

**ICANN
Transcription
New gTLD Subsequent Procedures WG
Tuesday, 28 November 2017 at 03:00 UTC**

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Michelle DeSmyter: Well welcome everyone. And good morning, good afternoon and good evening and welcome to the New gTLD Subsequent Procedures Working Group call on the 28th of November, 2017. In the interest of time there will be no roll call. Attendance will be taken via the Adobe Connect room, so if you happen to be only on the audio bridge today would you please let yourself be known now?

Great thank you. Hearing no names, I would like to remind all participants to please state your name before speaking and please keep your phones and microphones on mute when not speaking to avoid any background noise. With this it is my pleasure to turn the meeting back over to Cheryl Langdon-Orr.

Cheryl Langdon-Orr: Thank you very much, Michelle. Appreciate that. And if we can go to the first slide of today's agenda slide deck, thank you. While we're doing that take the opportunity we take at the beginning of every call to ask people if they have any updates to their statements of interest, if you have an update to your statement of interest would you like to let us know now?

Not seeing anybody waving in the Adobe Connect room. And also not hearing anybody on the audio channel, then on the (unintelligible) there is no agenda slide so I'm going to draw your attention to the agenda in the agenda pod on the Adobe Connect room, for those of you who are in the Adobe Connect. And with that we'd like to ask if there's anybody who has an update or suggestion of change to this agenda (unintelligible) and I think you'll find we have shifted the order of one of the items, but there are no new items since distribution.

And also if there is anybody who has any other business that they would like to flag now and we'll be asking for any other business again towards the end of the call. Again, not hearing anybody saying they had any proposals for any other business or any other changes.

That brings us through some of the administrivia. And it takes us onto our Item Number 2, having done (unintelligible) SOI checks. So what we're going to do now is look at the individual – the five work tracks and get a very brief update from each of the work track co leads. Let's start in numerical order with Work Track 1, who's going to take that?

Christa Taylor: Hi, it's Christa. I guess...

Cheryl Langdon-Orr: Over to you, Christa.

((Crosstalk))

Christa Taylor: ...okay. So last call we had a (unintelligible) call on applicant – sorry, variable and fixed costs and hoping to put something on the email that we'll share the list shortly. And next week we are going into systems and communications – sorry, my apologies, applicant support and the Applicant Guidebook and so that's next Tuesday for everyone to join us. Thank you.

Cheryl Langdon-Orr: Thanks for that. And did we want to move to Work Track 2 or are there any questions? Any questions?

((Crosstalk))

Cheryl Langdon-Orr: No, not hearing anybody asking questions of Christa. Let's move to Work Track 2. Who's going to take it for Work Track 2? Go ahead, Michael.

Michael Hammer: Yes, thank you, Cheryl. So for the Work Track 2 we had a call last week where we talked about vertical integration. We looked at the CCT comments for where we're at with that. And (unintelligible) some of the polls we were asking – sorry for the background noise. We reviewed important data from Compliance and we need to ask some follow up questions to Compliance in order to get (unintelligible). Try to move to a quieter space.

Cheryl Langdon-Orr: Okay well...

Michael Hammer: Cheryl, why don't you move on and I'll follow up in a minute here.

Cheryl Langdon-Orr: Actually, Michael, I think your sound was slightly better when you came back then. But if you want to have another go now?

Michael Hammer: Can you hear me now?

Cheryl Langdon-Orr: Yes, we can. We recognize there is background noise so people will just have to listen carefully. That was Cheryl for the record. Go ahead, Michael.

Michael Hammer: Okay, apologies on that. So for our last call on Work Track 2 we talked about vertical integration. We reviewed the CC2 comments for that. The second kind of our CC2 period but we should be able to finish that up with our call next week. And just a couple of points on the vertical integration, there's some data that – more data that we need from ICANN Compliance in order to come to some conclusions on where we're at with that. But those questions

have been drafted and shared with the full work track and we're seeking some input on that. Sophia and I wanted to ask about – yes, sorry, so Sophia – Jeff made a good point – we did announce that Sophia was officially the new coleader along with myself for Work Track 2. And she is already taking on that full responsibility. And one of the questions that were posed to the work track right now is a question on full integration for Specification 13, brand TLDs, as well as code of conduct, exempt TLDs in regards to whether or not they should require Section 2.9 of the Registry Agreement in the future.

Full integration would be the aspect that they wouldn't have to use a registrar or, sorry, an ICANN appointed – an ICANN accredited registrar in order to register domains. It seems that with full integration we'd be losing that and we're asking the full work track for further input if this is the direction we want to head in and for full – for input in regards to that on the list. And it'd be great if we could get some more feedback in regards to that. Thank you.

Cheryl Langdon-Orr: Thank you very much, Michael. Cheryl again for the record. And we recognize you were having some audio issues because of background noise but I think we all managed to hear most of what you said. With that let's move onto Work Track 3 and who is going to update us on Work Track 3? Karen, over to you.

Karen Day: Thanks, Cheryl. Hi, this is Karen Day for the record. Work Track 3 will be having its next call in just a few hours at 1500 UTC on the 28th. And we will be continuing our discussion on community based applications and community priority evaluation. We will be using as the basis of our discussion tomorrow – well tomorrow for those of us in the US – the paper that was circulated last week by the UK representative to the GAC on GAC opinions on community based applications and also our CC2 responses to questions about community based applications.

And this will be our last full discussion on community based applications on the call before we move on in our work schedule and move communities off

into our written phase of our evaluations. So please join us on the call tomorrow for community applications. Thanks.

