

**ICANN
Transcription
New gTLD Subsequent Procedures Working Group
Monday, 01 April 2019 at 20:00 UTC**

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Julie: Great, thank you so much. Well good morning, good afternoon, good evening, everyone. And welcome to the New gTLD Subsequent Procedures Working Group call on Monday, the 1st of April, 2019. In the interest of time, there will be no roll call. Attendance will be taken by the Adobe Connect room. If you're only on the audio bridge, would you please let yourself be known now?

And hearing no names, I just want to remind all to please state your name before speaking for transcriptions purposes. And please keep your phones and microphones on mute when not speaking to avoid any background noise. With this, I will turn it back over to Jeff Neuman. You can begin, Jeff.

Jeff Neuman: Thank you very much, Julie. Welcome, everyone. Hopefully everybody -- I know that there was some European countries that had to move up the clock, so hopefully everyone got that message. But anyway, the agenda as always is on the right-hand side in Adobe. And the bulk of this meeting will be spent on continuing our review and maybe even completing our review of the supplemental initial report comments, so that we can be done with that and move on.

So other than that, let me just ask if there are any other -- anything to add, any other business?

Okay --

Donna Austin: Jeff, it's Donna Austin.

Jeff Neuman: Yes, please, Donna. Sorry.

Donna Austin: Yeah, I don't have anything under any other business, but I'm having trouble getting into Adobe. But I just wanted to let you know that I'm on the phone and hopefully I'll be in the chat soon. Thanks.

Jeff Neuman: Okay. Thanks, Donna. We'll see if there's a systemic problem or if it's just on your side. Okay. Let me just ask then, is there any updates to statements of interest? Okay, not seeing any. Good, then we'll go into the supplemental initial report. We are in the 2.4 tab. That's 2.4, Change Requests. We had just completed on the last call the 2.4.c.1. And so now we are on 2.4.d.1, which is line 16 in the supplemental initial report public comment analysis. And the link to the spreadsheet is up in the top right-hand side. It's much easier to look at that than it is Adobe. Although I don't see it on Adobe right now. But maybe someone will put it up there.

So what we're talking about here is change requests and different types of change requests. There were some general comments that we previously reviewed. And on the last call, there was a comment from the Non-Commercial Stakeholder Group that Kathy had asked to be applied across the board, which was opposition in general to any kind of string request. So that should continue to apply down the line, even though these are now individual sub parts that we're dealing with.

So this one specifically says in line 16, some members of the working group believe that certain changes should be allowed to resolve string contention, for example, and then we go into creation of joint ventures or limited ability to select a different string if it's closely related to the original string. And therefore we had proposed implementation guidance which said that if there is a joint venture that is a result of a contention set that reevaluation would be needed to ensure that the new entity still meets the requirements of the program, that the applicant may be responsible for additional material cost incurred by ICANN due to the evaluation, and of course there could be delays in that evaluation. And then for some examples in the next implementation guidance of when a new string could be selected, I guess this is some members of the working group. It was a universally held position. But that's why we saw comments on them.

Whoops. I don't know where that beeping was from. But what the implementation guidance had suggested is that there should be a new, at least a reevaluation of the string in the all string-related evaluation elements, so DNS stability, string contention, et cetera, and that there would be string-related objections would be allowed as well. So, and then finally another working group member had indicated that of course you'd also have to do any kind of name collision risk assessment evaluation, if that was what all the other strings were going through anyway.

So we had a bunch of comments that were in support of this. So the BRG, the ALAC, and the IPC. The registrars had both an agreement with the allowance of joint ventures, and then if we remember on the last call, this was the same as a previous response which said that perhaps if there are additional strings

indicated in the application, so all addition of all alternatives (ph), then the registrars would consider that to be an acceptable switch of a string. The registries, now this I actually had a question on. I know Donna is on the call and hopefully Donna, I see your name, so hopefully you're now in Adobe. So in some areas of this analysis chart, it says some members of the stakeholder group do not support applicants changing their string. But in this one in particular, it just says that the Registry Stakeholder Group is not in favor of allowing an applicant to change its string if it finds itself in a contention set, as it can be gamed.

I think what that means is the some members that opposed changing the string would not support it if it moved the string into another contention set. But I just want to clarify that.

Kavous: Hello, Jeff?

Jeff Neuman: Yes. Hold on a second. Let me get Donna and then I'll come back to the queue.

Kavous: Okay.

Donna Austin: Hi, Jeff. It's Donna. So I think you're right. But I'd need to go back and check, because it does sound like there might be a little bit of inconsistency. But I would have to go back to the stakeholder group and check.

Jeff Neuman: Thanks, Donna. If you could do that, that would be great. Because it seems to in the other sections, it kept saying some members don't support changing the string but others did. This one just seemed a little bit different. So was that Kavous or who was speaking?

