
ICANN Transcription
GNSO Council Webinar: SubPro Final Report
Thursday, 28 January 2021 at 20:00 UTC

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TERRI AGNEW:

Good morning, good afternoon, and good evening. Welcome to the GNSO Council on the New gTLD Subsequent Procedures PDP Working Group final report webinar, talking place on Thursday, the 28th of January 2021 at 20:00 UTC.

In the interest of time, there'll be no roll. Attendance will be taken by the Zoom room. If you're only on the telephone, could you please identify yourselves now?

Hearing no one, the webinar room is equipped with a chat feature and a Q&A box, found at the bottom of your Zoom window. To chat, please change your dropdown to include all panelists and attendees to ensure everyone can see your message. To ask a question, click in the Q&A box and type in your question. All unanswered questions will be answered at the end of the webinar, or perhaps even afterwards if needed. Councilors may also raise

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their hand during the Q&A portion. The webinar is being recorded and will be posted on the GNSO calendar shortly after the end. As a reminder, those who take part in ICANN multi-stakeholder process are to comply with the expected standards of behavior.

With this, I'll turn it over to Flip Petillion. Please begin.

FLIP PETILLION:

Thank you, Terri. Thank you, everybody. This is a webinar for which we reserved 60 to 90 minutes, and we are talking about the New gTLD Subsequent Procedures PDP Working Group final report.

I would first like to welcome the Co-Chairs of this working group. Ladies first. Cheryl Langdon-Orr, welcome. I don't think you need any introduction. And Jeff Neuman. Thank you, Jeff. Thanks for being here. People don't know yet, but actually you guys will do most of the work today. I'm just going to be the moderator.

What I would like to explain to everybody is we have a very simple agenda for today. So I welcomed you, I introduced Jeff and Cheryl, and we will have a brief history—where do we come from, where are we, and where do we go to? Then I will give you an explanation of what this working group has achieved so far until this date. We will then enter into a dialogue with the Co-Chairs. Anybody will have an opportunity to send in a question. You can actually send it in in the Q&A. We will handle them once we have covered our agenda—so once we will have had that dialogue with the Co-Chairs.

I will try to keep an eye on the questions. If I feel there is an opportunity or a possibility to handle a question right away, I will of course try to do that. But please note we have to look at slides, at chats, and at the Q&A, and sometimes we may overlook that. So keep cool. We will cover things. If it takes a couple of seconds more, well, so be it.

Let me maybe start with the history and framework. I think it's worthwhile mentioning that, actually, we already had three rounds. People sometimes speak about the first round. In a certain context, that's correct, but technically speaking, we are really speaking about a possible fourth round, and we had three rounds. The first one was in 2000. It was a proof-of-concept round to check for possible future introductions of new gTLDs in the root. Several years later, we had a second one, which was the round of so-called sponsored gTLDs.

So, afterwards, we had a framework. That is a framework that was put in place in 2007. That was the one that was released with a view to extending the number of gTLDs for the future.

But it took another four years to actually accept/adopt an applicant guidebook. Then, as you all know, we had the last round, which is the 2012/third round, opening the gTLD market for all interested applicants.

So the question was, shortly afterwards, what are we going to do for the future? How is that going to be handled? Can we work on the recommendations that are in place? Should we review them? Should we amend them?

So the question was, everything should actually be seen on the basis of what was designed at that time. It was designed to produce a systemized and ongoing mechanism for applicants to propose new top-level domains.

The recommendations that were in place mid-last decade were the ones of 2007. Those recommendations remained in place for subsequent rounds of the New gTLD Program. That was with the spirit that unless the council would decide to modify these policies or these policy recommendations via a PDP (Policy Development Process).

So, in 2015, the council initiated a PDP and it chartered the New gTLD Subsequent Procedures Working Group. That working group that has been chaired by Jeff and Cheryl had a very—sorry to put it like that, guys—a very simple task. It was chartered to, where needed, develop new policy principles, recommendations, and implementation guidance. So what's interesting here is that they were asked to look at the recommendations but also what was implemented. So that was quite different from the last round. They, of course, were also allowed to clarify, amend, or replace existing elements of the existing recommendations. So the recommendations were in place. They were supposed to stay, but the working group was asked, "Have a look at it. What would you change? What would you affirm? And what would you put in place?"

So, in early 2016, the working group met for the first time. That's almost five years ago. But let me be very clear. Over these five years, a tremendous lot of work has been done. I went through a lot of material today in preparation for this webinar, and I really

must congratulate the entire team—the leadership of it. It is enormous what they did. It is really obviously a great achievement, and I think that the details that we will go over today will make that very, very clear.

This was a very open group, so more than 250 people have been participating in the discussions. Some people have been almost at every single meeting, but some have not. Then, of course, at least you lose track and you have to get on track again. But a couple of them were really, really very attentive and have spent hours and a lot of energy and effort in helping to examine the topics that were under review.

There were dozens of issues that were addressed before, but actually much more have been addressed now. 41 topics have been examined, but there were lots of subtopics. I did a count this afternoon. There were more than 300 recommendations coming out of this group's work. So they have really detailed everything. They have been examining, discussing, and voting on an outcome and an appreciation of that outcome, topic by topic and subtopic by subtopic. So more than 300 recommendations.

All kinds of people from this community have been involved and have had an opportunity to participate in the discussions. I'm really talking about participation from the constituencies from the GAC, from ALAC. I can't sum them up---all—but actually think of it. They've been participating in the discussions and they at least have an opportunity to participate in it.