Cheryl Langdon-Orr: Thank you, Karen. It's Cheryl Langdon-Orr for the record again. And due to the unfriendly hour for Rubens, I don't see him on the list although I have been on – I'm sorry – let me say that again – on Skype with him through today. So I will update you on Work Track 4 and we could note therefore an apology from Rubens if you don't mind, thank you, staff.

Work Track 4 canceled its last meeting and it did so because we hadn't progressed very far with the development of the models that we are looking toward building a selection or some preliminary consensus on for registry service provisions. I can hear a lot of static on the line and if that case I have changed my handset. Must be storm activity which is not unusual for this time of year so I'll apologize if there's too much static. I'll make this brief.

So unfortunately we also haven't seen much progression of the development of those models which are with loving care currently called like straw beetle or straw cookie monster and perhaps I could take this opportunity to encourage any of you in Work Track 4 who has proposed alternatives or options that they might want to briefly put pen to paper and finger to keyboard and flesh out the models a little bit more so we can have a little bit more to work on.

However, that in the absence of (unintelligible) kick start that again this call but what we will do is go through some of the topic reviews allowing Rubens and I to continue to fill out the topic summary sheet that we're trying to update at the moment and we'll also want to have a discussion with you all in Work Track 4 on our timeline because we had (unintelligible) relatively early on on a number of topics, neither of us are particularly concerned about us hitting the major milestone times at this stage but we would like to make sure we have a fully fleshed out meeting by meeting and critical dates timeline (unintelligible) other work tracks out.

And with that I will take off my Work Track 4 co lead hat and put on the cochair hat and what I think will be my final moment because I think I hand over to Jeff when we get to our agenda Item 3, if Work Track 5 would like to give us an update and (unintelligible) who's going to jump in and talk to us about Work Track 5. Looks like Martin's got his hand up first. Over to you, Martin. Martin, we're seeing the microphone live but we're not hearing you. I can't hear you at all. Perhaps if you haven't had a dial out you might need to get a dial out to a landline that might be more secure in terms of call.

And I would remind people that as the very first slide when you enter into our meeting says, if you want good call quality in the Adobe Connect room you really should use the dial out feature. Annebeth, I see your hand up. How about you step in for Martin while we see if we can sort out Martin's audio problems? Annebeth, over to you.

Annebeth Lange: Hello. Good morning. It's Annebeth here. Do you hear me better than Martin?
Can you hear me?

Cheryl Langdon-Orr: We hear you perfectly well.

Annebeth Lange: Good. Good. Good. I can chime in until Martin has sorted his audio out. So we are going to have our second teleconference tomorrow morning at about this time. And we have been discussing since last time we have still not finished the terms of reference, it's been some discussion there especially about the scope and also the decision models. But I really think it's time that the participants get an opportunity to see it and to decide what to do next.

We have also had a discussion on the risk model that was presented last time in the meeting, a way forward to find a solutions to this problem of geographical TLDs but it's a kind of complicated model and Martin Sutton has made a presentation that we should try to show to the participants tomorrow.

But in many ways in my view is that we first and foremost have to decide the terms of reference so we can go on from there.

We are all – also tried to conclude the letters back the councils of the different stakeholder groups and (unintelligible) where that is for the moment because that sent on to the ccNSO Council so I suppose it's up to Heather now to send it. I haven't heard more about that.

And Martin, would you try now to fill me in?

Cheryl Langdon-Orr: Martin, we're not hearing you at the moment.

Annebeth Lange: Okay, it's Annebeth here again. I think that we can – that's where we are. Then well let's hope tomorrow that it's as many participants as last time. It was many people joining the call so we'll see tomorrow morning and then we can get back to you with more updates after that.

Cheryl Langdon-Orr: Thank you very much, Annebeth. And thank you for trying so hard, Martin. If there's anything that she has not covered I'm sure Annebeth would appreciate you putting in a little bit of information into the chat so we can all catch up. To answer Justine's question, the draft terms of reference for Work Track 5 will be shared with the group as soon as possible and by that I mean, I believe within hours. It was certainly the intention of most of the cochairs that I've looked at in their correspondence to have it sent out in advance albeit perhaps only shortly in advance of the call for Work Track 5. But it's not a lengthy document and you will be going over it in Work Track 5 in some detail.

Martin, I see your hand is still up. Do you wish to try and speak? No, he's put his hand down. Okay. That was an old hand.

Okay, with that we've wrapped agenda Items 1 and 2 up. Thank you very much to all the people who stepped up to update people in the general

plenary on the work track activities but I would also like to remind everybody that unlike Work Track 5, some of the work tracks have been getting relatively low attendance numbers so if you are an active member as opposed to an observer on some of the work tracks, please do try and join the work tracks. Their calls are important and the work they're doing is coming to a critical point.

And with that over to you, Jeff.

Jeff Neuman: Okay, thanks. Hopefully you all can hear me. I'm not too loud or too quiet or distorted. We seem to have lots of different types of issues today. So hopefully everything is good. I will await to see if – okay good, just right, okay, the story of the three bears.

Anyway, so I don't know if there's a slide for the working group timeline. I think – yes there it is, good. Hopefully you all see it now. We discussed this on the last call but I just wanted to reiterate it just so that everybody – we like to give things multiple readings in case anyone has any additional thoughts.

So our goal is still for all the work tracks to complete their preliminary – their sections for the preliminary report by March so that we could, as a full group, review those recommendations, make sure we're comfortable with them. It will not be an official consensus call for items for the preliminary report. The goal is to get the preliminary report out for public comment by mid-April of 2018.

The sections of the preliminary report will for the most part, present our discussions as they've taken place. We'll present recommendations if we have them. We'll present possible options, the pros and cons of those options and solicit feedback on those different types of options that are available.

