

**ICANN
Transcription
New gTLD Subsequent Procedures Working Group
Tuesday, 29 May 2018 at 20:00 UTC**

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Coordinator: Recordings are now started

Julie Bisland: Great. Thank you so much. Well good morning, good afternoon and good evening, everyone. Welcome to the New TLD Subsequent Procedures Working Group call on Tuesday the 29th of May, 2018. In the interest of time, there will be no roll call. Attendance will be taken via the Adobe Connect room. If you're only on the audio bridge would you please let yourself be known now?

Okay, hearing no names, I would like to remind all participants to please state your name before speaking for transcription purposes and please keep your phones and microphones on mute when not speaking to avoid any background noise.

And with this I'll turn it over to Jeff Neuman. Thank you. Please begin.

Jeff Neuman: Thank you, Julie. Welcome, everyone. And just want to make sure, did we get Cheryl in and did we get Kavouss in? I know that they're waiting to be dialed out, just do a quick check.

Julie Bisland: Yes, the operator has been trying to reach Kavouss. I'm going to reach out to him privately as well. Cheryl's line was a fast busy so I'm working on that with the operator. It looks like Cheryl is in Adobe Connect though.

Jeff Neuman: Oh. Okay great. Well, I mean, not great that we don't have her on the line but good that she's in Adobe Connect. And Annebeth is still waiting to be dialed in as well. Okay, sorry about that technical issues everyone, but the good news, as you can see, is that we've been selected to get back into the Adobe Connect pilot program again. I think that we do not have complete full functionality though I am not sure which functions we don't have. I guess we'll – I guess we'll find that out as we go along.

But this is just a pilot; this does mean that every working group is going to get Adobe Connect and I've been told that this is...

Woman: Thank you.

Jeff Neuman: ...just something that – oh, this is something that's been requested for our group and I'm not sure if this is part of the larger rollout or whether we just got lucky. But anyway here it is and welcome, everyone.

So as you can see the agenda up on the top right hand portion of the screen, which I like saying, we'll go over any changes to statement of interest and then continue on with the initial report specifically Section 1.7. So let me just stop for a minute and ask if anyone has anything to report on changes for – changes of statements of interest and any other things that they would like to declare in front of the group. Okay, not hearing anyone or seeing anyone with their hands raised, that's good.

So we made excellent progress on the last call, for those of you that were able to make it. We got through a number of sections, and so hopefully we can – the only section that's on the schedule for today is 1.7 because it is a fairly long section. And so why don't we just start up again?

Just as a reminder, the – what we're doing now is we are going over the sections in terms of making sure that they are complete, making sure that they are accurate representation of what was discussed within the specific work tracks that were responsible for discussing those issues, and clarifying anything that does not seem clear within the text and also making sure that we are asking the right questions of the community when we are seeking feedback. So with that, why don't we turn the page to Page 2, which goes over the different sections of 1.7, actually I believe everyone's got control; I forgot that we had that ability on Adobe. So everyone should have control.

So on Page 2, just to remind everyone what's in this particular section, which has been out now for several weeks, at least out in front of this working group. So the first section deals with reserve names, the next section deals with protections, registrant protections followed by closed generics, string similarity, IDNs, security and stability and applicant reviews followed by last but not least name collision. So as you can see there is a lot of sections in here and we will start with reserve names.

So we are now on, I guess it's Page 5, though I guess the header is on Page 4, but Page 5 for reserve names. So going back to the guidance that we were given from the GNSO, the GNSO said in – it's actually more 2007, 2008, there was a Reserve Names Working Group and the recommendations basically were that strings must not be a reserve word and strings must not be confusingly similar to an existing top level domain.

That was pretty much all the guidance that was given initially for – with the GNSO. Christopher, please. Christopher, are you there?

Christopher Wilkinson: Hi, Jeff. Thank you. I just wanted to make a very preliminary comment on this document which I find, dare I say so, compared with some of the others we've seen in the past, that editorially and structurally and in

terms of the argument this is really first class. So I would like to publicly thank Steve and his colleagues for what they've done in this case.

I have a few comments on reserve names but from the point of view of geographical names, but I'll come – you could give me back the floor on that topic when you think it's appropriate. Thank you, Jeff.

Jeff Neuman: Okay thanks, Christopher. We'll – well technically we're not really going to get to geographic names, although there is like a spot in here, so if you want to comment on the text on geographic names that's in here so far that's one thing. I have Work Track 5 that's dealing with the bulk of reserve names at the top level. But let me go back to just here and Christopher, I'll come back to you in a minute.

I should emphasize that what it says in section B, which is that there are two types of reserve names in the new gTLD program. The first type are those names that are reserved at the top level, and then the second type are those that are reserved at the second level. We really need to be careful when we talk about each type unlike I just was when I talked about Work Track 5 because when I was talking about Work Track 5 that really only deals with the top level. So please don't make the same mistake I just make and one could say I deliberately made that mistake but I'm not going to take credit for that, that was a mistake on my part.

Just to make sure that when we're talking about reserve names, if we have a comment just make sure you are talking about whether it's a comment on the top level or on the second level. So how was it implemented and then, Anne, I'll get to you just let me just finish Section B and then I'll get right to you.

So as I said, there are two types of reserve names that were dealt with in the implementation in 2012. The Applicant Guidebook primarily dealt with reservations at the top level while the base Registry Agreement which was

Module 5 of the Applicant Guidebook, contains an appendix which is called Specification 5, which dealt with reserve names at the second level.

So in the Guidebook there was a list of top level reserve names and the sections are in there, are listed in the paragraph, along with names that were reserved because of technical requirements, then there were also geographic names that were reserved at the top level in the Applicant Guidebook and then at the second level there was, as we said, Specification 5, which has been amended several times over the past five years in different ways, one of them was an authentication to release digit or numeric – number-number second level domains, the decision to then release all letter digit and digit letter two character second level.

((Crosstalk))

Jeff Neuman: Okay, we'll try to figure out – yes. And then we will – and then there was a process to release all letter-letter ASCII second level names. There was an amendment that was introduced by ICANN on that. So sorry about that, Anne, let me get over to you.

