
ICANN Transcription
GNSO New gTLD Subsequent Procedures Working Group
Monday, 16 September 2019 at 15:00 UTC

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MICHELLE DESMYTER: Welcome, everyone. Good morning, good afternoon, and good evening to all. Welcome to the New gTLD Subsequent Procedures PDP Working Group call on the 16th of September 2019.

In the interest of time today, there will be no roll call. We have quite a few participants online, so attendance will be taken via the Zoom room. As a friendly reminder to all participants, if you would please state your name before speaking for transcription purposes and to please keep your phones and microphones on mute when not speaking to avoid any background noise. With this, I'll hand the meeting back over to Jeff Neuman. Please begin.

JEFF NEUMAN: Great. Thank you very much, and welcome to this meeting. I was having some issues earlier this morning my time, so if I start cutting in and out, just let me know and I'll switch to iPhone. But it's much easier for me to use my computer, so I'll start with this way and just let me know.

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

The agenda is up on the screen right now. It's very similar to all the agendas for the past several months. We're going to continue going through the summary documents today going through name collisions and possibly getting to objections, although accountability mechanisms are or is on the schedule, I think we can be probably certain that that's not going to happen until at least the next call.

So with that, let me ask if there are is Any Other Business and/or whether there are any updates to Statements of Interest? Okay. I'm not seeing anything. Great. Okay, then let's move on to name collisions.

We started on this last Thursday, I guess it was. I'm trying to remember when this call was. But we just really covered a very high level general overview, so we'll go through it again. But basically, this is an interesting topic where there's other work going on or potentially going on in other areas of ICANN, and so one thing we should be clear about is our role in this discussion versus the role that maybe other organizations have. We certainly have gotten comments in from a number of members of the technical community as well as our standard constituencies and stakeholder groups about this, and so we should be working on some of the policy aspects to the extent we can and differential to the technical community in areas that may be beyond our capability.

So, just with that in mind, the policy goal or goals is really not much different than was in 2007, which is two strings must not cause any technical instability. We think that still remains an appropriate objective. And then, we also have in here the policy in

relation to this subject should promote predictability for applicants and other party [inaudible]. A lot of this discussion we'll be weighing the first goal of not causing instability with the second one of we also want to do things to make sure that the process is predictable for applicants and others to the extent possible.

This unlike many other or I think all other subjects, in this area at this point we don't have any high-level agreements simply because a lot of these issues are technical and covered in other areas. But we did get some feedback from a number of different groups including of course the SSAC where they provided an overview of the NCAP studies, so it's a Name Collision Analysis Project. I want to say that's what NCAP stands for. But it's up to the ICANN community and ICANN Board to determine any dependencies between the NCAP and the next round of new gTLD applications. Again, this is according to the SSAC. But just note that if delegation takes place before the risks are understood, which is in their view study 2 of the NCAP then it's highly likely there'll be significant problems in unspecified TLDs. If application begins before the risks are understood then when the names are known, it is possible that the data collection will be compromised through such mechanisms or gaming or preparatory use and the NCAP will be unable to produce a result.

So, there's some statements in there that says that, "Now, look, NCAP is important. The study is important but it's really up to the community and the Board to determine what the level of dependency is." And now my line is coming out. Okay. So, I'm going to just ask if – I'm going to send via Skype or I'll send to you

Michelle my number and if you can just call me on that number and I'll pick up there. Brief pause. Give me one second here.

MICHELLE DESMYTER: Jeff, this is Michelle. Can we test your line? Okay, Jeff is –

JEFF NEUMAN: Yup. I'm back. Does that work?

MICHELLE DESMYTER: He's back. Right. Thank you, Jeff.

JEFF NEUMAN: Okay, great. I'm probably the number that ends in 5079? I don't know if that's being shown on there or not, so hopefully we can fix that. Sorry about that. I apologize, I've been having some issues here, but now we're back. Okay.

Again, I think the SSAC also reiterated this advice in its SAC090 paper, and we list the recommendations there which really relate to – well, the first one is to take appropriate steps to establish definitive and unambiguous criteria for determining whether or not a syntactically valid domain name label could be a top-level domain name in the global DNS. It recommends that the scope presented in the recommendation above include at least the following issues, and then there's a bunch of issues and questions that are listed in that paper. And then, they recommend that the ICANN Board establish effective means of collaboration on these issues with other relevant groups outside ICANN including the

IETF. And finally, that they'd like ICANN to complete this work before making decision to add new TLD names.

These recommendations also relate to other items, not just name collision. Name collision was just one area in this paper. A couple of other things I think we need to talk about is that the NCAP right now, the study is still at least, as far as I know, still looking for a vendor to complete or to start Phase 1, which is really just an identification of materials out there in the public to determine what additional research, if any, needs to be done. Whether it goes to Study 2, which looks more in depth that some name collision issues is not something we know at this point. The Board hasn't approved anything past Study 1. We don't know if they will. We don't know if the end of Phase 1 will recommend the Study 2, so there's a lot that's actually not known at this point.

In addition, you may have seen that the GNSO Council – or that Cheryl and I asked the GNSO Council to ask the Board what dependencies there were in the minds of the Board members as to what needed to be completed prior to launching the next round of new gTLDs and at what point could we continue the policy process and the implementation? Up until what point would that dependency relate? In other words, can we finish our policy work? Can we finish the policy work and do the implementation? Can we do the implementation but just not launch the next window or can we do all of those things, launch the next window and then just wait before delegating any new TLDs on whatever the NCAP produces, if they produce anything? So, we're in a little bit of a limbo here. As Cheryl says, there's more unknown at this stage than known. So, that's important to note because when we do our

work there's a lot of comments that we got about deferring certain things to the NCAP or deferring to the technical community, but we don't even know if the technical community necessarily will take up this work.

