ICANN Transcription

IDNs EPDP

Thursday, 08 September 2022 at 13:30 UTC

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

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

DEVAN REED: Good morning, good afternoon, and good evening. Welcome to the IDNs EPDP call taking place on Thursday, 8th of September, 2022 at 13:30 UTC. We do have apologies from Lianna Galstyan, Farell Folly, Satish Babu, Jerry Sen, and Nigel Hickson. Maxim Alzoba will be joining us later. All members and participants will be promoted to panelists for today's call.

Members and participants, when using the chat, please select "Everyone" in order for everyone to see the chat and so it is captured in the recording. Observers will remain as an attendee and will have "View Only" chat access. Statements of interest must be kept up-to-date. If anyone has any updates to share, please raise your hand or speak up now.

If you need assistance updating your statements of interest, please email the GNSO secretariat. All documentation and

information can be found on the IDNs EPDP Wiki space. Recordings will be posted shortly after the end of the call.

Please remember to state your name before speaking for the transcript. As a reminder, those who take part in the ICANN multi-stakeholder process are to comply with the expected standards of behavior. Thank you, and over to our chair, Donna Austin, please begin.

DONNA AUSTIN: Thank you, Devan, and welcome to the call, everybody. This will be our last call before ICANN75. The leadership team is in the process of doing some preparation for that meeting. Loosely, what we think we're going to cover is what we've referred to as a chunking exercise. So that's where we're going to split our work into two parts to accommodate the work that the CPH tech ops group is going to do on the same entity principle at the second level.

So we discussed this a little while ago that we'd look at separating the work into two parts so it would allow us to complete a lot of the questions and put out a draft report on phase one or on top-level related issues, and then secondary would do the second-level issues. So we'll give you a bit more information about that at ICANN75.

We're also investigating the possibility of getting -- ICANN has a risk management person, and as a little bit of a pilot exercise, we're investigating whether we can have some time with that person, well, this group can have some time with that person, so

we can get an understanding of what risk assessment is and analysis and what are the tools you need to undertake that?

So, we wouldn't be using someone to do a risk assessment of our recommendations or anything like that, but it's just using their knowledge and expertise to help us. When we are thinking through some issues, we often hear that somebody will say, well, that's just an edge case issue, it's not going to be something we need to worry about.

It should give us the tools to be able to work that through to see whether something is actually an edge case, and if it is an edge case, is it something to be concerned about or are there real risk attached to it? So we're investigating that, and if we decide to go ahead, we might spend some time on that at ICANN75 as well.

The main topic or issue, the main thing we're going to do at ICANN75 is Ariel and Steve and Emily have been doing some really nice work on taking the new gTLD process flow and marking where -- Sorry, guys, did you just lose me?

JEFFREY NEUMAN: You're back. Yes, we lost you.

DONNA AUSTIN: Devan, can you hear me?

JEFFREY NEUMAN: We can hear you now. We just lost you for a minute.

DEVAN REED: Yes.

DONNA AUSTIN: Okay.

DEVAN REED: We just lost you for --

DONNA AUSTIN: My phone dropped out, so I'm back on the laptop. Okay. So I'm not sure where I got to. So we're going to do a bit of a mapping exercise with our recommendations and the new gTLD processes just to see where our recommendations fit and see whether there's something we've missed or whether the recommendations make sense or need adjustment. So that will be the bulk of what we're talking about at ICANN75.

So, Justine says I sound much clearer, so that's interesting. All righty. So any questions on that before we, or Steve, Ariel, anything you wanted to add? Okay. All good. All righty. So, with that, I will hand it over to Ariel and we'll push on with today's call. I think primarily we're reviewing language, and then we'll look at -- or are we looking at the objection stuff first, Ariel? Sorry.

ARIEL LIANG: This is Ariel. We're going to look at the language first and the main input. So it's the draft recommendation and implementation

guidance related to group three charter questions and specifically, it's D2, D2, and also E2 and E3 -- oh sorry, E2 and E5. So these are the draft language that was circulated, and then we received input mainly from Dennis and Registry Stakeholder Group, so we'd like to go through these comments and then hopefully Dennis could provide further clarifications if something is not obvious to us how to make the edits. So that's the plan.

Then, time permitting, we can go back to the objection process recommendations from the small group, and then see whether the full EPDP has any agreement on those recommendations. So yes, and that's the plan. I guess I can just proceed to the draft recommendation language review.

So D2, the recommendation itself, so this is about the registry transition process. I guess there's several sub items related to that, and thank you, Emily for putting the link in the chat. For the recommendation itself, there's some comments that we have received. The main comment I think from Sarmad is that we need to make it clear that the transition of gTLD and all its variants should be down at the same time. That's the main comment from Sarmad, although it was implied in the answer to the draft question.

Sorry, I was getting distracted by some comments that I think I need to view in. So, yes, even in the draft answer to the charter question, we did say that the transition needs to be done at the same time, but that wasn't reflected in the recommendation language itself. So Justine has made some edits in these recommendations to put at the same time in red lines.

So if you see it on the screen, you'll see at the end of the three recommendations or four, actually, three recommendations she added at the same time at the end. So that's one main comment, and then there's some other comments from Dennis.

So the first one, Recognition 3.4, in the event a registry transition will change of control process is initiated for an IDN gTLD, the process must encompass the IDN gTLD and all it's allocated and/or delegated varying gTLDs if any, at the same time. Then, Dennis said, "Should we consider not allowing any new activation request of allocatable variant TLD labels during any transition until the process is completed, after which the successor Registry Operator would be the only Registry Operator entitled to activate any new variant labels?"

