a specific PDP process that is very much focused on an issue based on fact in the future. Just a suggestion. Thanks.

JEFF NEUMAN: Yeah. Thanks, Martin. I'm going to read two comments that just came in—or three comments—and then I'll go to Alexander. So, Kathy states this is not hypothetical. Expectation always apply,

delegate, and run. Taylor states, "I'll note for the GAC it wouldn't have been readily apparent that this issue relates to the broader questions including what the problem is if there is one. But the GAC needs more substantive conversation." And I think, Taylor, that's the point. The point is that other than people feeling like it should be used, there has not been any kind of indication in any of the comment periods or the questions that we asked the public, not just by the way in the initial report but in community comment one and community comment two. No one has indicated a problem, again, other than a couple of individuals stating that they just feel like it should imply use, as Kathy as making the point.

Justine says, "Without a clear definition of squatting or use, I would suggest looking at reasonable timeline for launch for registration, especially if the RO had prevailed in a contention set or objection. Timeline to be proposed by RO themselves. But this is a personal opinion."

Greg says, "Kathy, if this is not hypothetical, then what are some examples?" Annebeth says, "Justine, good suggestion." And Kathy says, "Definitely something to build on."

Again, I think it's important kind of as Martin was saying. We don't want to … Actually, let me go to Alexander. Sorry. Alexander, please.

ALEXANDER SCHUBERT: So, if I look at the PDP of I think it was 2007 and the recommendations there, there were various steep penalties just for not contracting and just for not putting the TLD into the root. Do

you remember if you're not contracting, you lose the application? If you are not doing the testing, and you don't get into the root, they cancel your contract.

And the reason why we have this in there was that the 2007 PDP clearly said that TLDs have to be used. You're not applying for a string to own it and to frame it and hang it on the wall and say, "Wow, I am the owner of DotKing." But you are asking ICANN to run a certain TLD for the community that people can register.

So, I think a very minimal would be to say if you are not opening the registration phases for a normal TLD—I'm not talking brand TLDs, I'm not talking Spec 13 TLDs. But if you're applying for a gTLD—an open gTLD—and you're not opening it up with the registration phases, sunrise and so forth, within ten years, at least then we should have the possibility to have something in the contract, similar to the specifications that if you're not contracting or if you're not putting it into the root, you lose your contract. So, ten years is a long time. If you're not able to launch your string in ten years, then let others give the opportunity to run this [inaudible]. Thank you.

JEFF NEUMAN: Yeah. Thanks, Alexander. If you can submit that on the email list, that specific proposal, then I think people can comment on that. I think that with your qualifications of that it wouldn't apply to closed TLDs, let the group look at it and see if that generates some interest.

I will note, for the record, that I do remember that PDP and I remember having these same discussions at that point in time and the reason why there were only requirements in the guidebook for the signing the contract and delegation was because no one could define use at that point in time either, and so therefore the guidebook stopped or the policy stopped at recommending only strict timelines with respect to contracting and delegation because the group did not [feel like] further definitions could be made.

ALEXANDER SCHUBERT: Can I quickly reply to this?

JEFF NEUMAN: Yeah, and then Martin.

ALEXANDER SCHUBERT: Okay. Look, we have a sunrise period and then open registrations. So, it's quite clear if there haven't even been a sunrise period, then it's not being used. So, once you open it to the general public—for example, via sunrise—then you've opened it. This would be one step to say, okay, within a certain number of years—and I think ten years is a little bit long Maybe it's three or five years—have at least a sunrise. That would open it up to the public. Thank you.

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JEFF NEUMAN:	Okay. Thanks, Alexander. And if you could submit that on the email list, too, so that we get some comment from people on the list, that would be really good.
ALEXANDER SCHUBERT:	Okay.
JEFF NEUMAN;	And then Martin and then I'd like to close and go to the next subject.
MARTIN SUTTON;	Thanks, Jeff. I'm just trying to think that through from what Alexander was saying and something sticks in my mind as to when you start applying some of these rules, for instance—you've got to launch it, whatever that may mean—and you've got to use it, so how many domains does it [need] to register? Don't forget that if anybody—
JEFF NEUMAN:	Sorry about that.
MARTIN SUTTON:	I was just going to say any thresholds that are applied, they will be the baseline that people will go to. So, if it is a matter of saying, okay, it must have 200 domains by year five, there will be 200 domains on year five. So, don't forget that any of these things that you might want to put in place for a practical reason, even absent

of any defined problem actually being in place since the 2012 round, is subject to people just applying the minimum baseline criteria to say, yes, it's operating.

So, again, what are we trying to fix here and how are we trying to fix it? We could just be leaving ourselves into different problems. I just want to make that clear because that starts to make a problem in terms of the intent that people have. It could just be a simple matter of complying at the minimal level. So, just thought I'd [inaudible]. Thanks.

JEFF NEUMAN: Yeah. Thanks, Martin. Any other last questions or comments on this subject before we go to the next one?