So, with that, let's go to some of the other comments on here. The first comment – and it's interesting because there's a number – and I don't know if we can separately show it, but in that section C 1-10 in the initial report, there's a bunch of different statements and questions in there. But this relates to applying – to all the draft recommendations 1-10. Neustar agrees but has some concerns. They support predictability for applicants but they raise the concern that recommendations “raise more questions than they answer.” How would risk be measured? What level of risk would determine which category a TLD falls into? Who would make such a determination, etc.?

So if we went back to the initial report, you would see that the options or the things that we had recommended included such things as whether it will be possible for this NCAP study or any study to look at whether there are certain strings that would be completely ineligible for delegation or even application, whether there's a testing mechanism that could be developed that could test particular strings after they're applied for, or whether even the data from or new data that you would obtain has been tainted from the studies that were done in 2012 by anybody that now sends a bunch of queries to the root for undelegated TLDs, that could be, in essence, poisoning the data going forward because it'll look like there's a ton of queries to that potential TLD even though it could be done by companies and others that are studying name collision

issues. So it could look like something more than what it is. The ALAC on this topic says that the process needs to wait for the SSAC to complete its work and to be subject to their recommendation –

CHERYL LANGDON-ORR: Michelle, Cheryl here. I've certainly lost Jeff's audio.

JEFF NEUMAN: You don't hear me. How could you not –

CHERYL LANGDON-ORR: Jeff, now your audio really is cutting in and out. Before it was fine for me, but Michelle had problems. Jeff, disconnect and see if Michelle can reconnect your place.

MICHELLE DESMYTER: I am checking on his line, one moment.

CHERYL LANGDON-ORR: Sorry about this, ladies and gentlemen. Under normal circumstances, the landline is much more stable than this. Just say you don't have radio songs.

MICHELLE DESMYTER: Jeff should be joining just a moment here.

CHERYL LANGDON-ORR: And you're back. Here we go. Try again, Jeff, because you're only back for a minute again.

JEFF NEUMAN: Yup. Now, okay, can you guys hear me at this point?

MICHELLE DESMYTER: Yeah, we can hear you.

CHERYL LANGDON-ORR: Thank you.

JEFF NEUMAN: Okay, let's try that again. Sorry, I don't know what's going on.

Just with the ALAC comments, I think that's where we are. We asked the question of the ALAC whether that dependency meant we couldn't even finish the policy process or at what point was the true dependency? And so the ALAC came back and said that the SubPro can conclude its work, implementation may proceed, but the ALAC believes that ICANN should not launch the application window until the NCAP studies are completed and any recommendations resulting from those studies are addressed in implementation. As a compromise, in the event ICANN proceeds to launch the application window and start the evaluation process then no TLD may be delegated until the NCAP studies are complete and any recommendations resulting from those studies are retroactively incorporated. However, we see these later circumstances being more difficult to address, which is why we

think the next round should not proceed before the SSAC completes its work.

So, the difficult part – and Maxim has posted, the SSAC is still or should I should say the NCAP which is how the SSAC is participating in studying this issue, is still in Phase 1, still looking for a vendor to apply to do the work in Phase 1. There was an extension to that period because no vendor or maybe only one vendor came forward. They extended that. We've also had some potential vendors opt not to work on it. As you may have seen, Rubens forwarded a note around the list. We were told we being the people participating in the NCAP discussion group we're told that the RFP process is still ongoing and is – I forgot the exact words that were used. Because the question was asked whether there was at least a vendor that applied, and the response was something to the effect of the RFP still is proceeding. And as Rubens's note, there's no consensus in deferring or not deferring to the NCAP or SSAC, so it's difficult for us because we need to plan for both circumstances. We need to plan for a circumstance in which the NCAP work is done and completed and we need to plan for a circumstance where the NCAP work is either not completed or they choose not to go on with the second phase or third phase, or there are no new recommendations coming out of it.

Jim says that that's ultimately a question to the Board. And so, we did ask the Board a question about the dependencies, and hopefully they'll get back to us. So, I think for our work, we need to plan for both circumstances. Obviously, to the extent that the NCAP work is done and has gone through the community and has

been approved, I think it's logical for us to recommend that those be incorporated into the program. But if the work of the NCAP is not done – work. And to that [vein] let's talk about some of the other comments that came in.

So if we scroll down to the next one. Yeah, thanks. One of the recommendations was to include a mechanism to evaluate the risk of name collisions in the TLD evaluation process as well as during the transition to delegation phase. With respect to that – oops, sorry. Someone was telling me I was in and out. The registries support a mechanism to evaluate the risk of name collisions. At least one registry member, however, doesn't believe that the PDP Working Group has enough data or expertise to recommend what that mechanism is.

[Inaudible] other questions. And at least another registry member believes that the working group has sufficiently leveraged input and data to develop the recommendations.

Valideus supports the existing mechanism until it's replaced. Pending efforts should not delay subsequent procedures if there's no evidence that the existing measures are unsuccessful.

The IPC defers to again the study, the NCAP study. If the NCAP study is not completed, some proposals presented by the IPC were that the working group should defer to the SSAC or continue to implement the current name collision mechanism. I guess what the IPC is saying is that there's no consensus within the IPC on

which of those options, that those several options that were presented. Any questions or comments at this point? Okay.

Second recommendation which we had said in the initial report. The use of data driven methodologies – there's a hand for Christopher. Christopher, please.

CHRISTOPHER WILKINSON: Hi. I thought I'd take advantage of the silence, so I didn't want to interrupt unduly. My only question at this stage is how many languages and scripts does this name collision business address? Because as long as we're in ASCII and the standard words used internally in large companies, for example, I assume that's finite problem. But if you want to have a policy which works in other languages and scripts, I'm just curious. I've never seen any discussion about [inaudible]. If there's no answer on the call now, it would be helpful if staff would just put a reminder into the list on this thesis, this theme, bearing in mind that, I confess, I have not read the NCAP report. Thank you.

