
ICANN Transcription
GNSO New gTLD Subsequent Procedures Working Group
Thursday, 05 September 2019 at 03:00 UTC

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JULIE BISLAND:

Good morning, good afternoon, and good evening, everyone. Welcome to the New gTLD Subsequent Procedures Working Group call on Thursday, the 5th of September 2019.

In the interest of time, there will be no roll call. Attendance will be taken by the Zoom room. If you're only on the audio bridge at the time, could you please let yourself be known now? And hearing no names, I would like to remind all 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. With this I will turn it over to Jeff Neuman. You can begin, Jeff.

JEFF NEUMAN:

Okay. Thank you, Julie. Welcome, everyone. It seems we're having lots of calls at this time lately, but maybe it's just we're having lots of calls and this is just up for the rotation. And so, welcome, everyone, especially those that were also on the Work Track 5 call just about five, six hours ago, something like that. So, thank you all.

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The agenda should look pretty similar in that it's really just moving on to the next topic and hopefully next two topics. But before we do that, let me ask to see if there are any updates to any Statements of Interest? Okay, not seeing any, then I guess we could get started.

So, we are still on the section that's called Applicant Reviews. Last time on the last call we went over a number of subjects on the applicant reviews including some recommendations and implementation guidance with respect to the technical aspects, operational aspects, financial aspects, and I think we made some pretty good progress on those. So I'm so happy with the progress we've made. I think this last component that we need to get through – and thank you for posting the link – it deals with registry services. I think in order to have this call and I recognize that there's not a lot of people on this call, especially some that have very strong views on this area, so we're going to go over this. To many of you it'll be rudimentary especially if some of you are registries yourselves or certainly know a lot of these, but I think it's important to kind of take a step back and make sure everyone's on the same page so that when we go through the comments, we'll see why some of the comments – while all the comments are good, I don't mean to put down any comments, but there are some that maybe a little bit off the mark because they are not operating from the same page or they may think that we're talking about something that we're not. And so, my hope was to get through these comments and get some additional high-level agreements. But again, given the attendance, we'll have this call and we'll follow up on e-mail but I'm still hoping that we can get some additional high-level agreements.

So, we're going to start talking about registry services and this is capital R, capital S Registry Services. Registry Services has a very specific definition in the ICANN Agreement. Sorry for that buzz there. And the Agreement essentially defines Registry Services as – oops. I'm on the wrong page here. Sorry, bear with me. I'm at an old Agreement as opposed to a newer one. But Registry Agreements are defined I believe in Appendix ... sorry, not Appendix. It is in a Specification. I believe it's Specification 1 but let me just double check that to make sure I've got that right. I could be wrong. Let me just do a quick control find here. Sorry, I don't know why I keep beeping here. Okay. Sorry, it's in Specification 6.

So, they're defined – it's a very specific definition. It's a) those services that are operations of the registry critical to the following tasks: the receipt of data from registrars concerning registrations of domain names and name servers; provision to registrars of status information relating to the zone servers for the TLD; dissemination of TLD zone files; operation of the registry DNS servers; and dissemination of contact and other information concerning domain name server registrations in the TLD as required by this Agreement or the Agreement. That part A of Registry Services, that the basically the crux of domain name registrations and resolution and everything integral in doing those tasks as well as RDDS and/or RDAP now.

Part B is, other products or services that the Registry Operator is required to provide because of the establishment of a Consensus Policy as defined in Specification 1. So, that would include any of the things required by a consensus policy or temporary policy

such as before – well, I guess we could say, the temps back which is now permanent through a consensus policy. Part C is any other products or services that only a registry operator is capable of providing, by reason of its designation as the registry operator. And D, material changes to any registry services that are within the scope of the previous three.

Part C is really the one that I think we're going to spend a lot of time on in these comments because that is the one that is certainly the one that has a bunch of issues around it and really was the crux of the – or the section in the initial report and the comments that we received back.

So if there are registry services, the way that they are incorporated into the ICANN Agreement is through what's called Appendix A. Appendix A if you're looking at a Registry Agreement before all the specifications and it lists out and with some detail the specific approved registry services that aren't otherwise defined in the Agreement. So, if you look at the template which is up on the screen right now, the template has, number one, is the DNS service and it describes the required elements of TLD Zone Contents, so what needs to be in the zone. And then you scroll to the next page. Actually, that's really all that's in the base template Agreement.

And the only reason that's in there in the Appendix is because it was found at the time of defining or looking at the other Specifications, this one was, for whatever reason, wasn't included in Specification 6 and so rather than do a whole new draft of Specification 6, ICANN thought it would be easiest and the

registries thought it would be easiest to just include that an Appendix.

So, what else goes in Appendix A? As Maxim has already kind of gotten ahead of the curve. Sorry, exhibit – no, it's Appendix A. I believe, right. Sorry, it is Exhibit A. You're right. Sorry about that. Exhibit A. So, I got to say that right. So, if I say it wrong please keep correcting me.

The other types of things that are commonly in an Exhibit A are as Maxim said, IDNs. What I want to do is I want to go to an example. I picked .family as example sort of randomly but because I own a .family address and when I looked through the exhibited it had a bunch of the different things that I think could help us to point out some examples. So, I've only picked .family for that reason. We could go to a whole host of other Appendix or Exhibit As but I'm just going to go to this one because its got some additional things in there.