So it's not going to be for the most part, I mean, there may be some areas where we all had agreement on and therefore we're making a definitive

recommendation, but for the most part we'll present options and the pluses and minuses and ask for public feedback on those.

This again, and we should be a little bit more specific, this is the timeline for Work Tracks 1-4, not the timeline for Work Track 5. So we should probably put that on the slide. So the goal, again, would be to publish the initial report April 2018, generally initial reports, preliminary reports, go out for a 42-day public comment period which would put us at the beginning of June for when the comment period would close.

This will give us time to then discuss the public comments at the ICANN 62, I believe that would be, in Panama at the policy meeting. And then hopefully by July 2018 we could then have ICANN staff have – will have compiled the public comments and that we can discuss those between July and November so that we can then try to have consensus calls before we deliver – oh, sorry sounded like there was noise there. Hopefully deliver a consensus final report to the GNSO Council by December of 2018.

So for some of you that sounds like a long time, for some of you that sounds like it is a really short period of time, and I think it's somewhere in between. It is aggressive. There's a lot of things that we're going have to do in order to make those timelines, but, you know, I think that I'm hopeful we can make those timelines so that we can move this program along. Any questions on the Work Track 1-4 timeline at this point?

I don't know, Steve, I'm probably putting you on the spot, I don't know if you have the Work Track 5 timeline that we presented at that meeting a couple weeks ago? But if I can do that from memory, I think our goal is to have a preliminary report at some point in June of 2018 and a final report at the end of the year so to try to complete Work Track 5 work in a little bit over a year, that's really ambitious I understand but again, it's something we're going to work towards so that we can try to align better the final report and the final recommendations that go to the GNSO Council.

So that timeline slide is not there; it was presented during the work track call mid – a couple weeks ago, and we'll try to make one available so that everyone can see that. Are there any questions at this point on timelines? Okay, I'm not seeing any.

So why don't we go jump into the Topic Number 4 which is a continuation of the discussion of predictability framework. This document is a document that is – the link is up in the agenda section of the Adobe. It's been out there for a fairly long period of time. There have been a number of comments that have been submitted and we've tried to address those comments, or I think we have addressed all of those comments to date. And right now has some additional revisions that I thought we would go through and talk about and really get down into a straw person type of model to talk about including in the preliminary report.

So by way of background, what we're really talking about here are changes to the new gTLD program which happened, I guess we'll go backwards, in 2012 there were a number of changes that were applied to the new gTLD program after the publication of the Applicant Guidebook and that includes things that were either added, there were additions, there were modifications, and other types of changes. Most of those – well some of those changes did involve some level of community outreach or public comment.

There were a number of changes that were just made by the ICANN organization on their own without any kind of public comment. And that led to a number of applicants feeling like the process was not as predictable as they had hoped and that it led to a number of changes that were not necessarily anticipated by the applicant.

It also led to unpredictability, I think that's a word, amongst the community members that either wanted to file objections or that wanted to file public comments and, you know, we recognized in many of our earlier discussions

in this group that although we're going to do our best to try to come up with all of the lessons learned and resolution to all the problems and all the issues that arose the last time, I think we can all agree that there will likely be unforeseen situations that come up at different stages of the new gTLD implementation or the execution of the program.

And so what we want to do is develop – recognizing the fact that there will – issues will arise and changes may need to be made, we would like to build a model – a process, if you will, so that even though we can't predict the outcomes of those processes, we could certainly have a predictable mechanism for determining resolutions to the – or determining resolutions to the issue that do arise.

Okay, with all that kind of background, we also want to take note of the fact that a lot of work has taken place already within the GNSO primarily as a result of the changes that went through because of the new gTLD program in 2012, and so we also want to incorporate those discussions and those outcomes into whatever framework that we develop as well.

So for example, we now have a formal implementation process for any GNSO policy, consensus policy, where the GNSO will under certain circumstances, create what's called an implementation review team to resolve certain ambiguities or issues that have arisen out of a policy. And so we are not talking about making any deviation from that process.

So once this working group finishes its work, our final report will go to the GNSO Council, the GNSO Council will hopefully accept it and send it onto the Board, the Board will then adopt (unintelligible) adopt those recommendations and the next step is for the GNSO to create an implementation review team to implement those policies to the extent that implementation guidance was not already provided in the former working group's report.

That's all still in place; no recommended changes are being made to that process. What we really want to focus in on, and if you look at what's posted on – sorry, not posted what's being displayed on Adobe right now, starts really on Page 2, which is, okay, what happens after the final guidebook is published, after, you know, applicants are now starting to prepare their applications or maybe the applications have already been submitted, what happens to issues that arise after the – what we'll call the effective date of the subsequent new gTLD program? How do we deal with those types of changes?

So if you look starting on Page 2 towards the bottom of Page 3, what we're proposing and what we've discussed in previous calls is – and perhaps we should come up with a new name for this because it may get confused with the ordinary implementation review team that's now built into the GNSO processes, but essentially what we're recommending is that for certain type of changes or issues that arise, another type of implementation review team be created.

And that implementation review team would then be available kind of like a standing implementation review team so a semi permanent type of team, that would be in place to talk about issues with ICANN staff, the organization, when these issues do arise. And so going more specifically to the text – and hopefully this is – I'm going to actually go to my own copy here because I can't read the language from the Adobe, it's too small; I know we can extend it.

But so what we're talking about here is classification of different types of changes (unintelligible) there's a lot of feedback is there? If anyone wants to get in the queue please raise your hand or on Adobe. Anne, please yes.

