ICANN Transcription
GNSO New gTLD Subsequent Procedures Working Group
Thursday, 18 June 2020 at 20:00 UTC

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ANDREA GLANDON: Good morning, good afternoon, and good evening. Welcome to the New gTLD Subsequent Procedures PDP meeting being held on Thursday, the 18th of June, 2020, at 20:00 UTC.

In the interest of time, there will be no roll call. Attendance will be taken by the Zoom room. If you are only on the audio bridge, could you please let yourselves be known now?

Thank you. Hearing no names, I would like to remind all participants to 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. As a reminder, those who take part in the ICANN multi-stakeholder process are to comply with the expected standards of behavior.

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

JEFF NEUMAN: Thank you very much, Andrea. Welcome, everyone. Like I said, we are starting or three minutes late just because there was a

question and answer session with the ICANN executives that, I believe, just ended. It was one of the prep calls, as Cheryl says, for ICANN68. So thank you for bearing with us.

Our agenda today. Speaking of the Q&A session, if you were on that, although I didn't hear the very least question, there was a question that came up—I swear I did not [plant] that question—that actually covers one of the main topics for today. Someone had asked about what we were going to do with .doctor. Goran answered that question by saying, "Well, those rules are being looked at by the Subsequent Procedures PDP Working Group." Little did he know that that is our first topic/main topic for today. So couldn't have timed that one better. Then, if we finish that one, we will get to the can't-live-with comment on Package 5. So those are our two items for today.

Before we get started, let me just ask to see if there was any changes to any statements of interest.

Okay. Not seeing any. Great. Well, then, let's get started then on the first topic, which is the Category 1 verified TLDs. For this one, we sent around a document—it must about almost two weeks now—on just trying to boil down the discussions that we've had on Category 1. I believe it was Paul McGrady who asked if we could just jot down some of the ideas that we were talking about. So, in this couple-page document that was sent around, this is really what we're trying to get agreement on. It's not all of the details that would go into ultimate implementation, but it would be a good policy basis to give the guidance to an implementation team to implement all of these. There's still at least one major question

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that's outstanding, which we'll come to. Hopefully, that will use up a lot of the time we've set for today's talking about this topic.

Just to briefly go over the background, there was a GAC communique at ICANN46 shortly after—well, maybe not shortly after—new gTLD applications came in, but this is before the initial evaluation of most of the applications. The government essentially, as we went over the last time, had provided advice. They were certain that there were certain strings that they thought warranted some extra layer of protections. Ultimately, after several meetings, the New gTLD Program Committee adopted the framework to apply additional safeguards to certain gTLD strings that were deemed by the GAC, essentially, applicable to highly-sensitive or regulated industries.

The framework created ten safeguards that we went through the last time. Those ten safeguards were distributed amongst four different groups that they created. The first group that was created which had Safeguards 1 through 3 that applied to them were what they called regulated sectors, open entry requirements[, and] multiple jurisdictions. The second category they created was highly-regulated sectors or closed-entry requirements in multiple jurisdictions. For that one, the safeguards that were numbered 1 through 8 were applied. Then there were two other categories. One was TLDs that didn't fit into 1 and 2 but was a concern for potential harassment or cyberbullying. Then there was the fourth one that was created that only involved a couple—not too many—strings but one that was felt applied to what are normally applied to inherently governmental functions. So, for the last round, that consisted of things like .army, .navy, and a couple other strings.

As you can see, it's [inaudible] [rights]. Group #1 has Safeguards 1 through 3. Group #2 had 1 through 8. Group #3 had 1 through 9, and Group 4 had all of those plus an added #10.

So these were all put into the registry agreement in Specification 11 as PICs (Public Interest Commitments) and still can be enforced through the PICDRP (PIC Dispute Resolution Policy). Of course, they could also be enforced by complaints through to ICANN Compliance.

So the proposal we have for the work for now is to affirm the framework that was established by the New gTLD Program Committee, which includes the four groups that we just talked about and includes the notion of varying levels of the safeguards, depending on which of the groups you fell into and then of course the integration of those safeguards into whichever group that that registry fell into—the integration into the registry agreement as PICs.

The framework does not seek to create definitive criteria to identify which strings belong to which group. In other words, we're not making this an evaluation element of the program. But what the framework does do is it serves guidance to potential applicants that they're applied-for string may fall into one of these four groups. If they do, they may warrant additional contractual requirements. All potential applicants will be informed of the framework in the Applicant Guidebook and the ramifications of their string being [bound] to and having one of the four groups. So that basically says that applicants will be on notice that, if they fall into one of those groups, these are the particular provisions that

would go into your Specification 11—or, I don't know if it'll still be Specification 11, but essentially the PIC specification.

If you go down to #4, before applying, all applicants should consider whether their applied-for string falls into one of those four groups. If it does, those applicants are able, though not required, to self-identify which group their string belongs to. They can voluntarily commit to integrating the relevant Category 1 safeguards into their registry agreement.

So #5 is the important one. Let's say someone doesn't identify themselves as being in one of those four groups to which safeguards would apply. Who makes the ultimate decision as to who is in which group? I'm going to skip over that for a second.

Let's go to #6 and then, of course, we'll come back to #5. #6 would be, once an application reaches the contracting stage, if self-identified as being in one of the four groups or is determined to being one of the four groups through whatever the process we set forth in #5 is, then the relevant … I don't know why there's an 8 there, but the relevant Category 1 safeguards will be integrated into their respective registry agreements.

Let me just ask a question to see if that makes sense with the obvious caveat that we are going to talk about #5. So, other than #5, let me just ask if there are comments on the other elements of this framework.

I see a question here from Paul, so I'm going to read that one first and then I'll go to Alan. Paul says, "We use framework to refer to

[what the NGPC …] And then we refer to it as a reference to the document we are going over now. Can we clarify?"

Paul, I'm trying to see … Paul, do you want to just … Sorry, Alan, can I just ask Paul if he wants to jump in and tell me where that is?

PAUL MCGRADY: Sure. As I'm reading this, it looks like we say, "The working group supports the framework established by the NGPC, which is the framework—capital F—which includes these three things." Then we say, "This framework." Well, what's this framework? Is it the NGBC framework [that] does not [inaudible] definitive criteria? I guess we can say that maybe they didn't. I don't know. But I think we're referring to this document specifically. So I think [inaudible] [name]. Thanks.