Kavous: Yes, that is me. Sorry. I don't have the Adobe connection. I'm just on the bridge. I have two questions. First of all, changing the string in the middle of the process, I think usually should have a new date and new proposal or new application. Why we should maintain that? This would touch the rights of other people. At the middle of the thing, they try to change that. They may have violated the rights of the others, number one.

Number two, can you give me an example of the joint venture? Did we have any joint ventures in the past or is this something purely for the future, and give a good classical example of what a joint venture means. Thank you.

Jeff Neuman: Sure, Kavous. Let me start with the first part, which is why would a string be allowed to be changed. And this is in the limited circumstance that we were talking about where let's say you had two companies that were applying for the same string, as we had in the last one where we had sas was applied for both by the airline as well as by an analytics company that both used that string. And I see Karen's actually on the call from SAS. But Karen had brought up the example of if the two companies that both applied for sas could agree amongst themselves where one of them, let's say, were to have used sasair and the other one were to use sasanalytics or something like that, then perhaps that could

have been a different solution, which would allow both of them to have top level domains, as opposed to only one being able to survive whatever contention resulted. So that would be kind of an example of where the limited right to change a string and then most people that did support that notion of a limited right to change a string did not support it if it were to mean that they would put themselves into yet another contention set. So it was only if no one else had applied for that string.

And then an example of a joint venture was not allowed in the last round, it was the rule that you could not substantially or materially change your application at all once your application was submitted. So to the extent that parties were encouraged to privately resolve a contention set, the only real options were to have everyone but one drop out, usually in the form or in exchange for some sort of compensation. But this would allow in theory the right for two applicants to join their bids together in some way so you can create a venture where both of those bidders or multiple bidders could have influence in the administration and operation of the top-level domain. So you could, for example, and I'm making this up, because it didn't happen.

But in theory, if you had two or multiple applications for dot-green, one of them was non-profit, the other one was for-profit. If they were to join forces in some sort of way to create some entity that would be able to give to the non-profit but also allow the registration done by the other entity, and those applicants were okay with that, then that would potentially be another option to privately resolve the contention set without going to an ICANN mandated auction. So those are some examples that was not allowed in the last round, but some members of the community thought that these types of private resolution should be allowed going forward.

I see Kathy is in the queue. So Kathy, please?

Kathy: Thanks, Jeff. Can you hear me?

Julie: Yes, we can hear you.

Kathy: I'm going to go with it. Okay, great. So a follow-up question, it's interesting that you said that this is bounded so that SAS, the airline with analytics. What stops this small change from being a resolution to every contention set? And how can it be bounded, as you said? Because this would seem to apply again to any -- this ability to modify if there's a contention. So if you've got 11 applications for dot-app, or I think it was 13, or cloud, or blog; are we going to see lots of small variations of these generic words? And if not, how do we bound the changes to the type of situation that you're talking about, where it's two people -- two companies with a similar name? And any sense of how many of those existed in the first round? Thanks.

Jeff Neuman: Sure. And please, if anybody else has got some thoughts as well, but there were some things that we did put into the report already, into the supplemental report.

So you could bind it by saying, well, the change has to match a trademark that you own or has to -- what is the other thing we said here? Sorry, I'm looking for the exact words. Oh, a string that is closely related to class or sector of the original string. Now granted that might not be so helpful for something that's generic. But I think if the working group were to support this limited right, I really do think that we could create the rules whereby we would mitigate gaming. I can't ever say that you would eliminate it completely. Because every time we try, someone figures out something else.

But certainly if you require them to use the string plus something else that was more closely resembled their company or entity name or something that they can be shown to have a close tie with, I think you can bind that. And Karen just put into the chat that there were probably less than half a dozen that had multiple brand owners apply -- us, SAS, and Merck were the two off the top of Karen's head.

And Kathy said, so starting with company names then? I mean Kathy that would seem to me the most obvious. But company or entity instead of company, because it could very well be a non-profit organization as well. If they were to pick something that they could prove has this close association with that entity, then I would think you could bind it in that way, so that it wouldn't necessarily be, let's say, a portfolio company applying for a generic that just wants to change it to another completely generic term.

But again, that was depend if the group -- if this working group does support the notion of the limited right to change a string.

Okay. And Maxim has in the chat that we don't want to be too restrictive, because we might get in the way of innovation. So sure, so any rules that we do come up with we're going to have to be flexible enough or restrictive enough to make sure no gaming, but also allow some sort of flexibility, so we don't make it too complicated.

Okay. Going back to the comments, so I think we covered all of the ones from 2.4.d. So that brings us to e, which really e.1, all we have is a repeat of the Registry Stakeholder Group's comment, which is that some members did not support the ability of applicants to change their string, although some members did support it. So there's kind of both sides from the registries.

2.4.e.1.1, this was more specifically drilling out down on the types of changes and the implementation guidance that we had said in the question above. And so this was asking for different types of criteria. The BRG stated that they're fine with the notion of changing strings to resolve string contention, whereby each applicant included in the contention set has the opportunity to proceed forward with, and they say, a closely-related string. This could eliminate the need for auctions.