Anne Aikman-Scalese: Thanks, Jeff. This is Anne Aikman-Scalese for the transcript. And I know that this will be a comment that I've made in the past but I still think that our language in this predictability framework is quite vague when we make

references to consultation or collaboration with the community and the community is not defined. In other words, as I understood things from working on the Policy and Implementation Working Group, it would be, you know, very fruitful, for example, to have a standing IRT that makes that determination as to whether, you know, it needs to be referred back to the GNSO to decide whether or not policy is really involved.

Within the predictability framework I think we've, in this draft, incorporated a whole lot of unpredictability because we keep making references to staff collaboration with the community or staff, you know, and then we have quote unquote examples. One way in which staff could collaborate with the community is via a standing IRT. Well, that still puts us in a situation where, you know, it's a staff determination as to whether it's a policy matter; it's not an IRT determination as to whether it's a policy matter.

So I would strongly recommend that we, you know, stick with the structure that was really I think intended by the Policy and Implementation Working Group is that the determination of whether or not those policy involved really should be in the hands of a standing IRT. Thank you.

Jeff Neuman: Okay thanks, Anne. Let's hold onto that comment as an overall comment and then see how we can apply that to each of the different types of issues and examples that are going to talk about. So put that as kind of an overall comment, keep coming back to it because we understand your view. I just think that there are certain unique aspects of the new gTLD program that may require more nimble, faster resolution than even what the exiting IRT had – or sorry, the existing Policy and Implementation framework has contemplated.

So it may or may not, but I think let's talk through those alternatives, and if at the end of the day we all conclude that no, you know what, this is exactly why the Policy and Implementation Working Group did what it did and everything should follow that, then so be it, but I think we should talk about different options.

So let's – if we can then does anyone else have any kind of general comments before we dive into some specifics? Okay, sorry, Steve, oh I think the link that Steve may have put up in the agenda pod might not be the right one since we moved stuff around. But I think that's being taken care of. Steve just posted the updated link.

Okay, so in going to the words of this, under Phase 3 what's written now it says, "The third phase is only being recommended for the new gTLD program. The working group acknowledges that if there is an IRT for subsequent procedures," so this IRT is referring to the normal IRT that's referenced in existing GNSO policy, sorry, we keep using IRT as an abbreviation, IRT stands for implementation review team, so we should probably use the long form as opposed to keep referring to an IRT, "we recognize that there may be unforeseen questions related to the operations of the new gTLD program even after the formal IRT has completed its work."

And so what we're creating the analogy to is, you know, what happens after the effective date of a normal policy, so let's run through a non-new gTLD policy. So let's say there was a policy on another subject and that we created an IRT to help with the implementation, then the implementation – there's an effective date of that policy and now the question is what happens if certain issues arise that you need to deal with that are after everything's already gone through the process.

So there are several types of changes that may be required after the new gTLD program relaunches, and what we're trying to do below in this draft is to draw distinctions in the types of changes and the mechanisms proposed to handle those changes. The distinctions are intended to balance the need to allow for disposition of issues that arise with proper community consultation when warranted versus allowing the ICANN organization on its own to effectively manage the program in a reasonable and efficient manner.

So for example, in terms of impact applicants, and the wider community, we recognize that the need for – if there's a need for new contractual requirements, we recognize that that may have a greater impact on the community and applicants than something like ICANN needing additional resources to complete assigned tasks that it has under the Guidebook.

So again, we recognize that some of this has to be a little bit vague in order for us to come up with a process, but hopefully we can make it specific enough so that ICANN staff and the community have a – know which category these changes fit in.

So let's talk first about I think fairly an easy situation. So let's say that ICANN has to, because of something that arises, now I'm on the minor process updates that – on Page 3, yes, Page 3. So if there's a minor process update, which we've tried to define, as a change to ICANN's internal processes that do not have a material impact on applicants or other community members, so this usually involves no changes to the Applicant Guidebook but may involve the way in which the ICANN organization or third party contractors – the way that they meet their obligations under the Guidebook.

So some examples that we can think of are let's say it wants to change the internal workflow of how to do pre delegation testing or it wants to change backend accounting systems or it wants to select a contractor to help it with evaluations or a change contractors to help with evaluations. These are the kind of minor process updates that, you know, we believe do not need to involve necessarily the community or any kind of standing implementation review team panel. At least that's what's being proposed in the straw person.

So reading Anne's comment, "There are numerous references in the draft framework to staff collaboration with the community." Okay, sorry, I'll get to that, Anne, when we have one of those references. So in this case does anyone – I guess let me just stop here. For minor process updates, does anyone believe that there should be some role for the community or for a

standing panel or for applicants or anyone else, does anyone believe that there should be a different process other than allowing the ICANN organization to resolve those issues on its own?

I'll wait a second to see if there's any comments. Okay, Maxim says, "If operations are seriously affected by the change," okay, so one of the things we're talking about here is to measure it by the impact on either the applicant or the community members. So what we're talking about here is something with a minor to negligible kind of impact on applicants. So it's not something that would affect applicants or the community simply by making these internal types of changes.

So Anne says, "The issue is what is or is not a minor process update." Anne, completely agree with you. That is going to be one of the things that I think once we get done with different classifications of these types of updates I think we really need to, as you're pointing out consistently, how do we – how do we categorize or what is the process for categorizing the types of changes and who does that, right? So I think that's kind of underlying a bunch of your comments.

Michael has said, "Is there an option in Google Docs to see a post-suggested form of the document?" Michael, I'm not 100% sure of what you're asking. A clean copy, is that what you're saying? Sorry, I'm just trying to – if anyone wants to speak, please, I don't have to talk the entire time, in fact I prefer other people raising their hand.

Okay so our recommendation is if there's a minor process update that there is no – we call it here a mitigation strategy of the issue, expected mitigation strategy, we're saying none is needed. But this is really the type of thing that we envision ICANN organization, the staff, handling on its own without input by the community.