A second thing that's in a lot of the Registry Agreements is this notion of the searchable WHOIS. So, if you all recall, in the 2012 Guidebook, it asked whether registries were going to voluntarily provide a searchable WHOIS service. Many registries said that they were going to, some didn't, but if they said that they were going to then each of them has a paragraph that looks identical to this one, although there could be here and there, some differences in a couple words depending on how the registry is providing the service.

So, if you scroll ahead to number 3, this one is also in many of the Agreements, as I think some of the comments on the chat are

indicating – Internationalized Domain Names. There were two ways to get Internationalized Domain Names into the Agreement. If a registry operator had proposed in its application that it was going to have IDN languages as part of its service offering then at the time of signing the contract, registries were given this language which is pretty much template for all registries, 3.1 and 3.2, 3.3, and then under 3.3 is where they would list the languages that they have in the application. Now, the second way was to have or subsequently to submit a request at a later point in time to add additional languages.

And it did happen in this case. So, in this case, this .family registry had French and Spanish in their application – and I don't know if Steve has the First Amendment handy but if he does, you'll see in that First Amendment there were additional languages. I think it's the First Amendment. There was some additional languages that were added. So, you'll see that in the amendment, Appendix A was updated to include not just the – I think it was Spanish and French that were on the first one, but now it states Chinese, French, German, and Spanish. And the way that ICANN adds Internationalized Domain Names is through what's now called and very recently called sort of a fast track registry services evaluation request. The reason it's fast track is it's a service that's pretty easy to add to a contract, there's not much review that needs to happen, especially if someone's already offering IDNs, and so it's just a quick look at the IDN tables and making sure that the registry is committing to all the guidelines etc. Once it does that, it goes through the ICANN Registry Services Evaluation Process fairly quickly. In this one actually doesn't even go through a public

comment period anymore because adding these languages are so routine.

So, you'll find this type of language in a lot of Registry Agreements and in amendments. A lot of amendments are done to add languages, so you'll see that as well. If we can go back to the .family Appendix – sorry, Exhibit A. I keep saying Appendix, I apologize. So, in that Exhibit A as we scroll down there, also you'll find if there were in the application or subsequently added things like a protected marks list, you'll find standard language to add that into the contract. If there are other services that one put in, in their PICs or voluntarily added in Specification 11 which was an option to do then those would also be listed. And in this case, there was a Claims Plus Service that was added by this registry, and so the language was added there. I think I don't think there's any services in this Exhibit A but just to scroll – okay, great.

Just to again stress. So, the services that fall under Category C in the definition of registry services are all going to be here in Exhibit A either initially because it was proposed in the contract or B, because it's gone through one form or another of the Registry Services Evaluations Process. So, I know it's a long explanation. I hope that made sense. Let me just stop right here and see if there's any questions.

Okay, good. So, over the years the Registry Services Evaluation Process called RSEP – and, Rubens, if you read his note before this call, RSEP is used in a bunch of different ways. Sometimes people use it to describe the process, some people use it to describe the policy itself, so just keep that in mind when we are talking and we mention RSEP, that it can be used in a couple of

different ways. But over the years there had been lots of RSEP requests, so request for new services, to be added by different registries. Some of them are very standard right now.

So, things like Internationalized Domain Names, things like a lock service at the registry level, a protected marks I think is starting to come up to that level of being pretty standard especially if you choose an implementation method that's very similar to the ones that have been used in the past. There is also some services that things – and I apologize to Verisign if this is a trademark name but they call it consolidate which is basically the standardization of expiry dates of different registrations. So, there are several TLDs that offer – gTLDs that offer that service. If other registries out there can just put in the chat some other services that are very, very standard that have been added to a number of different Registry Agreements, that would be helpful. Right. Registry lock, I think I said that one. That's also very standard at this point.

So, those services like registry lock and IDNs have been through so many rounds of registries requesting them that the process to request them, the approval of those services are very routine. And so, those services in essence when a registry applies for those services through the RSEP process, it's in essence a type of service that they know is highly likely to be approved, does not need to go through a comment period in a number of different cases and therefore some have – the discussions in Work Track 4, some of the discussion centered around considering these very standard services “pre-approved.”

Rubens list another one, BTAPPA which stands for Bulk Transfer After Partial Portfolio Acquisition. I will apologize to the world for

giving it that name but that was done with the biz registry, I think it was the first one to do that and that was the name it – that was supposed to be a temporary placeholder name but it's been used, so BTAPPA is another one. That enables registrars to transfer substantially all or a good chunk of its portfolio to another registrar without necessarily following the existing bulk transfer policy in the Agreement and it requires all sorts of Agreements and procedures around that. So, that's another standard service.

One of the key discussions that Work Track 4 had and made it into initial report was should some of these very standard services just be considered pre-approved, meaning that registries did not have to have those evaluated during the application process nor did they have to have it evaluated through a subsequent registry services evaluation request. With the caveat that they are proposing doing that service in the same standardized way that has already been approved for other registries. So, that is the nature of one of the recommendations. So, it doesn't mean that registries just have carte blanche to put things into their Agreement that never get any type of review, it's just saying that look, registries have introduced the services so many times it's very standard at this point and if you're going to implement it in the standard way, there may not be a reason to spend money having a technical panel review it or having it go through an RSEP process.