Also, when you look at the final report, please don't think that this is the only product that was made in this working group. This is, if

I'm not mistaken, actually the last of a series of six periods where public comments were requested. I've listed them here. So, since June 2016, there were several opportunities for the people from the community to make comments on the topics under discussion on the progress by the working group or on specific topics that were given particular attention, like geographic names, for example.

So what you have in the final report is the end result of all these discussions, of the examinations of these public comments. This is really the culmination of that work. As I mentioned here on this slide, it also includes, without any modification, the final report produced by Work Track 5 on geographic names.

So I really invite you to take some time and have a look at that final report. It appears quite long. It's indeed quite a number of pages. But when you open the PDF, know that there is actually a navigation tool at the left. You can scroll through it. You can really access it via the table of contents in that tool and see what you can look at, first, how you can see the outcome. Then you can have a look at the annexes. When you have a look at that navigation tool, you will actually see that the document is much more accessible than just based on the total number of pages.

You will see that the working group has brought together all topics. Each topic has been handled individually with four questions. I've summed them up here. So there is a summary of what the recommendation or the implementation is about. Then there is information on the deliberations on the rationale for the recommendations or the implementation guidelines—so why is the view that is proposed by the working group?

If there are deliberations that generated new issues, new discussions, since the publication of the initial report, then it's indicated in the third chapter, Chapter C, of each topic. Then there is a Chapter D in each topic, and it is about dependencies and relationships with other areas of the report or external [of it.]

So you really need to have a look at each of the topics and subtopics. You will get some intelligence about these four points per topic.

The approach of the working group was as follows. Each topic follows the same basic structure, with a focus on working group outputs and the rationale associated with these outputs. There are five types of outputs. So there is affirmation, affirmation with modification, recommendation, implementation guidance, and no agreement. I've mentioned at the briefing of the council last week. You have them here again. I'm not going to read them. I think they speak for themselves. They are described in detail in the preamble of the final report.

Each topic also briefly summarizes key issues that were raised in deliberations since the publication of the initial report and supplemental initial report. This summary does not repeat material included in the initial report and should be read in conjunction with the deliberation summary included in the initial report.

I note a large number of the topics, as I mentioned, and the interdependency between many subjects. Each topic summarizes

the intersections between the topic and other issue areas in addition to related efforts outside of the PDP.

Very interesting is the consensus designations. There were several possible designations. I'm taking my [inaudible] [here]. You had a full consensus, you had a consensus, and you had strong support but considerable opposition. Actually, these are the three that you will find back in this final report.

I made an overview for myself and I can share that at another moment. It's in Excel for the moment. The colors help understand very, very rapidly how much full consensus there was. It also shows where there was consensus. It also shows that it was rare to have actually anything. Actually, we had one strong support from considerable opposition, and we will come back to that. That is in regard to Topic 45. So it's really impressive to say, on the level of subtopics, how much full consensus there was.

The working group chairs have been quite conservative. For example, on most subtopics of a topic, there was full consensus, but there was one or a couple where there was only consensus. They've qualified the entire topic as consensus. So there were quite conservative. It's quite important to note that and to understand that they've been more conservative, in my view, than they actually could have been.

You see on this slide an example, with regard to Topic 2. The overall designation for the topic is consensus. But, that said, actually quite a number of have full consensus, and only one here had consensus.

So please have a look at that. It's quite important. I will share my Excel with Steve, Julie, and Emily and see we can actually share that—and Jeff and Cheryl—because I think these visuals are quite important and quite impressive.

If you want to know what was the output per topic, then you have to have a look at Annex B of the full report. If you want to know what the consensus outcome was, then you have to look at Annex C. The Excel that I made actually combined those, so you everything in one shot.

So what's the next step? The next step is that this final report is a report that is submitted to the GNSO Council for its consideration. It's submitted as one package, and it's meant to be. There is no option. So the next step is for the GNSO Council to consider it and to vote on it. And the next step after that will be the Board's consideration.

We could stop here [but we won't.] We will actually ask the Co-Chairs to cover two things. There are important changes to the recommendations from the past. I'll just repeat that they've been in place since 2007. They've been used during the previous rounds, 2011 and 2012.

There are a couple of important changes. Actually, there are five topics: 2, 6, 7, 24, and 34. These are the registry service provider pre-evaluation, the predictability model, the need for a robust applicant support program, the string similarity review, and, more specifically, the question about singular or plural versions of a word—I [take it] different languages may be [inaudible]—and

improvements to community priority evaluations. So these are important changes.

When I look at what has been decided there and what the output designation is, well, #2 consensus, but actually, of the eight subtopics, there was full consensus for seven of these. Topic 6 is also an important change. That's about the pre-evaluation. Full consensus overall over the nine subtopics of Topic 6. The same for Topic 7 on the robust support program. Six subtopics. All full consensus. Then, for 24—the string similarity—two for consensus topics and five consensus topics. So overall consensus. And then there is 34 on the community priority evaluation. Actually, most of the 22 subtopics were full consensus. Four were consensus. So we will, in a couple of minutes, dig into these and talk with Jeff and Cheryl about these.

Then there are the topics that really require further discussion. We've identified them during the briefing for the council last week, and I've repeated them here. So we have nine, which is mitigating DNS abuse. I'll go over my Excel spreadsheet again. Actually, most of them were full consensus. Then the other one was about the PICs (Public Interest Commitments) and the registry voluntary commitments, also included in Topic 9. These are the ones where there is a lot of full consensus. Actually, in the previous one on DNS abuse, there was consensus. Apologies for the mistake.