Kathy just, by the way on the chat, has said if we can find out more about these examples that might be useful. And Kathy, just on that one, it occurred to me and I was working with one example where two parties applied for the same string, but one of them withdrew, and I'm talking in very vague terms because it was a client. And they haven't authorized the disclosure. But because the only option was to go to an auction, they -- who knows if they would have withdrawn if they were to have the option of each settling on a string that related their names. So I'm not sure it's going to be as easy as we can to find out the situation. But I will note that and see if we can find some of them.

Going back to the comments, the ALAC -- okay, now this going back to the general notion of changes. So at the very top of this -- sorry to be taking everyone back -- but if you look at line 7 in the document, there were a bunch of criteria there. Sorry, it was not 7. It was in the initial report, supplemental initial report. We had listed the criteria that ICANN had used on whether to approve change requests. And there were seven criteria that we had put in the report that ICANN had used. And so on this comment here in line 27, the ALAC is saying that that criteria seemed to be appropriate. But they also say that it needs to be considered on a case-by-case basis and on the merits of each case.

The IPC supports changing or allowing change requests to enable the resolution of contention sets. And they point to the fact that it could reduce gaming and private auctions. The ALAC as well believes that criteria can be leveraged for string change requests. So the seven criteria that were posted, they support, as was stated above. ICANN org should determine whether a reevaluation is necessary to ensure that if there's a new joint venture that it meets the requirements of the program. As we said as well, they agree with the notion of doing string-related evaluation elements, and objections, and public comment if they change the string. And I think that covers the ALAC, although they have a note here in the second paragraph on line 29, which also it should look at IDN variance of an applied for string when you're looking at contention (inaudible).

Julie: Jeff, we can't hear you. Still can't hear you, Jeff. Okay.

Jeff Neuman: Sorry. Can you guys hear me now? Sorry. My microphone got unplugged. But hopefully you can hear me.

Julie: Yep, we can hear you. Thank you.

Jeff Neuman: Okay. Sorry about that. I was moving my hands and I unplugged my mic, so sorry about that. So the second paragraph talks about IDNs and making sure that we're cognizant of in the ALAC comments on not just checking for (inaudible), but also making sure that if they change it to a variant that it has to follow those applicable rules.

Registry Stakeholder Group and the Non-Commercial Stakeholder Group, while with the registries some members of the registries as we talked about, opposed changing the string if the change puts it into another contention set. The Non-

Commercial Stakeholder Group and here is where the full comment is that talks about not being allowed to change the string at all. And thanks, Steve. Steve posted the seven change requests' criteria; where that can be found. That will apply to the question above and yeah, so the Non-Commercial Stakeholder Group has their complete comment on line 31 and 32, where they do support some notions of changes, like the JV, but they do not support the changing of the string.

Any questions on those? Yeah, if you see just -- I'm sorry. To respond to the chat, there's a couple of areas where some have two responses. And I think that's because in different places in the comment, whether it's the ALAC or the NCSG or others, they may have referred to different items or aspects of the question in different places. So that's why you might see two different comments.

Okay, so then we asked the question, if we do allow changes or additional changes to be made to the applications after they're filed, what are some of the risks for gaming that could cause and how do we mitigate those?

So the BRG just again notes its support for making these changes and there should be a strict process in making them. The ALAC thinks that the criteria are reasonable and they note that unless applicants colluded beforehand, it's difficult to envision how this could be game. The IPC states that the risk of prolonged evaluation periods from change requests from resolving contention sets should be considered against the community concerns with private and ICANN auction, as well as the substantial time delays injected by the auction process itself. Allowing change requests to resolve contention sets offers applicants a non-cash based alternative to resolve contention sets.

Registry Stakeholder Group just repeated -- or we just have that repeated comment about moving, opposing the change of a string if it means moving it to another contention set. And the Non-Commercial again do not support the changing of a string.

We hear some typing, so if everyone could make sure they're on mute, and then I'll go to Kathy.

Kathy:

Great. Thanks, Jeff. So the same confusion that I had that I expressed earlier seems to be coming up in the comments as well, which is what string change -- there are lots of other changes that we're talking about in the application. But the change of string, which is definitely concerning to some, some of the GAC, some of the Non-Commercial, some of the registries. Is that designed by the working group to be very, very narrow and address that half dozen cases that Karen was talking about and that you were talking about, the SAS type of cases where you're dealing with two entities with the same name or a very similar name; or is it designed to deal with what other commenters are also seeing and that Non-Commercial saw, the idea that every contention set could just resolve by having minor changes so that we're going to wind up with lots and lots of variations of generic words, close variations of generic words? So is it designed to be very

narrowly tailored or is it designed to be very broad? Thanks. What's the working group recommending in the report?