Thank you for bearing with me during that presentation, but I think that helps in going through the proposals that were put in there and potentially can help to have some of those rise to the level of high-level agreement.

Steve, if we can go back now – yes, thank you – to the Summary document. The first recommendation or proposal I should say because it didn't really yet rise to the level of recommendation was to allow for a set of pre-approved services that don't require additional registry service evaluation either through the application process or through a subsequent RSEP. This had support not surprisingly from the Brand Registry Group, the Registry Stakeholder Group, Neustar. And Neustar had also proposed including in the list that was provided in the initial report had proposed including Registration Validation per Applicable Law to the list of pre-approved services. This is essentially either the use of a token to register domain names after it's pre-approved or some sort of protocol, pending create status. There are a couple of different ways that registries do this, but again if they're proposing doing it in either a standardized way then simply proposing to do that in the application should be one of those that are allowed.

And thank you, Rubens, a number of registries because of the unique laws that China has with operating there, there is a standardized mechanism that's been developed for registries to conduct their business there and Rubens calls that the China gateway. That is one of the as he says, most of the usual – one of the most highly used validated services that are typically added by registries.

Now, there is divergence from the Non-Commercial Stakeholder Group and I want to read this. In this section, the Working Group has buried rights to extend content control and excessive intellectual property protection into the evaluation and Registry

Agreement. The Globally Protect Marks List is viewed by NCSG and many others in the ICANN Community as a bastardization of the Policy Development Process. The NCSG and the GNSO and the ICANN Board flatly rejected the proposal of the IPC that certain strings be considered so sacred that they would be protected – I don't know if I have to read this whole thing. I think you get the idea. That a few registries were able to slip in through Public Interest Commitments and later in the RSEP modification process does not make them technical, financial or operational commitments in any way, shape or form.

Okay. So, I'm interpreting that, the divergence is not with the inclusion of certain services as approved registry services. It is an objection to one particular service. And that one particular service I think is – I'm pretty sure is under the Rights Protection. Maybe discussed as the Rights Protection Mechanism PDP, I'm not 100% sure. That actually should follow up but what I would caution here is mixing two different things up. I think the general notion is that certain services are so standard that they should be in this sort of pre-approved bucket, that could be added to the Agreement without undergoing additional evaluation.

With the Protected Marks List, whether it's called the DPML under certain circumstances or GPML or whatever it's called, this is really an objection to the substance of the service. I'm not sure this is the right place to have that debate, meaning in the pre-approved services, but it is certainly something that I know the Non-Commercial Stakeholder Group wants to have a discussion on. So, I think if we make this in two parts. Number one is if we say that there should be certain pre-approved services they

include and certainly list the ones that don't have any kind of controversy around them. I think that would be part one.

Part two is if any services in general are allowed to be introduced or have been introduced and there's no policy preventing them from being introduced like the DPML or GPML then if there's not an issue from the policy perspective, I'm not sure why those shouldn't be added to the pre-approved list. We understand the Non-Commercial Stakeholder Group's concern with the Globally Protected Marks List and I think the debate should not for this particular section but if they want to oppose that type of service, that's certainly within their rights to do that, but if someone is proposing to release it in a standardized way that's been approved for other registries and there is not a policy preventing that then that's one that should be on the list of standardized services.

I hope that make sense. I'm not taking side on the policy perspective whether it's good, bad or indifferent, but as long as that service exist and as long as a registry is implementing it in a standardized way, that one should be added to the list but we can certainly put a note saying that there is a philosophical objection to this particular service from the Non-Commercial Stakeholder Group and put the reasons why in a footnote or whatever or they can read it but that doesn't really relate to this particular section.

The ICANN Org also has a comment. I think it's with the whole pre-approved notion that then Rubens put this in his e-mail as well, so hopefully I can cover it like Rubens did, but ICANN Org understands this preliminary recommendation and understands it to mean that if an applicant chooses to offer one of the pre-approved registry services the applicant would still need to go

through an evaluation process to ensure that the applicant is capable of providing that pre-approved service. It would be helpful if the PDP Working Group can confirm if this understanding is correct, which I believe it is, like any registry service, the application asks each registry to describe how it's providing the registry services and is supposed to convey to ICANN that it's got the knowledge, expertise and ability to implement that registry service. So, there would not be a change to that aspect of it. And please help me understand if I'm wrong.

And then the second part of it is – let's see, just to read the parenthetical. If it is correct, ICANN org understands that this evaluation is not the RSEP which is only used for evaluating registry services that are not approved as per preliminary recommendation 2.7.7.c.16 – that's from our initial report – but rather is another form of evaluation that is limited to assessing the applicant's ability to perform the pre-approved registry service. It would be helpful if the PDP Working Group could also confirm if this understanding is correct.

So, let me go to Rubens. I don't know if you're in the position to talk, if not we can read it from your e-mail. Rubens put it into the chat. I think the crux of the argument is that ICANN should – oh, sorry. That's the NCUC one. Let see, let me go to scroll down here.

Alright. Rubens, are you in the position to discuss or should we just read from your e-mail? Okay. Let me go to your – thank you, Steve. You're ahead of me. Great. And if you can enlarge that. This is on the ICANN Org interpretation, so it's about halfway down. It seems ICANN misinterpreted the idea of pre-approved

service. Pre-approved services means that the registry – thanks. Let me go back, I just lost it. Thanks. Pre-approved services means that no registry service evaluation will be made for them, that any evaluation of those services could only happen in other context like the technical/operational evaluation. It's not just the change for the label, it's not evaluating those services at all from the registry services perspective but indeed possibly considering them in other angles of the evaluation.