JEFF NEUMAN: Yeah, I see it. So let's change #1 to … Let's just say the working group supports the program established. Is that better? Or something else, whereas, every else, I think, we use "framework," we're referring to this document. So that might not be a best word, but at least for now, we can at least distinguish that from the rest of the document. Does that make sense, Paul?

PAUL MCGRADY: It does, but we also refer to "framework" about it in the NGPC sense. So we just need to root it out everywhere it's at. Thanks.

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JEFF NEUMAN:	Yeah. Okay. We will do that. I think that's a good catch. While that's being done, let me go to Alan.
	Alan, you may be double-muted.
ALAN GREENBERG:	I was double-muted. You'd think by this time I would figured out how to fix that. It might be useful to pull up the document of what the safeguards are because that really puts it better in context.
	What I was going to say is there's a potential problem. I don't remember which of the safeguards it is, but there are safeguards that basically say you have to work with the authorities who have control over that domain. I don't remember which safeguard that is. Maybe somebody can point me to it.
JEFF NEUMAN:	Alan, I think that was in the GAC advice, but the way the New gTLD Program Committee, in their, I'll call it, program … They fixed that to … So #7 says here that, if they receive a complaint expressing doubt with regard to the authenticity of licenses or credentials, they should consult with the supervisor authorities or their equivalent.
ALAN GREENBERG:	Okay.

JEFF NEUMAN: So that is one difference between what was adopted by the Board and—

ALAN GREENBERG: I know there was still a reference to supervisory authorities. One of the problems is, for some areas, although it may be a highly regulated area, there are no such authorities. For instance, gambling is highly regulated in most jurisdictions, but there are no authorities that cross national or even country boundaries in some cases. So I'm not quite sure how one addresses some of those things, and I have concerns about the implementation. If you are deemed to be in that category, you may end up in a paradoxical situation. I wonder, do we need to worry about that or is that not our problem?

JEFF NEUMAN: I think that's a little bit in the weeds. I think that, with the registries that have put these into their agreements, I haven't heard of any difficulties with this. And as GG says, it's really up to the registry operator to determine.

ALAN GREENBERG: Okay. I spent a lot of time analyzing all of these gTLDs and to what extent were the GAC's concerns real and to what extent were they actually remedied and fixed by the various PICs and other safeguards that were put in. One of the problems that came up is that there are a whole bunch of TLDs where there really are no authorities, even if it is a regulated type area. I just wanted to cover that. Thank you.

JEFF NEUMAN: Okay. Thanks, Alan. Let me—sorry. I can't see everyone. I can only see a few people if they raise their hand. Is there anyone— yes. Okay, Christopher, go ahead. Oh, wait. No, sorry. Paul. Paul is next. Paul, then Christopher.

CHRISTOPHR WILKINSON: Yeah, I think Paul is next.

PAUL MCGRADY: All right. Thanks, Jeff. Thanks, Christopher. Jeff, I'll respond to your specific question, which is, why do we think about everything [except] for #5? I think it's wise to [hive off] #5, like you have, because I think, you're right: that's the big question. I want to say this document was substantially what I was hoping for. It neither blesses nor rejects GAC advice. It doesn't get into whether or not we think the NGPC could have done things differently/better/whatever. It just basically says we support it; we affirm those four safeguards. Then it goes on to lay out a little bit of information for the applicant, which is key.

My only hope is that we will get a chance to read through this line by line because there are things we could say, like, for example, we say, under Proposal #3, the framework does serve as the guidance to potential applicants, that their applied-for string may fall into one of the four groups. Then we don't say "may" again before "warrant additional contractual remedies." Again, in 4, we say, "Before applying, all applicants should consider whether their applied-for string may fall into our of these four groups." I'd like for

us to use "may"/ "might"—soften things up a little bit—because there are all kinds of strings that, on their face, may feel like they are highly regulated in some way but may be used for a completely unregulated purpose. So it's very possible that you could have .fireman being used for a videogame or whatever. So we can soften the language up around and just give this a real read-through. That would be great.

But, all that said, thank you, Jeff. I think this was a big leap ahead.

JEFF NEUMAN: Great. Thanks, Paul. I guess leadership … And we were channeling you and we all did this. So I hope that's good.

Christopher, go ahead.

CHRISTOPHER WILKINSON: Thank you. Good evening. Jeff, My concerns here are similar to Alan's and perhaps less well-informed. What seems to me to be lacking here is any reference to the jurisdiction of incorporation. You can't have all these rules and then allow the applicants to incorporate the registry in a tax haven or very low-regulated jurisdiction. There has to be a safeguard about a jurisdiction of incorporation. My understanding is that, in 2012, significant numbers of registries, including some who would fall into these categories deliberately incorporated in tax havens in order to escape the risk of enforcement of the safeguards that have been described. We've got to stop that. Thank you.

JEFF NEUMAN:	Thanks, Christopher. I don't know that we could have any kind of jurisdiction, or I don't think we can mandate anything like requiring where applicants must come from or where they can't come from or where they incorporate. I don't think that that's similar to what was … I'll draw a little bit of an analogy. During the trademark discussions, there were certain groups that wanted to not recognize trademarks from certain countries because they may not have done or they might not do the same kind of substantive review of trademarks as other jurisdictions. At the end of the day, that wasn't supported by the GAC or the community because it would not be … ICANN just couldn't, as an organization, say, "Well, we'll only recognize these trademarks from these countries and not these trademarks from other countries." In a similar way, I don't think ICANN could be in any position to regulate the jurisdiction of where an applicant falls.
	Now, that said, I believe these safeguards are supposed to apply the applicable law, and really complaints can be that the registrant themselves are not using the registrations in compliance with the law of the jurisdiction in which they are gearing their content towards. I think that's the important part. It's not the law of where the registry is but it's supposed to be the law applicable to the registrant if you look at the safeguards. So I think that might cover you anyway.
	Christopher, you want to respond to that?