Anne Aikman-Scalese: No, thanks Jeff. No, it was just a housekeeping thing, I think that under Item G in reserve names, and this is on Page 8, where it says, "Are there other activities in the community that may serve as a dependency or future input to this topic?" The reason I went ahead and raised my hand was basically because of all the discussion that you guys were talking about with Work Track 5, and I think there's also a reference in our text here to Work Track 3 objection processes, and I think that "none" would be inaccurate here in G, on Page 8 in answer to the question, "Are there other activities in the community that may serve as a dependency or future input to this topic?" because I think we have to – it's best to go ahead and be consistent and specifically mention Work Track 5 and the objections work in Work Track 3 that's referenced in your text.

Jeff Neuman: Yes, thanks Anne. Certainly Work Track 5, I'm – let me ask to see if there was a reason why we didn't put that in there because that does seem obvious but there may be something I'm forgetting so, Steve or Emily or frankly Michael, was there a reason we didn't put that in there? Steve, please.

Steve Chan: Thanks, Jeff. This is Steve Chan from staff. I'll take a first cut at that. The intention for the Section G about dependencies and future inputs was more about external inputs and dependencies to the group so we weren't cross referencing between sections. So from that perspective that's why it was not included in this section. And I agree that it would otherwise be an obvious inclusion. So that said, though, if there is support for including – excuse me – cross references within the report that can be something we maybe look into doing as well. Thanks.

Jeff Neuman: Yes, thanks Steve. And Michael, okay, good, so Michael agrees as well. I know you had your hand raised. So, you know what, why don't we just put it in there at least for this initial report. I don't think it detracts from anything to put it in there simply because we do make such a strong reference for it and I don't see any harm. Does anyone object to including that reference in there? Okay, no objection.

All right, if you don't mind I'm going to go back to Part C which is that, you know, you know, one of the preliminary recommendations and/or implementation guidelines so just to read from this, there is general agreement that only incremental changes are needed to the reserve names list and related provisions at the top level in the Applicant Guidebook. And the second level registrations in the base Registry Agreement. The work track has generally agreed on the changes below. So here are the changes, and then I'll get to Christopher.

So at the – reservation at the top level, keep all existing reservations but add the names for PTI, sorry, for the public technical identifiers so this would match the current terms that are reserved like ICANN, GNSO, things like that;

special use domain names through the process described in IETF RFC 6761. This, for those of you just to remind you, included things like onion, I guess was the most recent one that was added. I believe there are still discussions underway within the IETF on a few others that may be added or that are in the process of being added or certainly being discussed.

With respect to the second level – reservations at the second level, the recommendations are to keep all existing reservations but update Schedule 5 to include measures for letter/letter, two-character ASCII labels to avoid confusion with corresponding country codes adopted by the ICANN Board on November 8. That probably should say, 2017 as opposed to 2018 since I don't think we've hit November 2018 yet so if we can just make a note of that.

And then working group's also considering a proposal to reservation of two-character strings at the top level that consist of one ASCII letter and one number, so for example, things like dotO2, or dot3M, but acknowledges that technical considerations may need to be taken into account on whether to lift the reservation requirements for those strings.

So I have Christopher and Kavouss and I'm going to put myself in the queue after those. So please, Christopher.

Christopher Wilkinson: Thank you again. This is Christopher Wilkinson for the record. Jeff, obviously I accept with due humility all the technical requirements for reserve names. I'm not going to go back into that. I have two points about the second level, the – for large geographical names, and (now) I have certain personal experience in this area, for large geographical names, the limit on 100 reserve names at the second level is almost certainly not going to be enough. So I would put in a reservation on the 100 limit applying to large geographical names. We don't need to take time this evening to explain why that would be.

The second point of which apparently comes from the 2012 exercise, the whole point of vertical integration initially was to ensure that a small new registry could allocate names to registrants directly until it reached a certain size where the registry registrar separation procedure policy would kick in. This is generally a good idea. Consequently, I think it's unrealistic to expect that a new geographical name would be able to liberate its reserve names only through ICANN accredited registries and registrars.

I think this is more than a technicality. You will certainly find in the future geographical names who will need to release their reserve names but who probably will not at that stage of the fully up to speed in terms of ICANN accredited registrars. You may say that these are points that I should raise in WT 5 and I will. But I think since this document does make specific recommendations in those respects, I take the liberty to make the points here now. Thank you.

Jeff Neuman: Okay thanks, Christopher. And just when we get to Section E, there are a couple questions in there. The first deals with the 100 names so let us know if we capture that in that question, feedback just like the feedback you just gave on the 100 names. And on the requirement to use ICANN accredited registrars, it sounds more like a vertical integration issue or, sorry, registry registrar nondiscrimination, which we went over on probably the last call. So we can see if there's something in that section that addresses the release of names only through ICANN accredited registrars.

There is a question that Kavouss has on there on what you meant by large geographical name but I'm going to skip that for right now just in the interest of getting to Kavouss, please.

Kavouss Arasteh: Hello, do you hear me please?

((Crosstalk))

Kavouss Arasteh: Hello, Jeff. Do you hear me please?

Julie Bisland: Yes, Kavouss, we can hear you.

Kavouss Arasteh: Okay thank you. Thank you very much. I think you refer to the resolutions of ICANN Board, you said December 2017, I believe you're referring to December 2016, am I right, Jeff? This is the first and I have a follow up question.

Jeff Neuman: It could very well be, it might have actually been that long ago, so we will double check. I might have actually – you're right, I think it was 2016. We will correct the date. Thank you.

Kavouss Arasteh: Yes, okay. In that resolution, there is some problems in the GAC. There was some 40 countries, they object to the adoption of that resolution in the middle of the work or process ICANN changed the process. So I don't think that this could be taken as a resolution which is straightforward. And based on that there has been several GAC advice and then the GAC – sorry, the President of ICANN promised many, many times that he establish a source of the arrangements in order to resolve the problem but never that came into force. They just sent letter to one or two and government and they had some wonderful discussing but never a serious action was taken in respect to the problems of the implementation of that resolution (unintelligible) which refers to the confusion and so on so forth.