JEFF NEUMAN: Yeah. Thanks, Christopher. I'll try to answer it and hopefully others can jump in as well. Maxim has actually posted what I was going to say that name collisions are about the strings themselves and not about words or languages. What data was used to produce the mitigation strategies and the mitigation strategies themselves are based on the ASCII characters that are entered into the root. So, the language in a non-ASCII with non-ASCII characters has to be converted into the root into ASCII characters,

the x and -- and that's what is checked for collision with the data. I believe it is language and script diagnostic. As Rubens says, name collisions only happen in the wire, meaning that only an ASCII [inaudible].

CHRISTOPHER WILKINSON: Okay. Thank you. That's clear.

MICHELLE DESMYTER: We're not able to hear you. This is Michelle. Jeff?

JEFF NEUMAN: Yup. I am

MICHELLE DESMYTER: There you are.

JEFF NEUMAN: There you go. Okay. I pause there to see if there are any other comments. Okay. I don't know why you keep losing me. This is crazy.

Anyway, the next part on the use of the day in the life data, which is called the DITL data or DITL. That's what was used in the original – for 2012 round to come up with the risk levels of particular strings and ultimately the mitigation strategy. The Registry Stakeholder Group asks how that data would be used or evaluated? How would such a mechanism be defined and how

would someone quantify risk, if we were to use that data on a go forward basis? So, there's a lot of questions on the use of –

I guess I'm coming in and out.

MICHELLE DESMYTER: We're not able to hear you.

JEFF NEUMAN: Okay. Still can't hear me.

MICHELLE DESMYTER: There you are.

CHERYL LANGDON-ORR: You're back now.

JEFF NEUMAN: I have no idea why I am coming in and out. I've tried the landline. I've tried my wireless line. I've tried through the computer. I apologize. I'm not sure what's going on here. But hopefully – yeah, okay. Thanks, Robin. I'm not sure what's going on in this area of the country. Alright, I'm not going to move. I'm going to stay right here.

The next one is on the creation of the do not apply list. That was one of our recommendations, was to see if some studies can be done beforehand to produce a list ... key as to anyone even applying for those strings should not bother to do so. On that

recommendation, the Registry Stakeholder Group agrees to the extent that's possible but states that in the absence of a study of the effectiveness of the collision mechanisms that we have from ICANN, how can we be confident that the legacy mitigation frameworks work effectively and appropriate for subsequent procedures? The Registry Stakeholder Group needs to review the answer to this question before providing a more complete response. With the response and absent additional questions, the Registry Stakeholder Group believes an expedited analysis maybe a welcome safety net. The Registry Stakeholder Group supports allowing applicants to file a collision mitigation framework but warns about the subjectivity of too many tiers. And then the IPC defers to the NCAP.

Thoughts, comments on this? Okay. Let's move on.

The next recommendation that we had was to create a list of TLDs which may not pose as high of a name collision risk as to not be those which you couldn't apply for but would be a high enough risk where there's a presumption that a specific mitigation framework would be used. Again, this is something that we think should be allowed to be applied for and ultimately delegated but with a mitigation mechanism in place. And the registry has a number of questions about how that could be done, how you quantify that risk, how you determine whether that risk was measured correctly, how do we avoid shade of gray situation where anyone could put that name on the list. Again, a lot of knowns and unknowns.

If we go to the next one. We allowed every application other than those on the do not apply list to file a name collision mitigation framework with their application. And then ultimately that gets

evaluated. The Registry Stakeholder Group says in the absence of a study of the effectiveness of the collision mechanisms that were used, how can we be confident – this is the same comment as before. How can we be confident that the collision frameworks actually work? Then there was a viewpoint 1 states that we consult authoritative groups. Viewpoint 2 states that, “Look, we’ve already done these consultations and all of those opinions were already factored into our initial report of the PDP Working Group.” And the IPC similarly says it defers to the NCAP.

Jim asks on the chat, “Has any work been done on the Registry Stakeholder Group ask for a look at the effectiveness of the previous mitigation measures?” Jim, there was a final report issued by the JAS Consultancy – sorry, I’m forgetting the JAS Advisors. Thanks. And they had said that based on their data, they do believe that the previous mitigation measures have worked. Alternately, there’s no real data that’s been presented or no concrete data that’s really been presented that had shown that it hasn’t worked. Ultimately, I think there was one issue that was able to be mitigated, and of course there were potential issues that were found with Corp, Home, and Mail, and those have not been delegated up until this point, and the Board has already acted on those.

But to my knowledge – and maybe others can weigh in – there has been that effectiveness study, what hasn’t been done is the NCAP work which is essentially let’s find out what we don’t know. Rubens, anyone else have any other answers to that question? Okay, thanks, Rubens. I think that’s one of the things you may have noticed in the note from JAS advisors that Rubens had

forwarded. Why it did not bid on Phase 1 is because they believed that the mitigation efforts did work. They are not in receipt of any evidence that shows it hasn't worked and so therefore they stand by their conclusions. And Jim says, so a study by the provider who developed the solution. That's true. That's correct.

Rubens says, "The stats on the collisions were collected by ICANN." So, I guess that's just to Jim's point about the study being done by the party that did the solution. And Rubens says, "And of course the record of zero mishap."

I'll just note that the one issue that was brought to the attention of the – I can't remember if was the NCAP group or it was the community before that with the JAS report. There was one issue that was found. I think it was something with a Google application and then when it was found out –

MICHELLE DESMYTER: Jeff?

JEFF NEUMAN: I'm still on and I haven't moved.

MICHELLE DESMYTER: Okay. Alright.

JEFF NEUMAN: So, can you hear me?

MICHELLE DESMYTER: Okay, thanks.

JEFF NEUMAN: Cheryl said that I was saying when I [inaudible] on some Google list.

MICHELLE DESMYTER: Jeff, can we reconnect you? We'll try a new connection. I'll dial right back. Please stand by, everyone. We'll resume momentarily.

CHERYL LANGDON-ORR: Thank you, Michelle. Just so people don't think we've lost the call. As Jeff continues to take us through the remaining of these comments that have come in, I think what we need to start thinking about at the next step is of course the way where are we now with all of these. Remembering of course that there is an awful lot of unknowns in terms of the NCAP procedure. We had a system running in 2012 which showed no serious life threatening or other than the one incident that was just covered with Google issues and that was the mitigation worked very effectively and [expeditedly] in that case.