Then there were two other topics. One is the closed generics, where there was a full consensus of having no agreement on the output. The last one was Topic 35—the mechanisms of last resort, private resolution of contention sets. This is relating to auctions.

Of the five subtopics, we have two with strong support but considerable opposition, and three subtopics with consensus.

So what I propose we do is we move back to Slide 11, where we have the important changes listed, and we give an opportunity for Jeff and Cheryl to cover the five topics, starting with whatever they want. Otherwise, it could be the registry service provider pre-evaluation. I think they will explain per topic what was the previous recommendation, what was the discussion about, and what was the outcome. And if they want to add any detail, of course they are free to do so. After their input on these topics, we will have the Q&A.

So, Cheryl and Jeff, if I may ask you to cover the first one.

JEFF NEUMAN:

Thanks, Flip. This is Jeff Neuman, one of the Co-Chairs. Thank you to the council for having us here and to Flip for giving the introduction. We picked out these five topics as interesting ones that were new, but we're to answer any questions from the councilors or the community. So, if you have additional topics when you went through this that you'd like to discuss, please do indicate those. We can go into more detail on those.

One of the new developments from the final report is the notion of having a registry service provider pre-evaluation program. That's intended to occur prior to the next round but also prior to each subsequent round. It's where the existing and any new RSP (Registry Service Providers) can have an evaluation done in advance so that they can then indicate that they have passed the

technical evaluation. Any applicant that uses that registry service provider can indicate, during the application process, that they'll be using one of those providers, that they themselves do not have to go through the technical evaluation.

The issue we're trying to solve there is that, in 2012, we had registry service providers that were backend service providers for themselves. But others were service providers to hundreds of top-level domains. The way the process worked the last time is that they had to have the same technical evaluation done every single time—so 300 times if they supposed 300 TLDs. Of course, that meant that they had the same clarifying questions asked for all the 300 top-level domains that they supposed. Of course, they had to pay the fees associated with the technical evaluation for 300 applications.

All of that was, in the working group's view, inefficient, very time-consuming, and certainly added significant costs. One of the ways to reduce costs, the working group found, was to have this registry service provider pre-evaluation program.

The way to think about the program is really that it's just the same technical evaluation that a registry would go through during the actual application process—just earlier in time. So it's the same testing requirements. It's the same evaluation requirements. Basically, it's all the same requirements. So, if you think about it in that way, that's one of the new innovations of this final report.

The second thing ... I don't know, Cheryl, if you want to jump in on that or just jump in by topic. Good. Okay. So the second area is the predictability model. For those of you that were around during

the 2012 years or new gTLD launch and for subsequent years, we all know that there were a number of issues that came up that ended up having significant changes to the program moving forward. Although we've tried as a working group to provide as much predictability as possible, we know that new issues will always come up. So we've put in place a new framework for how to deal with issues that arise.

One of those that's probably most notable to the council is the creation of a small group called the ... Now I'm going to forget the actual name, but we call it the SPIRT team. I know it's missing that second "I," but we still call it the SPIRT team. That implementation team is there to assist ICANN and the community with classifying the issue that arises, figuring out the appropriate path that that issue needs to take in order to get to resolution, and making sure that it does so in a way that considers the views of not just ICANN staff but of applicants and, of course, the community. So there's that SPIRT team that got a lot of comments. It went through a lot of iterations and ultimately got full consensus within the working group.

One thing I won't go into a huge amount of detail here, although it is an extremely important part of the program, is that we've added many more recommendations and implementation guidance regarding the Applicant Support Program. We all know that the Applicant Support Program. We all know that the Applicant Support Program was not as optimal as we would have liked to see for a number of different reasons and addressed all of those reasons. So this calls for a number of improvements to outreach. We used a lot of feedback we got from the GAC and from others

to really build up this program. If you notice, going forward, we recommend a separate implementation team that just looks at applicant support issues because the issues are very different from the other types of issues than the rest of the implementation working on the other items would have to consider.

Then—

FLIP PETILLION: If I may interrupt you.

JEFF NEUMAN: Please.

FLIP PETILLION: It's a question to you and Cheryl. Maybe it's a theoretical one at this stage, but it's going to become more important for the next topics. How did you actually measure the consensus. How did you decide ... Well, this is full consensus. Of course, it's easy. But how did you say, well, this is consensus?

JEFF NEUMAN: Thanks. It's a great question. I'll start, and Cheryl probably will explain it a lot better than I will. The difference between full consensus and consensus was very easy. If there was one person, one member of the group, that objected to any part of that recommendation itself, that not only put that one recommendation into the consensus from full consensus but moved down the entire

topic. As you said, we were very conservative. So if there was even one person, it went down to consensus from full consensus.

The measurement between consensus (or what some others call rough consensus) and strong support but significant opposition ... Cheryl and— I do want to do a shoutout to the other leaders, who we'll talk about later—went through all of the comments that we got back to the consensus call. Because it's not supposed to be a poll or a vote, we went through and we looked at the diversity of opinions that we got, who was it that made the comments that may not have agreed with a particular aspect of the recommendation, and what their background was. In other words, were the people objecting all from one company? Were they from multiple companies? Were they from multiple different types of stakeholders? So we looked at things like ... I'm not meaning to pick out any group in any particular, but it's important that, for something to go from consensus to strong support, we really needed to make sure that there was a diversity in the small minority group that opposed a particular recommendation.