I think Dennis is suggesting that we perhaps include another recommendation to clarify that these activating allocatable variant labels is not allowed until the transition process is completed. I think that's-- oh, and I see his up, so I'll stop here. Dennis, please go ahead. Dennis, if you're talking, we can't hear you.

DEVAN REED: Hi, Dennis, if you're talking, you may be double muted. We see you're connected on a phone line, so you might be muted on the phone and need to press "*6."

DONNA AUSTIN: Okay, so Dennis is going to call back in. Does anyone else have any comments on this or are folks generally okay with the addition by Justine to address Sarmad's concern, so the addition at the

same time? Is there any concern about that? Okay. Alrighty. Over to you, Dennis.

DENNIS TAN TANAKA: Thank you, Donna. Can you hear me now?

DONNA AUSTIN: Yes, we can.

DENNIS TAN TANAKA: All right. Good. So I'm now re-reading this observation of mine and I'm reflecting, and maybe this is contingent to how a Registry Operator applies to the allocatable variants.

I think I remember my recollection is that the applications are going to be, or are expected to be in rounds, and so that will foreclose in some way that a [inaudible - 00:13:15] in the transition process will not be able to apply for a new one because no new round would be available to it.

If that's the case, then I think we cannot worry about that case, but if we are thinking a different thing about activation of barriers, then we might want to close that loophole in a way. Just wanted to put that context in there. Thank you.

DONNA AUSTIN: Thanks, Dennis. So one of the things that struck me when I read this again just now is it's allocated and/or delegated variant gTLD

labels, so we have variants that are allocatable, we have variants that-- and allocatable variants can be applied for.

Where I got a little bit confused here is allocated and/or delegated variants. So, is that part of what you are getting at? Is there a distinction here between the allocatable variants that are attached to the source label, and those allocated labels that have actually been applied for? Is that what you are getting to?

DENNIS TAN TANAKA: Yes, so that's it, because it's just us to ensure that-- ICANN is a big organization, and I think at some point IANA comes into play when the allocation delegation piece comes to it. So, I understand what you're describing.

The allocated is already assigned to the Registry Operator, but then the activation part of it-- I mean, the delegation part of it, it runs in a different process, and so, just to make sure that everybody's talking cross-functionally, I guess. Maybe I'm just overthinking it too much, and this is just me being extra careful.

Again, this is for consideration, I'm not suggesting any language. I just thought that there might be some aspect that we want to be careful in that regard. Again, there's a lot of assumptions here, but just maybe as we go through the anticipating workflow, that might become clear.

DONNA AUSTIN: Okay.

DENNIS TAN TANAKA: I hope that makes sense, Donna. Thank you.

DONNA AUSTIN: Yes. Thanks, Dennis. Maxim, and then Justine.

MAXIM ALZOBA: Maxim Alzoba for the record. Do you hear me?

DONNA AUSTIN: Yes, Maxim.

MAXIM ALZOBA: I support the idea of activation of allocatable variants for the following reasons. It allows to use both round mechanism, and if it's approved, then some kind of fast track analog of what we saw in ccTLD world where -- ccTLDs were allowed to activate their ideas for their ccTLDs. Here, we use neutral language, allowing both mechanics, whichever is approved or both. Thanks.

DONNA AUSTIN: Thanks, Maxim. Justine.

JUSTINE CHEW: Yes, thanks. This is Justine for the record. I think Dennis brings up an interesting point, and I suppose my thinking now is he could be right that maybe we should look at the process flow to see

whether it's needed, but in the interim, I think there's no harm for us to just make a note of something to the effect of -- and I think the situation actually applies not only to the transition process, but also to the reassignment due to the trademark PDDRP determination, because in both cases, we might be suggesting that only the successor RO and the assignee would be able to apply or to request for activation of allocatable variants that are not yet delegated or not yet requested for.

We might even want to think about whether we need to cater for the situation in the case of a request for activation that has not been completed, and then something happens to force the registry transition or a reassignment, then should we even suspend that application to request to activate for the time being until such time, then it be resumed by the successor RO or the assignee. Thanks.

DONNA AUSTIN: Thanks, Justine. So I think effectively what we're trying to say is that during a registry transition or a change of control process, everything is frozen, so until the registry transition is complete, a request to activate a variant that hasn't been delegated yet, or allocatable variant that hasn't been applied for yet can't happen for the new operator until the registry transition is complete.

So, Justine, I think I agree with you. I think we need to capture this somehow and just put a pin in this, and as we work through the- excuse me- the process flow will try to flesh this out a little bit. Is that okay with you, folks? Maxim, see your hand is still up? Is that a new hand or an old hand? Okay, thank you. Alrighty. Thanks, Dennis. Back to you, Ariel.

ARIEL LIANG: Sounds good. Thank you, Donna, Dennis, and everybody for the comment. So I guess maybe we can work in the background and see whether the 3.4 needs to be expanded, or we need to create a separate recommendation to capture that point, but we can figure it out with the leadership team after the call.

So the next comment I think we have already addressed, that's regarding adding at the same time, and I'm just trying to click through and I think, yes, Justine has the comment here for 3.5, "After the registry transition process is completed for an IDN gTL D and is allocated and delegated by an IDN gTLD labels, only the successor Registry Operator can apply to activate the other non-delegated allocatable variant labels of the IDN gTLD label."

Then, she's wondering whether we need to mention change of control in this, so just to be consistent. So I guess just add after registry transition process, this highlighted phrase, add, or change of control process. So I think just to be consistent with 3.4. Justine, please go ahead.

JUSTINE CHEW: Yes, that's essentially what I was going to say is just that in recommendation 3.4, you had the phrase registry transition or change of control process, so I was just wondering in recommendation 3.5, because it's a follow-up from 3.4, why the change of control process phrase has been dropped? That's all. Thanks.