CHRISTOPHER WILKINSON: I just maintain my reservations. As I say, I'm not totally well-informed because it's a very complex area and there are hundreds of these registries. But I do remember, in 2012, noticing that somebody was saying [Coco Rico]. There were loads of new registries in Europe. I looked at the detail and found that a significant proportion of the new registrations in Europe were in Gibraltar. Why? I'll just leave that question to hang because I don't want to take any more time on this call. But I think what you've just described, Jeff, in effect, was down to loopholes in the choice of jurisdiction, especially as ICANN itself is not very well-known for the efficacy of its policing and enforcement of PICs and related safeguards. Thank you.

JEFF NEUMAN: Thanks, Christopher. Are there any other questions before we get to the biggest question of who determines? Let me just read. Kathy says, "Closed entry requirements in multiple jurisdictions seems to invoke a more common standard."

Sorry, Kathy. I'm not sure what that means. Kathy, go ahead.

KATHY KLEIMAN: Sure, Jeff. Thanks. Christopher is, of course, right to be concerned about jurisdictions, but I think that—someone can correct me if they think I'm wrong—for certain highly-regulated strings, we were looking for a more common standard. Hotels in the United States have some type of regulation, but they seem much more highly regulated in Europe, for example. So that became an [inaudible] if I remember correctly, because I wasn't

working on hotels in Round 1. But, if I remember correctly, there were some early warnings on it and there was some discussion on it and it became treated as more regulated rather than less because so many countries had that higher-regulation standard on it. So I don't think we're just going to local law on this, and you seem to have captured that idea: there might be a more common standard of how certain types of strings are treated. Thanks.

JEFF NEUMAN: Thanks, Kathy. Let's then get to the big question. Let's say someone doesn't identify or self-identify that they are in one of these four groups. Let's say that ultimately they are the ones that prevail in any kind of—well, whether or not there's contention, I guess, doesn't matter. At the end of the day, let's say that registry then makes it to the contracting stage. So who makes the ultimate decision as to whether the registry falls into one of those categories? In the last round, essentially it was the GAC. I think that there were certain applicants that may have though that they might not have been classified in the right group. In fact, .doctor may be one of them because, when I went to look at their PICs, they didn't necessarily have the same PICs as the group to which … Maybe that's the wrong one, but I seem to recall that one or two may have switched groups from the way the GAC had initially classified it. But, at the end of the day, it really was the GAC that made that determination.

Do we think that that still should be given to the GAC? Should that be just left to ICANN staff? Do we create a panel? Do we just leave it for the Board? These are all options, all of which I'm sure

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have their positives and negatives. Where do we feel comfortable?

Paul, go ahead.

PAUL MCGRADY: Thanks, Jeff. Of the three options, I think that a panel is the only one that is sensible. We don't want the GAC to be put into the operations of the New gTLD Program. If they don't like an application, they have the GAC early warning. If they really don't like an application, they have the GAC consensus advice mechanism. I think handing them a stack of however many applications and however many hundreds of pages per applications really is not super practical, doesn't serve them well, and doesn't serve applicants well.

The ICANN Board is just too late. I think ultimately the ICANN Board, if it think that a panel got it wrong, could fix it or insist on something. I think that's fine.

I'm not super gung-ho about a panel because now we have to build a process for the panel. But, of the three, I think a panel is most likely the best option.

I'd like to think a bit more of if I can think of something other than panel. Or maybe other people in this group who are a lot more creative than me would be able to think of something other than a panel. But, as of right now, I think the panel is the only thing that makes sense. Thanks.

JEFF NEUMAN: Thanks, Paul. Let me go to Kathy and then Anne. Kathy?

KATHY KLEIMAN: Maybe I'm missing something, Jeff, in the document, but I think one of the first questions is, "Where do we get input from?"—again, I might have missed it—which would certainly be the GAC. It would be the public comment. It could be the Board. It could be staff. It could be lots of places. I want to make sure public comment is in there because I think that's where things like halal and [kosher] got flagged as being of concern, as well as in the GAC early warnings. So we need to get some of those concerns. Some of the concerns may definitely rise from the community. Who does the final decision? That's a really good question. If we're starting this late in the day to design a new panel, that's going to be fine. I don't have an answer on that one, but I do see a lot of inputs coming in. Thanks.

JEFF NEUMAN: Thanks, Kathy. I think whatever we set up absolutely would rely on input, whether that's from the public comments at the beginning of the process or GAC advice. I think it's assumed or presumed that there would certainly be input from a number of different sources. But, at the end of the day, we do need to create some ultimate decision-making thing/body.

Anne, I saw your hand up. I know I saw it up. It's not up now, but did you want to jump in?

ANNE AIKMAN-SCALESE: Sure, Jeff. Unfortunately, I lost my phone connection for a bit, but I got it back now. It does feel like, if you have a panel decision that goes one way and an appeal process for that and all that, and then you have GAC advice that might be specific to the category of the four categories, you put the Board in a really difficult position because they get, potentially, GAC advice that's specific to a category and then they have a panel decision. They can't, under the bylaws, reject the GAC advice based on a panel decision, I don't think.

So I think I would probably vote for the Board as a practical approach, but, if people feel that the Board is going to feel too much pressure to do it just the way the GAC wants it done, I just don't know how the Board is going to resolve the difference between a panel decision and whatever GAC advice is received. Sorry.

JEFF NEUMAN: Well, I think, presumably, the panel … No, I shouldn't say "presumably." I was thinking in my head that the panel would wait for GAC input, just like it would wait for input from anybody else. So you have the panel making a decision with the benefit of that input.

Paul, go ahead.

PAUL MCGRADY: Thanks. Anne, I don't see the panel being inconsistent with the Board in its duty. So, if an application goes in and the panel decides that it falls into the framework, and therefore it should

have these PICs, and the GAC … Actually, I should back up and say it the opposite way. If the panel decides that, for some reason, although the string sounds like it might be highly regulated but would be used in a not-regulated way and passes on the application without requiring the PICs, the GAC could always issue GAC consensus advice, bringing it to the attention of the Board. Then the Board could take a look at the issue and reverse the panel if the Board thinks, based upon the GAC consensus advice, that the panel got it wrong. The Board could also reverse the panel of its own accord. It wouldn't even need GAC consensus advice to do that if it believed the panel got it wrong and did not require the[ir] restrictions. So a lot of this would fall on the applicants.