Rubens, I think what your saying is line with what I said which is that applicants are asked to describe the registry services that they would like to provide and the manner in which they are going to provide it. That is all subject to the technical/operational evaluation. If the registry passes that evaluation then that is the only evaluation we're saying is needed for these "pre-approved" services, that you would not need to separately go through a registration services evaluation panel and you would not have to do – go through that entire process. But you would still like for all other registry services you still have to show ICANN and the evaluators that you have a capability of offering the service.

Rubens, is that an accurate representation? Cool. Okay, so hopefully that makes sense. I think so. We've addressed ICANN's comments. Let me just go back to the chat.

Justine's asking, "Do I understand correctly that we're looking to amend/add approved services under Exhibit A for the next version of the Applicant Guidebook?" and Rubens is saying, "Yes, that's accurate." It's not just for the Guidebook, it's for the Agreement, and yes, the Agreement is usually attached to the Guidebook but just want to make it clear this is really for Exhibit A.

Justine says that later on. So, Rubens, is pre-approved services means those in Exhibit A which is not subject to evaluation. Anything outside Exhibit A is subject to evaluation? I just want to be clear, Justine, it's not subject to any additional evaluation. So, they are all subject to evaluation in the standard technical/operation evaluation as part of the application process. It's just they wouldn't have to go to a separate panel. Cool. So, I think that's understood. Okay, so let's go through Section B then. Unless any – oh, sorry, Jim, you have a question. Please, Jim.

JIM PRENDERGAST: Yeah. Thanks, Jeff. Just to clarify, I think it might be related to Justine's comment but I'm not 100% sure. We're also saying that anything that is currently an approved registry service on an existing Registry Agreement would be added to that list of pre-approved registry services?

JEFF NEUMAN: I don't think we would go that far. I think we have a list. We suggested a list in the initial report. There is a proposal to include one additional item, I think. And I think what we would do is list those as examples and perhaps then ask an Implementation Review Team to confirm that that would be a right set and to see if there are additional ones. It would be very difficult to go through every existing registry service at this point and for us to do that anyway. It's possible that additional ones could be added but I think the RySG did suggest that in one of the comments but I'm not sure we should go that far at this point. I think we should use our examples and then leave it to an Implementation Review

Team to potentially put additional ones on there. Does that make sense?

JIM PRENDERGAST: Yup. And then just to follow up on something you said earlier. On your point about not getting into the substance of the NCUC objection to the GPML type services that are being offered, if this is not the venue for them to have that discussion, what is the venue for them to have the discussion?

JEFF NEUMAN: Yeah. Thanks, Jim. One of the things I need to check as an action item is whether the RPM group is covering this at all. So, I want to see how it may interrelate. If it turns out that they're not covering it, then I think we will probably need to have that discussion as part of the – either probably in association with the PICs as opposed to here. This is really just saying that there are services that are so standardized and routine that there shouldn't be the need for an additional technical panel. So, it's really from the technical/operation standpoint, so I kind of want to separate it from that. Does that make sense? We will find the place for it if it's not in the RPM group.

Okay. Great. So, let's go to Part B which is – and Rubens does say the whatever, PML, DPML, GPML, whatever you want to call it, it's not currently part of the fast track RSEP options. So, what that means is that there's still is some discussion on that one.

So, Part B. RSEP should only be used to assess services that are not pre-approved – I think we covered that. Criteria used to

evaluate those registry services should be consistent with the criteria applied to existing registries that propose new registry services. Let me stop there for a second and go back to the – Maxim pointed this out in the list, Ruben’s pointed this out as well. There is a Registry Services Evaluation Panel that can be called upon during the application process. If there is a service that’s proposed by a registry in its application that’s outside the standardized process, for the technical panel as part of the application process to review. That usually involves or could involve additional cost to the registry but that is separate and apart from the standard Registry Services evaluation policy and process that existing registries use in the everyday course of running their registries once the TLD is delegated. What this recommendation is that is we should link the two, meaning that they should be consistent.

So, new registries that propose a service shouldn’t be treated better or worse than if an existing registry that was already delegated proposed to add this service or similar service at a later point in time. And Rubens, is correct that the panel is called in this process in the application – sorry, in the normal standard RSEP process with existing registries is actually called – the panel’s called an RSTEP which is the Registry Services Technical Evaluation Panel. So, it is extremely confusing these acronyms and I apologize for that, but the main point of this recommendation is that it should be consistent. Whatever process is used to evaluate new registry services for the new entrants should be consistent with the evaluation process of the existing TLDs and vice versa. I don’t think that’s controversial but please let me know if anyone disagrees.

Okay, I'm not seeing any disagreement. Let me go to the next clause of that. "Applications proposing non-pre-approved services should not be required to pay a higher application fee, unless an RSTEP, a technical panel, is required."