The next type of change that we are – that I'd like to talk about are revised processes and procedures that do have a – do either have or potentially have I guess we should also say, a material effect or an impact on applicants or other community members.

So some examples that have been put into this category are let's say there's change to the internal service levels, SLAs stands for service level agreements, related to contracting or pre delegation testing that adjusts the overall timeline; or there are changes made to the workflow for handling change requests, i.e. a procedural change rather than a change in the scope of allowable change requests; or something like a minor delay caused by an unforeseen circumstance.

For those types of revisions to the processes or procedures, where it does have an impact on the applicants or community members, what we're talking about there is a – that staff, the ICANN organization, should be required to communicate those changes to affected parties before they've been deployed. Now these, again, are not deemed to be policy level changes but more implementation operational changes, again with the overall caveat that Anne has put on here which says that, "Who's going to make that determination?" And we'll get to that in a bit.

Okay, we have a very quiet crowd. So okay that's the second type of change. The third type of change is let's say there's a completely new process or procedure that is – needs to be introduced to address an issue that has arisen. So let's say that for whatever reason ICANN wants to create a new public comment platform or a new way in which objections should be submitted or a new procedural mechanism to determine the order in which applications are evaluated, so like in the last – in the 2012 round, this was something like changing from Digital Archery to randomizing it, so more of the – I know I'm not supposed to use lottery – but the more of the sweepstakes approach, I forgot the term that I'm actually supposed to use.

So for something like that, we would envision collaborating with the community and our proposed mechanism is through a standing IRT which we'll talk about – standing implementation review team, which we'll talk about in a minute, which is that staff will work with the community to develop a solution. Once the changes are agreed, then there will be communication with the affected parties.

So what we're referring to later on – thanks, Jim. Jim has called it the “random draw.” Thank you. So for that we are going to recommend for this call, for discussion purposes only, talking about a standing IRT panel to discuss those types of changes.

We go onto other types of changes which are more at the fundamental possibly policy level changes and those what we're really recommending there is much more in line with the discussions that have already taken place and resolved through the GNSO's policy and implementation review team which are mechanisms available to the GNSO, things like – and I don't know why here – development – well let me skip that for a second – that basically, you know, that the – there's either a standing IRT or the Council could do an expedited – what's called the GNSO Council could do a GNSO input process or guidance process. There's other things that have been recognized by the policy and implementation framework.

But what we are talking about here too are potential new changes that were not even contemplated which would – things like the – initially the URS was not in the original GNSO policy and through that it would be the normal expedited PDP, GNSO input process, and guidance process as well. Some reason I can't go to the next page through Adobe so I'm going to go back to my own chart here. And this could also include kind of a standing IRT and we could talk about that kind of mechanism – we'll talk about that in a minute or in a couple of minutes.

The reason why some of the examples here might be in two places is because we didn't want to, for purposes of developing this straw person, we didn't want to get into the classification of, you know, whether changing from Digital Archery to a random draw was a policy change or purely implementation. In either case we feel like the straw person could handle it without us saying whether it's a policy or non policy change.

And as Jim said, as was done in 2012, something new that was added was this new contractual provision giving essentially ICANN unilateral right to amend, which was done actually in 2012 was proposed well after the applications were submitted, actually might have been 2013.

So if we go onto the next page, so essentially just to kind of sum things up, there are types of changes that we believe or issues that will arise that we believe need a predictable model of – or a mechanism, sorry, a predictable mechanism to handle these issues which are not decided solely by ICANN staff which have the appropriate level of community input when required. There are some difficult questions we still need to consider as to who decides what's procedural versus substantive, who decides, you know, which category a certain type of change fits in. But I'm putting those on hold for a little bit so we can discuss a potential mechanism to handle these types of changes.

So if you scroll down to the next page, Page – I've lost track – Page 5, we're talking about potentially creating a standing implementation review team for the new gTLD process. And this is where I really want to stop doing some of the talking or all the talking and really listening to get input. But, some of the things that we would need to consider if we did set up the standing implementation review team is to decide things like, you know, who would be on this type of review team, would it be the same mechanism of creating that review team as creating a normal implementation review team under the GNSO policies?

Should it be something different? Examples could be, you know, should it have experts on those, you know, those that are familiar with registry operations? Should there be people that are, you know, have formal roles within that implementation review team? What is a good number of members of that type of team? How are those members appointed? How long should a term be of members of that type of review team? You know, what is their role on that review team? Is it to represent or let's say there's a mechanism that's – and I'm making this up because nothing's been decided – let's say we say that every constituency within the GNSO should have a member of this standing panel.

So is their role to represent their constituency? Or is it really to be a representative from that community and it's exercising his or her own independent judgment within that team, sort of like the Nominating Committee, right, you have people that are selected to the Nominating Committee that are from each of the – or many of the constituencies and SOs and ACs, but their role is not to be a representative it's really to exercise their own independent judgment on the matters that are referred to it.

Is there – should there be a conflicts procedures for these members? So obviously if someone is going to be an applicant as well as being on this review team, well, A, should they be allowed to be on the review team? If they are allowed on the review team, what are the requirements on that person or persons? You know, are there confidentiality obligations of those that serve on this team? And what is the role of ICANN staff on this type of standing panel?

So I've done some talking. I want everyone to kind of think about different things that could come up. And if you've read the report, I'm trying to think of the exact name of it, but ICANN staff did a kind of post mortem on the program and they released a final report and it has a bunch of recommendations. There are some areas where they had wished that they could consult with experts or members of the community rather than making

unilateral decisions on certain aspects of the program. And so this would be the standing panel would be to help on those types of issues.