DONNA AUSTIN: Thanks, Justine. Makes sense. Sorry, Ariel.

ARIEL LIANG: No, just, I think when I research about this subject, I understand change of control is one type of the registry transition process. I think it's more like intentional with a non-successor Registry Operator, so I thought using registry transition process will encompass this aspect of change of control, but for the sake of consistency, it won't hurt to add that additional phrase with 3.4. So I agree with Justine's suggestion.

DONNA AUSTIN: Thanks, Ariel. Maxim.

MAXIM ALZOBA: Maxim Alzoba for the record. I think both variants can be right, because at any moment of time, TLD has only one registry. When it's allocated after the application process or some other process, it's a registry even if TLD is not in life condition from the contractual perspective. After transition, it's a new registry, you may call it successor or just a registry operating TLD or having rights for that. Thanks.

DONNA AUSTIN: Thanks, Maxim. Okay. So I think we just include or change of control in 3.5 for consistency.

ARIEL LIANG: Yes. Thank you, Donna, Maxim, Justine. So, this is clear with regard to what you added and I think that's it for this part of the draft text. I think we can move on to these three. This is about the data escrow policies with requirements. So there's some edits from Dennis and Registry Stakeholder Group. So the draft answer to the charter question, there's some edits here.

So Dennis proposed that we write it as that data escrow policies. I think he has a question whether it should be policies or requirements, that we need to be precise in the language here. Apply to IDN gTLD and corresponding allocated variant labels. Also, Dennis has a comment.

"Is there a possibility that a gTLD is delegated and not allocated? If allocated means assigned to RO via Registry Agreement, then this should suffice as qualifier." Also, Justine wrote that, "Need to revisit the label states charts, although we have been using allocated and delegated throughout for now."

That's indeed right, which is right, allocated and delegated to encompass the both type of variant in that state. So that's what we try to do consistently throughout the draft language, but happy to hear other input. Also, I just want to note, I posted the definition of allocated in the chat, and so it is the, I guess, interim step for gTLD to be delegated in the DNS.

Then, for ccTLD, it can remain in the allocated state for a long time until delegation. For gTLD that duration may not be long, but this is an interim step before delegation, so I just want to note that. Then, Dennis, I see your hand up, please go ahead.

DENNIS TAN TANAKA: Thanks, Ariel. I think it's not faster typing on the chat box. So, it's the question on-- and I agree, we have to use allocated/delegated throughout different conversations, but let us be careful on when we are applying obligations on Registry Operators via the Registry Agreement.

The question is, at what point the operator becomes liable and required to conform the obligations on the Registry Agreement? I think it's at the point of allocation where once the Registry Agreement is signed, doesn't matter when the delegation happens, once the Registry Agreement is executed, the Registry Operator needs to start complying with the investigation requirements or whatnot. Does that make sense?

I think that's the suggestions I want to make and not introduce a different nuance as to, oh, it's not delegated, so I don't need to submit the data escrow files and whatnot. So that's the nuance and specificity that I just want to clarify. Thank you. Hope that makes sense.

DONNA AUSTIN: Dennis, just a question to clarify. So in your mind, even if the variant label isn't delegated, the data escrow requirements would still be applicable to the allocated variant labels even though there may not be anything in there might be blank? Cause

DENNIS TAN TANAKA: Yes, there are a number of -- even if delegated, but not taking registrations, the registry operator needs to file all the reports that is required on the Registry Agreement. So, that's the differentiation.

DONNA AUSTIN: Okay. Just on the suggestion of requirements as opposed to policies, I think that makes sense because policy has a certain connotation within the ICANN space. So if we say a requirement as it is in the Registry Agreement, rather than policy, I think that probably makes sense if that's what you're getting to.

DENNIS TAN TANAKA: Yes, Donna. Again, that is a, yes, the Registry Agreement does have a specification too on data escrow requirements. I was looking for data escrow policies. I could not find, but I could stand to be corrected. Yes, I think what we're looking for here is the requirements as we're talking about the data escrow deposits and so on and so forth.

DONNA AUSTIN: Okay. Thanks, Dennis. Michael, I saw your hand up, but it's gone away. Is there, sorry, anything you wanted to say?

MICHAEL BAULAND: No, I'm fine. Thanks.

DONNA AUSTIN: Okay. Thanks, Michael. Justine, did you want to make a point about the allocated label, the delegated label must be an allocated label, but not vice versa?

JUSTINE CHEW: Yes, sure. It was just in response to Dennis' question about whether there's a possibility that the gTLD is delegated and not allocated. I was just responding to say that, no, delegated label must be an allocated label, but not necessarily vice versa, because obviously there's a difference between allocated and delegated. I actually had a question, if I may.

Can someone confirm again, when does, just not in the context of variants, but just in context of like the TLD now, gTLD, when does data escrow obligations actually kick in, at the point where it's delegated into the root or delegated in terms of legally?

DONNA AUSTIN: I think Dennis said when the Registry Agreement is signed because that's when you have a contract with ICANN, it kicks in then. Maxim, did you have something to add on that?

MAXIM ALZOBA: It's Maxim Alzoba for the record. From the last round, ICANN Compliance enforced the escrow obligations when the record was in the file zone. So, there was some delay caused by name collisions where effectively Registry had no records, but the trap for the mistakes, et cetera. Yes, basically when it's in zone file. Thanks. When it's in IANA.

DONNA AUSTIN: So, Maxim that's different from the signing of the Registry Agreement, that's sometime after, so Justine's asking, so that means when it's delegated?