That is alright, Jeff, if you're back. I will stop filling in but I was just going to ask people to start thinking about the where are we now question that we will have to get to after we continue to go through all of these. Back to you, Jeff.

JEFF NEUMAN: Yeah. Thanks, Cheryl. Hopefully this works. I think to re –

CHERYL LANGDON-ORR: Oh, dear. If you think it's amusing where you are just ... You're back now, Jeff. Okay. Try again.

JEFF NEUMAN: Sorry about that. Cheryl, why don't you continue if you can, is that possible?

CHERYL LANGDON-ORR: Well, I can. I love entertaining the whole house at 20 to 2:00 in the morning but I'm sure they will be fascinated to have my dulcet tones go through the rem sleep, but that's alright. Okay. So, if we continue and I think we might do then is continue to go through the remaining of the comments as Jeff had planned to do and then come back to, and where are we now, which is pretty much a set of decisions about caution, abundance of caution, what did happen, what didn't happen but could have happened and what we should all shouldn't do depending on what the Board says to us. Thinking about all of those things, now let's continue to move down.

So, the aspects of the collision mitigation framework to be put in with any application that comes in other than those on the do not apply list and resulted in two very distinct viewpoints which we can see there. If we can just continue to scroll down. Thanks, Michelle. Or scroll up, depending on how you feel about the direction. Thank you. We note that you've got the consult the experts. Wait

and see because our people believe that opinions were factored in to the initial report of view. And of course, the issue of what risk mitigation proposals should be evaluated by not applicants or ICANN staff but indeed a set of experts independently.

With that we're going to go to the issue of during the evaluation period the test should be developed to evaluate name collision risks for and every applied for string, and by running these test the proposal would be if effectively put into different levels of risk, the three basket approach. These are seen as a high risk, an aggravated risk, and a low risk and that clear guidance to applicants should be made well in advance for what constitutes a high risk, aggravated risk, or a low risk. Here the Registry Stakeholder Group asked exactly are what are measures that would take place in such a TLD in a any given risk category, what sort of data will be used, how often will the risk be formed etc., as you can see there, and raises the risk assessment can be gamed or issuing superfluous DNS requests question. Also, some applied for strings might be totally new but those would be assumed as not having any collision risk at all. And here again, we have the bifurcation of viewpoints in within the Registry Stakeholder Group, one sticking with the let's leave it to the expert approach and the other with the don't we actually have enough data and let's not say the sky is falling until we know the sky is falling. That is the two opinions out of the Registry Stakeholder Group and we'll see repeated frequently through this section of our work. And the IPC again as before indicated as [inaudible] defer in NCAP.

The next issue that was raised in our initial report is – and I might hand it back to you, Jeff, is we moved to aggravated risks. If you

prefer. Is it high risk strings should not be allowed to proceed and would be eligible for some form of refund? In fact, that's pretty much how the Board would approach .home, .mail, and .com. The Registry Stakeholder Group gave qualified agreement for that. We're talking about the exception of the incurred banking fees etc. And the IPC also gave a qualified support for that but proposed, in fact screening should occur before a full fee is paid, and so there's a difference in the way the administration is proposed there regarding transmission of funds either with not possibility of refund or holding of transmission of full funds until the issue is sorted. Same results two approaches.

Jeff, did you want me to finish the aggravated risks and then hand back to you? Okay. He's good for that. I like a bit of aggravated risk even at this time of night.

Aggravated risks would require non-standard mitigation framework to move forward in this process. The proposed framework would be evaluated by an RSTEP panel. And here we had a couple of questions raised by the Registry Stakeholder Group on that proposal. Why does the classification of "aggravated risk" require a different and customized mitigation framework? Mitigation framework should be robust enough to be applied to "low risk" TLDs. If the mitigation is successful – I think that's really asking the question – once it's in place, the Registry Stakeholder Group supports both the approach and RSTEP is making the assessment. And of course they will so raise the previous issue on who should evaluate the mitigation frameworks with the preference for independence non-ICANN evaluation. And again, surprise, surprise, they have bifurcated viewpoint 1 and viewpoint

2. And the IPC has again repeated exactly what was stated in the higher risk mitigation framework proposals to defer to NCAP and to raise issue about that the independence evaluators.

Scrolling now a little bit further. Thank you very much. We have our low risks strings, and hopefully we can come back to Jeff with low risks strings and low risk of audio Gremlins. Let's see how we go, Jeff.

JEFF NEUMAN:

I can't promise the low risk of audio Gremlins, but I'm back on the computer now because the phone worked worst. So, hopefully I don't go in and out so horribly. But just to go to the chat.

Rubens states, "This item looks like the only one with the consensus." But it's exactly what the Board already did with the controlled – CHM, sorry. So, it could be considered the 2012 implementation to cover it anyway. With the low risks strings, what we had recommended is that essentially if it was possible for ICANN to delegate the string for a period of 90 days so that it could look at those strings and the – oh, sorry. Corp, Home, and Mail. Thanks, Rubens. So that it could look to see the issue and that it wouldn't necessarily be up to the applicants to do but for ICANN ... ICANN doesn't have a concern from a technical perspective but has some operational considerations, not necessarily concerns. It would require ICANN to delegate the string to itself, which puts a large number of temporary records in the root zone. These temporary records could in fact be in the root zone for a number of years while the applicants progress through relevant program processes such as dispute resolution.

So, ultimately, ICANN is saying it depends on at what point in the process we recommend ICANN start its controlled interruption solution because it could turn out to be a lot more than 90 days. So I guess what they want from us is a little bit more clarification, but it might cause user confusion especially when ICANN has no role to play with the ultimate gTLD once controlled interruption is completed.

Neustar doesn't believe that this should be performed by ICANN, but rather should be performed by the registry operator to ensure all issues are visible to the registry and can be resolved by the registry as appropriate. They believe that the registry should commence controlled interruption right away or as soon as possible. And there's some divergence with the Registries Stakeholder Group because some say it's not clear why ICANN staff should be the appropriate operator of controlled interruption according to the bylaws.