For example, if I apply for a dot—I don't know; I'm trying to think of something silly—surgeon and I'm going to use it for a kids videogame to encourage them to go into the medical field, it doesn't sound highly regulated to me. That panel may pass me along. Then, if the GAC disagrees, they can issue GAC advice or not. But, if I fill out an application for .surgeon and I just say something like, "The dot-surgeon will be a safe domain name space that will increase domain name real estate," and I don't say what I'm going to use it for, then, if I'm a panelist and I say, "Gee whiz, that sounds awfully regulated, and the application doesn't say that they won't use it for surgery and surgeons and regulated things, so I'm going to bounce this and tell the applicant to try again," then I think that serves the purpose, and the Board and the GAC don't even really have to be involved.

So, super-long-winded. So sorry I talked so long, but I do think that the panel approach is not inconsistent with the ability of the GAC or the Board to weigh in with the usual mechanisms. Thanks.

JEFF NEUMAN: Thanks. Let's also remember that the GAC can only act through consensus advice. So it may be that one or two members of the GAC feel like something is regulated, and other GAC members either may not care or it may not be regulated in their countries. Therefore, is it too limiting to just say, "Well, let's just leave it up to the GAC"? Because they would have no process other than through consensus advice to make that sort of decision, which I think is why it would … And, as Paul said, to give them a formal operational role is probably not something that they can do.

Alan, go ahead.

ALAN GREENBERG: Thank you. Unfortunately, I had to leave my desk for a few minutes, so I didn't hear all of what Paul said. So I'm not sure I'm going to violently agree with him or violently disagree, but I'll say what I was going to say anyway. I agree that you cannot put the GAC in a true operational role, nor can you take away from them then right to object.

I think, when it comes down to it, if the Board receives GAC advice which is different from what the panel decides—I think I agree that a panel is really the only operational way to do this; the Board itself is not going to look at 2,000 applications or whatever

and make these judgements—the Board then has to make a decision: do you honor the GAC advice or not?

I'm not sure how different that would be from a string confusion situation. If a string confusion panel makes a decision and GAC gives advice that differs from it, doesn't the Board still have to take action on that GAC advice anyway?

So maybe that's a situation that has never come up—that the GAC has disagreed with a panel's decision—but I don't think it's something which is out of the realm of possibility, and I don't think it absolves the Board from having to make a decision on the GAC advice. Now, whether we need words to make that clear, I'm not sure.

JEFF NEUMAN: Thanks, Alan. I don't know if the plural/singular issue was formal GAC advice or not, but I do know that the GAC, either through non-consensus advice or maybe even through consensus advice, did let the ICANN Board know that it thought singulars and plurals were confusingly similar, and the ICANN disagreed at the end of the day, at least at that point in time. So it is unheard of for the Board to disagree with GAC advice on those types of things.

ALAN GREENBERG: The real question is, can the Board overrise a panel in following the GAC advice?

JEFF NEUMAN: Sure—

ALAN GREENBERG: That's the question that really comes up here, and it could come up in the case of other panels as well.

JEFF NEUMAN: [Right]. So it's not very different.

Christopher, go ahead.

CHRISTOPHER WILKINSON: Coming to this call, I find the discussion of the scale of this issue quite [rococo]. If you go to the panel, then you're creating any institution which will have permanent responsibilities to supervise respect of preconditions of these new TLDs. This is no longer about whether or not you agree to delegate the string. This is about how the registry behaves and its registrants over time. I think this needs to be though through very thoroughly, particularly as I already mentioned that most people would have thought on paper that this just adds to the responsibilities of ICANN staff in monitoring and discipling respect of PICs and other necessary conditions.

So I'm going to abstain, whatever you do. I don't think we've begun to touch the scope of this question on a permanent basis. Thank you.

JEFF NEUMAN: Thanks, Christopher. Paul, go ahead.

PAUL MCGRADY: Thanks. I'm wondering if we're confusing people by saying "panel" as if somehow it's an appeals mechanism or something like that. Really what we're talking about is an evaluation process. We have evaluators/panelists—whatever you want to call them—that do all kinds of things in this process—for example, looks at it and says, "Hey, is this string confusingly similar to an already-delegated string? Is it too close to something that's on the reserve list? Is it a plural?" So this isn't any different from that. They're taking a look at the string, reading the application, and deciding if the string itself fights into one of the categories and, if it does and there's nothing in the application indicating that it won't be used in a highly-regulated way, then they're flagging it as a problem if the applicant didn't self-identify. Then the applicant will have to adopt the PICs to get through. So we're not really talking about anything that's not already there.

Alan asked about what can the Board do. Well, we're not restricting what the Board can do either. The Board has to act consistent with its bylaws. It has to act consistent with presumptions of good faith/fair dealing—all those kinds of things. So, unless the panelists really miss something, and the GAC advice rolled in, there really wouldn't be any reason for the Board to be involved in this at all, which is ultimately the goal. The Board wants us to solve our own problems.

But, if some goofy GAC advice came through, the Board would have to look at that. And, if some well-founded GAC advice came through, the Board would have to look at that.

But those are all weird outlier situations. What we're talking about is a straightforward evaluation mechanism. So maybe the word "panelist" is making it sound scarier than it really is. Thanks.

JEFF NEUMAN: Thanks. Yeah, I agree that, if someone, without context, looks at the word "panel," it could be a little confusing. But we had lots of panels in the last one. We had a geographic names panel, for example, that determined whether an application was for a geographic name. So this is not something that's new in terms of having panels. So that's the way, when we're putting this document together, I thought about it: ICANN would do some sort of RFP like it did the last time. They ended up choosing, I think, The Economist for the geographic names panel. Putting aside whether we agreed or disagreed with that choice, at the end of the day, it was ICANN that picked a panel that had to have knowledge and some sort of basis to carry out this type of evaluation.

So I do think we should keep it simple, make it just like choosing the other panels. Of course, it would take the input of public comments and anything else and GAC advice or whatever, but we should keep the panel processes very similar, to the extent we can.

Anne, go ahead.