MAXIM ALZOBA: It has to be delegated because delegation is when you see it in DNS, it's the process of delegation. So, you have situation where it's allocated to a Registry because some party has a contract with ICANN and called Registry after that, then it's activated after the procedures of ICANN and IANA, and then it's delegated by, yes, IANA. That's it. ICANN enforced the provisions for escrow after the moment of delegation.

DONNA AUSTIN: Okay. It seems we have a difference of opinion between Dennis and Maxim. Is that correct, Dennis?

DENNIS TAN TANAKA: No, actually the same. I think we just need to pick one, which is, I think, based on Maxim's delegation, or maybe we don't even have to-- if we're not sure how the Registry Agreement remains enforced, but just a point that the data escrow requirements apply to all [00:34:23 - inaudible] TLD, and that's it.

Let's not confuse ourself with at what point the Registry Agreement requires compliant, that's the Registry Agreement, so whenever that happens, that happens for not only the applied for,

but all the allocated/delegated [00:34:39 - inaudible] or all the TLDs that apply in the Registry Agreement.

DONNA AUSTIN: Okay. All right. So, I think on this one, we change policies to requirements, and then obligations. Requirements or obligations, does anyone have a thought on that? Maxim.

MAXIM ALZOBA: Maxim Alzoba for the record. From the operational perspective, escrow is the process which saves data in case a Registry or a Registrar is going to just out of business, two different kinds of escrow. So before zone has anything, there is zero value in those files because they contain nothing, and there is zero risk if even it's not uploaded or lost because you have just zero contents. Thanks.

DONNA AUSTIN: Okay. Thanks, Maxim. Ariel has put that data escrow requirements is actually in the spec of the Registry Agreement, so I think we go with that. More consistency we're going to have, the better, so we'll change that. Any objection to -- actually Ariel -- no, it's alright. So, we have a bit of a difference of opinion here between Michael and Maxim, and potentially Dennis, about allocated and delegated.

So Maxim and Michael are saying that the requirements only kick in once the labels are delegated, but I think how does that hold up given that we've agreed that it will be one Registry Agreement for

the primary source label and any variants. So, that would require a change to the contract. Michael.

MICHAEL BAULAND: Yes. Thanks. Michael, for the record. Could we check somehow for certain how it was done during previous round, whether TLD that got allocated, did they already have the obligation to send escrows or did the obligation only start when the TLD was actually delegated to the root zone?

Because I think we should just stick with the same procedure, and I believe, but have no hard proof that it was, as Maxim said, that the escrow was only required after delegation during last round, and then we should keep it the same way now with variants. Thanks.

DONNA AUSTIN: Thanks, Michael. So, Dennis has suggested in the chat that perhaps we just do away with the allocated and delegated all together, and it's just the operator needs to comply with the data escrow requirements for all labels in the variants set. Does that work for folks? I also just wanted to draw your attention to the fact that what we are talking about here is what the -- it's not recommendation language. It's what the team agreed to.

So it's an the intent of this part was just so that we have a high level of understanding of what our general agreement was. So it's not a recommendation, so it's just what helps us in recollecting what we've agreed to. So, what if we just change policies to requirements and keep the rest as it is? Maxim.

MAXIM ALZOBA: It's Maxim Alzoba for the record. Just small note. We have two kinds of situations. First, when the TLD is launched and there is no data in it, no server, nothing, no records, and the second is when there is a transition between old Registry and new Registry. In that situation, before the transition, there is a scroll file of the old Registry and starting, zone file is going to be almost equal because there is going to be change in data sec part of files, et cetera, but its stored and basically, it's an obligation of the Registry. And since new registry signs the same contract, it has the same obligations. So I'm not sure what we're fighting for.

DONNA AUSTIN: Thanks, Maxim. Okay, so, what we're talking about here, just to recall the question, "In order to ensure that the same entity principle is maintained, what are the operational legal impacts to the data escrow policies? I guess, based on that conversation here that probably should be data escrow requirements. So, we agreed that the data escrow requirements should apply to IDN gTLDs and their corresponding variant label set or their whatever.

So I think we can find language that keeps everybody happy. I think we know what we're-- oh, I was going to say, I think we know what we're talking about, but we're getting pretty muddled. Then, is there an issue with the data escrow provider must be contracted by the IDN? Sorry, Ariel, can I hand it back to you?

ARIEL LIANG: Yes. I just wanted note, Justine made a suggestion of the revised language for 3.1 and seems she got some support, at least from Dennis. So I captured it, and we'll see whether that's the correct way to revise that first bullet. Thanks, Justine. Then moving on the second bullet. Dennis suggestion is we changed the word provider to agent because that's how it's characterized in the specification to Registry Agreement, so I guess also terminology clarification then to be consistent with the RA.

So that's the suggestion from Dennis for bullet two. Anybody has objections or you are okay with changing provider to agent? Okay, thanks, Maxim. Nothing other comments, so I guess everybody's okay, so we can make that change. Maxim has some further comment to clarify what the escrow agents is, so yes, thanks for that.

Then moving on to the third. Yes, exactly, Justine. So I guess we can move on to the third bullet. So, it says the data escrow agent, well, we should write that, should store the data associated with each variant gTLD labeling separate files. Dennis is suggesting, "Let's consider to change this to talk about the data escrow files and not the data escrow agent."

So I guess, Dennis, your suggestion is we make this sentencing passive form, so maybe something like data associated with each variant gTLD label must be stored in separate files by the data escrow agent. Is that what you're suggesting? I see your hand up, please go ahead.