I hope this kind of makes sense. I'm seeing no one make any comments. Trying to come up with an example of an issue – everyone's being real quiet. We could do all this – comments on the list that's fine too. But let's just say that there's an issue – all right, let me give an example.

So there is – let's say we found out through – and we still have pre delegation testing, so let's say we find out that there's an element of pre delegation testing that is not really testing what the community thought was supposed to be tested, and so now the contractor who was selected by ICANN to do pre delegation testing, comes up to ICANN and says, ICANN staff, you know, this is – we noticed that what you really want to test is the registry's ability to do XY and Z, the tests that you put in the Applicant Guidebook do not actually test XY and Z so we would recommend that instead of doing those tests, you do this new series of tests, let's call it ABC.

ICANN staff is then presented with that situation, doesn't really involve policy, let's assume that for the time being, because it's still testing for the same types of things but it could have a material impact on applicants, on backend registry operators and on those that are performing the tests. So if we created, let's say, a standing implementation review team, to for ICANN have these conversations with so that they can vet this proposal with ICANN staff to help them come to better decisions, is that a good idea? Is that a horrible idea? Anyone?

Let me ask someone from a backend operator. How did you all feel when ICANN staff changed the pre delegating testing procedures by just giving you notice and then you had – even though you tested, you passed pre delegation testing 50 times using the old procedures and all of the sudden without any consultation they just implemented new pre delegation testing procedures on their own without consulting anyone. Was that okay? No big

deal? Just let it pass? Wow, we have definite – yes please, I'm not going to put out here your name – Quoc Pham please. Hopefully I pronounced that right.

Quoc Pham: That's okay, it's quite enough. Yes, so yes when they change the rules without notifying, it does get complicated because it's not expected and we would prefer it not to change – if it were to change to have ample notice time for PDT.

Jeff Neuman: Okay thanks. So ample notice is definitely good. But do you think there should be – oh, sorry.

Quoc Pham: Sorry, add one more thing. And also the fact - being cognizant of the fact that a lot of backend operators can be running off the same system so once you pass one TLD you've really passed all. Sure there might be some features – specific features and you might have to (reduce), but the things – just repeating the same tests with, you know, object creation and transfer, it's been done on the basis then it's not going to change the result because the system is already operating.

Jeff Neuman: Yes, thank you. And that is a topic being discussed within Work Track 4 as well as, yes, mostly Work Track 4. So putting that aside, which is important about whether you have to undergo multiple testing even though you passed 50 times before, let's just assume just for this example that you do have to do it another 50 times or that you have to do something else. I'm just trying to see whether setting up a standing panel perhaps of experts that are impacted by these changes is a good idea or not. Anyone want to take a stab at that?

Quoc Pham: So can you elaborate more on the...

((Crosstalk))

Jeff Neuman: Well, okay, yes. So that's a good question, so I think that was Quoc Pham. So well I think that's some of the questions that we want to ask. I mean, one of the things that, you know, we could throw out there as an example would be that the standing panel should have expertise in, you know, should have members that have some sort of expertise in registry operations or backend registry operations, that might be one of the qualifications.

Basically what I'm – what I'm – what we're trying to talk about here is whether there should be a panel that's available to ICANN staff to talk through changes that are wanting to be implemented after the program has already launched. And what's come up in the past has been the recommendation that we have kind of a panel, a standing panel, that ICANN staff could turn to to ask these types of questions. The standing panel can also recommend that it go out for broader comment or it could recommend that it does not need to go out for broader comment, that it's a type of change that – think of it as more of an advisory group to ICANN staff so that it's not making unilateral changes on its own.

Quoc, please, yes.

Quoc Pham: Thanks for elaborating, Jeff, that does clear up a little bit. So, yes, a standing panel that ICANN can turn to definitely will help with experience that the PDT tests at the moment, or what I see on (IS), to choose a name, does – I feel that ICANN do lean on the PDT test as the one that is the one that's providing recommendations, which in some cases we believe it's not correct based on some of the feedback that we've gotten from the PDT tester, we've had to change some things.

So, yes, definitely a standing panel that has used (unintelligible) before pushing it forward and also (unintelligible) for comment would greatly help and also make the PDT testing process a lot more efficient.

Jeff Neuman: Great, thanks. I appreciate that. And I see some agreement so PDT is one example of something that could benefit from a standing panel. Are there any types of other changes that we can think of that may have a material impact where giving ICANN staff a panel or a resource to lean on that's made up of non-ICANN staff members would be beneficial. Okay, seeing – great, Quoc and then Anne, please.

Quoc Pham: Yes, (unintelligible) now. I don't know (unintelligible) but things like – I know that active conversations now with GDPR on how that's supposed to be handled or say the new – the comment for (IDDS) so for – yes, the (IDDS) comments for – it escapes me now – the new system to replace Whois (unintelligible).

Jeff Neuman: No thank you, that...

((Crosstalk))

Jeff Neuman: So if I could take that example out of – without going to GDPR because that's a whole can of worms, but let's say that there are changes that may be required because of law for whatever reason they may be changes that ICANN needs to make to the program because they believe that a change in the law may impact their operation. So perhaps here's another example, let's say that ICANN is doing this random draw and all of a sudden the state of California says you know what, no, we've now taken another look at this and you can no longer use a random draw under the law and so you have to come up with a different way to do it.

Perhaps referring the matter out initially to a standing panel to come up with alternatives may be beneficial, then again we'll talk about you know, what kind of transparency there needs to be and then of course what is the role of public comment in that, so should it just be a matter for the standing panel or should we actually have to fully constitute a GNSO – one of the GNSO's formal policies? But that could be an example. Anne, please.