There is problem and that remains to be resolved. So please kindly be aware of that – this resolution has been contested. Thank you.

Jeff Neuman: Yes, thank you Kavouss. And I know that that was discussed – Michael, I don't know if you want to get in the queue on this, to just respond to that. And while you're thinking about that, Michael, perhaps we can then put into a question to get feedback noting that there was, as Kavouss said, a number of governments that opposed that initial November 2016 resolution and then to

just seek feedback from the community including the governments, as to what if anything can or should be done.

Michael, did you want to get in the queue on that or are you good? Michael, please.

Michael Flemming: Just testing to make sure you can hear me.

Julie Bisland: Yes, very well.

Michael Flemming: Hello? Perfect. Thank you. So in response to that, first of all, thank you for that comment. I do believe that we went over that when we were discussing to bring the policy up with the relevant resolutions that had been introduced by the ICANN Board. One thing that I do believe that what we planned to mention within this initial report, and my apologies if we haven't, was also mention the work that has been done to communicate the reasoning behind the resolution and to – for the ICANN Board – also the communication efforts of the ICANN Board has been taken to communicate with the relevant GAC members about as to why this resolution was taken.

I think that was one of the additions we were looking at adding. But in regards to your comments, Kavouss, we'll take that into full consideration, as Jeff has mentioned, and a relevant question I think added to this would very much allow for additional feedback in that area. So I thank you very much for the comments.

Jeff Neuman: Okay. Thanks, Michael. I put myself in the queue to ask a question and this might just be, again, because we've been reading so many sections, at some point I know we had the discussion, and maybe this is for Michael too, and I can't remember whether it was Work Track 2 or elsewhere, where we said what should seem to be obvious which are – that we should be making sure that nobody applies for a string that is still being processed from the previous

round. And in this case it may be the case, depending on when ICANN starts this, that not every string has been resolved from the 2012 round.

So I don't know that if that's contained as a reserve string, or whether we put that somewhere else in our notes about when to start the next round or the things like that. But just a note to ourselves to make sure that we do the – and Christa is saying, okay that was definitely captured. Good, I'm not imagining things. Thank you, Christa. Let's just make sure that we maybe do a cross reference to that just to make sure that obviously if there is a string that has been applied for in a previous round, for which there is still contention or still some sort of dispute or something else going on, that that now needs to be reserved for the next round.

But I don't mean to confuse that with the notion of if there is a string that was applied for in the last round that was either withdrawn or un-delegated, is that the word, taken out of the root, then I don't mean to imply that those cannot be applied for. So just to make a distinction there. But it seems like, as Christa said, it might have been captured in the stuff we went over last week so I think that's all good.

Christopher, your hand is still up. I'm going to drop my hand because I have already gone. Okay, Kavouss, please.

Kavouss Arasteh: Yes, Jeff, you said that any string which was subject to the first round was or (unintelligible) contentious and that will be reserved for second round, is not reserve for second round, will not be used until the situation is – conciliated or the situation is resolved so is not reserved for a second round, that mean if a string there is a problem that could not be used by anyone, but that would unusable. Thank you.

Jeff Neuman: Guys, as we're talking about this, thanks, Kavouss, I went back and I think we used the term would be "unavailable" as opposed to the term "reserved." And what you're saying, Kavouss, is that – you're using the – well you used the

term “usability” so I guess I think we’re saying the same thing; it may not be a reserved name issue but just an available issue. Okay, yes, Kavouss says – agrees with that. Thanks, Cheryl. Yes, okay so now it’s kind of ringing a bell back with me on being unavailable.

Okay, so since we started the list of questions, at least talking sort of about the first one, let’s go to Section E, which talks about the base Registry Agreement and Christopher referred to this, allows registries to reserve and activate up to 100 strings at the second level which the registry deems necessary for the operation or the promotion of a top level domain, should this amount of names be increased or decreased? Please explain. Are there any circumstances in which exceptions to the limits should be approved? Please explain.

So I think Christopher, to tie this back to your first – one of your first comments, I think this question does allow you and others to put in feedback where you had mentioned the specific example of geographic names may be one of those that you might want to file a comment on or that others saying that perhaps if you have a city top level domain, for example, that perhaps you may be able to reserve more than that or something like that.

So Christopher, please.

Julie Bisland: Christopher, we're unable to hear you.

Jeff Neuman: Christopher, are you there? You may be speaking, you might be on mute?
Okay, well I’m going to – oh, Christopher, you want to try again?

Christopher Wilkinson: Did you pick up?

((Crosstalk))

Christopher Wilkinson: No, no, no, no, no.

Jeff Neuman: Christopher, we can hear you now. Okay, never mind. Hands down but Christopher, if you have something you want to add, just raise your hand again. Second question states that if there are no technical obstacles to the use of two character strings at the top level, consisting of a letter and a digit or digit and then – digits more generally, should the reservation of those strings be removed? Why or why not? Do you believe that any additional analysis is needed to ensure that these types of strings will not harm security and stability? Any questions on those? We're not talking about letter-letter here, just to be clear.

Okay, no questions on that. In addition to the reservation up to 100 names at the second level, registry operators were allowed to reserve an unlimited amount of second level domain names and release those names at their discretion provided that they release those names through ICANN accredited registrars. So the questions that flow from here are, Should there be any limit to the number of names reserved by a registry operator? Why or why Not? Should the answer to the above question be dependent on the type of top level domain, so is it – is there a difference between a brand, a geographic community, etcetera?

And during the 2012 Round, there was no – that should say – sorry, there was no requirement to implement a sunrise process for second-level domain names removed from a reserved names list and released by a registry operator if the release occurred after the general sunrise period for the top level domain. Should there be a requirement to implement a sunrise for names released from the reserved names list regardless of when those names are released? Please explain.

Now, just to clarify, this is one of the few RPM questions that has been kind of left for us to respond to as opposed to the RPM group. So the – so just in case you're wondering why we're tackling this as opposed to why not the RPM group, number one is they discussed it and said that we were probably

in a better position to do that and number two, this is not really on their list of issues.