ANNE AIKMAN-SCALESE: Thanks, Jeff. I love the idea of keeping it as simple as possible. I think that the notion that GAC advice is some weird outlying not-the-average case is … Maybe I'm misunderstanding what Paul is saying, but I think we can fully expect that there will be continuing GAC advice on regulated strings. And they may, in fact, because of the recommendation that we adopted—NGPC framework—say, "Okay. Well, we're going to specify, string by string, which category we think it belongs in." So you're not going to have the GAC giving direct input to the panel.

My question is … This is probably very similar to what you're calling a geographic names panel because the level of interest is probably similarly likely to be passionate. So it'd be fun to know a little bit more about the geographic names panel works and whether that's the right model. Could you talk more about that?

JEFF NEUMAN: Without us taking the entire time, I just posted a link on the chat. I was hoping that each of these links … Because each of these panelists have their own links, but unfortunately that didn't copy over. But, if you go to this main link, you could see a list of the evaluation panel process documentation that was established. There were five different panels. There was the DNS Stability Evaluation Panel, the Financial, Technical, and Operational Capability Evaluation Panel, the Geographic Names Panel, the Registry Services Evaluation Panel, and the String Similarity Evaluation Panel. Here we would just add something like the Category 1 Safeguard Panel.

Let's see. Justine is saying, "Leaning towards the NGPC-like entity and in consultation with the GAC."

Justine, when you say an "NGPC-like entity," are you saying some sort of Board subcommittee?

Is that … Justine, do you want to get in the queue? I'm just trying to make sure I understand the proposal.

Yes. So, if we can trust panels to make decisions on things like geographic names and registry services and string similarity and DNS stability, why would we not—whoops. Sorry. My daughter turned on the volume of the wrong speaker. So why is there an issue with trusting the ability to get a panel to do this? That would take into consideration obviously GAC input as well as anybody else's input, but—all right. There's a couple people with hands raised. Anne, is that a new one?

Okay. I'll go to Kathy then.

KATHY KLEIMAN: Great. Thanks, Jeff. So that was exactly what I did. When you sent the link, I went over to document. I looked up the geographic names panel. It's a fairly straightforward process. I'm looking at a chart, almost like a flow chart, but not quite, which has very specific things for the panel to look at. For example, is the applied-for name a country or territory name or reserved or otherwise ineligible for delegation? Has the applicant applied for a name that is designated by the applicant as a geographic name? Then some other questions that they're asking. But it's not all that

complicated, and there doesn't seem to be a lot of outreach to the community, if any.

So here, to your question—I'm not sure it's a drop-dead answer—the types of highly-regulated strings that we're talking about depend a lot on jurisdiction. They can be very, very sensitive in certain jurisdictions and very, very highly regulated in certain regions. Most of what the current panels are doing is pretty technical in a broad sense of the word. It's very circumscribed. This is a whole different type of question, much, much broader, much, much more specialized in terms of its areas. We may think of doctor as one thing. Other people may think of it is as a very, very strict category. I don't know. This just seems so much broader. Thanks.

JEFF NEUMAN: Thanks, Kathy. I think people would argue that geographic names are pretty sensitive, too. Let's go to Martin.

MARTIN SUTTON: Thanks, Jeff. I just wanted to clarify. I put in a comment into chat, which Justine responded to, where I was implying that the NGPC was effectively the panel last time around and therefore we could take that model forward. But I wasn't meaning or implying that it would be an NGPC-like committee structured from the Board. So I just wanted to clarify that. So, in essence, I'm more inclined to think that Paul's suggestion [of a] panel is useful to set up in this respect with clear ideas of what they're checking and how to check it. Yes, there will be complications which require more in-

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depth research as we see on some of the other panels. But, on the whole, I should imagine that the majority of applicants, especially those that self-declare, will go through with the straight-through processing in mind. Thanks.

JEFF NEUMAN: Thanks, Martin. Before we take one step further as to the panel, I know Justine was saying she wanted the Board. At the end of the day, putting aside your first choice, could everybody live with the notion of a panel? Then we can talk about who would be that panel? Because, at the end of the day, GAC advice would still be GAC advice. I would think this would help the GAC in a sense because some of them will be classified as regulated, which would mean that the GAC wouldn't necessarily have to provide advice because they've seen what the panel has done. I think some of them are going to be straightforward, using 2012 as a guide. So, if .pharmacy was considered a highly-regulated string, then someone that applied for .pharmacia or someone that applies for .drugstore or something like that I think they could easily make that and say, "Well, you know what that one was? This one probably is, too." Yeah, there are going to be some questionable ones, but I think, at the end of the day, having a panel that looks at it, that makes a recommendation, takes some of the burden off the GAC and certainly takes the burden off the Board.

If we make it some sort of process that you can receive some public comment on it with, Kathy, would that satisfy your concerns? I know I've asked Kathy, but actually it's to everyone.

Alan is in the queue, and then, Kathy, if you want to jump back in, too. Go ahead, Alan.

ALAN GREENBERG: Thank you very much. I do support the panel equivalent to the other panels we have. It is potentially a specialized area—understanding the concept of regulation and control and things like that—but, when you look at it, the ICANN Board and the GAC members are not necessarily themselves experts in this kind of thing. So GAC members may go back to their regulatory groups within their governments, but there's lots and lots of people in the world in that kind of position.

So I don't think it's going to be all that hard to do, and I agree that it takes the load off the GAC and the Board. Let's then be the backstops if there's a problem.

My only question is, it's not quite clear to me what order you do these things in. That is, do you get input from the GAC and that feeds into the panel? Or can the GAC critique the panel? If we're looking at taking the load off—it's probably the latter—on the other hand the input may be valuable. So on that I'm not quite sure of the order. But, other than that, I support that.

JEFF NEUMAN: What you could do is—I think this is similar to some of the other panels, if not all of them; I think this may not have applied to the stability panel—you could make sure that the evaluation panel doesn't start until after the public comment period ends. This allows anyone to give comments on this topic or any others,

including the GAC. Some of the GAC members did take advantage of the public comment periods. So members that are particularly concerned can certainly file comments. Then the panel makes its decision and it has the public comments. Then, as Alan said, the GAC, of course, can provide advice as to whether it agrees or disagrees on those determinations. All of that input should be very useful for the Board ultimately, who has to put their approval on the contract [and] the delegation.