We can go into more detail if the council really wants to on the one specific topic that had two elements that were strong support but significant opposition. We can provide you with the who, what, and why if that's something you all want to go through separately.

Cheryl—

FLIP PETILLION:

Thank you, Jeff.

CHERYL LANGDON-ORR: Jeff, I just want to say, “But we were still very conservative.” So we erred on the side of caution regardless, they same as we had between full consensus and consensus.

JEFF NEUMAN: Right.

FLIP PETILLION: Did you have people stepping in at the very end of the discussions and raising their voice? Or did you actually have quite a decent bunch of people who didn’t do that?

JEFF NEUMAN: I think—this a personal view of mine—we had a good stream of steady participants. Even people that came in around the time of us getting our draft final report together, I think, dove right in and became active contributors. So I wouldn’t classify ... I mean, we had one or two comments from people that may not have attended many meetings, but at the end of the day, we feel very comfortable that, of everyone who did contribute, their voices were heard and considered.

FLIP PETILLION: Thank you, Jeff.

JEFF NEUMAN: Did you want me to go on then?

FLIP PETILLION: Yes, please, if you would be so kind.

JEFF NEUMAN: Sure. Two of the other things that we added which we believe are positive additions ... If you recall, in the 2012 round, both singular and plurals of the same string were allowed to proceed in most cases. In some cases, they weren't. So we did have a little bit of inconsistency there. But after looking and doing an evaluation of both the comments that came in initially during that process as well as subsequent comments from the community and, of course, working group members, and also working at where most of those plurals and singulars ended up, the working group decided that, in the future, plurals and singulars of the same word would be put into the same contention set if they were, of course, new applications or would not be allowed if there was a singular or plural application of an existing, already-delegated string. So we think that that's going to be a good improvement and good for the user community.

There is some language in there that allows ... For example, if there are brands that may have a plural or a singular of a gTLD string but it's clear from it's use that it will not be confusing, then there is a mechanism to allow those to go forward. But the general rule is that singulars and plurals will not be allowed.

Finally, one of the things that I think was something I'm most excited about is the vast improvements we believe we've made to the community priority evaluation process. The working group

affirmed the decision from 2007, when the GNSO decided that it wanted to give priority to community applications. This was still important to the working group. We also got many comments from advisory committees, as well as from stakeholder groups, and the members themselves that preserving that community priority was still a goal or something that they wanted in the program.

So we went through, line by line, the evaluation guidelines and other aspects of the priority evaluation program and tightened up a number of the definitions. We also codified guidelines to make sure that, whatever the final standards are for community priority, those are known well in advance of the application process as opposed to being defined after the applications are in.

We also made it clear—or I hope we made it clear—that the focus of last time ... In 2012, it seemed like those communities that were economic-based got more preferential treatment than those communities that were not based on an economic grouping. So we've put more emphasis in the program on making sure that linguistic communities, cultural communities, language communities, and other non-economic types of communities can also be recognized in subsequent rounds.

Now, we also want to say that some groups wanted us to go further with our recommendations. Certainly, that's a very valid view, but we went as far as we thought we could go in order that we would still have consensus. I believe most of this was full consensus as well, if not the whole topic. I'm trying to remember now. But certainly there was consensus on the entire topic, and we really do believe that this will provide a solid foundation moving forward.

So those are the five topics we picked out. I know, next, we'll go into a few of the topics that still need some further discussion, but I'd love to stop and ask Cheryl to weigh in. And, of course, other questions.

FLIP PETILLION: Cheryl, would you have something you'd like to add?

CHERYL LANGDON-ORR: Sure. Thanks. Just very briefly, I just wanted to say I think it has been covered really well. Thanks, Jeff. But, in particular with both applicant support and the community priority evaluation, they're two examples of where some parts of the wider ICANN community that were involved in our PDP process actually wanted us to go farther. To that end, it was an interesting situation because, to the call from consensus, we actually got people saying, "Well, no. We disagree with the recommendation as writ because it didn't go far enough." So it was like, "We agree with the recommendation in principle but we needed it to go further." That still made it consensus as opposed to full consensus. So it was an interesting situation.

But we were conservative, and certainly I think Appendix C is very important for people to have a good look at as they're working out to what degree was there wholesale support or otherwise and where there was a cross-section of the community that was represented [in] the SGs and Cs that were working within the PDP with otherwise with each of the subparts of the recommendations.

I think that was it from me. Thanks, Flip. Thanks, Jeff.

FLIP PETILLION: Thank you very much. Just for your information, we are halfway, almost, through the time that was allocated to this webinar. We have important topics that need discussion to cover, but I would say let's take a break and give the floor to people who have a question, like Maxim Alzoba, please.

MAXIM ALZOBA: Do you hear me?

FLIP PETILLION: Yes.

MAXIM ALZOBA: I have a couple of questions. The first one is about the procedure of how the consensus was measured because I'd say, for one of the items, Topic 35, the methods of measurement, like taking a number of persons out of the Wiki, we barely had, in the past year, meetings with the hundred persons. On the mail exchange, not many persons actively participate on those. I think it's around 50 in total—I mean those who participate in the mail meetings. And the situation where something like 13 active participants saying that they do not support actively their designation ... Being measured against the number from the Wiki is a bit questionable, I'd say. But it's from a personal perspective, not from the council perspective. It's not yet decided. That was the first question.