Anne Aikman-Scalese: Yes, Jeff, it's Anne for the transcript. And I want to go back to something you said earlier about requiring expertise. I think that, you know, for example I mean, you gave an example of requiring expertise in backend registry operations, but in fact and thanks to the 2012 round, a lot of the things that arose during implementation didn't have to do with registry operations. Some of the examples I could give you would be, you know, the straw man solution was characterized as an implementation question that caused a lot of problems vis-à-vis the GNSO saying well hey, wait, that's a modification in policy.

The public interest commitments, which arose as a result really of GAC advice on safeguards again, having nothing to do certainly with backend registry operations. You know, Specification 13 itself was something that arose really, you know, kind of later on. And so I don't think it's appropriate to speak in terms of an IRT that is composed of just, you know, certain people with certain expertise. What we're talking about is consulting – collaborating with, quote unquote, the community. And the community is not, you know, it's not PTI where it's the community – it's everybody, it's all of us. Thank you.

Jeff Neuman: Okay, thanks Anne. Your point is well noted. I gave an example where expertise of registry operations, and you gave another example with potentially let's say intellectual property expertise, right. So standing panel may need to not only have certain expertise within the panel but they may also need the power to consult with other types of experts depending on what the issue is that arises.

What we're trying to do is – and then I'll go Steve and then Alan – is really trying to come up with something that's more predictable than ICANN's past practice, sorry, ICANN Org's past practice of coming up with a potential solution, putting it out there for public comment and then making its own decision. Right? We're trying to come up with some more formal way in which ICANN can solicit feedback from an advisory panel, a standing panel, to help

them make decisions that have impact – that have an impact on the community without just doing an – or even maybe prior to doing an all out public comment free for all type of exercise where at the end of the day the Board just votes on its own solution. I think that's what we're trying to do.

So Steve says Alan's hand was up first so I'll go to Alan, then Steve, then Michael.

Alan Greenberg: Thank you very much. A couple of points, an IRT is not the community but it is the – the whole concept of it was it was the – it is the surrogate of the community that can make reasonable decisions on behalf of the community. Now, yes, it is conceivable that something so messy could come up that the IRT would not want to take action on it and it would want to somehow consult on a wider basis. But we have to assume, and we have to create an IRT, either a single group or a flexible group that changes over time, to act as the surrogate, the representative of the community, or we're never going to get this done.

You know, the whole concept of the IRT was so that we could make decisions and go forward and not be continually going back and initiating new potential policy processes, you know, because there's some level of confusion. So I think this is – we're going to have to design something either according to the standard rules or some new rules that we do have some faith in, otherwise we're in a never ending decision process.

And that brings me to my second point, and Anne made reference to the straw man which – where there was objection that it was deemed to be policy not implementation, yet the straw man was a modification of something which in the front page of its report said – and this was a GNSO report – said this is implementation, not policy because we had decided earlier on that this certain whole area of trademark protections were not specified in detail in the policy and implementing them was deemed to be implementation. Maybe a bad decision at that point, but that is the decision we made.

So we're going to have to come up with some process that we have faith in that can go forward and hope that this is going to be done otherwise we're going to be still discussing the details of the second round implementation way after I'm out of ICANN and most of us are. Thank you.

Jeff Neuman: Thanks, Alan. I think that was well put and that's what this standing panel and maybe we don't call it an IRT because of the confusion it causes with the term IRT in the GNSO policy process or policy implementation process, but that's essentially what we're trying to do with this standing panel which by the way, is not – it's not my idea or the leadership's idea, this is something that's kind of come out of a bunch of different previous discussions so we're just trying to drill in on some of the details.

Steve, please.

Steve Chan: Thanks, Jeff. This is Steve Chan from staff. And I was really going to probably make some of the – or I guess a similar point to what you just made or draw a distinction that this standing IRT can probably stand for a rename because I can see some confusion in the comments in the Adobe Connect room. So when a GNSO PDP's policy recommendations are adopted by the Council and the ICANN Board, the formation of implementation review team is essentially a requirement at this point. It takes place for a consensus policy implementation pretty much under every circumstance under – unless there's exceptional reasons to not do so.

So I see comments about the need for establishing an IRT perhaps not implementation, I mean, that's going to happen so I guess I wanted to share some of the folks on the call that once this PDP completes its work, it's a near certainty that there will be an IRT that's responsible for assisting staff and collaborating with staff to make sure that the recommendations are implemented in a way that respects and – respects the intention of the recommendations by this working group.

So I don't know if it's as simple as renaming this standing IRT that we're pondering right now but I think that might help alleviate some of that concern or confusion. And so I – so the distinction in drawing out of the phases in the document that we're looking at right now was in part to try to make sure that the folks that read this document hopefully understand that distinction and are able to understand that the aspect that we're looking at for this document is purely after the implementation review team concludes its work.

And actually just sorry, one last quick comment about how IRTs are composed during policy implementation they are open to anyone who wants to participate, naturally you're going to get a lot of people that were part of the PDP, but to some of the comments about drawing on expertise that is specific to the implementation that is also encouraged where sometimes you need more technical folks to help in the nitty gritty of implemented policy.

So just some food for thought when you think about how this, whatever we're going to call it, standing IRT, whatever it ends up being you can – maybe take that in consideration when you think about its composition. Thank.

Jeff Neuman: Yes thanks, Steve. I think that's really helpful. There are a couple suggestions that are being proposed. So we'll try to come up with a proposed name for this panel or group or whatever we call it. If you have any suggestions feel free to forward that on. But the discussion – things have really – okay, I'm sorry, let me go to Michael. You go, Michael, first. Sorry. Michael, you've been waiting.