What this means is that in the application process, there was at the sole discretion of ICANN the ability to charge a fee if an additional registry non-approved registry service was proposed. This was whether or not ICANN needed to get a technical panel in place to look at the service. So remember, registry services don't just evaluate technical new services but also business new services, policy new services, operational. And so in the existing world of existing TLDs, if I am a registry, I have a string delegated, let's say it's .family, and I want to add a new service. Let's say I want to add a new validation type service. I would go to ICANN file form that they have saying I'd like to do the service. There's only a charge by ICANN to me as the registry if ICANN says, "You know what, we need a technical panel to review this because we're not sure we can do it or we want all the technical aspects considered." Only then is there a charge to the existing registries. There is no charge if ICANN does not have to constitute a panel.

So what this recommendation is saying is we should do the same for the new entrants. If the new entrants proposed a service, a non-pre-approved service, and it does not require constituting a technical panel because maybe the technical aspects are limited or understood, then new applicants similarly should not have to pay a fee. Does that make sense? Does anyone have any questions on that? Is everyone still awake? It makes sense. Thanks, Heather.

Okay. I want to be sure that everyone understands that because then you'll understand the comments, whether they apply or do not necessarily apply.

Rubens says, "This clause was added in order to foster innovation by not making it more expensive for the new entrance than it would be for existing registries." Or for that matter – no, I'm not going to go into that because I don't want to confuse things more. So, yeah. I'll stop there.

This was supported by the registries, the BRG, and Neustar. ICANN Org said, "Regarding the suggestion to use the RSEP process to assess services that are not pre-approved, the PDP Working Group might want to consider allowing for revisions to the RSEP workflow to fit within the program processes and timelines."

So, it would have to be revised. Let's says priority numbers may need to be considered as part of these evaluations, the use of clarifying questions. I think that is a really good suggestion. I'm not sure that's something that we need to do other than recommend that it should be done by an Implementation Team.

Thank you, Justine, you said exactly what I was just saying. Yes, I think it would be helpful for us to make the recommendation that the Implementation Team revised the RSEP workflow to fit within the new gTLD processes and timelines, and then put these as a couple of the examples. Does that sound like that something like that could rise to a level of high-level agreement? Of course, we'll check with the list. This is not definitive, but it seems to me each of these concepts, once understood could rise to the level of high-level agreement. Okay?

Then if we go to the proposed draft language for registry services evaluation, and that language is provided ... Is that part of Emily's note that she had up there or Steve's note? I'm sorry. I can't tell who filed that or who put that comment. Scroll down a little bit. It was Emily. Is that the language? Yes. Okay. So there was a proposal to put in language saying, "Applicants will be encouraged but not required to specify additional registry services that are critical to the operation and business plan of the registry." Here's the list of previously approved registry services. Again there's an asterisk around the [DPML]. "It will be included by reference in the Applicant Guidebook and Registry Agreement. If the applicant includes additional registry services, the applicant must specify whether it wants it evaluated through RSEP at evaluation time, contracting time, or after contract signing, acknowledging that exceptional processing could incur additional application fees. If the applicant has not included additional registry services, RSEP will only be available after contract signing."

So currently, or at least in the 2012 round, there was no requirement for any registry to specify every single capital R or capital S registry service it wanted to offer. It could. It had the option to do so, but it was not required to. So this enabled registries later on to add a DPML, GPML, or validation, or registry lock, or any of the other services. So we're not proposing in the language to change that aspect. It has been voluntary, it's always been voluntary, it will continue to be voluntary whether you state that there'll be additional registry services.

The part that is a little bit different is it says that the applicant can choose when it gets evaluated. So the applicant could say, "I

intend to introduce this service but I'm going to wait until after the contract is signed and then I will go through the regular RSEP process." Or an applicant could say, "You know what, this service is so critical to me that I'd like it evaluated as part of the application, and so evaluate it now." Or it could say, "You know what, let's go to the agreement first and then I'll have it evaluated after the agreement is signed but with the understanding that that would then flow through the regular RSEP process."

The comments here, we have support from the BRG AND Neustar.

The IPC supported this but they favor requiring disclosure of additional services at application time.

At least one RySG member supported it and they say the evaluator should review and assess all proposed services as part of the overall evaluation of the application. The evaluation should take into consideration not just the service itself, but the proposed implementation of that service.

Then the Registries Stakeholder Group as a whole did agree on a new idea or concern – oh sorry, it's not as a whole. I take that back. It's "At least one Registries Stakeholder Group member suggests only tweaking the language to follow Recommendation 2.7.7.c.16 above to include all registry services with an available RSEP template at that time, while at least one other Registries Stakeholder Group member believes that while many registries choose to offer previously-approved registry services such as IDN languages, GPML and BTAPPA, the individual implementation of those services by different Registry Operators can vary

significantly. For this reason, those services must still undergo a proper evaluation.”

Then another Registries Stakeholder Group member states that “It does not make sense to offer applicants the ability to use the RSEP at the time of evaluation, and applicants should not have the ability to defer the evaluation of certain services until after launch. New gTLD applications are evaluated by third-party evaluators that ICANN contracts specifically for. The RSEP is not designed to evaluate proposed registry services from applicants. We do not recommend splitting out the new gTLD application evaluation process in this way, as it has the potential to create logistical issues and/or unequal treatment of applications. Further, the RSEP evaluates newly proposed registry services against a Registry Operator’s Registry Agreement. Making the RSEP available to approved new gTLD applicants at the time of contracting would require a significant change to the underlying RSEP policy, which we do not recommend at this time.”