Paul says—I'll get to you, Kathy, in a second—"Exactly right. If I applied for .antibiotics and I don't self-identify, the HRSP tells me to adopt the PICs or they bounce me. That way, the GAC doesn't have to be vigilant and they can deal with anything the HRSP"— sorry. That acronym, Paul … What is the HRSP?

PAUL MCGRADY: Highly Regulated Strings Panel.

JEFF NEUMAN: There you go. Thank you. Okay. Highly Regulated Strings Panel. Thanks. Kathy, go ahead.

KATHY KLEIMAN: Sorry, coming off mute. It's a lot to do in one meeting without … But let me try it. One, we have the self-categorization that we're coming on from the applicants. Two, the panel that's going to have some very broad jurisdictional. It should have the power to appoint specialists or experts because you're going to need some of it. There may be some highly regulated areas that we know nothing

about. They're going to need widgets of certain sorts—things that go into power stations that may be standardized around the world and we have no idea. So you're going to want to be able to appoint those experts if the panel feels it's needed.

The timing is really important. It should be after the public comment period and after the early warnings. Maybe some GAC members submitted comments, but most of them—most of the ones I know—did early warnings. That's where they seem to think their input is.

Then, if it can come back—I assume this isn't the only time we're going to look at this … If this can iterate back to us, I think that could be really important. But I don't think there's such a thing as panel of experts in regulated industries because they're so broad. I mean, that could be the name of it. But I think we really have to have them being able to appoint their own experts. And the timing is important. Thank you.

JEFF NEUMAN: Thanks, Kathy. Well, this document would be included in Package 6 that would go out, so that would be the other time to look at it. Of course, until it goes into that package, people could still file comments on e-mail. I was hoping to not have to go through this an entire time again. I just did a Google search to see if there's a global association of regulated industries, and a whole bunch of things came up. So I know that there are certainly people that claim that they are the global experts in regulated industries. This is obviously not something that any of us have expertise in, but we could just say a panel of global experts in regulated

industries and then leave it to implementation or ICANN to do an RFP for that type of panel.

Kathy is putting down, "One, self-categorization. Two, panel should have the power to [have]"—well, hopefully the panelists themselves are experts or specialists, but sure. And then "Timing to follow"—Kathy, saying, "to follow early warnings" is a little bit difficult because the early warnings the last time were supposed to be in by the time the public comment period finished, but the early warnings ended up being a year later. I don't know if we need to tie it to early warnings. I think, if governments or anyone has concerns, they can file it with the panel during the public comment period. Again, if the governments are concerned, they still have GAC advice and everything afterwards. So I don't know.

[Susan] is saying, "If we're saying this is too complex for a panel, why would we think the Board can do this?" Kathy is saying, "You absolutely need to have GAC advice." Kathy, that's only true if they have advice to give. So let's say—

KATHY KLEIMAN: Sorry. I meant GAC early warnings. You need the GAC early warnings because that's when they've reached out to their own communities. And they're experts as well. GAC was very involved in this issue, as we know, in Round 1, and it wasn't in comments. It was through early warnings—the dozens and dozens of early warnings that we heard on these highly regulated strings and semi-regulated strings. You really need both inputs. Thanks.

JEFF NEUMAN:	Thanks. I'm going to go to Alan and then I'm going to go Justine's comment as well. Alan, go ahead.
ALAN GREENBERG:	Two comments. First of all, in terms of early warnings, my recollection is that those aren't GAC early warnings but early warnings from GAC members. Aren't they, or am I confusing two things?
JEFF NEUMAN:	Yeah.
ALAN GREENBERG:	So it's not truly a GAC early warning. It's an individual GAC member. Some of them, if I remember correctly, put in early warnings on an absolutely huge number of ones, some of which perhaps turned out to be somewhat irrelevant.

The reason I put my hand up, however, is I think I agree with Kathy. I think the panel must have the ability of bringing in experts in particular subjects, should it be needed. I don't think we can mandate it, but I think, when the RFP goes out, clearly the price quoted may well need to be able to factor in, going out to others, if something is in a particular area where the people who are on the panel don't have that level of expertise.

So I'm not quite sure how you word it, but I agree with the concept. Maybe that's implied in every panel that we're already using. I'm not sure. Thank you.

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JEFF NEUMAN: Yeah. From a policy level, I have not seen any implementation document or RFP that restricts a panel's use of who they want to use in terms of getting additional expertise. So I'm not sure we have to say they have the right to get experts because we're not saying that they don't have the right not to get experts. Sorry, that was a double-negative.

Kathy is saying, "Unless we make it clear, then it's not part of the express rules."

I'm not sure, Kathy, because we didn't make it expressly clear that The Economist couldn't seek experts on their decision. But we can look into that. I have no problem saying that the panel could rely on other experts if needed. But I'm not sure I would necessarily read it as, if we didn't have it in there, they couldn't. But, just to safe, I guess we could.

Can we scroll up to #2? Because I want to read Justine's comment and look at that. Justine says, "#2. This framework does not seek"—so Justine thinks we should erase … Sorry. Let me go back to her comment because it just scrolled down on me here. "Needs to be deleted or amended."

Okay. Yeah, I think it does need to be amended. What we meant to say is it's not evaluation in the sense that it's not intended as something to say, "You can't go forward." It's really just saying, "You're this type and you need these safeguards." So I think that's the way we meant that sentence, but, reading it now, I can see why you would say that. So perhaps we could say something like,

"The framework does not seek to qualify or disqualify any applications." Yeah, I think that's it: "does not seek to qualify or disqualify any applications but merely …

JUSTINE CHEW: Jeff, I could just jump in.

JEFF NEUMAN: Yeah, go ahead.

JUSTINE CHEW: I wasn't objecting to the earlier part of that sentence. It was more the stuff in the brackets. I was just uncomfortable that is says this is not an evaluation element. I thought that we should actually do something about mentioning that there is some kind of evaluation since we're headed that way. That's all.

JEFF NEUMAN: Thanks, Justine. I think you're right. So, in the parenthetical, we could either delete that … Yeah, I think we can just delete that. I don't think … Yeah, that works better. Thanks, Justine.