Jeff Neuman:

Yeah, thanks. And so Kathy, in the supplemental report, the recommendation was for a -- I'm going to use exact words here, so I'm trying to go back to the line. But I believe it said, yeah, 2.4.d.1, so it's line 16, one of the types of changes that some members of the working group believe should be allowed are certain application changes intended to resolve string contention. For example, if there's a string contention and each of the applicants in that contention set agree, then applicants should be allowed to one is create joint ventures, but two is have a limited ability to select a different which must be closely related to the original string. And then if you look at a couple lines further down it says, implementation guidance. Some examples to consider in allowing for a new string to be selected include prepending or appending a new element to the original string, so it's string plus something else, or selecting a string that is closely related to the class sector of the original string.

So that's how it came up in our discussion. It was not intended, at least from the discussions, to be this broad right to allow groups to change to other generic strings or closely related generic strings. It really was kind of a limited right to allow where the applicants agree, to allow the change to a closely related string. But again, that was in the initial supplemental initial report and it's up to this working group to decide to make that more narrow -- or adopt it and make it more narrow or not adopt it. So that's up for discussion. I hope that helps.

Okay. All right, so that takes us then to a question of -- and it relates really to the last topic we talked about on the last call, which is the role of application comments. So a lot of these are going to be repeats of what we had talked about on the last call, in tab 2.3. But line 46 says, okay, if we do allow changes, whatever those changes are, so don't just think necessarily the string changes, but any type of changes. Then what roles should public comment play in determining if a change request should be granted?

The BRG states that public comments should be considered as if it were a new application, providing an important opportunity to raise concerns or show support. ALAC agrees and believes that public comment is important, which could allow the raising of concerns or even to withdraw or acknowledge there was concerns raised on the original applied for string contention.

So Kathy, I did actually miss one. So in the examples I mentioned, and this comment by the ALAC brings it back up. We did also discuss within the working group the possibility of changing a string if the string was initially objected to and the change of string could avoid the objection in some sort of way. So without using a live -- I don't want to use a live example. But let's say Company 123 finds that 123 is objected to because of let's say it's geo term. Then if Company 123 could add 123inc, then that would not make it a geo concern, then perhaps that type of change could be allowed to avoid the objection. So that was also discussed. And I think here with the ALAC comment, it says that a change

request or to change a string may actually mitigate the concerns that were initially expressed in the application.

And Steve says, perhaps I was distracted, but did we skip 2.4.e.3? We're still on 2.4.e.2. So that would be hard to skip e.3 if we were only on e.2.

So the IPC comments said that the role of the public comments in the new gTLD program should be limited to the evaluation of applications, which would include the reevaluation -- part of the application where the change request has been accepted. If public comment were part of the change request approval process, then the public comment would function as an approval mechanism.

Kavous: Jeff, I have a follow-up question please. Jeff, do you hear me?

Jeff Neuman: Yes, sure. Please.

Kavous: Yeah. I'm sorry. I asked three times I have a question. Nobody listened to me. Sorry, you are too quick on the change of the string. I have three places that I want to (inaudible). First of all, if we change a string, do we have to pay a new fee or a previous fee? This is number one.

Number two, if in the future we have first-come-first-serve and in the middle the thing you change, do you precede the other person before you if it's first-come-first-serve? It will be totally violated.

And the third thing, if somebody changes to come close or identical to another one, does it mean that it goes to the auction and because of the financial possibility, it will override the right of the other? So there are conditions of the change. It's not just a theoretical changing at the middle of the process.

First, fee. Second, if we take first-come-first-serve, whether this change will override the people that are before you? And third one, if we change something which is identical to the previous one in order to go to the auction and override him because of the financial possibility? And that is another case. So change should have some condition, some criteria. It's not like this. Thank you.

Jeff Neuman: Okay, thanks. Thanks, Kavous. So let me go to Kavous' questions and then I'll come back, as maybe I did skip something. So I apologize.

But on Kavous' questions, the first one on fee, we did not necessarily in group discuss specifically whether you would have to pay a fee. Although we did state in general back in the section that if it had to undergo a different evaluation that we could foresee the potential of having fees associated with whatever part needed to be reevaluated.

The second question on first-come-first-serve, I don't think we're -- we haven't really talked about that. But frankly, I'm not really sure that we're talking about first-come-first-serve with any process. I think we've sort of moved beyond that

from all the comments. So I'm not sure. We can kind of put that comment on the side, if first-come-first-serve actually ever does get traction. And on the auction, the only thing I could say is that in the supplemental initial report and in the comments that supported the allowance of changing strings, it said that it would not be allowed if it put the application into a different contention set. So you can't just move from one contention set to another. That's what the comment had stated.

So again, I mean that's just from what we've stated previously. But the working group hasn't adopted anything yet. So this is all just pointing back to the text.

Okay, let me go back to -- yeah, I skipped 2.4.1.3. So I apologize for that. So let me just finish out the public comments role, and then we'll go backwards. I apologize. But I think since we're pretty much through the public comments or through that section that deals with public comment; let's just finish that and then go back.