We are going to revise some of the workflows. I think it will have some changes to that. I’m not sure the actual have changes to the policy itself but ...

So, there’s a lot of different comments here. Some of which I think we’ve already addressed by saying they are going to be evaluated. They’re evaluated as part of the application anyway. It’s only if a technical panel needs to be constituted would there be a choice to have it done prior to contract signing or after contract signing or after launch. So I think that addresses some of the registry comments as well. But I’m looking to the registry members that are on this call to see whether they believe – again, it’s not all

Registries Stakeholder Group members. They didn't share a view. There's lots of different views, so I think we're okay with the discussion that we had, but I want to throw it out there to see if there's other elements we need to discuss.

Okay. Then there was – oh, Jim, please.

JIM PRENDERGAST: Yeah, Jeff. I'm sorry, maybe it's the hour, but what discussion? You said the discussion we just had. I think all we had was you reading the comments. Am I missing something?

JEFF NEUMAN: Me in a one way recitation of reading. I'm just kidding. Sorry, the discussion we've had for the last hour on how all the services are still evaluated and all of that. I didn't just mean reading this one paragraph.

JIM PRENDERGAST: Got it. Okay. Thanks.

JEFF NEUMAN: Let me read this comment in the chat real quick. Sorry. Justine says, "Emily's note on 2.7.7.17 – Can we refine the reference to previously approved registry services will be included by reference in the Applicant Guidebook and Registry Agreement to make it clear which service will be included in the Applicant Guidebook and which will be included in the RA in respect of recommendations for implementation?"

Yes. Let's hold on to that. We'll have that conversation but let me go to divergence first from the U.S. Postal Service and then come back to Justine's comment.

The Postal Service, the Non-Commercial Stakeholder Group, Public Interest Community, which is a few non-profit organizations, made a comment that new services should be disclosed at the time of the application so they so they can be subject to public comment. Let's discuss this in a second.

Public Interest Community and Non-Commercial Stakeholder Group – again, this is about the GMPL/DPML. I'll put that in the same bucket of the discussion. We need to check with the RPM group on the GPML/DPML, but not in this discussion here on the process for registry services.

With the Postal Service, "New services should be disclosed at the time of the application so they so they can be subject to public comment." I think that certain services have to be disclosed. Any services certainly that they want to do at launch will need to be disclosed at some point prior to launch. There will still be public comment. Just as there is public comment in normal registry service evaluation requests that are done after a contract is signed.

This goes back to a long discussion that I think it was [Anne] who represents the Postal Service had with Rubens. We're not saying that services will not ever have public comment associated with it. Any service that normally has public comment associated with it will still have public comment associated with it. It's just the timing issue. So if someone has it in their application then it will be done

at the time of the application is submitted. If someone files for an RSEP request after then there will still be public comment as public comment opportunity where there's normally a public comment opportunity for existing registries that would go through an RSEP request. So I don't think that we're saying by any of this that public comment would be limited at all.

Rubens, anyone else, does that sound correct here? Alright, Heather is still with me, so that's good.

Okay, now I want to get back to Justine's comment, which is where's the appropriate place to list the approved services? Is it in the Applicant Guidebook? Is it in the Registry Agreement? Or is it both? Well, it certainly needs to be in the Registry Agreement because that's where approved registry services are normally put into those Agreements. That way, ICANN and the registry operator have a privity of contract to enforce what's required for that service.

With the Applicant Guidebook – it's a good question. I don't know have an answer to that. I think the Registry Agreement is certainly included as an attachment to the Guidebook, whether it should be separately referenced in the Guidebook is probably something we should discuss ... Sorry. I'll finish this one and then I'll let someone speak. I think there's a number of things that we may come to after we finish all of our discussions saying, "Should this be in the Guidebook or the Agreement or both?" So we may just for now put it in a parking lot and join it with that discussion, or we can discuss it now if people would like. So, thoughts on that? Justine, you put the comment in there. What are your thoughts? Justine, please. Great.

JUSTINE CHEW: Thanks, Jeff. Yeah, my concern is exactly what was highlighted there because that note says – and I’m reading – “The list of previously approved registry services (IDN Languages, GPML, BTAPPA) will be included by reference in the AGB and Registry Agreement.” So this comes back to my earlier question about, are we looking to add to Exhibit A which is in the AGB or not, in which case we’re having a list in the RA? That’s the confusion that I’m trying to grapple with. Thank you.

JEFF NEUMAN: Yeah, thanks. I think that’s a good point because our language is not precise. I think that’s probably an action item for us to make a decision one way or the other because historically – I mean it is correct to say that if it’s in the Registry Agreement, it’s incorporated by referencing to the Guidebook because the Guidebook does have as an attachment the Registry Agreement. I’m not 100% sure that that will necessarily be the case next time, although I don’t have reason to believe it wouldn’t but we should make that language more precise.

So why don’t we table that discussion at this point but certainly a note as is there by Steve already, which is to make it more precise as far as the location. The part that we need to make more precise, Steve, is the location of where this statement would be. I mean certainly it’s definitely going to be in the Registry Agreement, the question is is it also in the Guidebook?

Okay. I’ll wait for Steve. Can we scroll down a little bit here? Okay.

This goes into kind of the discussion of the pros and cons of proposal to not allow any services to be proposed at the time ... I don't think we need to go through this because I don't think we had any recommendations on this other than the ones that were above – at least the first part.