One viewpoint in the registry states that RSSAC or SSAC should address concerns. One member of the stakeholder group disagrees that it should be the registry operator, that the GNSO should define the policy. ICANN has latitude to operate controlled interruption if determined by policy. I guess that addresses the bylaw concern.

The additional comments were on the length of the period. Registrars and Neustar support the 90 days. One registry member

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MICHELLE DESMYTER: There you are. Okay. We lost you for a moment.

JEFF NEUMAN: Okay. Sorry.

MICHELLE DESMYTER: For the last 15 seconds.

JEFF NEUMAN: Okay, the additional comments from the registrars, 90 days is an appropriate controlled interruption period. At least one Registries Stakeholder Group member states there's technical questions surrounding the length of controlled interruption and should be addressed by the NCAP, SSAC, and RSSAC.

The next part is that if controlled interruption for a specific label is found to cause disruption, ICANN could decide to disable controlled interruption for that label while the disruption is fixed, provided that the minimum CI period still applied to that string, registries agree policy should be aligned for addressing name collisions outside the controlled interruption period with the perpetual reporting of name collision policies of the previous round of new gTLDs.

Just looking to see if there are comments. Okay. Thanks.

The next item – the dependency between the findings from our working group and NCAP. The Board states that there's an opportunity to combine the work being done by SSAC with the work on this PDP. I have joined the NCAP as sort of a liaison to

this group, [so that] I can bring them any knowledge of what this group is doing or I could communicate to you anything that's going on. But apart from that, there does not seem to be – and perhaps Rubens can correct me if I'm wrong – it just doesn't seem like the technical members or the NCAP are interested in collaborating with this policy PDP. I've tried to raise that several times and it just doesn't seem like that's going to happen.

Neustar supports the current name collision mitigation frameworks. The next round should not be delayed due to NCAP.

The United States Postal Service defers to NCAP. If individual applicants have proposals for name collision mitigation, they should be evaluated by independent third parties.

Registries Stakeholder Group agrees that there are dependencies and does recognize the value of the NCAP work. Then it says the next application round should wait for the NCAP to finish its work. Some members said that. Some members suggested we should liaise with the NCAP group, which we're doing, and should not unduly delay the next round.

Justine states, "Didn't the NCAP Drafting Group note the materials assessed by Work Track 4 as brought up by Rubens?" They didn't assess the work. They noted the work but there's been no real assessment of the work as far as I'm aware. Rubens, do you have any other information on that?

Okay. Cheryl states, "The Work Track 4 discussed it. The NCAP Discussion Group." I said, "Note."

Oh yes, okay. "They included some in the list for the contractor."
Right. That was put into the statement of work – or not the statement of work, sorry. The Request for Proposals. It was put in there. It was referenced but again, without any vendor selected or at least known, it's hard to say what they're going to do with that.

If NCAP work is not completed prior to the next application round, should the default be that the same collision framework in place in 2012 should be for the next round?

Registrars and Neustar agrees. Some members agreed, but some members state a formal study that quantifies and measures the efficacy of the previous controlled interruption framework should be conducted before modifying or replacing the system. Some Registries Stakeholder Group members: "No. ICANN should, at a minimum, release the studies it has done on the names collision frameworks so that the community can judge if the same frameworks should be applied."

The ALAC says, "Wait for SSAC recommendations."

I have a question for the registries that say a formal study was the JAS final report not a formal study? Is there some documentation out there that states what the issue is with that JAS final report that we can make note of as to why that was not the kind of study that's envisioned by some of the members of the registries or, frankly, some of the other groups that say a study should be done?

Just waiting. I'm not cutting out. I'm just waiting to see if there's any comments.

Sarah states, “Jeff, it was not peer-reviewed which is why some of the registries were uncomfortable with it.”

Okay. So the report has been out there for a few years now. Is there any literature out there that contradicts or is there anything out there – I mean I understand it wasn’t peer-reviewed before it was published, but it has been published for three or four years now. I guess that’s what the NCAP Phase 1 is looking for, to see if there are other papers on it.

Cheryl said, “Is there any evidence to the contrary?”

Sarah said, “Like Jim P. said, it was written by the people that designed the solution.”

I think one of the things that NCAP Phase 1 is looking for is to see whether anything else was written on it.

Okay, let’s go back to the next one. Oh, Sarah states, “There is no evidence CI worked as it was intended.”

Someone help me understand because I thought that was the whole purpose of the final report by JAS, that they presented evidence that had worked as it was intended. That’s how they concluded that it worked. Does anyone on here – Rubens, Maxim, any others? I thought that that’s what was discussed in Work Track 4, which is that there was evidence produced by JAS that it worked.

Maxim says, “JAS work was just some paper.”

Rubens states, “Only by asking all Internet users if it worked or not, there could be evidence of it having worked 100%.”

Maxim states there’s no detailed explanation.

Okay, but I think JAS did reference whether any complaints were made to ICANN from the controlled interruption, and I think that’s what they’ve used. It’s kind of hard to find evidence that may or may not be out there. I mean that’s I think one of the difficulties in this is we’re asking for information from those entities that didn’t know they had a place to report problems but they had to know that there was a problem. That’s what’s a little confusing to me here.

Rubens states, “But for all anybody knows, it worked. Despite some ... on the other direction.”

Cheryl states, “It’s another unknown as it is a risk assessment ratio risk.”

CHERYL LANGDON-ORR: Jeff, can I?

JEFF NEUMAN: Yes, please.

CHERYL LANGDON-ORR: Can I help you with that terminology? Thanks. I obviously [inaudible] Work Track 4 with Rubens, but I didn’t deal with this from a deep technical knowledge of the Domain Name System

point of view but rather is risk management point of view. So let me see if I can join a little metaphor in here.