So I'm on line 50 right now, which is the Registry Stakeholder Group. Applicants that apply for change requests should be evaluated with the same process and public comments should play the same role for the changed strings as they did for the new strings. And stakeholder group supports the suggestion that ICANN should set forth types of changes which have to go through public comment.

Non-Commercial Stakeholder Group says keep using the -- suggests using original application rules to determine if change should be allowed, so just the way the guidebook is now and the way that ICANN staff has applied the change requests. ALAC is a repeat of the above comment and the Non-Commercial Stakeholder Group says that we really need to be clear to prevent gaming and fraud. So the more ambiguous we are, the more that there's likely to be abuse.

Okay. I'm going to apologize because we're going back to line 39. Sorry about that. But this one does deal with Kavous' question as well, which says, what do you believe should be the criteria if we do allow the change of a string? dotguy LLC states that we should make sure that it does not create a new contention set or further contention in an existing contention set. So that's agreement with what we said in the supplemental initial report.

The BRG states that it should not -- again they agree that they should not approve the change of strings if it creates a new contention set or adds to an existing one. ALAC as well agrees, but then also adds that it shouldn't be a name collision risk or an IDN variant. The IPC agrees and states that it should not be changed or the string shouldn't be allowed if it creates a contention set. The Registry Stakeholder Group also agrees, where they opposed a change of a string if it puts them into a contention set, and same thing with the-- well, the Non-Commercial Stakeholder Group has said, no changes to the string at all. So that applies to that question.

Okay, going back to the comments in the chat, Phil asks, how would this apply to city names, Birmingham, UK and Birmingham, Alabama? So I am going to punt, Phil, on the question of cities until we have a final process agreed to by Work Track 5. Because that would deal with geographic names. So I'm not going to opine on that one, as that group will hopefully tackle that question.

Christopher Wilkinson says, let me go back a little bit. Because there may be a number one here. Nope. Registrar recognition of new TLDs, the problem is a direct consequence of a conflict of interest arising from registrar and registries cross-ownership. Sorry, I'm not aware of what that was in response to. So I will let that slide for now, because we're not talking about the multiple ownership at this point. So let me go to 2.4.e.3, line 54, which says that reflecting on the seven criteria used in 2012 and I think Steve had posted that link earlier in the chat. Would there be any changes or would anyone recommend any changes to that criteria?

The ALAC suggests minor changes and so if criteria number one is a reasonable explanation provided for the change, they believe that could be supplemented by a letter of support from an interested stakeholder outside of the applicant. And number seven, on timing, interference with the evaluation process should carry the least weight of the criteria. Okay.

I'm just thinking about that first criteria with the ALAC and just trying to think of how that would apply if it were just an ordinary change of an application that wouldn't even impact outside an interested stakeholder. So maybe Justine can help understanding that one. Because the seven criteria applies to all change requests. So maybe after this call, we can get some further elaboration on that.

The IPC believes that there should be another criteria which is, is the change being proposed in order to resolve a contention set? So if we allow a material change like a JV or a string change, they could answer that question.

Registries don't have any additional criteria and the Non-Commercial believes that there shouldn't be any changes to the rules and certainly no changes that would -- or all changes should avoid confusion and gaming. Any questions?

Welcome Cheryl. Could we switch the PDF to 2.5? We're getting there now.

Okay, so, sorry Anne. Anne's in the queue. Please go ahead.

Anne Aikman-Scalese: Yeah, thanks Jeff. It's Anne Aikman-Scalese for the transcript and regarding the IPC comment, I'm not sure whether with additional criteria, I guess because there are two things, but how will we be noting the additional criteria for purposes of our final report on the IPC comment? Because IPC is saying, yeah, there should be changes, a couple of them. The IPC says there should be an additional question and the IPC says that regarding materiality it should be downgraded in circumstances since a change would be material. So that's not exactly --

Jeff Neuman: Yes. So let's get that to be -- it's a good question, Anne. Let's if we can make that blue in the spreadsheet so it draws our attention when we get talking about this and Anne (inaudible) two of them. I missed the materiality one. So just to remind everyone, change requests were not allowed in 2012 if they were deemed to be, quote, "material." What the IPC is saying here, which makes total sense, is if we allow changes as a result of contention set, then almost by definition those changes would be material and that would fall afoul of criterial number six. So that makes total sense.

Anne Aikman-Scalese: Thank you.

Jeff Neuman: Okay. Thanks, Anne. All right. Okay. We're going to tab 2.5. And this was kind of a tougher section for people to provide comments on and frankly was a tougher section for us to write as a working group, because it was really just a brainstorming of ideas as opposed to any concrete recommendations from the group. So that's how this went out, this section as hey, here's some ideas people brought to the group that there were concerns about registries not being able to attract registrars to sell their TLD, and is there something we can do for registrars that would help them in order to help with diversity of TLDs, both geographic as well as diverse in the sense of for small niches and other areas where they may not be able to attract, let's say, the same type of registrars willing to carry as a TLD as a very generic term. So this section was all about brainstorming, which is why you see some green in here, but lots of red and lots of blue. Because these were in essence not necessarily recommendations.

