
ICANN Transcription

New gTLD Subsequent Procedures Working Group

Tuesday, 21 May 2019 at 0300 UTC

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TERRI AGNEW:

Good morning, good afternoon, good evening, and welcome to the new gTLD Subsequent Procedures Working Group call taking place on Tuesday the 21st of May 2019 at 3:00 UTC.

In the interest of time, there'll be no roll call. Attendance will be taken by the Zoom room. If you're on the telephone only, could you please identify yourselves now?

Hearing no one, I would like to remind all to please state your name before speaking for recording and transcription purposes,

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and to please keep your phones and microphones on mute when not speaking to avoid any background noise.

With this, I'll turn it back over to the co-chair, Jeff Neuman. Please begin.

JEFF NEUMAN:

Thank you. Welcome, everyone, and thank you. I know it's a little bit light attendance today, several things going on in the world, one of which is the International Trademark Association meeting, which I'm at, and I see Anne is at as well, she's here. So thanks, Anne, for joining.

So our agenda is on the slide that's up there right now, and let me know if my audio is breaking up. I think Terri, the audio was a little bit in and out. So if mine is the same, just let me know.

So on the agenda is essentially continuing on through the summary documents, and the topics for today are TLD types, and if we have time, application submission limits, and maybe a minute or two or a few minutes on the ICANN 65 and just some things that are in the planning stages at this point.

So that said, is there any other business or anything else that anyone wants to cover on the agenda? Not seeing any hands, so I'll assume we have it right, but of course, I'll ask again towards the end of the meeting. And anyone else have any changes to their statements of interest?

Okay, not seeing any, then let's continue on. Today's topics are, well, the first topic is on TLD types, also referred to by many as

categories. Before we dive into this, there are a number of details that you'll see as we go through that there'll be a recommendation of continuing the discussion when we talk about specific areas.

So today, really, our focus is on really making sure that we have the proposed categories or TLD types right, and that we at least have a preliminary discussion on what areas of differentiation or differential treatment there'll be for those categories. And in some cases, just pointing out – so for example let's say – and I'm just saying this right now, but it may not turn out to be, but if we agree that community should still be a category and should still receive priority, then we'll talk about that. But we don't have to get into all the details about the processing of applications or the evaluation processes, etc. Those would be covered with other subjects.

So this will become a little bit more clear as we go through this, and you'll see in the document that was sent around last week for preparation for this call, the kinds of things that I'm referring to.

So with that, up on the screen right now is that document, and I believe if Steve could –

KATHY KLEIMAN: Jeff, I have a question.

JEFF NEUMAN: Okay, just let me finish the sentence, and then I'll get to you. So Steve, if you can just post the link to this document on the Google doc, that'd be great. Kathy, yes, please.

KATHY KLEIMAN: Great. Thanks, Jeff. Sorry to cut you up, I actually thought you were going to dive in and start reading the document. So [this whole] question has to do with IDNs. I'm not sure, it's a question, did we have an IDN category – for internationalized domain names, of course – in the first round?

The reason I ask is because we wound up as a community – and I'm not sure if it was through the applicant guidebook or through ICANN Org, we wound up prioritizing IDNs for first processing, 100 or 125 of the internationalized domain names, but I haven't heard them referred to as a category in recent years. So, are we still talking about them as a category? What have you heard? Thanks.

JEFF NEUMAN: Yeah. Thanks, Kathy. So I think – I hope – that when we talk about the policy goals and what exactly is a TLD type, that should answer your question. So maybe not in the traditional sense as you think of the word “category,” but as we define a TLD type, it's really a subset – well, let me paraphrase. It's really a subset of applications that receive some differential treatment, whether that's eligibility requirements, whether that's processing order, and that's why I've put a question mark where we have IDNs, whether they get treated differently, string contention, or whether it gets treated differently for contractual provisions.

So we'll get back to this, but essentially, I put IDNs in a question mark because we don't normally think of that as a category. But if

we do decide to take the subset of IDN applications and in some way treat them in some way treat them differently than other applications for example, evaluating them first, then for the purpose of this discussion, it would be a “TLD type or category.” Does that make sense?

KATHY KLEIMAN: It does. A quick question. Was that just added? Because I printed this out about two hours ago and it wasn't there. So if it was, great minds think alike. Thanks.

JEFF NEUMAN: Yes, I just added it about an hour ago. I was going through it simply applying that kind of definition as to why I think it belongs as this TLD type. So yes.