Let me go to back to #5. I think we've come out on the notion of it being a panel. I think we've come out that it should definitely be after a public comment period. I think we've established that they should be experts themselves and have the right to solicit other expertise if necessary.

The only thing outstanding is whether this needs to wait until the early warning period has expired. I think that's the only other issue, but there's some other things in the chat. Let me make sure I'm covering it. Jamie says, "If an applicant is subjected to this evaluation, does that change your application cost?"

I would say, Jamie, no. This should be considered in developing the costs for the program, like the geographic names one, like the string similarity one, unlike the Registry Services Technical Evaluation panel if that's needed. But that's a good point.

There's something about [.drones]. Okay. Sorry. This is just an example in there.

All right. So I think we ended up at a good place. I want to start on Package 5. The one thing that's remaining is the timing as to whether it should government or, after the early warning … Let's take that, if we can, on the list. But I think we're right there.

Let's go to Package 5. So, completely changing gears, this section is talking about reserved names. This is a comment from Justine, who's proposing alternate language to go back to, essentially, language we had before, which would be to include all three of those terms as reserved terms, meaning public technical identifier and public technical identifiers, as well as PTI.

Justine, the reason we changed this original text to just PTI was that it was pointed out to us that Internet Corporation for Assigned Names and Numbers spelled out is not reserved. Neither is Generic Names Supporting Organization or Government Advisory

Committee or any of those fully spelled out. So, in order to have consistency, that is why we didn't have those full terms.

Justine, go ahead.

JUSTINE CHEW: Thanks, Jeff. I understand the context of why it was amended. I am just putting forward something that At-Large talked about. The source of this comment is actually from Alan, so if Alan wants to talk about his point, I'm happy to give the floor to Alan. But, in essence, it's because we think the function of the PTI is so critical that we believe that all three of these strings needed to be protected. But I give the floor to Alan if he wants to comment. Thanks.

JEFF NEUMAN: Sure. Thanks. I'll also note, while Alan is getting—if he wants to speak … The Internet Assigned Numbers Authorities fully spelled out is also not reserved and was not for the last one. Go on, Alan, please.

ALAN GREENBERG: I remember having this conversation, Justine, but I don't really remember saying that we needed to protect these full names. Maybe I did.

I'll give you another aspect of it, though. Two things. Number one, these are not names that anyone else is likely to register. So, by protecting them, we're not really hurting anyone. So that's a good

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reason. IANA spelled out in full is another example that we could include in that pile. It's such a critical resource that, although no one who uses those resources—the registries primarily but there are other entities around that use the various number reserves that it has … are likely to misunderstand it. But it feels like an extra level of security.

I'll also point out that, over the years, the standards have changed and the norms have changed. When I was working with the Internet Society, it was ISOC.org. Now they know themselves as InternetSociety.org. These things come in and out of vogue. I don't think it particularly hurts anyone to protect them. If it gives an extra level of feel that a critical resource is being fully protected, I think it's a good thing. I'm not overly adamant about it, but I can't see why we wouldn't want to protect them. Thank you.

JEFF NEUMAN: Thanks, Alan. Going back—oh, my gosh, many years—to the reserved names discussion and why it came about as only the acronyms, it came about at a time when—and still would be today—the IGOs asked for all of their names to be blocked at the top level—full names and acronyms and everything and the Red Cross and the Olympic Committee and, for that matter, all trademark owners, who basically said the same thing: it wouldn't hurt anyone to block their famous trademark.

I think we should be consistent, whatever we do. So that's what we tried to do. That's why we reverted back.

But let me just ask the group. I know Alan and Justine are asking, but remember, this would make it different than the other marks. I want to ask whether this is something that the group wants to change.

Christopher, go ahead.

CHRISTOPHER WILKINSON: Thank you, Jeff. Thank you, Alan. Look, this is bigger than trademarks and some of the other categories that you've mentioned. It's absolutely fundamental. In the old days, I would have settled for acronyms, but we're dealing with a situation in the world where there are apparently really rather too many bad-faith actors. I don't want to put ICANN in the position of having to chase up somebody trying to set up an alternative root by hijacking one or another of the strings that Justine has referred to. I know it may sound a little bit excessive and I'm not adamant either, but we have to err on the side of prudence, given the present situation, where there are undoubtedly people who would like to cause trouble by using strings which are not authorized. I think they should be protected.

JEFF NEUMAN: Thanks. I wonder if we're creating an issue where an issue doesn't exist. The reason I'm saying that is that neither ICANN, IANA, SSAC, GNSO, ccNSO, or the other entities that all have only their acronyms protected have raised any issue, either in the last round, in any of the comments periods, at all. I wonder if we're creating an issue where even they don't think that there's an

issue. To me, that just seems a little excessive. We didn't get any comments in that said that full names of any of these organizations need to be protected. So we're almost doing it without comments that came in to that extent.

Anne, go ahead.

ANNE AIKMAN-SCALESE: Could you please remind me? Is the entire draft final report going out for public comment and won't be revised until we receive such public comment? Or where did we end up on on all of that?

JEFF NEUMAN: Yes. The entire draft final report is going out for public comment. We are going to identify what areas we believe are new or changed from the initial report. We are going to encourage groups to submit comments on the new materials and encourage them to not just submit or restate their former positions because we've considered all of their former comments. So we're going to ask for new comments by the time we're going to run the comment period. Right?

ANNE AIKMAN-SCALESE: Well, just a quick follow-up. Would it be appropriate then to treat this as a new suggestion and obtain public comment on it?

JEFF NEUMAN: Well, the reason we added this was because someone had pointed out during the comment period that we didn't have PTI in

here. So we could point out that this is new, but I don't think we need to ask a question about it because it's basically responding to—

ANNE AIKMAN-SCALESE: Oh, sorry. I [meant to ask] a question about Alan's and Justine's question or concern. In other words, we [point] out that this is new anyways, so we could ask a question … Oh, wait. Justine says the question was already asked about the full strings. Wait, I'm not understanding that. I just thought maybe we could, if we're pointing out that PTI is new and was done is response to public comment, say something about these other suggestions.