To go to the chat, I see that there's a question about examples and I think they were given of the letter digit so things like C – okay well that was a similarity point that Annebeth raised which is very good point. But things like 3M, L2, O2, for oxygen or something like that, those are the types of letter-digit two characters that most likely could not be confused with a country code but as Annebeth does point out in her comment, there may be string similarity issues which is a good substantive comment to make sure that we bring up during the comment period.

Okay, moving on, actually so there is a fairly lengthy deliberation section in here that talks about – well it's actually not too long – but that does talk about that issues that were discussed and should all be represented in one way or another, either in the preliminary recommendations or in the questions. And then we already talked about part G, which is the dependencies.

So just looking at the chat, are there any questions or comments that I might have missed? Okay, Kavouss, you should have control over the scrolling, everyone should have their own control so hopefully you have that. I'm going to go fairly quickly through 1.7.1.1 and 1.7.1.2. But starting with 1.7.1.1, that deals with the IGO INGO protections. And the reason why we've kind of – we're going really quick is that there is another group that's dealing with this.

So that's being dealt with in I think two different PDPs, if I'm not mistaken. So there's one that talks about the protection of IGO and INGO identifiers in all gTLDs, and then there's the PDP on Curative Rights Protection for IGOs, INGOs so really not much to discuss here because these are being discussed in the other PDPs. Any questions on that one?

And then 1.7.1.2, geographic names, we should probably change that to geographic names at the top level as opposed to just saying geographic

names because this does deal with the top level. And for that there's just one quick sentence in here that talks about referring to Work Track 5. Any questions on this?

Okay, not seeing any questions, we can move on to 1.7.2, which deals with registrant protection. Now this is an interesting title, this was the title that was given to it in the issue report and as Steve says, we're on page 10, sorry about that. There are a number of items that are included in this section which some may or may not consider registrant protections but they were labeled early on by ICANN Org as being registrant protections either in discussions that ICANN Org had external to the community for example, one discussion was in testimony that they gave before Congress and other legislative type bodies and so some of these you may not necessarily think of as registrant protections but they were included in the issue report in this particular section.

So in the 2007 report, there was a principle in there that said that a - a set of technical criteria must be used for assessing a new gTLD registry applicant to minimize the risk of harming the operational stability, security and global interoperability of the Internet. Granted, that doesn't – that was the only principle that we could really find that related in some ways to the registrant protections that we're talking about here.

How was it implemented? And for this, what we did in kind of pulling this section together was look at some testimony that was given by Kurt Pritz before the Committee of Energy and Commerce in the US House of Representatives on behalf of ICANN where he listed a whole number of things that were to protect registrants in the new gTLD program. And then we also looked to the attachment to Module 2 of the Applicant Guidebook which incorporated a number of registrant protections and describes the ways in which application evaluation criteria and scoring sought to protect registrants.

The new gTLD application included questions about protections against registry failure, including things like registry continuity, registry transition, and failover testing. It also encompasses the EBERO function, which ICANN currently holds contracts with emergency backend registry operators that can be temporarily activated to provide five critical registry functions in the event of a top level domain registry operator failure. Specification 6 of the base Registry Agreement deals with interoperability and continuity specifications. Specification 8 deals with the continuing operations instrument and EBERO.

Specification 10 deals with the emergency specifications if – or emergency service levels if they are breached at which time an EBERO can be called in. In addition to all of that, there – ICANN did the background checks on all of the applying entities, individuals and organizations including officers and directors of the applying entity as well as shareholders with significant interest in the entity, background screenings were done, checks on business diligence, criminal history, history of cyber-squatting, etcetera.

And finally registry operators were required to implement thick Whois, escrow their data with an approved third party data escrow provider, maintain a single point of contact to handle abuse complaints and participate in ICANN's CZDS, or centralized zone file data access service. So this is a whole bunch of things that were labeled as registrant protections, all in kind of one section that was discussed on a number of occasions within the work track. Most of it was within Work Track 2, I believe, although some are overlaps with Work Track 4.

So what are the recommendations that the group were discussing? One is to maintain the existing EBERO mechanism including the triggers for an EBERO event and the five critical registry functions that EBEROs provide as well as each of the other protections that were identified above.

Second preliminary recommendation is that for single registrant TLDs, including those that are under Specification 13, there is a preliminary

recommendation that they should be exempt from EBERO requirements. A third is to allow publicly traded companies, including their officers, directors, material shareholders, to continue to be exempt from background screening as they undergo extensive similar screenings.

And then improve the background screening process to be more accommodating, meaningful and flexible of different regions of the world, for example, entities in jurisdictions that do not provide readily available information for things like background checks and others.

There are a number of questions in this section that deal with issues that we don't necessarily have recommendations on that we think are pretty important and of course the deliberation section is fairly lengthy here as well. Kristina, I'll get to you. Let me get to you now and then we'll go over the specific questions. Kristina, please.

Kristina Rosette: So I hope this is a place where I can raise comments and questions about 1.7.2? Kristina Rosette from Amazon for the transcript. I have several. On 1.7.2C, Recommendation Number 2 on single registrant TLDs, I just wanted to flag for everyone that while it is possible that a Specification 13 registry operator has no third party registrants, Specification 13 does in fact allow for Spec 13 registries to have third party registrants, although those are entities that are under contract. If we are talking about only single registrant TLDs, then we should change that to Specification 9.

I'm just going to keep going, interrupt me when you see fit. The second is I think on the third bullet about allowing publicly traded companies to be exempt from background screening requirements, I think it would be helpful in – at some point in this section, perhaps in the discussion, to flag whether or not the work track considered if the exemption should apply to affiliates of publicly traded companies because if they did and rejected it, some commenters might want to know that; if they didn't, that might be something that we would want comment on.

On the fifth bullet under C, I found that not terribly helpful. And I'm wondering to the extent that the work track had any more specific or detailed recommendations, I think including those here would give more meaningful feedback. And that's all I had under C. I have more but I can – I'll stop talking now.