All right. Let's go to the next one. So, just to let people know why we're skipping this one, there is a section that …. Because our charter was done prior to the RPM Working Group being created, we do have a section called second-level rights protection mechanisms, but for obvious reasons, after a PDP was established on RPMs for the second level, we are just really referring to the RPM group on this, so there's nothing for us to add. So that's why this section is not applicable and there's nothing really in it. But we can skip to the next one.

Okay. So, on contract compliance, again, this was subject to community comment, initial report. This was also subject to the comments we reviewed by subgroup C and really the main policy goal from 2007 still applies, we think, which is the recommendation that a clear compliance and sanctions process

must be set out on the base contract which could lead to contract termination.

I think the only thing throughout all of the discussions in this area that we've come to a high-level agreement on is the notion of publishing more detailed—sorry. ICANN's contractual compliance department should publish more detailed data on the activities of the department and the nature of complaints handled.

I will note that certainly compliance has done a lot more in the past year, two years on posting a lot of this stuff. So, there is a contractual compliance dashboard that you can go to to see a lot more information, and although a lot of the specifics are confidential between the party against which the compliance matter is sought, at least until or unless there is a breach, there is at least a good amount of data now included. I'll also note that there's certainly discussions going on with respect to DNS abuse. Contract compliance that's outside of this room, so there certainly are a number of areas.

One of the outstanding items, the first one is should applicant statements such as representations and/or commitments be included in the registry operator agreement? Why or why not? Also, remember that the agreement does contain a clause that states essentially that what the registry promised or represented in its application was true and continues to be true during the term of the contract, so that is already in there.

So, the INTA, IPC, and the ALAC agrees that this should remain in there. The IPC does agree with this, especially in relation to rights protection mechanisms. So, I don't have if that's actually

being discussion in the RPM PDP but certainly there is agreement from those groups on at least keeping that [inaudible] in the agreement.

BRG and the RySG agree if the inclusion of these commitments is optional, and INTA states that options if incorporating the entire application duly constrains innovation or other legitimate amendment considerations. They say, one, incorporating into the agreement any commitments made in the application which relate to the manner of use of the TLD or any safeguards proposed with respect to the third-party rights and limit any bad faith departure from those commitments or carry through into their contract where the applicant does not intend to be contractually bound and objection panels should not give weight to the commitment when reaching their decisions. And so this allows a third-party to make an informed decision about making any potential objection.

Two, require applicants to identify on their application the commitments they intend to carry through into their contracts. Where an applicant does not intend to be contractually bound, then objection panels should not give weight to the commitment when reaching the decisions. Neustar diverges from this. Cautions against any specific or compulsory inclusion of statements made in the application process, that flexibility and innovation should not be unduly limited. Christopher Wilkinson's statement in the initial report that there was no agreement in support of this proposal is a rather weak conclusion which might be queried at a later stage. I guess we're in that later stage.

And then I know there's five minutes left. Can we just scroll down a little bit? Just going over this, specifically, is on abusive pricing

for premium domain targeting. There are some groups that believe that there is no evidence of this but the INTA quotes its study that states that there are examples of where issues were experienced and that INTA has been raising concerns about pricing and other practices which appear to be calculated to circumvent RPMs for which little or no action appears to be taken by ICANN. IPC agrees with this notion. [inaudible] also agrees. But Neustar doesn't believe there's evidence of this. Scroll down.

So, I want to take this then to the list, the discussion on pricing. But again, not pricing in general of what pricing of TLDs should be but rather—sorry, not TLDs. Pricing of what second-level domains should be. But rather whether there's a belief that—not a belief but if there's any concerns that there are premium pricing that's intended to circumvent rights protection mechanisms, and if so, what could be done about that, I think is the specific issue that we really need to have a little bit further discussion on. If you recall, this is a section that was referred to us from the RPM group, that the RPM PDP did not believe they were going to delve into.

This also could relate to … Actually, no, I'm going to take that back. S

So, this is a discussion that the RPM group did relay to us.

Justine asks, "Is it within this group's scope to consider or review the thresholds for use for meeting compliance and triggering sanctions? If not, then whose job would this be?" That's not … I don't believe that's within our scope, although I don't have an immediate answer as to whose jurisdiction that would be. I think it's really just our kind of scope to determine what would be

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considered within the agreement or outside the agreement or what additional things we may want to require or not require but the job of determining whether something is in or out of compliance, that is an ICANN Org issue.

Okay. So, before we depart, are there any last comments or questions? Okay, not seeing any. We do have our next call on Thursday if the time can be posted on the chat. Just wait for that to get posted as to when our meeting is. There we go, 20:00 UTC. I look forward to talking to everyone then. In between, we'll have a leadership meeting before then, hopefully to provide some more information on the other questions that were asked.

So, thank you, everyone, and look out for emails from us. Thanks, everyone.

UNIDENTIFIED FEMALE: Thanks so much, Jeff, and everyone. Enjoy the remainder of your day.s

[END OF TRANSCRIPTION]