JEFF NEUMAN: It will be identified as a new recommendation anyway.

All right. Alan and then Justine and then I'd like to go … Justine is asking to read, so let me go back. Sorry. [inaudible] here. "The rise of alternate roots does concern me also. [inaudible] PTI might update the practice of just sticking to acronyms."

Well, alternate roots concern me, too—a number of us—but, if they're an alternate root, they don't care what's in the regular root. So whether we put or reserve PTI or Public Technical Identifiers doesn't … Because it's an alternate root, by definition they don't recognize the standard root, and therefore they could put it in there anyway.

Oh, Justine meant not the chat. Sorry. Well, the rationale in there is … okay. So it is noted that discussion in the working group read

to a recommendation—oops. I was just reading it and someone scrolled—okay. Thanks. Discussion in the working group led to a recommendation for just the acronym PTI. However, given that PTI is a core service that the Internet relies on, the At-Large thinks"—and fully spelled out—"[it] should also be recommended to be reserved, which is consistent with he preliminary recommendation of the initial report." Right. "Recommending that they be reserved would disallow them from being applied, which is more [optimal] than subjecting the ICANN community to need to file objections against any applications for those."

Justine, understood, which is the same rationale for all of the other strings, including IANA. But that wasn't adopted for all the other ones. I'm not hearing a huge wave of "Let's do all of them—spell them out." The comments we got back to the initial report noticed that that was the only in which we spelled it out. So the comments we got back seemed to indicate that it may not be necessary.

Alan, go ahead. Sorry, Christopher. Is that a new hand? I'm losing track. Sorry.

ALAN GREENBERG: Thank you. I was beginning to wonder if my hand was up only on my own screen.

CHRISTOPHER WILKINSON: Old hand.

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JEFF NEUMAN: Okay, thanks. Go ahead, Alan.

ALAN GREENBERG: I'll note one thing but then I'll make the comment. IANA is in a different category than PTI. IANA is a top-level domain right now, is it not? No, sorry. It's IANA.org.

The real issue here, I think, is that the audience for these domains, whether it is PTI or IANA or ICANN, for that matter, are relatively limited. And the community that uses those are not likely to be misled. So we're not talking about great confusion in the public of someone going to the wrong ICANN or the wrong IANA or the wrong PTI. Right now, there is a PTI.org. It's not our PTI. It's another PTI. But no one seems to be confused about that. So I really don't think this is a big issue, and I think that we have better things to talk about than to pursue this one, to be quite honest.

JEFF NEUMAN: Thanks, Alan. That's not where I thought you we were going to end up, but I'm glad [inaudible]. Thanks, Alan.

Let's go to the next one then. I know we only have five minutes left.

ALAN GREENBERG: In answer to Justine, I'm a sentient being who can change my mind based on the arguments presented.

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JEFF NEUMAN:	Okay. Let's go to the next one. I know, like I said, we're running up against time, but I can't remember if … Oh, here we go. Rubens proposes alternate language for … Now, these are reservations at the second level. Rubens says[, "]I'm trying to figure out what the differences are here. The working group supports Subsequent Procedures gTLD continuing to follow the same schedule of reserved names that 2012 has to follow, which might change from time to time."
	So what do we say? We say the working group supports continuing to reserve [as unavailable] those strings that are currently considered reserved strings at the second level as of the publication date of this report and future consensus policy. The rationale says the text … I think "our" text? No, "his" text. It says, "Text would free second-level reserved names as they are today, not accounting for changes." That's a good point.
	So the text we have now might sound a little static, except for future consensus policies, but the reality is that reserved names don't necessarily only change as a result of consensus policies. So perhaps we should say "that are reserved on the then current schedule of reserved names," or something like that. So I think that language makes sense.
	Let's incorporate that concept. Maybe that language works. Does anyone object to that?
	Paul, go ahead.

PAUL MCGRADY: I'm not sure how that language works without seeing it, but I don't think the open-ended "which might change from time to time." …. That implies that it can change without any real process around it. That's just too open-ended. So I think, if we get rid of that, replace it with something that's tied to how those changes might occur— the process—that would be important. Thanks.

JEFF NEUMAN: Fair enough. Right. So we'll combine those to make the point that it can change but only through the then-current process for making such changes because even that process could in theory change. So we will incorporate that in there. I think both of those make a lot of sense.

Okay. That brings us to the top of the hour. The next time this group meets—or should I say the bottom of the hour—will be at ICANN68. This is going to be an interactive discussion, so it won't be just the working group. We're going to tackle two issues, namely the predictability model itself and the private resolution of contention sets, so not whether ICANN auctions are appropriate or how those are conducted but really just on the narrow issue of private resolution of contention sets, which would include the private auctions or joint venture—those types of things.

Jim, we are, yeah, just now thinking of slides to get together for that. Just a little heads up a well—there are three GAC sessions that show. I have been asked to attend. So we will do those. The agenda should be out. Essentially, they want to know whether and how we've incorporated their letter to us in May, which had their comments or comments of 20-something individual governments.

Then the second part will be to give them a preview of what we're discussing during the Tuesday session, as well as a review of what happened and also just to discuss those two issues: the predictability, etc. So we will review the can't-live-with on working group call next Thursday. So we'll start with that and then again we'll keep discussing the predictability model and auctions because those are pretty much our last couple of subjects. So I think that's great.

In the meantime, we are going to send out Package 6 tomorrow, hopefully.

CHERYL LANGDON-ORR: We'll all be thrilled.

JEFF NEUMAN: Yes. Obviously—

CHERYL LANGDON-ORR: I told them you've been thrilled.

JEFF NEUMAN: Because ICANN is in the middle of this, we do not expect any comment until the Wednesday following the ICANN meeting. So the documents are out there. You can choose to read them after. We are not going to be discussing those next week. So you will have a full week of time to review—

CHERYL LANGDON-ORR: [Until the first]

JEFF NEUMAN: Correct. Or the first. Whatever that Wednesday is. Right. So you'll actually have longer, even though it's ICANN in the middle.

Thank you, everyone. Great progress. We are on a path to get this draft final report out by mid-July. I think that's great. So thank you, everyone. Talk to most if not all of you on Tuesday.

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