So the ALAC did not comment on this topic. So there's no comments in here from the ALAC. The BC supports market-oriented solutions for this as opposed to ICANN assigning a registrar. So in this section, one of the ideas that was floated, was that perhaps ICANN could set up its own registrar that would have to carry every single TLD, so that registries didn't need to necessarily worry that no one was carrying it, because there's a requirement that you have to use ICANN accredited registrars.

So the BC states that the report discusses the idea of having ICANN assign a registrar to distribute TLDs. But the BC would recommend a more market-oriented solution to encourage these TLD operators to set up their own registrar or distribute their names. This kind of vertical integration is permitted for new gTLDs and is a superior private sector solution when compared to forcing a registrar to carry any particular TLD. There may be other feasible partial solutions, such as allowing registrars to pay as they register domain names without depositing funds ahead of time into a registry account. But payment is not the only burden that's been posed on a registrar.

That comment relates to the notion that some registries had pointed out during our working group discussions that many TLDs require or many registries require each registrar to set up a deposit account with every registry, in some cases individually by TLD, and to have a minimum amount of money in there that would

be drawn upon if and when they register names under that TLD. So if there were -- let's say there is 600 generic TLDs and let's say there is 300 different registry operators carrying those 600 TLDs. That would mean that each registrar that wants to carry all of those domains would have to establish a deposit account at each one of those 300 registries and that is a significant burden for registrars. And so registrars during the discussions were pointing that out as one of the difficulties they have with carrying TLDs. So that BC comment was a comment on that.

Registrars oppose the creation of any kind of requirement that they be forced to carry any TLDs. In any free market there's some losers and it's not appropriate for ICANN to force registrars to carry any TLDs. They point to the option of vertical integration and they oppose the idea of ICANN acting as a clearinghouse or any kind of registrar. So they do not support what was proposed by some in the working group that were in that supplemental initial report.

Going back to the comments, Jim says, as we ponder this section, I'm struggling to see how these policies only apply to TLDs launched in the future. Since this work does not impact the 2012 round, how do you exclude previously launched TLDs?

So Jim, that's a great question. I think although we could say in our report if we did adopt these that the other registries are grandfathered, meaning that the new rules don't apply. But of course as we know, things have a habit in contracts in a renewal agreement of catching up to the existing TLDs if they're adopted for the new TLDs. So that's a great question and one of the things that I'm sure we have to think about.

Rubens says it's curious that the idea discussed during the physical meetings was that ICANN would issue an RFP for a registrar to carry everything. Not to force it up anyone's throat, but the number of comments in that direction suggests this would not be understood. So the meta comment is that if this is decided by the working group, its language needs to be improved.

2.5.d.1.1 talks about the notion of ICANN could collect a last resort wholesale registrar kind of as Rubens talks about, through an RFP process or otherwise. For this suggestion, we have the registries, some that oppose, some that support. Some registry members are of the opinion that given the lack of market access tends to relate to operational requirements or pricing schemes that makes a TLD undesirable to registrars in its own right. It's difficult to imagine that a registrar would have an incentive to sign onto an agreement that required it to carry these TLDs. Other registry members believe that wholesale registrars that have only had one-time subsidies from ICANN like a per-TLD onboarding revenue, could be both predictable to ICANN's budgeting process and be very effective in making sales channels for smaller TLDs available, while still requiring registries to have attractive offerings. So that does talk about how difficult it would be.

The IPC says -- and this is kind of a new idea -- that ICANN should encourage the creation of vertically integrated registrars to distribute names rather than designing a registrar to allocate TLDs when a registrar cannot be forced to do so.

Any questions or comments on that? Because the next one deals with the different subjects on a clearinghouse for payment, especially where registries and registrars operate in different currencies.

This one had both pros-- so the first comment from Jose Alberto Barrueto Rodriguez had both pros and cons to this type of option. A benefit, would facilitate the acceleration of payments, help with accounting, reduce costs. But a downside is that the estimated cost of this implementation using state-of-the-art technology could be a deterrent and could be much larger than the benefit it provides.

The registries, again we kind of have a mix here that some did not support this and in fact believe it's beyond the mission of ICANN. And other registries suggest that this option could be pursued with the help of global financial service providers. The registrars opposed this with the same comment. Their view basically is that this should all be market forces as opposed to ICANN playing a role as a registrar or as a clearinghouse.

Then we state in here that the applicant guidebook could note that there may be some benefit to potential applicants in communicating with ICANN accredited registrars before submitting an application, so that they fully understand the potential market and the integration issues that they might encounter. So this was, hey, if a registrar -- maybe applicants could talk to registrars before they actually apply and that might help them understand whether their model or their TLD is one that is likely to be adopted. Registries support this as just the notion of yes, registries should be doing their appropriate due diligence before they apply.