It's a little bit like saying a particular hygiene practice in the production of food is safe or isn't safe. If no one knows where to report the fact that people get sick, poisoned, and die, then it's hard to collect the evidence. So you've got to decide how critical this risk is likely to be. So you look at a risk ratio. That's where the unknowns come into play.

So, in all of these, you've got to make sure that as you're making as a work group, any proposed recommendations, you've got to decide and declare whether you are making it with caution with the assumption that previous mitigation has been satisfactory. And in the lack of evidence to the contrary, you will use that as your safety net but you will be very aware that other things, other risks, other issues may occur, and there is a degree of diligence or planning or testing that should go on with that. Or you're going to work in an abundance of caution and either put in more complicated or completed mitigation requirements, greater standards if you want, just to make sure that even small risks are even less likely to happen, or of course you can suddenly decide to go into [inaudible] mode and not go forward at all with your particular [promotion].

That is how my thinking helped me understand this very technical issue and apply this very soggy science of risk ratios, risk mitigation, and risk assessment.

JEFF NEUMAN:

Thanks, Cheryl. I guess the part that I'm struggling with is more as just a participant than as Chair, or only as a participant and not as Chair, is how do you prove that kind of negative where that people who were impacted didn't know where to report it when no one has come forward in the four years or so or five years since TLDs have started to be delegated. So you're asking a study to go out there and find people that essentially never intended to be found or somehow find people that intended to be found but just didn't know where to go, how are they going to find the people that do this study?

It's difficult to make a presumption that it didn't work, which it almost seems like some are asking, and then to make the presumption that it did work because no complaints were made, so that's I think where the issue is. Some of the community are saying, "How do we know it worked?" and others are saying, "How do we know it didn't work?" All the evidence we currently have shows that there were no complaints, and therefore you could logically make assumption that there were no issues. So, I don't know. It's one of those –

Sarah and Rubens are going back and forth. There's some disagreement there as far as the baseline. Sarah's point is how can we just accept JAS because they didn't provide the groundwork, and so why should we just accept that?

Let's then go to the next one, which is the Readiness program to respond to name collisions that pose a substantial risk to life. Is two years an appropriate period?

Registries say that is really something that the experts should assess, whether two years was appropriate.

The next one is threat vectors for name collisions to consider. Registries had a couple of different viewpoints on this. The internet grew around legacy gTLDs and names collisions were necessarily avoided whereas new gTLDs face names collisions based on existing strings that didn't anticipate new gTLDs, therefore there is no overlap that will be useful.

The second viewpoint is the larger dependence of users on services located in legacy gTLDs make those issues much more of a problem than collisions in new, unused namespaces.

Then there were some general comments. This is in response to Board resolution 2010.12.10.22. ICANN Org developed a mechanism in the form of an advisory notice to be incorporated in the New gTLD Applicant Guidebook warning potential applicants about the issues raised in SAC045. That's the first SAC publication. I think that referenced what we now think of as name collisions.

XYZ states, "After the 2012, industry powers used name collisions to raise fear, uncertainty, and doubt. ICANN should not rely on resources, data, or research from parties with a vested financial interest in the topic."

Okay, so that's where we are. It's a lot of different views from different parties. To sum this up, there's a number of groups that think that this should be dependent on the outcome of the NCAP studies, but the problem there we have is that we don't know if the

NCAP will finish any of the studies by the time the community is ready to go to launch. We don't know if there'll even be a Phase 2. There may just be a Phase 1 because there may not be documentation out there that provides any new perspective on the name collision issue than what's already known.

So it's up to us to state things in the alternative here. Do we as a group recommend continuing with the same name collision, mitigation strategies that we had to place in 2012 unless and until the NCAP comes out with something else and that's accepted by the community and the Board? Or the other option is we hold off at some point in the new gTLD process until that NCAP study is finished if ever.

Ruben states, "My suggestion to the final report: 2012 implementation due to lack of consensus plus substantial refund and possibility of disabling controlled interruption on a per-string basis at ICANN Org request." Rubens, you're selecting that because those points got it seems a lot of comments in support. We can't necessarily say consensus yet because we haven't really tested that. Cheryl, your hand is up.

CHERYL LANGDON-ORR: Thanks, Jeff. Indeed, my hand is up. I'm kind of coming in here with my previous co-Chair Work Track 4. What Rubens has articulated here is a cautious but not abundantly cautious approach and reaction which is an example of what the work group may indeed choose to put into its final report. And now we're at the point where we need to look at this type of suggestion and the various other ones that come here in what I think will be a

still interesting discussion that we're going to have to have. Not one that can drag on forever, people.

I just want to also remind you all though as you're about to launch into this thinking that there's also two different concerns about the going forward question that has been raised of course by SSAC with relation to the NCAP work. That is that there is the view risks if any do exist, and there is the risk of introducing some statistical bias into the NCAP study if they were to be running in parallel with either our opening of a round and slightly separately to consider if anything was to be put into the root.

So what the issues are are also not just a single black or white choice. You also need to think of when you're making a proposal and deciding about what you're going to support or not. Are you concerned about what could be a predictable biasing if for example you had a large amount of name strings, etc. applied for if the round opened? Is that going to bias any of the study work that NCAP may or may not do? That is a bubble of issue, but it is a different issue than the actual pure collision risk assessment work. I probably managed to confuse rather than clarify. If I've done that, I apologize. But there are a couple of issues, not just one issue on that one. Thanks.

JEFF NEUMAN:

Thanks, Cheryl. If we go back to SAC090, the paper, there are some recommendations about ICANN collaborating with other standards, bodies, including the IETF. But I think those relate more to the reserve strings and the specially used domains than it does to name collision. Even though the SSAC also submitted its

comment with this, but it does in essence – the relationship there though is in the private use domains and the potential collisions that could cause. In that way, I do think it would be good for this group to at least acknowledge the findings of SAC090 and potentially agree with them in terms of the collaboration. So I think that that's also helpful.

Cheryl noted, "Sorry if I added to the confusion, but as SAC090 outlines there are several different things in play here. And mitigation strategies don't affect them all." Correct.