DENNIS TAN TANAKA: Thank you, Ariel. Yes, sort of. I think we can remove the conversation about data escrow agent altogether. We care about here is about the outcome, and really what we are saying here is that the specification two of the Registry Agreements, the existing one, it basically give the requirements of how to process is each of the deposits, which are independent. It's consistent with intent, it's just the conversation, how we talk about it.

We don't care how the data escrow agent handles that, we just care about the outcome, which is independent deposit files. Hope that makes sense. It's just the way how we talk about it so that we are precise and not introducing perhaps ambiguous conversation on that. Thank you.

DONNA AUSTIN: Michael.

MICHAEL BAULAND: Thanks. Michael, for the record. So does a Registry Operator have to submit separate escrow files for each TLD or should they submit a single escrow file for all of their TLDs? I don't understand who has to separate the files here. Is it already the operator sending the files or should they be separated afterwards? Because that, I think is of no concern to us at all. Thanks.

DONNA AUSTIN: Thanks, Michael. Maxim.

MAXIM ALZOBA: Maxim Alzoba for the record. If you look in file naming convention in current array, the file, which is uploaded, yes, which is encrypted and uploaded, it is called using the TLD name. All variants have different TLD names. It leads to the logic that it's separate files and since the operation is quite simple, just uploaded to SFTP, there is no reason to upload it as a bunch because you will save few bites, but there is no reason to do that.

It will change procedures from the current ones, and if you leave different files, then you just add a few lines of code and yes, now such Registry Operators will have to upload separate files in my opinion.

DONNA AUSTIN: So, I do remember this conversation when we had it and the point was that the escrow data had to be separated for each TLD. So, I'm not sure what the problem here is with the current language. Dennis.

DENNIS TAN TANAKA: Thank you, Donna. Yes, I don't think it's a problem, and I don't think we need to spend that much time negotiating the language here. The point is that if we are pointing a reference point to the data escrow requirements, the data escrow requirements does not speak to how the data escrow provider handles the device, it's how the Registry Operator of the TLD submits those deposit files, and those are per TLD basis.

So, we just need to focus on that's how the Registry Operator need to submit, and the data escrow will handle those, manage

those, process those, store those after the agreements, which I believe are at some point blessed by ICANN as well.

So it's just that make a position as to who has the obligation to submit the files, which is a Registry Operator on a per TLD basis, and that's it. I think that's what we want to explain here not the processing of the data escrow agent. Hope that makes sense. Thank you.

DONNA AUSTIN: Thanks, Dennis. So Michael had suggested in chat that we change it to the-- replace the data escrow provider with the Registry Operator should submit the data associated with each variant gTLD label in separate files. Does that work? So it's a Registry Operator Requirement.

DENNIS TAN TANAKA: Yes, quickly reacting to that. Justine and I just put it there. I agree with her. I don't think we need to introduce a new conversation here. We just point spec two of the data escrow requirement supply, and that's it. I don't think we need to create a new language because data escrow changes, and then our recommendations would not be updated.

` The intent here is that to be consistent with data escrow requirements today, and that seems to work for TLD and any other TLD. Again, binding labels are TLDs at the end of the day and having the separate files, it's easier to reconstruct or yes, rebuild whatever – some policy you have there.

DONNA AUSTIN: Okay. Justine.

JUSTINE CHEW: Thanks. This is Justine. I agree with Dennis. I don't think we need to go into changing it to RO should submit because we're not talking about the submission, we're talking about the storing of the data itself. I had a question for Dennis. The sentence that says, "The data escrow agent should store the data associated with each variant gTLD label in separate files," we know that that is supposed to be the case.

The question is, "Is the reference to the data escrow agent incorrect?" If it's not incorrect, then there is actually no harm to just explicitly say that this is the responsibility of the data escrow agent. We're not talking about how they're doing it, we're just saying that they need to do it. Thanks

DONNA AUSTIN: Maxim.

MAXIM ALZOBA: Maxim --

DONNA AUSTIN: Oh, sorry. Maxim, hang on. Dennis, did you want to respond to Justine?

DENNIS TAN TANAKA: Yes, I want to say, so I don't know because the data escrow agent has an agreement with the Registry Operator, not ICANN, so I don't know how those requirements will flow down or whether our rationale here would really effectuate something in terms of the agreement between the Registry Operator and the data escrow agent. So I'm not sure, Justine. I think what is working today is just fine. I don't think we need just to introduce other levels of complexity or new questions that the implementation team might have.

JUSTINE CHEW: Okay. Understood. As I said, the emphasis should be on the fact that the data associated with the label should be stored in separate files. That is the main point that we're trying to put across. As to who is responsible for that, then maybe it's already provided for in practice or somewhere in the RA. I suppose staff can verify that, but yeah, I'm happy with just leaving everything, the term, the data escrow agent.

DENNIS TAN TANAKA: Yes. Thank you.

DONNA AUSTIN: Maxim.

MAXIM ALZOBA: Maxim Alzoba for the record. First of all, from the technical perspective, the less operations you do with something, the better. From the legal perspective, Registry is responsible only for each part of the operations. So, with how it creates, how it packs, encrypts, and uploads the file to Escrow Operator, it cannot be responsible for what Escrow Operator or Escrow Agent does on their side. It's regulated by the agreement between ICANN and Escrow Agent. I'm not sure how PDP was created to change that. Thanks.

DONNA AUSTIN: Thanks, Maxim. So we'll come up with some language here. I think we're all saying the same thing, it's just that we're getting a little bit tied up in language, so we'll come up with something here, and hope that will hopefully be agreeable to everybody. So Ariel, do you want to move on?