The registrars, I'm not sure in this one, Steve, and maybe you have a different view or anyone. I don't think that registrars oppose the notion of telling applicants that they could try to talk to registrars beforehand. I think this answer is really dealing with the previous suggestion. So I wouldn't -- I'm not sure that this comment from the registrars belongs in this response. Because I don't think it answers this question. I would think and I'm trying to look to see if there are registrars on this call. But I don't think the registrars were saying that they would oppose this.

Sorry. Someone want to speak? Okay, nope. So we'll get clarification on this from the registrars. Rubens says that they do oppose the communication. Hold on. Let me see if I can find that. Maybe I misread. They oppose creating any requirements. They oppose -- oh it does say, I'm sorry, you're right. It does say, thanks, Rubens. Finally, specifically regarding 2.5.d.1.4 and amending the application guidebook to include communication with registrars regarding the

TLD market. They don't support it. They would rather have it in a newcomer's guide suggesting outreach with the registrars.

Okay. So I get from the gist of this that they don't support including it in the applicant guidebook, because that implies something that is mandatory, but rather if there is a newcomer's guide or some other publication then they would not oppose the suggestion of outreach. Thanks, Rubens. Sorry about that.

Okay, 2.5.d.1.5, this talks about some members of the working group also proposed that the registry contracts should bundle the capacity of becoming an accredited registrar. In other words, once if in your application, you want to be a vertically integrated registry/registrar, you should be able to apply for both at the same time. And registries do agree with the notion that you could be able to apply as a bundle. The other option would be to allow -- this is a new idea -- to allow the same legal entities to become both while following the code of conduct. This later option would then vacate the need for this suggestion.

So for those that don't follow that comment, in the code of conduct it states that although you could have a vertically integrated entity, open registry and registrar, they have to actually be -- they could be affiliated, but they can't be the same legal entity, unless the code of conduct exemption applies, which is only to those registries that are either a brand or that are a single registrant TLD. So what the registries are saying here is that if you amend the code of conduct to not require separate books and records necessarily, then you wouldn't need this option of applying as a bundle.

The next comment is from the registrars. This is just repeating everything from above, so there's nothing new I don't think on this section. Although they do say and I'll highlight it here, the registrar believes that -- Registrar Stakeholder Group believes that registrar and registry agreements should be held separate and not bundled. So they specifically oppose this bundling option.

Line 27 asks, are there any other proposals that could be given to help registries that have difficulty attracting registrars. The Registry Stakeholder Group essentially provides a long way of saying we have not had the opportunity to assess additional proposals.

Question 2.5.e.3, line 29, should ICANN even get involved? In other words, it's beyond their scope. The registries said some believe it was outside the scope and that it should be by market forces, but others do believe that there is a role for ICANN as a facilitator in making a global domain ecosystem easier in the face of different regimes and systems among countries, notably the ones in underserved regions.

Next question is the working group has not yet found a way to identify whether a TLD with low market performance has its low performance because of a lack of demand or lack of sales channels.

Registries just really repeat what they had above, which says that this is out of scope, or some registries believe it's out of scope and others disagree with that and believe it is within the scope. And so you have kind of a divergence there within the stakeholder group.

And the final question asks, is ICANN forcing registrars to carry TLDs or designating registrars as registrars of last resort pose challenges for compliance? Should registrars be liable for compliance actions for TLDs that they didn't want to carry, but they were forced to? So it's just saying if we do agree with the solution, which doesn't sound like there's huge support for that. But if we did, then how would we-- what would be our opinion on the liability? And the responses we got from the registries said that again you have kind of a split. Some registries think that this type of interference in the market is beyond the scope. In addition to compliance issues raised, there are probably a whole host of other issues, which would surface if ICANN went down this path. But other members disagreed that it was beyond the scope and they don't believe that the idea of a registrar of last resort was to force them to carry it, but to do an RFP that would allow them to carry it under certain circumstances and that they and ICANN org agreed to. And the registrars repeat their comment that they think all of this would be substantial interference and that they don't support any of these options.

Okay, we've now gone through all of these comments. Let me go back to the chat. So I see that Steve has made the change to that section which was a new idea on the newcomer's guide, so he made that blue. Rubens is pointing out that the registries have a three-way split. And now the PDF is scrollable, cool. Jamie, Please?

Jamie Baxter: Thanks, Jeff. Jamie Baxter for the record. I'm really sorry about the late question on the change request section, but if I can go back to that for a second. I just wanted to know if it's fair to assume that when the discussion in 2. centers around changes to an application or string in order to resolve contention; is it the group's understanding that this includes community applicants going forward? And my assumption is that it is. However, I ask because in the 2012 round, as some may or may not know, community applicants were restricted from making any changes to their applications. So if that is something that this group considers and recommends going forward, I just want the record to note that it also applies to community applicants who weren't able to make such changes in the past or may have been excluded from making such changes under the current rules. Thanks.