Jeff Neuman: Okay. Thanks, Kristina. No, it's fine, I mean, these are the comments we're looking for. So, Michael, I'm going to get you up in the queue to just get ready. I'll start on the last one that the last comment that you raised, and I believe – and Steve and Emily may join in, I believe the last one came from the post mortem report. I think – which I forget exactly what the name of that report was. But in that ICANN staff had said that they had found that one of their comments in their review was that they found it difficult to get information on – or to do background checks and types of screening in certain parts of the world. And so that may have come from that report. So if Michael or Steve want to jump in in the – okay, Michael, please, yes.

Michael Flemming: Yes, I'm sorry. I just want to make sure I'm clear on what the comment was. So that last comment from you, Kristina, was on the last bullet to improving the background screening to be more accommodating?

Kristina Rosette: Yes, I think, I mean, that's kind of a generally helpful principle but to the extent that the work track had anything more specific to say about that, I think that that would be useful for people who are trying to evaluate how to comment on it.

Michael Flemming: Okay thank you. So I can say that the – that while that comment – sorry, that bullet was raised as a result of what Jeff just said in regards to the ICANN staff having difficulties in getting information from applicants, it was also raised from the viewpoint of previous applicants or at least those that have some experience in that area, a lot of – one example was a lot of different countries around the world have different rules on privacy and some

things that can be shared freely even within a background check. As I think many of us are currently going through since the last week.

But one very big example is Korea, a lot of the publicly traded companies even in Korea have very, very restrictive background – sorry, very, very restrictive privacy laws and so in giving free – giving information easily is – sorry, getting information is not something that easily. So finding ways to be more accommodating and to be flexible in that regard I think is – depending on the country, culture and other such restrictions was one thing that we wanted to flag in future – in subsequent procedures when we may need to do background checks again.

Hope that was clear.

Jeff Neuman: Okay, thanks – thanks, Michael and Kristina. Those who have a comment agrees, one of my other comments is that privacy law development since 2012 may make background checks a lot more complex to conduct and less – essentially less meaningful. So, Kristina, that's a really good comment and one I thought of as I was reading the whole thick Whois recommendation as well or that part of the implementation, so obviously the world may have changed since that point in time, but perhaps we may want to ask a question on that given that that's something that's now on our mind.

Emily, I saw your hand up, was that what you were going to raise or was there something else?

Emily Barabas: Thanks, Jeff. This is Emily from staff. I was just going to mention but I now see that Steve also mentioned in the chat that there was in fact a recommendation in the PIRR that is similar but not exactly the same as the recommendation the work track made and maybe it's helpful to just read that out because it's brief.

The report said, "Consider whether background screening procedures and criteria could be adjusted to account for meaningful review in a variety of cases, for example, newly formed entities, publicly traded companies, companies in jurisdictions that do not provide readily available information." So I'll paste that in chat as well just so that people have that for a reference. Thanks.

Jeff Neuman: Thanks, Emily. And if we haven't done it, perhaps we can link that in there with – or just have – sorry, have a link in this section to that particular part of the – I think you used an abbreviation for it, but to the post – the review – the post – is it post implementation review or something like that, whatever that abbreviation is.

Emily Barabas: Yes, correct. Yes.

Jeff Neuman: Thanks. Okay thanks. On the – and Michael, there were two other points that Kristina raised. One was on third parties, so I just wrote that to myself. Okay, so the question was, "Single registrants, TLDs," this is the recommendation, "including those under Specification 13 should be exempt from EBERO requirements." Kristina's question was in relation to whether we meant all of Specification 13 because you're allowed to use third party licensees, or whether we meant just Specification 9.

So Michael, please, thank you.

Michael Flemming: Thank you again, Jeff and thank you for the comment, Kristina. I think this is a discussion that we did not get into the nitty gritty details of where it might differ. I know that this comment has been raised several times, not necessarily in this discussion but in other areas. So I think it would be helpful if we kind of take a step back and ask ourselves what is the single registrant TLD because a lot of us have in mind that a brand TLD because it is Specification 13 and many times is a single registrant, we quickly forget about

the affiliates clause and in that regard it can be contracted – sorry – those companies or affiliates contract with the brand TLD.

I think we need to look at what in this – what – sorry, having a hard time forming my words this early on. But in what way is a single registrant TLD formed? And if we need to make any adjustments to that. I do think it's worth addressing in that regard.

Jeff Neuman: So, Michael, this is Jeff. Can I make a recommendation, that we include in a question perhaps the point that Kristina raised, you know, something to the effect of, you know, single registrant is defined as a top level domain that in which all domains are registered to one particular entity, and then we ask the questions as to whether those that license out their domains, be it a Specification 13 registry or others, should this recommendation apply to them as well.

So maybe we can just spell that out in – we shouldn't really change the recommendations because they are what they are or they are what was discussed, but perhaps just ask a question whether some should be treated differently because as Kristina points out, Specification 9 restricts only to the registry operator but Specification 13 allows for affiliates and trademark licensees to use the TLD as well. So perhaps we just ask it in the form of a question.

So I'm going to ask Michael just to weigh in on that and then I'll go to Martin then Christopher.

Michael Flemming: So thanks for the idea, Jeff. And I think it is a – that is a good idea, I think we should do that. Just one – another area of interest I might propose exploring is on the – if we're going to ask for clarity on the specific difference between Specification 9 and Specification 13 in this regard. Do we want to raise that material – not necessarily just here, but in a different part of the

initial report as well as an additional question or viewpoint for further feedback?

Jeff Neuman: Michael, I'll come back to you in a second after Martin and Christopher, but if you could just be a little bit more specific maybe in the chat as to which section you think it should also be referenced? Martin, please.

Martin Sutton: Thanks Jeff. I'm just – I was going to suggest the same thing in terms of pushing down some of the questions beyond the recommendation. So I'd support that. Perhaps one step further is to focus on the fact that this is about registrant protection and to sort of direct the question towards in these models i.e. Spec 13, dotBrands, to what extent would those protections be required? And that are (unintelligible) out to registrants that are the registry operator itself, its affiliates or its licensees. So agree with that, perhaps I could help work on the type of questions that you need.

Jeff Neuman: Thanks, Martin. There is the second question, we haven't gone over the questions yet, but the second question may touch on what you're mentioning. Think about that for a second, I'll go to Christopher and then we'll go to the questions themselves.