ARIEL LIANG: Yes. Sounds good, and I just want to note, once we come up with the language for the third bullet point, we need to replace 3.9, Implementation Guidance with the same language, it's basically the same wording. So, we'll figure out [00:55:13 - inaudible] the leadership, how to revise this one, but thanks everybody for the input.

Then, Dennis has some additional comments for the rationale for the recommendations. The first is the same comment he made, so we replace data escrow policies with data escrow requirements. I think everybody is okay with that. Then, the

second comment he said is, this is the sentence, "The EPDP team agreed that the current practice with regard to data escrow requirements should be maintained for IDN gTLDs and their allocated and delegated variant labels in order to enhance the stability of the associated domain name registration."

So, Dennis said, since each gTLD in a variant set is a unique and independent entry in the roots zone, each gTLD must have the same data escrow requirement to create a gTLD specific data escrow deposit files. We are making clear that each gTLD in a set must comply individually, and since we're not creating new requirements, I don't see how this practice enhances the stability of the associated domain name registration.

So, would this work if we replace enhance with maintain, would that work or there's some that -- there's no input. Okay. Thanks, Dennis. So sounds good to us too, and I'll just put this here. That's what we suggested. If no other comments, I guess I can move on. It's again for the last sentence.

So it says, "Never the less, the data escrow provider should store the data associated with each variant gTLD labeling separate files as each variant gTLD label of the status is in individual registration from a technical perspective.

So, basically it's the same, we need to switch to emphasis of this from what the data escrow agent should do to just the fact that the data associated with each variant GTLD label must be stored in separate files.

So, we just make the same revision like the third bullet above. I think that's it for the comments and input for this part of the draft text. Hadia has her hand up, so I will stop here. Hadia, please go ahead.

HADIA ELMINIAWI: Thank you. This is Hadia for the record. It's just a comment because I never thought that storing the data in the same file is even a possibility, so I don't know where did this thought come from?

DONNA AUSTIN: So Hadia, it's in the context of the question that we're trying to answer here. So Ariel, could you just go back up to that? So we're introducing a new concept, right? So in the context to maintain the same assignment to the principle, what are the operational legal app impacts to the data escrow policy? So all we're trying to say is that at the moment, a registry agreement has one TLD.

We have a recommendation now that says, if you have an IDN gTLD label and variant labels, then that can be tied up in the one Registry Agreement. So what's the impact of that on the data escrow requirement? So currently you have one TLD, so there's only one possibility with the file, it just relates to one TLD.

So we are just trying to be very clear that in the future, if you have a Registry Agreement that covers three TLDs because there are primary and variants, then the escrow for the respective TLDs needs to be held separately.

So I think hopefully that answers your question, but that's where this has come from. So it may be the case that it's only possible to have separate files, but we're just being very clear that that's what we expect the case to be.

HADIA ELMINIAWI: Actually, Donna does not answer my question because we actually don't know what the escrow provider is doing now. We don't know how it's doing this and I guess all what that we want from the escrow provider is to maintain the data as is so that we are able to retrieve it as is. How do they do it? I don't know that we know how they store it now so that we say that in the future, it has to be done that way or another way.

DONNA AUSTIN: Well, I think we do know how it's done now because we have-- registries have been operating, at least new gTDL has been operating for 10 years. So I think we do know how it's been done now, Hadia. All we're saying is that in the future, if it's an IDN gTLD that has variants, then store it the same way, but just keep it in separate files. Maxim.

MAXIM ALZOBA: Maxim Alzoba for the record. I suggest that to minimize questions as a homework, the basic registry agreement, specification two, article five about file naming, we read it because it says file names are named with TLD. Even if you don't change the language, you will have files per TLD and it means multiple files.

All the processes describe what to do with each of those. All we need to do is to ensure that the process is suitable for multiple files. I suggest reading the text before asking questions because we are losing time here. Yes, the process is working for 10 years and there were hundreds of transitions of TLDs, and whatever the escrow agents do on their side, it seems to be working.

I'm not sure that our charter suggests changing the escrow process because it's not, I think, relevant here, because from the operational perspective, there is no difference if a new registry receives one file or three files and uploads it into their own database. It's working now, and I'm not sure what we are going to change.

DONNA AUSTIN: Okay. Thanks, Maxim. I do appreciate that some of us are a bit closer to this than others. So, I appreciate Hadia's question that we aren't all at the same level of understanding on this stuff, and even it's a little bit scratchy to me, but so, it was a fair question. All right. So where are we, Ariel?

ARIEL LIANG: Yes, thanks, everybody for the comment. I think we can move on to the next document written down was this document. Next one is E2 and E3 in this group, group three. So far, no comments for E2, so we'll just have a comment for -- sorry, not E3, E5, actually, E5. It's about the reserved names list, what need to be done with regard to it due to variant implementation.

So, if you recall, the recommendation is not to expand the reserved names list. So the reserved names is the ones related to ICANN and IANA functions and those, acronyms not the strings in eligible for delegation. That part, we are still deliberating. So, in any, case basically no change to reserved name list, but also no application allowed for a variant of a reserved name.

That's the recommendation, and nobody has any issue with the recommendations themself, but in terms of the rationale, Dennis has some comments related to that, and I'll just read the part of the section in the rationale that he has input for, "The EPDP team recognized that if the reserve names list were to expand by including the variants, all of the added variants in bracket, almost all of which are blocked and can never be delegated to the root zone, also need to be checked against during the string similarity review.

It means that every applied for gTLD string would have been compared against an enormous pool of reserved names. Therefore, the EPP team agreed that the reserved names list should stay as if and no variants should be added. The implementation complexity of adding variants to the reserved names list would have outweighed the potential security and stability benefit, if any."