Jeff Neuman: Thanks, Jamie. My response to that would be that I don't think the working group excluded anything, so by just looking at the language, it seems to apply across the board, unless we as a work group come up with areas where it shouldn't apply. So I would say that I don't think the working group meant to exclude anything, unless we specifically stated it, and we didn't. So it's a long way of saying I believe it does cover communities as well as all of the other types. But as Cheryl points out in the chat, we do need to be explicit in our -- if we were to

make the, say, final recommendation, we would have to be explicit. And maybe that's for not just this recommendation, but maybe even a statement that says that unless we specifically create exceptions, all the rules are meant to apply across the board to every type of application. I would -- lawyers would say unless explicitly stated otherwise, this applies to everything. So we should probably be more explicit if we were to adopt this type of recommendation.

Anne, please?

Anne Aikman-Scalese: Thanks, Jeff. It's Anne Aikman-Scalese for the transcript. And I noticed that Justine had clarified the comments of the ALAC with respect to name collisions. I remember that there was some question when that was all being reviewed before, as to what was the meaning of other comments that stated defer to the SSAC. So given Justine's clarification, are we supposed to be going back then to get clarifications from groups other than the ALAC?

Jeff Neuman: Thanks, Anne. So this is going back to -- I'm trying to figure out where that was.

Anne Aikman-Scalese: I think her clarification was just this week on the list. And I'm --

Jeff Neuman: Right. No, yeah, sorry. I was just thinking if this related to the supplemental initial report, but it didn't. It related to the topics we talked about at ICANN. So yes, that question actually was intended for any of the groups that said on name collision that said that they would defer to the SSAC. But I think it was more explicit than that. Like if they just said defer to the SSAC, that's different than what the ALAC said, which said they should not -- I'm trying to remember what the original comment said. It was something to the extent, it was pretty vague. It just said there should be no -- something like there should be no new TLDs or it shouldn't move forward absent the name collision study or something like that. And my question was, what this should not move forward to. Does that mean that this group shouldn't move forward with finalizing a report or does that mean that it shouldn't be delegated or something in between? And Justine's response was pretty much something in between. So yes, obviously if there were and as we go through the sections, we're going to ask everyone to be much more explicit, so that we can make sure we're coming up with recommendations that are clear and that reflect the way the working group feels.

So this was -- so I guess, Anne, I would just say that anyone that wants to submit additional clarity should, not just on that question, but on others. And I'm sure we will touch on a lot of those starting next week.

Anne Aikman-Scalese: Okay, great. Thanks. Just one quick follow-up, I know that in the discussion on the list that I think Donna had mentioned kind of trying to touch base on timelines and Kristine Dorrain had said, can we talk to the board about what they foresee as the -- how these matters can proceed in parallel so that the solutions are provided along the way after we've made our policy recommendations and it can be coordinated. And so there was discussion on the

list about, I think, potentially going to the board about that. There was discussion about going maybe to the Chief Technical Officer about that.

Jeff Neuman:

So at this point, the working group leadership is reaching out to the SSAC leadership to see if we can take them up on their offer which they made to the board, which is to coordinate with our group. We are trying to figure out -- well, we spent a couple days trying to figure out the protocol for doing that, as to whether or not that needed to be done through the council or whether we as a working group could do it ourselves. We got a response late last week that our working group can reach out to the SSAC as opposed to going through the council.

So this week we're reaching out to the SSAC to see how we can coordinate on this. I'm not sure yet that this is a board issue. We thought that we would try to reach out to the SSAC first and see if we can establish some coordination before we take this up the levels of the board.

Anne Aikman-Scalese: Great. Thanks, Jeff and Cheryl. Thank you.

Jeff Neuman:

Yeah. Thanks, Anne for reminding me of that. I sometimes forget which calls we discuss this on, because we do have lots of calls every week and thank you for asking the question.

Okay. Anyone have any other business? Okay, our next call, we are now reminder, which if you're on this call, you know, we are now at a weekly schedule. So our next call is Tuesday, April 9, at 0300 UTC. So we generally do the 0300 on the Tuesday as opposed to Monday. Because that would for a lot of people. So please note the date and time of the call. And we are going to start doing some more of the summaries with the hope that we can knock out some final recommendations on some of the sections. So please stay tuned. Please read your email and keep the discussion going. I definitely appreciate the comments that we've had so far.

So let me ask if Cheryl wants to add anything first, and then if ICANN, if Steve or Julie want to add anything.

Steve is typing. And I think Cheryl, I'm not sure if Cheryl is on. Nope, for now. Okay, thank you everyone, and I'll give you back 15 minutes. Thanks, everyone. Have a great day. You can end the call.

Julie:

Thanks, Jeff. Thank you, everyone. Ashley, you can end the recording. And everyone else, have a good rest of your day. Thanks.