The second is about the structure of the leadership. It's a question for the future, not for the past. As you know, in PDP 3.0, there were some ideas about how to better organize leadership structures, how to better organize groups to have, I'd say, way faster PDPs. Do you think that the leadership structure of the co-chairs is better than the structure of chair and, I'd say, vice chairs or one vice chair? What do you think about it?

So two questions. Thank you.

JEFF NEUMAN:

Thanks. I'll give my answers and then I'll throw it over to Cheryl. On the first topic of how consensus is measured, we did not use the wiki, but what we did is we, like you, went through a list and we figured out who are the active members. Again, it's not just a quantitative analysis.

If I can trouble staff—sorry—if you could put up the working group guidelines. I think it's important to look at what it says because you're talking here about the difference between strong support but significant opposition, and divergence, which is where ... If you read it very carefully, divergence is a position where this isn't strong support for any particular position but many different points of view. Sometimes, this is due to irreconcilable differences of opinion, and sometimes it's due to the fact that no one has a particularly strong or convincing viewpoint.

So now you're talking about, should this be strong support but significant opposition, or divergence? Even if, Maxim, you're right with the number of people—let's say 13 out of 50 active

members—and even if they all, for different reasons had different comments to a couple different sections, then, looking at where they came from, their backgrounds, the people that also said, “Hey, if I don’t submit anything, it means I support everything—there were a lot of those—we (Cheryl and I) stand completely behind a designation of strong support but significant opposition. To put it at divergence is saying that there’s no strong feelings in any direction. It doesn’t mean that there’s a strong vocal minority.

So that’s how we came to it. I stand completely behind it. I don’t know if Cheryl wants to add to that before I go into the next question. Cheryl, do you want to add?

CHERYL LANGDON-ORR: No. I’m going to stand with you on this. I do want to make sure everyone also realizes this was a very long and detailed conversation that we had not just between Jeff and I but we also did it with the rest of the leadership team that had been involved throughout the whole process. So we took other people’s opinions from the leadership team as to whether or not we were being overly or underly cautious. We’re confident that we can argue that strong support but significant opposition is the appropriate designation, as opposed to dropping it down to divergence.

But from that point of view, we certainly only worked on a 40 to 50—certainly not what was in the wiki. So, if we led you to believe that when we talked about 35 [in the] previous presentation, that certainly was not our intention. That’s certainly not what we did. Thanks.

JEFF NEUMAN:

Thanks, Cheryl. Let me just comment on the leadership team because that we didn't really go into that. The leadership team, with Cheryl and I as Co-Chairs—I think it worked well in this case ... There were initially three. A third person had to drop off, but then it was down to ... Actually, at first, it was Avri and myself, and then Avri went to the Board, which I think was great. Then Cheryl came in as the Co-Chair. For our situation, it made a lot of sense. We can talk a long time separately about why this took so long. It does not have to do with the leadership in this particular group.

What Cheryl and I did or Avri and I did initially was to create work tracks because we had more than 40 different topics in this one PDP. We created four—that became five—work tracks. For each work track, we had one or two leaders. So we had Christa Taylor and Karen Day and Robin Gross and Michael Flemming, Rubens Kuhl, Olga Cavalli, Javier Rua, Annebeth Lange, and Martin Sutton, who all played key roles on different topics. Many of them were on the leadership call [inaudible]. When we were determining consensus, as Cheryl said, we did seek their views as well to keep us honest. I think it worked out well.

So I know PDP 3.0 recognizes some other models, but I think PDP 3.0 is also fairly flexible and does not have a predetermined structure for future PDPs. And I think this one worked well.

FLIP PETILLION:

Thank you. Maxim, does that give you some comfort on your question.

MAXIM ALZOBA: Thank you for answering the questions. Indeed.

FLIP PETILLION: Thank you.

MAXIM ALZOBA: Thanks.

FLIP PETILLION: Thanks, Maxim. If you can lower your hand, please. Thank you. I will now pass the floor to a gentleman who was very heavily involved in the previous round, Kurt Pritz.

KURT PRTIZ: Hi. Thanks very much, Flip, and thanks to you all for this presentation. I'd like to draw a distinction between the different types of inputs that the working group provided, particularly to distinguish between recommendations and implementation guidance. I take recommendations as the parallel of consensus policy recommendations, although they're not consensus policy because they only apply to these new gTLD applicants and new gTLDs. So, in effect, when the council approves these recommendations, they go on to the Board, the Board approves them, and they have a contractual effect. I'm just checking to make sure that's right.

But, secondly, with implementation guidance, in the previous round that was more or less considered to be advice to the implementers. The Board is going to do what the Board is going to do, but what was the working group's expectation? If there's consensus behind implementation guidance, does that mean this is the way that this is going to be done when implemented? Or does it mean, "We talked about this quite a bit, and we think you really should go about this way and consider that as you go forward"? Is the implementation guidance for the Board to say, "This shall be done," or implementation guidance advice to the implementor to take into account when they're putting together the final version of whatever the guidebook is? Thank you.

FLIP PETILLION:

Thanks, Kurt. I think, Jeff, I will pass the mic to you. But I think that it's actually the latter. I think I was actually inspired by experiences that people had in the previous round. When you look at the full consensus on some implementation guidances, I think that shows that there was a kind of an agreement that actually, in view of what was experienced in the past, this guidance would be logical, would be expected to be implemented. But, Jeff, please contradict me if I'm wrong.