So, he wrote that we may need to revisit this part since it argues for a practical solution, since blocked variants can never be delegated and they don't need to be part of the string's similarity process, it argues against the hybrid model. So I think Dennis wrote this comment with this high model of string similarity review

in mind, and I can stop here now and then see whether Dennis has further input.

Then, I just want to note, the group is still deliberating on the hybrid model, and with the guidance from the risk SME, that we will hear from most likely ICANN75, the group can discuss further about the hybrid model. So this is still in the works, and I will stop here. Dennis, please go ahead.

DENNIS TAN TANAKA: Thank you, Ariel. Dennis, for the record. Yes, I think the one assumption is that this language was written before the whole discussion of the hybrid model. Yes, you're right, I had the hybrid model in mind, and reflecting on the argument, what the hybrid model is the way to go for string similarity. So I just found it interesting, the contrast between these two. It's not the same use case, we're talking about reserved names and on the string similarity we're talking about.

Well, reserved name are part of the string similarity review process. So, I just put this marker here to see, are we being consistent or do we need to revisit some of our approach. Again, it's just food for thought here for the group to consider, but that was my reaction when I was reading through this part of the document. Thank you.

DONNA AUSTIN: Dennis, thanks for flagging this. I think what we will do on this is, as Ariel said, we haven't made a decision on string similarity yet, and we will come back to it. So I think what I want to do with this

language is just keep it highlighted for now as something that we need to revisit once we've solved the string similarity review issue. Does that work for folks?

Okay. So, I really appreciate you flagging it and it's something that we are going to have to pay attention to as we pull all these threads back together and think about the report because I think we are going to find these inconsistencies throughout the document because our thinking has probably moved on over time.

I'm hoping in some respects that the process we go through at ICANN75 to check-in the recommendations against part of the new gTLD process might actually trigger some of that discussion that perhaps what our thinking at the time was something different to where we are now.

So, thanks for flagging that Dennis, and it's something that we will have to pay close attention to before we put a draft report out for comment. Okay. So, now where are we, Ariel?

ARIEL LIANG: Now, we can go back to the objections process piece. It's basically the second time we're going to talk about this with the full group it's revisiting the recommendation developed by the small team, and then check the temperature of the room, I guess, and see what the bigger group thinks.

I guess we can try to start as much as we can, only 18 minutes left. I guess I would just move forward. So, if folks recall previously, I'm just going back to the slides of when the objection related to process was discussed. So, the small group has

discussed these four types of objection processes and string confusion, limited public interest, legal rights and community.

Also, the small group has the recommendation, how to factor variants in each of these objection process. So we are tabling the discussion of string confusion objection because that's very much tied to how the string similarity review is going to be conducted.

If the hybrid model is adopted, then basically string confusion objection will be consistent with that, but if the hybrid model is not adopted by the bigger group, then we have to look at string confusion again and see what's appropriate way to do it, factoring variants.

Then, for the other three, we'd like to seek some confirmation from the bigger group, whether you agree or disagree with the small group's recommendation. I just want to note that for the limited public interest objection, the small group has a pretty much a consensus on how the variants need to be taking into account here, but then, for legal rights and community, there are two opposite opinions, and we like to gauge the opinion from the bigger group and see which one you think is more appropriate.

So that's just an overarching comment from me. So maybe we can go take a look at the objection recommendations. So, for limited public interest objection recommendation, what the group recommend is that the limited public interest objection can be filed against the primary applied for string and the requested allocatable variants.

So, those two are subject to public interest objection. However, the limited public interest objection should not be filed against non-requested allocatable variants, unless variants can be activated between application rounds, then objection can be filed against those non-requested allocatable variants in the same round as the primary string, and this is a as a prescreening step, basically.

That's the only caveat that when a non-requested allocatable variants can be subject to objection during the same realm as the primary string, but if activation is not allowed between application round, then those non-requested allocatable variants can be a subject to objection process when the primary string is being applied for.

So that's the first type, and then the second type, the block variants should not be subject to limited public interest objection. So this is the -- what the reason is simple, is because for those block variants, they will never have a chance to be delegated in the root zone, so they will never have any risk of causing any public interest related violations.

That's the main goal of a limited public interest objection is prevent delegation of strings that may violate internationally recognized forms moral -- actually, let me go back to the context here using the right language. So, it's to contradict the legal forms of morality and public [inaudible – 01:15:06] recognized on the principle of international law.

So if a string is already blocked, and it can never be delegated, then it will never have the chance of doing that kind of harm. So

that's what the small group has agreed on in terms of what you do with limited public interest objection. Then we just want to reconfirm with the bigger group, whether you agree with the right recommendation with regard to this objection process. Then, I will stop here for a moment and see whether there's any comments or reactions.

DONNA AUSTIN: So, do we have any objections to this or do folks still-- I appreciate that you are representing different groups. Is this something you need time to go back to your teams with or do we have no objection to this so we can tick the box that this recommendation is okay? I don't see any hands and I don't see anything in chat, so I'm going say that we're okay with this recommendation.

ARIEL LIANG: Okay. Sounds good. Thank you, Donna. I guess we can move on to the next type of objection, it's a legal rights objection. so just as a context, this legal rights objection is to prevent potential delegation of strengths that may infringe the legal rights of mark holders, and that also includes IGOs. So, that's the main purpose of this type of objection.

There were two different opinions regarding this type of objection from the small group. So opinion one is basically the same as the limited public interest objection is only the primary and requested allocatable variants are subject to the legal rights objection. Then, for the non-requested allocatable variants and block variants, they should not be subject to legal rights objection, but the caveat is if

variants can be allowed to activate it between rounds, then objection can also be filed against those non-requested allocatable variants in the same round as the primary string.