The next grouping. Should we be concerned that applications without additional registry services are “subsidizing” applications that do propose new registry services?

The registries responded that this was not a concern in practice. There did not seem to be an issue with that.

There's some language from the IPC that says, “Don't fast track applications that don't propose new services.” I'm not sure we're fast tracking anything at this point. I don't think that's a concrete recommendation to fast track.

As Rubens says, “The minimalist registry services idea didn't get much traction in Work Track 4 anyway.”

I'm not sure what to do with the IPC recommendation because there is no standing proposal that got support to fast track any applications.

Suggestions for additional registry services that could be pre-approved. We already talked about the Registration Validation per Applicable Law. The Registries Stakeholder Group, which we discussed already concluded RSEP instances. I don't get the feeling that we should go that far but leave it for an Implementation Team. So we'll cite examples and leave it for an Implementation Team to discuss additional examples. We

shouldn't get bogged down with those discussions because they're very technical and also would involve ICANN GDD because they would certainly have thoughts from their side which services would need more extensive review and which would not.

Registrars state that they support pre-approved services for new TLDs, but not existing TLDs. For existing, this could have impact on registrars, so obviously we can't pre-approve services for existing TLDs. So that's not something that ... The registrar's concern is not something we can address because we're not addressing existing TLDs. But the registrars did suggest the sync function. That's what I previously was talking about is consolidate that Verisign offers for .com and .net, and I think other – probably .name as well or other Verisign registries.

The Non-Commercial Stakeholder Group – no additional registry services that should be considered pre-approved. Again, this really relates to their disagreement with the GPML and unless we hear otherwise from the stakeholder group, we're going to treat it that way that it's really an objection to the intellectual property proposed services. And specifically the only one on the list at this point is the GPML/ DPML. We actually did have that discussion already but we'll continue that discussion under the – I forgot if it was registrant protection or PICs, whatever that was.

Perspectives on the language changes the 2012 asking for disclosure of services versus disclosure being required. I don't think we're saying that this should be required but the registrars, registries, and IPC all file comments on their thoughts about required disclosures. Registrars obviously find it helpful to know what services are going to be offered so that they can know

whether to support them or not. That's a business issue with the registrars. That should probably be addressed with registrars and registries and applicants, but I'm not sure that rises to the level of a policy concern. But if you disagree, please chime in.

Registries Stakeholder Group states that "Registry services should be declared by applicants if known, and that no alternative wording is required for consensus calls on this topic." I think they're trying to say that they could support the recommendation if that's required to get consensus on this.

The IPC believes that Question 23 should stay worded the way it is. IPC believes that there's a required disclosure of new services under Question 23. That's not an interpretation that was taken by ICANN or the evaluators or the registries. So it would be great to hear a little bit more from the IPC on why they believe that it's required under Question 23. It does say that if a registry wants to offer registry services, it should list it in the application, but I'm not sure it was a requirement. So let's check on that with the IPC. I don't want to discount that comment.

Then there's some other drawbacks that are listed here. So I think we've covered most of the comments or all of the comments. Let me just touch on this last Registries Stakeholder Group because it is slightly different than we discussed which is "Registries Stakeholder Group strongly supports batched evaluations for identical or nearly-identical applications by an registry operator and its affiliates. There are potential risks: how will evaluators determine if applications are substantively identical – having to pull out some that are flagged as having substantive changes could slow down overall evaluations. Whatever process is used to

queue applications will be impacted by batching and the IRT should take that into consideration.”

I don't think we have a recommendation to allow ... We might actually. Can we double check to see if ... Rubens says this belongs in other topics. Is there a recommendation or proposal in the initial report that said that they could batch applications if it's the same service? There may be. I'm not sure that would rise to the level of a high-level agreement at this point because I have not have heard support for that. But Rubens will correct me if I'm wrong.

Then there's an additional proposal on other topics from MARQUES: “Supports a base application fee which all applicants should pay for standard evaluation with supplementary / top up fees paid for more detailed evaluation. This would result in a lower fee for a Single Applicant/Closed Brand Registry, where the evaluators do not need to review a business plan.”

I think this topic fits in more with the fees discussion as opposed to here. I think we've had certainly some discussions on fees, so I'm going to push this comment over to that section.

INTA supports that comment as well.

The paragraph below talks about the GPML which I think we will move.

The ICANN Board did have an additional comment. They're interested in recommendations for a mechanism that can be used when there are issues that block an application moving forward. I forgot about that comment. I'm not sure that that's in the right

place here. I'm not sure that that's an evaluation question. That seems to be more of a objection with objections or accountability mechanisms, but I don't see why that's here in this section. So let's double-check that.

Then there are some comments on efficiencies and I think that's it. I think we've finished this topic.

Just to get a little bit of a start on the next one which is the Role of Application Comment. This came from the supplemental initial report where we realized that we hadn't covered this efficiently in the initial report, and so this came out – I do want to go over the high-level agreements and then maybe we could start with the outstanding items on the next call.

The policy goals we're working towards are Implementation Guideline C which is mind of the closest thing that would cover public comment, which stated that ICANN will provide frequent communications with applicants and the public including comment forums. So we think from the comments and the initial report and discussions that we have high-level agreement on the following.