Christopher Wilkinson: Hi. Thank you, Chair. This is Christopher Wilkinson again for the record. Just to say that I think I have a very precise knowledge of what I do not understand. And here we are in the middle of one of those. I recommend that the report explain precisely how – why would one want single registrants top level domain, how would it be used, is this related to the other discussion elsewhere in the report about closed generics and the Board decision to ban closed generics since 2015.

I'm lost. I don't want to take the time of the meeting, but I daresay that if I'm lost there are a lot of other people out there who are going to be lost too. So I think the staff and the proponents of these arguments should be much more clear in the text that they propose to us. Thank you.

Jeff Neuman: Okay thanks, Christopher. Michael, you want to jump in?

Michael Flemming: Yes, Christopher, thank you for that. I can understand where individuals may be lost and I can fully appreciate that as well. In some situations what I could recommend is looking at the deliberations or sorry, maybe I have the section name wrong, but there is a – it's kind of a little history provided as to how we got into these discussions and what we explored. Yes it is deliberations. So individuals that are reading this initial report for when we do put it out for public comment, if they were to read that I'm sure that there's usually enough relevant information in a certain regards to what closed generics might be since we seem to be approaching that topic as well.

But in – also in regards to single registrant TLDs, if not here there is another I believe that this was exploring TLD types so individuals look at those areas of deliberations I think that'll provide enough background material. We're not approaching that here first because it's assumed that most – that the individuals have read the material and are familiar with the topics well enough that we can have these discussions to further clarify the recommendations and questions that we're asking in the initial report. So thank you for that.

Jeff Neuman: Yes, thanks Michael and we will go back as well to make sure that in that section on TLD types we provide some good definitions at least of the types that we're certainly talking about later on in the report so things like single registrant TLDs and brands and that stuff.

Okay, so the questions on this particular section, they are pretty diverse, like cover a number of different areas. The first one asks about funding of the EBERO program and basically asking for feedback on how the EBERO could be funded other than the mechanism that was used in a previous round. The second one deal with something that Martin had brought up as well which is should single registrant TLDs be exempt from other registrant protections, if so, which ones would those be and under what conditions?

ICANN's program implementation review report, there is the PIRR abbreviation, stated that it might be helpful to consider adjusting background screening, so I guess this is just sort of the section we were just talking about a little bit ago. Examples cited newly formed entities, okay, so it is in the question. Please provide feedback on this particular statement.

Then the next question deals with considering a proposal to include additional questions to support the background screening, should these be added? Why or why not? And these are the questions. Have you had a contract with ICANN terminated or are being terminated for compliance issues? And have you or your company been part of an entity found in breach of contract with ICANN? So these were two areas that came up in Work Track 2 that were discussed. There were no recommendations on this yet because they were only discussed at a very high level so these are questions that we're seeking feedback on.

Are there any other questions that we are missing or things that we can provide more clarity on? Michael does refer to Kristina had another question, yes she did. I apologize. It was on affiliates, I wrote down the word "affiliates" and so I think it was related to affiliates of publicly traded companies for that recommendation to be exempt from background screening requirements. So I think we could ask a question on should that – do we ask already a question similar? No. So we should probably, in the third question that talks about the program implementation review report, perhaps ask something about affiliates of publicly traded companies to see whether they should also be exempt from certain types of the registrant protections.

Okay, this section has a fairly extensive deliberation section. I encourage everyone to read that to make sure that we captured everything accurately. There was a lot of research in this part of it and so I think that just to make sure that we've covered everything you all should certainly read it and if there

are any questions that should be drawn from that that we haven't asked already please let us know. Kristina.

Kristina Rosette: Sorry, apologies for the delay in getting off mute. Just a comment on Page 14, in the section on kind of halfway down the page it's a one-sentence paragraph whether that states – whether the EBERO service insurance should be provided to all RSP clients is a complex issue and merits more discussion. Just to note that the word “insurance” and references to insurance has a number of fairly onerous regulatory obligations associated with it in many states and in the interest of just avoiding sending ICANN down that rabbit hole I would suggest that another word be used there.

Jeff Neuman: Okay, thanks Kristina. Do you have any suggestions on another word or if anyone else on this call has suggestions on another word that could – we could use that would be helpful. Or Michael, is that the term that we used?

Michael Flemming: I'm sorry, Jeff, I couldn't tell you at this early hour but I could look at other – we can look at other suggested wording and we didn't mean to confuse anyone by using that word so apologies if that has occurred at this point.

Jeff Neuman: Okay thanks, Michael. And let's also look and see if we can substitute “protection” in there, Martin, Rubens and Kristina have said that that might work. The only thing – Emily said this subsection is actually something that was discussed in Work Track 1. Oh, thanks Emily. So is this something that Christa or Sara remember or could weigh in on? Rubens says, “Notably because we are not talking about compensating a financial loss.”

All right, let us – while we're all trying to figure that out, let us take that comment back. Christa says there's no problem changing the word. So let us take that back, see if we can do that substitute and it conveys the same meaning but that sounds like – well Jim is saying the problem is talked about insurance in the deliberations so this report has to reflect that. Could – add that there might be a need to change the word.

Yes, thanks Jim. I think we may have also used insurance in another way which is in the funding requirement there were some discussions of whether money could be pooled to provide some sort of – and because I can't think of another word, but insurance I think was the one we used, that instead of having COIs from everyone it was, as Jim puts, kind of a shared risk pool. I don't know if that's any better from a regulatory standpoint, Kristina, you may know that better than I do or any of us, but I think that's the way it was discussed, and Christa is saying yes.

So if there's another word or maybe even just better explaining what we meant to have in that paragraph. Jim, please.

Jim Prendergast: Yes thanks, Jeff. Just – I guess my point is though that this report has to accurately reflect the deliberations that the discussions of the various work tracks had and, you know, I understand Kristina's concerns about the implications for insurance down the road, and I think we can address those down the road but I think for the community and for the accuracy of this report I think we've got to use the language that we've been deliberating on for the last several months; we just can't change it now.