Michael Hammer: Thank you and apologies as I'm in an open office. I lowered the microphone volume so I hope it's not too bad. There's been a lot of questions about boundaries in regards to this panel that we're looking at forming. I think if we look at the following page where we're – where it currently is shown here in the Adobe Connect, that might give us some better ideas about the

boundaries and when this will be involved – sorry, the one we were just on, Page 6, thank you.

Jeff Neuman: Michael, I missed that last – the point on the – I'm sorry, can you just repeat that last part? I lost it. I don't know if others did, but...

Michael Hammer: Yes, not a problem. If we could look at Page 6, that might answer some of the questions on boundaries and where this panel will be involved. And when, well, yes, when they'll be involved. I think it's Page 6 for me but I see the document is now unsynced for everyone. But if we were to look at that it might offer clarity on boundaries.

Jeff Neuman: Oh yes, thank you Michael. Sorry. Yes, we've tried to do that with the chart. Obviously that chart could change. It was just kind of an effort to just get this – get the ball rolling. So I know that we're kind of running late on time. What I would like us to do over email and also through the document on Google Docs is to, you know, think about these questions that are being – that are under the headlines to be discussed. So if we did have an – sorry, a standing panel, you know, what would be an ideal number of members on the panel? How would that panel be appointed, you know, for what kind of term would they be appointed? What their role is, so if we say, again, that there needs to be one from, let's say, the IPC, or the non commercials or whatever we say, you know, is their role to consult with their group or is really just a kind of we want their background and – but then to exercise independent judgment.

Also, one might say well, you know, we shouldn't allow applicants to be on this panel because applicants may have a vested interest in the outcome of the panel. But on the other hand, some may argue it's actually those people that are most impacted so having their perspective, while understanding what conflicts they may have, if they are truly acting in a independent aspect, and maybe they have confidentiality requirements so that they don't share that information with anyone in their organization to avoid certain conflicts, perhaps that's a solution.

I tend to think a panel that's constituted only of those that do not have any conflicts whatsoever is probably not going to be any kind of panel because almost everyone's got some form of conflicts, as long as we can deal with those conflicts. And, you know, other questions of course ICANN staff needs to participate as well because they're the ones that are going to be executing that – those changes. And then once you constitute this group, you know, what is their role? What is the decision making process? What kind of transparency is required, accountability, all these other types of things that we normally think of when these groups are created.

Just to go back to some of the comments, Annebeth has pointed to a model with (Norid), which is interesting that we should take a look at. There's some discussion on composition, making sure it represents the community. Greg is saying the multi-non-stakeholder model doesn't make some – make much sense. I'm not sure – that might refer to something beforehand, so. Full transparency does not go well with confidentiality, the comment from Maxim. That's absolutely true.

Right, so perhaps there should be a mechanism to handle certain conversations confidentially but then balanced out with all outcomes of this group need to go out for public comment, you know, there could be balanced struck with that. So these are all questions that I think should be thought about all with the goal of trying to make better decisions, more efficient decisions, decisions that have some involvement of the community, where the community lacked such involvement but at the end of the day should be a predictable process so that the community and ICANN staff understand how issues are going to be handled.

So our assignment is between this call and the next one is to think about these questions. We will put them out on the mailing list for written response. And then to – we'll decide whether we want to pick up on this topic or whether we go to another topic for the next call to really emphasize that a lot of the

work should be done offline, if you will, through the Google Doc and through email.

Cheryl, please.

Cheryl Langdon-Orr: Oh Cheryl for the record. I wasn't trying to jump in, Jeff, I wanted to follow on so please finish your sentences.

Jeff Neuman: Oh okay. Well I was pretty much done anyway so why don't you go ahead?

Cheryl Langdon-Orr: Okay. Cheryl for the record. I shall do my best to try and complement you then, good sir. I think what you were wrapping up with there is vitally important and I certainly wanted to emphasize that. That, you know, this document we've gone through today of the three drafting team products, is the closest to coming to some sort of conclusion. So I'd be very keen to encourage us all to take this one to its – as full as we possibly can to completion as soon as we possibly can. The Google Doc of course for anyone who does use and wish to use Google Docs, is open and you can put comments in.

We are asking it to be in comment mode, not edit mode because we want to be able to collect comments and discuss and then agree or disagree with the resolution of those comments to be added or not. But please do go into the Google Doc if you're comfortable doing so and start working on this particular thing. I think what I heard, and I suspect, Jeff, you did get the temperature of the room, that there does seem to be considerable merit in us exploring some form of standing body of an advisory capacity. We'll have to come up with a new nomenclature for it no doubt. And so we really need now to flesh the rest of this out a little bit.

The other thing of course is that comments that are put into the mailing list, as Jeff said, we'll post these questions to the mailing list as well, can always be brought across into the Google Doc; it's not as if these things will get out

of sync. We will do our best to make sure they don't. So with that, Jeff, I'm happy to toss back to you to see if there's any any other business and you can wrap it for close seeing as I took it to an open.

Jeff Neuman: Thanks, Cheryl. I can easily bring this to a close. Again, just please let's get this conversation moving. I don't want to be the only one that talks or Cheryl and I don't want to be the only ones that talk during these conversations, but if you're not comfortable talking please understand submit comments via the email, via the Google Doc. Every comment that we received has been or is in process of being addressed.

And I want to thank everyone, I know it's late for some or early for others. And I look forward to talking to many of you on the three more calls I think we have this week on Work Tracks 3, 4 and 5, if I'm correct, all three are this week? Great. So with that is there anyone that wants to get in any other last word? Okay, hearing none, thank you, everyone. We can stop the recording.

Cheryl Langdon-Orr: Thanks, everybody. Bye for now.

END