Alright, while we have some time, why don't we start on objections? Noting that we will obviously take this up in much more detail on Thursday's call, but I think it would be helpful to go through the policy goals and some of the high-level agreements. The policy goals are all taken from the 2007 policy and they come from Recommendations 2, 3, 6, and 12. The first one which relates to the confusingly similar objection. Strings must not be confusingly similar to an existing top-level domain.

The next recommendation is Recommendation 3, which is on infringing the legal rights of others or should not infringe on the legal rights of others. Or the legal rights that are recognized or enforceable under generally accepted and internationally recognized principles of law. Then they go on to show some examples including human rights, the Paris Treaty and others.

Recommendation 6: "Strings must not be contrary to generally accepted legal norms relating to morality and public order that are enforceable under generally accepted and internationally

recognized principles of law.” Similar examples to the above are mentioned.

Recommendation 12: “Dispute resolution and challenge processes must be established prior to the start of the process.”

Finally, Recommendation 20 which states, “An application will be rejected if it is determined, based on public comments or otherwise, that there is substantial opposition to it from among significant established institutions of the economic sector, or cultural or language community, to which it is targeted or which it is intended to support.”

That’s the community-based objection. Then some other policy goals. We believe that processes for handling objections should be transparent and clear. In order to ensure a fair process for all parties, panelists, evaluators, and independent objectors must be free from conflicts of interest. Costs should be reduced where feasible without sacrificing the quality of proceedings.

We scroll down a little bit. So those are policy goals and for high-level agreement, which there’ll be some overlap here including this first one. It seems like from the comments we’ve gotten in a transparent process for ensuring that panelists, evaluators, and independent objectors are free from conflicts of interest must be developed as a supplement to the existing Code of Conduct Guidelines for Panelists and Conflict of Interest Guidelines for Panelists.

For all types of objections, the parties to a proceeding should be given the opportunity to agree upon a single panelist or a three-person panel bearing the costs accordingly.

The next high-level agreement: ICANN must publish, for each type of objection, all supplemental rules as well as all criteria to be used by panelists for the filing of, response to, and evaluation of each objection. Such guidance for decision-making by panelists must be more detailed than what was available prior to the 2012 round.

Jamie, I see your hand is up. Let me just get through these real quick, then I'll come back to you.

The group seems to agree with the extension of the “quick look” mechanism, which only applies right now to the Limited Public Interest Objection. It should be for all objections and it should be designed to identify and eliminate frivolous and/or abusive objections.

The next one, provide applicants with the opportunity to amend an application and/or Public Interest Commitments in response to concerns raised in an objection. This relates to changes to applications that we talked about previously.

Another high-level agreement: allow a single String Confusion Objection to be filed against all applicants for a particular string, rather than requiring a unique objection to be filed against each application. Under the proposal, an objector could file a single objection that would extend to all applications for an identical string.

Given that an objection that encompassed several applications would still require greater work to process and review, the panel could introduce a tiered pricing structure. Each applicant for that identical string would still prepare its own response to the objection.

The same panel would review all documentation associated with the objection. Each response would be reviewed on its own merits to determine whether it was confusingly similar.

The panel would issue a single determination that identified which applications would be in contention. Any outcome that resulted in an indirect contention would be explained as part of the response.

That last recommendation is to help with consistency as we know there were some issues in the last round. Jamie, please.

JAMIE BAXTER:

Thanks, Jeff. If you could go back to the third bullet point there in the high-level agreements. I believe this has been part of our discussions since the beginning, and I'd like to request if possible, if the group is in alignment with this, to also and very specifically call out that ICANN must publish prior to the beginning of any round, to call that out very specifically even though it is mentioned above. I just think that's incredibly important. Thank you.

JEFF NEUMAN:

Thanks, Jamie. When you say "prior to any round," you mean prior to an application being submitted? Just to clarify.

JAMIE BAXTER: Yes, exactly. Prior to the beginning of accepting applications.

JEFF NEUMAN: Okay. How does everyone feel about that? Any thoughts on that?

Gg is asking if others can hear. Okay, there's still some phone bridge.

Paul McGrady is asking how that would work. I guess it's just that all providers would need to be appointed prior to the round, and the providers would need to post all the supplemental rules prior to applications being accepted.

Thoughts on that? Too much? Not enough? Hand raised – Kathy, please.

KATHY KLEIMAN: Hi Jeff, can you hear me?

JEFF NEUMAN: Yes.

KATHY KLEIMAN: Okay. I have a question about all of the first three bullet points, and it has to do then leading up to Jamie's suggestion about publishing these all ahead of time. Presumably, ICANN is reaching out to these third parties to provide these objection proceedings because they're already well-known in the field of

international arbitration, and so they all have the best to my knowledge. They all have procedures for evaluating their panelists and how they choose who's going to preside.

Are we changing or are we forcing them to change these procedures like the international arbitration groups? Or are we just asking them to share with the ICANN community what's taking place on this, what their procedures are in general for evaluating the people they assign. I just want to note that what we're proposing here is very, very time-consuming and expensive. If we're going to add time – this is supposed to be these objections. We're supposed to be fairly rapid, and I think we're supplanting that by adding. But let me go back to that question. Are we just asking these groups to share with us how they assign their panelists? Are we asking them to give us a list ahead of time, of who these panelists might be, which would be very hard? Thanks.

JEFF NEUMAN:

Thanks, Kathy. The last time that ICANN did this, I believe they did an RFP to ask for interested vendors to supply this service. My assumption is that they'll probably do the same I would guess, but that's an assumption. I think all we're asking for here – I don't think we're asking for any new rules. I think we're just asking for more transparency to the rules that they have. A lot of the rules for the specific objections, especially community objections, were created kind of ad hoc on the spot. So even though there may be some general rules – let's say it was the American Arbitration forum or even [inaudible], they have general rules, but then there are specific rules that are applied because these types of disputes are generally very unique. So I think all that's being asked for here

is transparency in the supplemental rules and a transparent, maybe standardized conflicts policy in appointing panelists, to make sure that they do not have an interest in the application associated with groups that may be making an objection or where there's an allegation of the group being impacted I think is what we're asking for.