JEFF NEUMAN:

No, no, no. We looked at it a little bit differently, Kurt. We looked at recommendations and also affirmations because they're basically the same. It's just that affirmations are just affirming something that happened previously that we think is good to continue to happen, even if it wasn't documented.

We looked at the recommendations as the policy, the “what”—what is the goal, what are we trying to achieve, what is it that we really want to happen—and the implementation guidance as the “how”—how can we make that happen?

So it wasn’t the distinction that you were making of things that have consensus and things that don’t. It’s more “This is the overall goals of what we want to happen [on] the recommendations.” And the implementation guidance is how we as a working group believe that that needs to happen.

We want to emphasize that, on the implementation guidance, although it doesn’t have language like “must” or “shall,” it really is the view of the working group that those actually be implemented in the way that they’re written, except we recognize that there could be information we don’t have or other very valid reasons to implement that particular thing in a slightly different way but achieving the same goal.

So it’s not really for the implementors to go, “Okay. Well, we’ll accept the recommendation. But—pfft—implementation guidance? Whatever.” No. We really wanted and strongly recommend that the implementation guidance be put into place unless there’s a valid reason not to, and then, if there is a valid reason not to, to still look at what the guidance was trying to achieve and implement it in a way that would have similar results. So hopefully that makes sense.

FLIP PETILLION: Yeah. And I would like to stress that this PDP working group was especially chartered not only to focus on recommendation but also on implementation.

JEFF NEUMAN: Yeah. That's a great point, Flip. In the charter itself, it told us not only to look at policy but also look at processes, procedures, and [inaudible]. So this was a weird PDP in the sense that it was not just policy.

FLIP PETILLION: Yeah. Before moving on, Kurt, is that giving you an answer to your question?

KURT PRTIZ: Thanks very much for that.

FLIP PETILLION: Thank you. Anybody else who would like to raise a hand now before we go to the next point, which is actually a focus on the topics that require further discussion?

So, if there are no hands, please, Jeff and Cheryl.

JEFF NEUMAN: Sure. The first thing want to say is that, although we've labeled these as topics that may require further discussion, none of these alone, or even all of them combined, should not be any reason

why the council shouldn't move forward. Sorry. That's a double negative. None of these should block moving forward with the implementation of the program. So although we still have these four things, it's our view, anyway—of course, the council is the ultimate decider of what to do with it—(the leadership view) that the report should still be forwarded to the Board. Then these issues, to the extent that they're issues, can be worked out during the implementation process.

The first one there is mitigating DNS abuse. Now, we know this is an important topic to the community. Believe me, we've heard you. We've heard the many calls from the GAC and the ALAC and from the BC and the IPC and a lot of others that want to resolve DNS abuse in the community. But as you saw in a letter we submitted to the council in July—June or July of last year, I believe it was—we (the leadership team and the working group) believe that this is not just an issue for new gTLDs. In fact, I like to say that 100% of the current abuse going on is actually only with the incumbent TLDs. By definition, it has to be, right? Future TLDs haven't been launched yet.

So this is a problem. To the extent it's an issue and a problem that needs to be resolved by the community, it needs to be a holistic one that looks at not just TLDs that will be introduced after 2023, let's say, but TLDs that have already been introduced. And there are many things already happening in the community on this topic. Rather than develop policies with respect to future TLDs that won't be introduced for several years, we took the approach that this is something that needs to be resolved by the community to the extent that the community believes it needs to be resolved.

So that's one of the topics. And we know not everyone outside of our working group agrees with that, but that did at least get consensus within the working group.

Towards the end of the process, there were questions submitted from the ICANN Board as to whether we, the working group, considered the issue of whether, on public interest commitments or what we're calling also registry voluntary commitments, for those that are introduced by registries themselves, ICANN could enforce those in line with its 2016 bylaws. So the bylaws changed from what they were when the 2012 round began. In fact, the 2016 bylaws, which they're currently operating under, does grandfather existing public interest commitments. But other than that, it has got some language in there that tightens up the

mission of ICANN.

So the Board did not opine. It did not say, "We don't believe this is in line with the current bylaws." It asked the group whether we considered those issues.

So we did consider those issues, but at the end of the day—there were and are some working group members that don't agree—we believe that this is really an issue for the entire community and really for the ICANN Board itself. The way we viewed this final report section on public interest commitments is what we as a working group would like to see happen if we can do it under the current bylaws.

Now, if the ICANN Board decides that the bylaws does not allow it to be done in exactly this way, then the Board should, at least in

our view, then send instructions back to the GNSO to say, “Look, we hear what you’re saying. We don’t agree. This is why. This is how you need to change things in order to be in conformance is with the bylaws.” But at the end of the day, we as working group within the GNSO do not have the jurisdiction to decide what is and what is not allowed under the ICANN bylaws. That is a determination for the Board. While some members of the working group wanted to more fully discuss this, at the end of the day, Cheryl and I and the leadership team decided that we were not going to get to a definitive answer and, even if we did, it would not be in any way binding or even have any weight with the Board, who’s the one that makes the ultimate decision.

So this is a topic that I’m sure will come up, but the way to view this section is what the working group would like to see happen if it’s possible. And many do, by the way. There are many groups that believe that it can be achieved under the current bylaws. And there’s some groups that don’t believe. But, again, that’s a topic that needs to be discussed but really—this is a personal view—needs some direction from the Board. The Board really needs to not just ask questions about it, but if there’s a concern within the Board that they cannot do it this way, then the direction needs to be set by the Board.