We should have Implementation Guidance that states "The system used to collect application comment should better ensure that the e-mail and name used for an account are verified in some manner." There was a ton of spam, there was a ton of anonymous comments that were filed. Some of them may have been nefarious in nature. Certainly knowing who's behind the comment or at least making sure that it's a real person as opposed to a script that sending in comments, it seems like a good idea.

Another Implementation Guidance: “The system used to collect application comment should support a filtering and/or sorting mechanism to better review a high volume of comments. The system should also allow for the inclusion of attachments.” I don’t think that’s controversial. I think pretty much everyone supported that.

“ICANN should be more explicit in the Applicant Guidebook on how public comments are to be utilized or taken into account by the relevant evaluators, panels, etc. and to what extent different types of comments will or will not impact scoring. In addition, to the extent that public comments are to be taken into account by the evaluators, panels, etc., applicants must have an opportunity to respond to those comments. Applicants should continue to be given the opportunity through Clarifying Questions to respond to comments that might impact scoring. Applicants should be given a certain amount of time to respond to the public comments prior to the consideration of those comments.”

Those are the high-level agreements. I don’t think any of those are controversial. When we get down to the more detailed discussion, there’s some more specifics on some of these items. I’d like to see some of those specifics become more high level if we can get there to the high-level agreement. But we will continue that discussion – let me just see. Yeah, I think it’s better to continue that discussion on the next call. So that is where we will leave off.

Then I think the next two topics are name collisions. I think that we’ll start objections. Just a quick note on name collisions. Because there’s a study going on now, the NCAP study, one of the things we’re going to cover on that call is the inner relationship

between the study – or studies I should say – and our work, and to the extent that we think that the study may cover some of those areas, we can defer to the studies or we can set some policy unless and until the studies produce some different result. So there are a couple of different options for that. I don't expect it will take the full time to cover that topic because again there's been a lot of work already done. There's a lot of work being done as well. I think from a policy perspective, there might not be a huge amount of issues for us.

So the next call is Monday, September 9, 15:00 UTC for 90 minutes. Thank you, everyone.

STEVE CHAN: Jeff?

JEFF NEUMAN: Oh, yeah. Please go ahead.

STEVE CHAN: Sorry, I can't use my hand. This is Steve Chan from staff. I'm actually just taking us back quickly to this topic here on the Role of Application Comment. I just want to note – and I know we'll cover this when we actually get into the outstanding items – that some of the comments from ICANN Org here, they note that these high-level agreements captured above, some of them are actually consistent with the existing implementation already. I guess we want to make sure recommended thing are actually different rather than just reaffirming the status quo of what they're doing.

And apologies, there's actually a vacuum in the background. So hopefully that makes sense. Thanks.

JEFF NEUMAN: Yeah, thanks, Steve. I think we have to do both, right? If it's being done already, it may not be captured already by the Applicant Guidebook or elsewhere. So we should note that we're reconfirming something that's already done, but the reason we're stating it as a high-level agreement is because we think it should be explicitly stated. But yes, we should also indicate the high-level agreement on new stuff. I think that's consistent with the way you said it, Steve. Is that right?

STEVE CHAN: Essentially. And I guess at the end of the day, I think we shouldn't position something that's already been done as new, which is sort of how it's done here. So, right. If it's already been done and we want to reaffirm that and make sure it's included in the Applicant Guidebook then we can state that. But in some cases here, it's presented as something new when it's not actually new. Thanks.

JEFF NEUMAN: Okay. We will figure out the right wording. I think the concept is that what we're proposing is a confirmation of it and that there should be documentation. We've done this in other areas too. It's not the first time where we're reconfirming something that was done in the 2012 round but we think it's important to explicitly state that. Cool.

Alright, any other last questions? Any other business? I do want to again remind everyone that – I'm not sure if the preliminary schedule for ICANN66 is published, but I said I would periodically repeat this, that when the initial schedule is published, it's going to say Work Track 5 for the first two SubPro sessions. But what it's going to be in reality is a full – or it's looking like it's going to be a full working group meeting where the Work Track 5 will present its report and recommendations or lack thereof or whatever to the full working group. So if you're booking your travel, please do try to come to those first sessions which are on the first day in the morning I believe or maybe early afternoon. But please do remember to book that for travel.

There's a hand. Jim, please.

JIM PRENDERGAST: Hey, Jeff. Thanks. Just a quick question on scheduling. Is everything going to be slammed together in front of the week like it was at the last [inaudible]? Are we going to have some breathing room between meetings? Thanks.

JEFF NEUMAN: The Work Track 5 material is on the first day, Saturday. Then I believe the next two sessions are both on the Monday if things stay the same. But, Jim, to be honest, the schedule I see is not always the schedule that it ends up being. So the hope is to have some breathing room, which I think is a good idea. And we did ask for that to have some separation. So that's our hope. Heather,

yes. All subject to change. I agree, Jim. We had to move things around for the last meeting to accommodate others.

Okay, Steve is confirming what I recall. So, cool. Alright, thanks, everyone. I will give you all back eight minutes, and for those, have a good night or a good morning or good afternoon depending on where in the world you are. Thanks, everyone.

JULIE BISLAND: Thanks, Jeff. This meeting is adjourned. You can disconnect your lines, everyone. Have a good rest of your day. Good night.

[END OF TRANSCRIPTION]