So that's the only caveat when the non-requested allocatable variants can be subject to objection of legal rights objection in the same realm as the primary string. So that's the first opinion. It's very much similar to the model you saw for the limited public interest objection, but then for the second opinion is that legal rights objection can be filed against the primary appliable string, all of the allocatable variants, and all of the block variants.

That's the second opinion. To demonstrate this opinion, I think in one of the previous meetings, we are showed an example. So, basically, for example, A1 is a trademark, and then also it's applied for string in gTLD application round one. If a legal objection can only be applied to the primary string and request the allocatable variants, then objection can only be filed against A1, it's the first top one, and objection cannot be filed against its now requested allocatable variants, A2, which is the B1 and the block variants A3 to A6.

So, if option one is adopted, then that's the potential outcome of that. Then for this example, our presumption is that A1 has passed the evaluation and got delegated to root zone and there's no objection filed against it. So, it's all good and get delegated.

Then, for example, B2 is another trademark, and then the right holder at B2 didn't think of applying for a new gTLD during round one, and then wanted to apply for a new gTLD corresponding to its mark in round two. Since we just said option one for legal

rights objection is being used, then the right holder at B2 cannot file any objection against A1.

So A1 has been delegated, but then at this round two, when B2 is being applied for, it may not pass the string similarity reviewing round two, because if you recall in the small group's recommendation, we are using the hybrid model, and because B2, this label, looks very much similar to A2, which is the allocatable variant of A1 and also A4, which is the block variant of A1 because it has that confusing similarity visually to the variants of an already delegated string.

Then, based on the hybrid model, B2 will very much likely not be able to pass the string similarity review. So that would be a consequence for option one of the legal rights objection, but if we're using option two of the legal rights objection, even though the rights holder of B2 didn't submit an application during round one, that right holder can still take advantage of the legal right objection to file an objection against application of A1 because it can argue that A1 variants look very much similar to its existing trademark due to amendment may infringe the rights of that right holder.

So, it can be a higher barge to pass to make that argument that something not being requested can potentially cause harm to the right holder, but at least for option two, that right holder B2 can have the opportunity to object to application of A1. Then if the objection prevails, then it's possible that the application of A1 will be ineligible to proceed, and then B2 may have a bigger chance to be delegated when the right holder wants to apply it in the future.

So, that's basically the argument why everything is under objection for option two.

It's basically to give rights holder an opportunity to object to an application even though it's not submitting its own application during the same round, and then, variants can be one of the reasons why the rights holder believe the application is problematic. So that's the example we want to demonstrate to showcase option two. I also understand that this is very much tied to the hybrid model, and if hybrid model is being agreed by the greater team, then, option two seems like a natural consequence of that, I think.

If the hybrid model is not agreed by the EPDP team, then we have to revisit this too. So, maybe we cannot draw a conclusion now, but at least I just want to refresh everybody's memory of that and see whether there's any immediate reactions or comments and questions. I'll stop here.

DONNA AUSTIN: Dennis, go ahead.

DENNIS TAN TANAKA: Thank you, Donna. Thank you, Ariel, for that presentation. There's a lot to unpack here, so let me just start with two. So the first one, your last remark sounded like the legal rights objections or the objection process, or the ground that we're discussing here are contingent to the string similarity basis for comparison, as you were referring, the hybrid model, so whatever option we decide

here is contingent to the hybrid model decision, is that correct, what I heard?

ARIEL LIANG: Thanks Dennis, oh, sorry.

DONNA AUSTIN: No, go ahead, Ariel. Sorry.

ARIEL LIANG: So we have four types objection processes. The first type string confusion objection is very much tied to the hybrid model, but then the second type, the limited public interest is not very much tied to the hybrid model, and then for legal rights and the community objection, they may be tied to the hybrid model, that's just based on staff's analysis of that, because the examples trying to argue for option two is based on how the hybrid model would work and with the impact of that that, say, staffs analysis of that, but we don't know whether that's exactly right, or whether we're missing something. There is some nuance there, and hopefully I answered your question.

DENNIS TAN TANAKA: No, you did. Just gave me a lot of to process though, so, I will put that aside. The second question, can we go back to the example that you gave on round one and round two, there's something there that fell off to me on -- I'm sorry, the next, when we're talking about -- yes, that one.

So I think the presumption here is that round one and round two are in different times, right? That the round one opens and closes and then round two opens after round one close. Is that a fair presumption?

ARIEL LIANG: Yes, that's correct. Then the main reason is just to showcase that even the right holder of B2 didn't apply for anything during round one, it can still take advantage of the legal rights objection to object to the application of A1. Round two is basically to show that if the objection prevails, then B2 may be able to be delegated after round two. I know we're already on the top up the hour.

DENNIS TAN TANAKA: Yes, I work on the time, I'm just mindful of time, but the very last bullet just didn't quite check out for me. Round one already completed, I don't know how A1 would be ineligible for round one when round two was post round one. So anyway, it's we're at the end of time, so back to you, Ariel, and thank you.

ARIEL LIANG: Thanks, Dennis, and I'll hand it back to you, Donna. I guess we probably have to close the call now.

DONNA AUSTIN: Yes, thanks, Ariel, and thanks everybody for today's contribution. I'm sorry, I feel like I took folks down rabbit [01:28:32 - inaudible] that we didn't need to go down today, so I apologize for that. Just

a reminder, no call next week, and I look forward to seeing you all and meeting some of you for the first time in KL. So, thanks, everybody.

DEVAN REED: Thank you all for joining. Once again, this meeting is adjourned. I hope you'll have a wonderful rest of your day. Safe travels.

[END OF TRANSCRIPTION]