So that’s the second one. I know there’s going to be questions about that, so I’ll try to go a little quicker.

Closed generics. As Flip said, there’s full agreement that there’s no agreement. What you’ll see in the report is an overview of the different positions that were expressed. It’s our view (the leadership’s view)—and what it says in the text—that, if the Board

does, for whatever reason, not want to make a decision and wants to send the issue back, it should do so with clear instructions as to what it would like to see. In other words, does the Board accept the GAC advice that closed generics need to serve a legitimate public interest or does it believe something different?

This is to try to go one of Maxim's questions from last time. We also recommend that it be an independent group because we know there are strongly held views on each side of this issue by those that have interests in this issue. In order to get an actual resolution to this, it was our view that, if you just sent it back to another PDP, the result is going to be exactly the same. So, if for whatever this reason needs to be addressed, it needs to be done in a different way.

Finally, mechanisms of last resort. Maxim did touch on this topic a little bit. There was fully consensus on a number of different areas. There's full consensus that, at the end of the day, if contention sets can't be resolved in any other way, an ICANN auction of last resort is the appropriate way to resolve the contention set.

There's also consensus that applicants should have some private mechanisms to deal with contention sets like forming joint ventures, [vining] bids—other ways that would be constructive to resolve those contention sets.

Where there is some significant opposition, I should say, is the notion of allowing private auctions to move forward. So that's the reason why this was labeled as strong support but significant opposition.

I'm sorry. There is one more element. There are some recommendations in there for a sealed bid auction rather than the escalating Dutch auction—I think it is—that was used by ICANN, where a sealed bid would be submitted towards the beginning of the process. That sealed bid process, too, is one of those areas that had strong support but significant opposition. That was not a consensus recommendation.

So I'll stop there because I do want to save some time. Thanks.

FLIP PETILLION:

Thank you, Jeff. Actually, it's eight minutes past the hour, so we have a bit more than 20 minutes for questions.

I don't see hands up for the moment.

JEFF NEUMAN:

There's something in the chat from Carlton on the DNS abuse. Carlton points out that the CCT—that's the Competition, Consumer Trust and Consumer Choice—review team and WHOIS 2 review team both came out with recommendations to address DNS abuse. We acknowledge that in our report, just as we acknowledge that it's an important subject. But, again, I feel like that's something that needs to be addressed in a holistic fashion communitywide as opposed to just in the new gTLD process.

FLIP PETILLION:

Thank you, Jeff. Excuse me. I didn't see that there was a hand up in the attendee section. So I looked at it and saw a hand from Paul. Paul, please.

JEFF NEUMAN: I don't know if we're able to give Paul ... Are we able to let Paul speak?

FLIP PETILLION: Oh.

JULIE HEDLUND: No, Paul is not able to speak, but he says that the question is in the chat. He also says that it's in the Q&A pod, if you'd like to look there.

JEFF NEUMAN: Okay, cool. I know this is a setting, but can we make the Q&A pod visible to everyone? Because I know that sometimes it's not always visible.

So Paul says, "@Jeff. Not accurate about there not being consensus around the continued existence of private auction, or else Recommendation 35.5 would make no sense. That recommendation clearly mentions private auctions."

If you look at that, Paul, there was strong support but significant opposition to that section, 35.2, I think, which mentions private auctions. The rest of that 35.2 does have consensus, and it's just because it mentions the term "private auctions" that it was downgraded from consensus to strong support but significant opposition. So hopefully that clears things up.

Then Paul cites 35.5. There is, in there, a recommendation that applicants resolving string contention must adhere to contention resolution transparency requirements as detailed below. And that does mention auctions, Paul. The reason that mentions auctions and why that had consensus was, to the extent that private auctions were allowed—we're not saying that that have consensus; that private auctions would be allowed—that then these transparency requirements that relate to private auctions would have to be followed.

So that was the logic as to why 35.2 has strong support but significant opposition but 35.5 had consensus. So that was the view of leadership.

Paul says in the chat, "There is no recommendation prohibiting"—correct—"private auctions at all. To the contrary, there's no recommendations saying that we should have it. It's one of those areas that I'm sure, as we implement this, questions may come up around.

But I agree with the statement that I think Kurt made in the chat that it's our belief, leadership's view, that these issues can all be worked out during implementation and should not stop the final report from going to the Board and either starting the ODP process or some sort of implementation work.

FLIP PETILLION:

Yeah. Thanks, Jeff. Paul, your hand is still up, but I assume that this is the current hand. Thank you, Paul.

Anybody else?

We have Kurt Pritz.

JEFF NEUMAN: Sorry. Amr—I’m sorry I’m butchering your name—has got a thing in the Q&A. Was that responded to?

CHERYL LANGDON-ORR: Yeah, I responded to that. I did a typed response to that, Jeff.

JEFF NEUMAN: Good. Awesome. All right. Thank you. All right, councilors. This is your chance. Ask us questions.

FLIP PETILLION: Kurt has a question.

FLIP PETILLION: Perfect.

KURT PRITZ: Well, I don’t know. It’ll be less than perfect. This sort of gets to the close. I made a comment similar to this in the last council meeting when we received and voted on the RPM report. That is that I think we all agree that that [these sorts] of things can take four or five years and that the ICANN model can succeed with that. We should think about—and you as leaders—how to combine with the leadership of RPMs and other PDPs perhaps to develop a set of recommendations for how we can better manage this going

forward, either with the setup or the rules or the population of the crew or something like that. I'm certainly not saying that this could have been better done, given the cards you were dealt, the charter you were given, and the formation you had. Any wisdom here is in hindsight.