Kathy said, "Sharing with not only ICANN staff, but with the community, on how panelists are selected?" It's a good question. I don't have an answer for that. Jamie, please.

JAMIE BAXTER:

I think to maybe give some context to the request that I'm making here is that for those who are part of community applications in the 2012 round or follow the process, there were supplemental documents that were created for community priority evaluation after the fact, after applications were submitted, even after the initial evaluations were underway, what I would hate to see happen is for that to happen during objections in subsequent procedures. So my request here is that if there are going to be supplemental documents, rules, whatever you want to call them, they need to be published prior to applications being submitted because what happened to community applicants in the last round, if we don't prevent it from happening to objections in the future rounds, who is to say it won't happen? Thanks.

JEFF NEUMAN:

Thanks. Jamie and I just posted something too. Then I'll get to Kathy. There needs to be some areas of flexibility, and we'll have

to decide or an Implementation Team will have to decide what areas can be flexible versus what needs to be nailed down prior to the round. It's hard to finalize a set of rules that are not able to be changed prior to actually seeing what applications actually come in and what the comments are to those applications. So there needs to be some balance also to require that everything can be completely done prior to accepting applications could substantially delay the next round by a long period of time. So there does need to be some balance. We just have to figure out which are the essential items that must be determined prior to accepting applications and which items may not be quite as critical. For example, we may say that those supplemental rules for how panelists should be selected must be finalized, but I'm not sure we necessarily need a list of the persons that are qualified to provide those services. I'm not sure that needs to be finalized, so long as you have the conflicts and other policies around it. Definitely we need some sort of balance.

Kathy then Jim.

KATHY KLEIMAN:

Sorry, coming off mute. Definitely we need some sort of balance. Just pointing out that we have a theme here that we've heard now for many months that community applications may be a special category and maybe we should carve that out and treat it accordingly, but it gets confusing to talk about the types of situations that Jamie is talking about with community applications and their processing versus community objections, which were a different thing. And community objections were raised to a number of applications that were not applied for as community gTLDs.

A quick note at least in the arbitration forums that I dealt with – and I did a number of community objections – the rules for all of these were published on their website, you just had to go in to arbitration forums websites. Of course they published their rules for how they assign panelists, how they took conflicts, all the supplemental rules were published and presumably known by ICANN when they made the contract. So if we're just asking for that to be moved over and shared with ICANN and new links for that, that's one thing. Question: are we asking them for additional procedures?

I just wanted to express for bullet number two that I wonder about the agreement. "For all types of objections, the parties to a proceeding should be given the opportunity to agree upon a single panelist or a three-person panel bearing the costs accordingly." I'm wondering whether that's been discussed with any of the forums that provided these arbitration services, these objections services in the last round. Jeff, maybe you can tell me or, Cheryl, maybe you can tell me, and whether they said they'd be able to continue to operate under those types of rules if they were adopted this time. Thank you.

JEFF NEUMAN:

Kathy, thanks. I am not aware of the discussions, but that was in Work Track 3. So we can ask Robin ... Karen Day was leading that group and Robin, so we can see if they have a response to that. Susan just posted a comment [inaudible] Jim that I think it was also in my mind: "Do we need to make a distinction between procedural rules and the substantive criteria for assessment?" Maybe on e-mail, Jamie, I think we know about the concerns on

the substantive criteria and we certainly agree and I think elsewhere have put for community priority evaluation have put in the substance that there needs to be more transparency and other things like that. One thing that came as a sticker shock for some of us ... I filed a response to an objection, I can't remember if it was community or whatever it was, it was several hundred thousand dollars that we had to put in. I think knowing a price ahead of time would also be something I think that should be known.

Jim and Jamie are on the queue, then we have to close it down because we are running up against time. We will start here again on Thursday. So, Jim and Jamie.

JIM PRENDERGAST: Just to support what, Jamie, you're saying, and Jeff, I understand your rationale that we do need some flexibility but I would say that last round was sort of the first time we were going through it. I know it wasn't the first supplemental new gTLD round, but it was the first of its kind with the open call for as many as it had. So I would think that we would learn the lessons from that previous round and apply it to this one and have 99% of this thing buttoned up so that applicants are not surprised after the money has been sent to ICANN. We've just got to try to do everything that we possibly can to avoid that. Thanks.

JEFF NEUMAN: Okay. Jamie, quickly, and Kathy, and then we will end the call.

JAMIE BAXTER:

I tried to put this into chat as well. I was literally using the CTE evaluation as an example of how supplemental documents were created after the fact, which if you were following that, you would understand that there was a lot of dispute from the applicants that those supplemental documents, in essence, changed. Some of the points that were being evaluated, ICANN argued that they were not. But I think that's up for debate. My strong suggestion here is that we do not give ICANN the authority to allow additional documents to be created that may in some way, in any way, reshape the way objections are going to be evaluated. This is more about controlling that than having an absolute definitive answer on who the evaluators are as you pointed out earlier. Thanks.

JEFF NEUMAN:

Thanks. I note that Kathy's hand was an old one. Kathy is asking if we could separate CPE into a separate category or community objections. Jamie, it may be helpful to provide a bulleted list of the elements you think were changed after the fact that we can all see and go, "Oh yeah. That makes sense." They shouldn't have done that. Or this may be something that is appropriate to be flexible, etc. I think it would certainly help me. I think it might help others, but if you could do that, that'll be great.

Thanks, everyone. I know we went a minute over. I completely apologize for the audio issues. We'll try to fix that. Thank you, Michelle. You beat me to the punch. I was just going to ask you to do that.

So, Thursday, September 19, 20:00 UTC. Thanks, everyone. Hopefully we will not have these issues the next time. Thanks, everyone. Bye.

MICHELLE DESMYTER: Thank you. Meeting has been adjourned. Have a great day, everyone.

[END OF TRANSCRIPTION]