Jeff Neuman: Yes thanks Jim. Let's – and Christa is saying plus one. Let's go back, let's see if that was the actual term that was being used and then perhaps in a question we can ask about it. Martin is saying just explaining the term insurance in the context of protection within this section. So let's see – in going back to the notes – what we can do to accommodate Kristina's concern but also make sure that we're accurately reflecting the discussions that took place.

And worse comes to worse, it can always be comments that are received in response to the initial report and Kristina points out some feedback that Paul McGrady got when he presented a type of – I'll use the word "insurance" that he was discussing this kind of shared risk pool. So let's – we'll go back and

figure out the context that was used and then see whether an explanation might help with the concerns that were expressed.

Okay, any other questions? Like I said, there's a lot in here in this deliberation section, a lot on background screening, on EBERO, on the COI. So please make sure you read that and that we can make sure that we are accurately reflecting the discussions.

So I know we only have 20 minutes and we have a fairly bit subject coming up but I'm hoping if we stick to the notion of not discussing the substance of this issue because it is a very emotional issue with a number of different sides, very complex, and certainly a lot of people have passion one way or the other or in some mix, we're talking about closed generics, also known as exclusive generics, and was known as exclusive generics, I think in the ICANN Board resolution that addressed it.

This is 1.7.3, Page 17, and so here we you know, what is the relevant policy. And at this point there was no initial policy or implementation guidance from the GNSO in 2007, 2008 that dealt with this issue in any way. But following the publication of the gTLD applications in June 2012, there were concerns that were brought to ICANN's attention regarding some applications for strings which are labeled as closed generics.

Though there is no uniform definition of a closed or exclusive generic, Specification 11 of the Base Registry Agreement indirectly defines this as a TLD that imposes eligibility requirements – sorry, eligibility criteria for registering names in the TLD which corresponds to a generic string that limits registrations exclusively to a single person or entity and/or that person's or entity's affiliates, as defined in Section 2.9 of the agreement. Generic String means a string consisting of a word or term that denominates or describes a general class of goods, services, groups, organizations or things, as opposed to distinguishing a specific brand of goods, services, groups, organizations or things from those of others.

That is the definition that was given in Spec 11 Section 3D. So how was this implemented? So as we said, the Applicant Guidebook did not really provide any guidance on this issue. And in fact, Specification 9 included language that specifically allowed exclusive registries to be exempt from the registry operator code of conduct.

Although the base Registry Agreement contemplated Exclusive Use or Closed Registries, after the launch of the 2012 round, GAC members submitted Early Warnings during the public comment period for applications, raising concern that Exclusive Use or Closed TLDs matching a generic term as opposed to their own brand, should not be allowed. In these comments they expressed that using a generic string in an exclusive manner created an unfair advantage and was contrary to the public interest. In the Beijing Communiqué they provided advice that quote, “For strings representing generic terms, exclusive registry access should serve a public interest goal.”

So that’s important because this was pointed out several times during the discussion. The ICANN Board never banned the use of closed generics. I’m sorry, the GAC never advised to ban the use of closed generics completely. What they said is that if we allow them it should further some public interest or serve some public interest goal. The ICANN Board had a public comment on that on the notion of closed generics and then also solicited responses from the 186 applicants for the strings identified by the GAC as being potentially closed generics, asked them how they would deal with their strings on a moving – on a go-forward basis.

Of the 186 applicants all but five of them agreed to either withdraw their applications completely or to change their TLDs to being open and a resolution passed on June 21, 2015, the Board determined that remaining applicants from the 2012 round who had applied for non-contested strings and were seeking to operate as closed generic TLDs would have the following options.

They could either submit a change request to no longer be an exclusive; they could maintain their plan to operate an exclusive generic TLD. As a result, their application will be deferred to the next round to allow time for the GNSO to develop policy advice; or, three, they could withdraw their application for a refund consistent with the refund schedule in the Applicant Guidebook.

So in effect, through this resolution, the ICANN Board banned Exclusive Generic / Closed Generic TLDs in the 2012 Round. The Board further requested that the GNSO consider this topic, which we are doing now, in this policy development process and to codify that ban there was a provision put in the base Registry Agreement – sorry, in Specification 11, commitment public interest commitment 3D.

So preliminary recommendations basically to boil it down is saying that there are no preliminary recommendations, that it was very controversial, that their arguments made on the – both strong arguments made on both side of either continuing the ban or getting rid of the ban, that the working group was not able to settle on any path. So there were four paths that you'll see referred to in the deliberations section that were discussed but none of them seemed to be on a – for lack of a better term – none of them seemed on a path towards getting a consensus support.

So there really is no conclusion at this point of the – on the closed generic issue. And the next section talks about the options that were discussed, you could either have no closed generics be allowed, you could have the opposite end of the scale, closed generics are allowed without any restrictions, and then the two kind of hybrid ones in the middle are allow closed generics if they could show or demonstrate a public interest, and then the last one is that you only allow closed generics with a code of conduct.

So you only allow closed generics to be delegated if there's some sort of code of conduct on how to avoid anti-competitive behaviors that was agreed

to as well. So there are many options here. Again, very highly charged issue. We tried to make it a fairly neutral section, if we have not succeeded, please let us know, but we're not trying to get in – as the leadership we're not trying to get in the middle of this highly contentious debate, we're trying to see if any resolution can be reached. So, Anne, please.

Anne Aikman-Scalese: Yes, thanks Jeff. It's Anne Aikman-Scalese for the transcript. I had a question with respect to definitions, just because I had this vague recollection that the new gTLD program committee issued some kind of definition of closed generics. Do we have that in there? Because it related to – it's a closed generic if the registrations are only issued to the registry and its affiliates or something like that. The definition was a little wider than just, you know, the registry itself. And I thought it was enacted as a interim measure and therefore not policy obviously by the new gTLD program committee. Do we have that reference?

Jeff Neuman: Yes, so oh, Michael, okay you're in the queue. Michael, I'll turn over to you and then I'll add if there's anything.

Michael Flemming: Hi, thanks Anne, for the comment. So we did explore that in the deliberations. I'm not sure if it's written down here in the deliberations, I'm on my phone so I can't really view that well. But I know that was our starting point when we first started these discussions so we did look at that definition that was put into the NGPC resolution if I have that acronym correct. But there was - sorry, there was something else I wanted to say that I just lost the train of thought.