So that's exactly what we need to capture in some way—the hindsight wisdom that we've gained—so we can improve the process in some way. So we have to think about a way to economically but effectively capture everything you've learned and all the opinions I think you've developed thinking about this when you weren't sleeping at night. Thanks.

JEFF NEUMAN: Thanks, Kurt. One of the—

CHERYL LANGDON-ORR: Could I jump in?

JEFF NEUMAN: Go ahead.

CHERYL LANGDON-ORR: Thanks, Jeff. Kurt, Jeff and I and the rest of the leadership team will, I'm sure, be more than happy to share whatever hindsight and wrought-out wisdom that may occur because the situation ... It has actually been an honor and a privilege to work as a pre-PDP 3.0 and in transition through the development of 3.0 and indeed finish our operation under PDP 3.0. So, yeah, I think there's a lot

that council could pick our brains for. But that's kind of not what we're doing here for this webinar, so I think we should be absolutely available to do just that. But on the short version—I'm sure Jeff will [follow me] as well—it really would come down to chartering and design that would have made a difference to our work or the way we had to approach our work and the time that quite rightly was taken getting our work to the state it's in.

But, Jeff, over to you.

JEFF NEUMAN:

Well, I agree with all that, but I do want to also cover something that ... We got full consensus on the recommendation that there not be these stops and starts to future rounds, that future rounds be done on a predictable basis, and not have a round, stop for ten years, review it, and then have another round. We've built, in the predictability framework, ways to address issues as they come up, even if the resolution of those issues doesn't have effect until the next round.

So specifically with respect to new gTLDs, hopefully we won't have to have a comprehensive, overarching PDP on new gTLDs but perhaps on specific issues that either can't be resolved through the predictability framework or are meant to be resolved, because they're policy, through individually tailored PDPs.

So this process, for as many years as it has taken--yes, we had many sleepless nights—at the end of the day hopefully won't have to be repeated in this way because of the framework that we lay out for future changes to the program, which should also help for

predictability—applicants that may not be ready to apply in this next round can have some assurances that there will in fact be another round a year or two or whatever it is later. So that’s a very important aspect that did get full consensus within this final report.

FLIP PETILLION:

Thanks, Jeff. I’ll give an opportunity to everybody to think of any other question they have in mind. I’ll take the time because I forgot at the beginning. I discussed my views on the impressive document that was produced by the team, but I forgot to thank so people, and I should. I will do that in alphabetical order. I should thank especially Emily Barabas, Julie Hedlund, and Steve Chang, who have been continuously present, open for discussions, extremely helpful, very efficient, and fast. So please join me in thanking the team from ICANN because, without them, we wouldn’t have done it.

JEFF NEUMAN:

Completely agree, yes. Absolutely. David Olive is on this call, so I’m glad he’s hearing this. You have an amazing team that we could not do anything of this without.

DAVID OLIVE:

Thank you, Jeff and Cheryl and Flip. I’m hearing it. Thank you so much.

FLIP PETILLION: Thank you. We have another ten minutes, so if anybody has another question ...

Otherwise I would invite Cheryl and Jeff to ask them if they have anything they want to add.

Cheryl, you're [muted].

CHERYL LANGDON-ORR: No, no, no. Nothing from me, Flip. But I'm going to beg off. I'll be listening, but my granddaughters are starting the first day of school in both high school and big school. So I'm going to turn around and see little girls in uniform. So I'm still listening, but just thanks to all the amazing leaders, the co-leads, the work track leads, and especially to Avri, who worked with Jeff before I stepped in. They really set the foundation for what has been a fabulous five years of work.

JEFF NEUMAN: Thanks, Cheryl. I as well. A huge thanks to Avri, who not just was one of the Co-Chairs of this group but then went on to the Board, is playing a very active role for the GNSO, and is one of our liaisons from the Board on this, along with Becky. I cannot emphasize enough how great it is to have members of the Board that understand the GNSO processes and understand all the issues. I cannot imagine what Avri and Becky's life has been like trying to bring the rest of the Board up to speed on all these complicated issues. So a huge thanks. And also to, of course, Terri and Julie and Michelle and everyone else that has helped us with all these calls. I don't know exactly how many conference

calls there were over five years, but we also have spent thousands of hours on this stuff.

CHERYL LANGDON-ORR: Oh, yeah.

JEFF NEUMAN: So thank you to everyone. And let's get this moving to the next stage.

FLIP PETILLION: Yeah. Thank you, everybody—

CHERYL LANGDON-ORR: Jeff, can I ... Just one thing. I want to thank our current liaison. We had several liaisons through this process, and they've all been fabulous. But, Flip, it has been an absolute joy to work with you. You've kept a real overview, an independent but trusted set of watchful comments that you've made. You've turned up and have been part ... If anyone asked you what we did and when we did it, you would know because you were there. You've been an integral part of the process, and I think you're an example ... And how you've conducted your GNSO liaison to our very complicated PDP should stand as a benchmark because it has been fabulous. And I hope we haven't been too difficult to work with.

FLIP PETILLION: Thank you, Cheryl. You're too kind, as you know.

Thank you, everybody. I don't think we have any other questions, so thank you for your time. I'm looking forward to the next step for this one. Thank you to everybody who organized this. This ends our webinar. Good night.

[END OF TRANSCRIPTION]