But yes, as you're saying, sorry, yes, we understand that this is – this isn't addressed in policy and that this just – it was a decision at the time but to defer to us to discuss this issue within the Subsequent Procedures and that is exactly why we're addressing it now. So I think it would be helpful if we did look at that definition and make sure it was at least captured in the deliberations area.

But the definition that we have gone back to time and time again was the one that is listed in Specification 11 since that is kind of etched into our hearts with the Registry Agreement.

Jeff Neuman: Thanks, Michael. Sorry, I hit mute twice. That does resonate with my recollection as well. So Anne, do you still have your hand up?

Anne Aikman-Scalese: Oh sorry, yes no I...

((Crosstalk))

Anne Aikman-Scalese: I had just agreed that it should probably be noted because it – I don't know, it may need to be changed, I don't know. And I know it's not policy but it just should be noted whatever it was. Thanks.

Jeff Neuman: Okay thanks, Anne. So we'll go back and make sure that that's clear as well. And then just to – before we get to AOB, here are the questions that we've come up with to ask. So there were four possible paths to proceed with this, with – on this issue of closed generics or exclusive use TLDs, and so those four are provided in Section D. And then so the first question asks what the benefits and drawbacks are from the options above. Then we noted that it may be difficult to develop criteria to evaluate whether an application is in the public interest. So one of the things, just going back to the GAC advice, the GAC advice was that you could have closed generics if there was some public interest in having that closed generic.

So there's a question in there that was derived from the discussions in Work Track 2 which talks about for Options 2 and 3, it may be more feasible to evaluate if an application does not serve the public interest, but how could it be evaluated that a closed generic application does not serve the public interest? And then for Option 3, we talk about a code of conduct for closed generics but what would that code of conduct consist of and, you know, the

work track sees potential conflict with adding a provision to the current code of conduct. The work track also believes that this could be in a separate specification if closed generics are seen as a separate TLD category. So there's a question on how we would handle any code of conduct issues.

Christopher, if we can make it brief, just a minute so that we can get to the AOB that'd be great. Thanks.

Christopher Wilkinson: Very briefly, I think we need a clear explanation from the (unintelligible) of closed generics as to on earth they would want to use them for, whether it's in the public interest or in their interest. I think I've studied the economics of this business fairly closely over the years, this one beats me completely. We need an explanation of what they want, why they want it and then we can have a serious discussion about whether or not that might or might not be in the public interest. Thank you.

Jeff Neuman: Thanks, Christopher. So there is a chart below that does talk about the pros and cons of having closed generics or allowing them or not allowing them, so I'll refer you to that chart but obviously this out for public comment so I'm assuming we'll get a wide variety of comments in and the real hard part will be for this group to figure out how to balance those comments and to make a recommendation on a path forward. Anne, is this in relation to Christopher's comment? If we can just do it real quick because I do want to get the agenda to AOB.

Anne Aikman-Scalese: Yes, yes. Yes, sorry, Jeff it really is and it's for consideration probably for the next call because what Christopher raises is – presents a question of whether or not new services have to be disclosed in a registry application. And I think that if we're saying, well, sometimes if you are proposed a closed generic and it should be in the public interest and if people want to comment on that it would require, you know, disclosure of those new services to evaluate the public interest, and later we have a suggestion from some members of Work Track 4 and others disagree, that new services

should not have to be disclosed in a new application in the next round as they were in the 2012 round.

So just keeping in mind that if those services needed to be disclosed in order to evaluate a closed generic application that would be different from the suggestion that new services did not have to be disclosed in this coming round – the new services could be, you know, evaluated later via RSEP is one of the things we'll be going over next week I guess. It's an issue as far as I'm concerned. Thanks.

Jeff Neuman: Yes, thanks Anne, for giving a good preview of some of the things for next week. So with that, please, everyone read this closed generic section is pretty important; it was, like I said, very highly charged and certainly passionate arguments on both sides, strong arguments on both sides. So on – just quickly to AOB, Jim asks a very good question about getting an update on the timeline of this group between now and ICANN 62. So we do have a couple calls that are scheduled. I'm going to really push for getting us to make some comments online, you know, Christopher submitted some comments via email, Anne did as well. So if we can just try to push those along.

It still is our intention to release something – initial report prior to ICANN 62. We realize it's getting close so we'll have to see how we adjust, we have a leadership call in a few hours that we'll talk about this and what we need to do with the timeline. We are paying attention to it obviously as well the summer is coming up so public comment period, got to take that into consideration as well as ICANN 62 as well as, you know, the fact that a lot of people take the month of August off. So and the other fact that we want to make sure we get as broad participation in this comment period as possible.

We've even had members of the ICANN Board and ICANN staff that have committed to replying or responding during public comment period so we want to make sure that we give enough time for everyone to do that. So I

know that's not the best answer, Jim, we're going to discuss that at length in a few hours so we'll come out with an email in the next day or so with an update on the time schedule. And also some initial thoughts on ICANN 62 and the two sessions.

Just a reminder, if you have not booked your tip yet, please note that we are meeting on the first day and the last day for Work Tracks 1-4 so we are pretty much at the beginning and at the end so hopefully if you have made your reservations you have not planned to leave that early or get there late. So it is a short meeting, it's only a four-day meeting technically so we kind of – someone had to be first and someone had to be last and I guess we had to be both; I'm not quite sure why but – and then there's two session for Work Track 5 as well. So please make plans accordingly and Cheryl, do you have anything you want to add?

Cheryl Langdon-Orr: No, let's finish on time, shall we?

Jeff Neuman: All right well thank you, everyone. We got through a, you know, halfway through 1.7 I think in terms of material. So I'm happy with that and we'll start off here and then hopefully move a little quicker through that and then look for some other section this week. So thank you, everyone. I guess we can stop the recording.

Julie Bisland: All right, thank you, Jeff, thanks everyone for joining today. Operator, you can stop the recording now and everyone have a good rest of your day. Thank you.

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