KATHY KLEIMAN: Thank you.

JEFF NEUMAN: Great. So getting to the policy goals and kind of the overarching themes of why we're discussing this, the working group – and this is proposed, obviously, and we're discussing it now – but the working group recognizes that there may be circumstances where it makes sense to have disparate treatment – although I'm not a huge fan of those two words together, but it's really differential treatment for an application based on either the type of string, the type of applicant or the registry focus.

Again, we could work on wording through e-mail, but essentially, it's such differential treatment may apply in one or more of the following elements of the gTLD program. So there could be differential treatment in terms of eligibility, there could be differential treatment in terms of how that application gets evaluated, there could be differential treatment as we just discussed in order of processing those applications, there could be differential treatment in terms of string contention, so for example in the last round, community, if you qualified for community, you would prevail on a string contention over any non-community application, and/or there could be differential treatment in terms of contractual provisions.

So again, one or more of those could apply to a particular TLD type. Can anyone think of any other areas where there may be some sort of differential treatment?

Justine has added objections. Okay, so Justine, in what way do you think – can you just give an example of that? And I'll wait for Justine to type in. And if I think about it, perhaps in – okay, so perhaps you could object a community-based objection I assume may be an example of that. Anne has said – before I get to Anne's comment, let me just go down to Justine's. So, which dispute resolution service provider – I think that's what SP means – it goes to. Okay.

Let's put that down. Let's add that as a bullet point. And then as we go through the different types of TLD types, then we can take those. I think it 's now six or seven bullets, and go through and see which ones those apply to each of them.

Okay. So I think Anne, your comment is with the second set of bullets, as far as the types. Or is your comment in that you think that applicant support may be an area of differential treatment? I know Anne's on the phone, but also typing in.

Okay. And I will get to Tom's comment, but I think it relates more to the second set of bullets that we'll go over in a minute. Okay, so Anne's saying it relates to possible differential treatment.

So let's put that down as well, because I could see that we in theory could say that certain types of applications would be eligible for applicant support while others may not be, so I could see that as [inaudible].

If everyone could go on mute, although Kathy, you are next in the queue, so with your hand up.

KATHY KLEIMAN: Sorry, old hand, Jeff.

JEFF NEUMAN: Okay. Alright, so let me go to Christopher Wilkinson and then Jim.

CHRISTOPHER WILKINSON: Good morning. Hi, Jeff. Two things. First of all, I think the word "exception" is misplaced. I think very large numbers of applicants, applications will eventually fall into one or other category. I think the exception will be those who fall into none. And so I'd seek different wording for that part of the document.

Secondly, I think it's misleading to treat this as a list. I think it's more a matrix where in most cases, the application will fall into two or more of these categories.

If you think about it, [an] example that comes easily to mind is that geographical names which are in IDN would, by your list, fall into two categories. Just a thought. Thank you.

JEFF NEUMAN:

Okay. Thanks, Christopher. Yes, it certainly is possible that a particular application may fall into multiple TLD types. I'm trying very hard to use the word TLD types as opposed to categories, but certainly for this conversation, let's understand that we'll use those terms interchangeably, at least for now.

And understand the point on exceptions or on the word "exception." I think we can reword that so that it doesn't have that kind of almost negative connotation of being treated as an exception. I think the point there is that unless a TLD application falls within one of these types, then it's going to receive the standard treatment, I think is more the concept there. So we'll work on that wording, but I totally understand the point. Jim.

JIM PREDERGAST:

Yeah. Thanks, Jeff. So, I guess the question I have is, do we need to make a clearer distinction between an application and a TLD type? The reason I raise that is because during the last round, there were only two application categories: standard and community-based. But as we saw throughout those applications, there were several different TLD types, and I think we need to be

careful about interchanging those phrases back and forth. I think we've got to be a little more stringent in how they go. So you would have a standard application but it could be a for a generic, it could be for a brand, could be for a geo, or you could have a community-based application for some of those as well. I think that is an important distinction that we need to either carry on or discuss and discard. Thanks.

JEFF NEUMAN:

Yeah. Thanks, Jim. And to be honest, I hadn't actually – until you just said it – made the connection. But you're right, when the application process had started, there were questions that divided up the applications between, as you said, standard and community-based. So it's certainly worth noting that, and as we go through, maybe it results in additional types of applications or maybe we do away with the way that applications were referred to in the last round and make things more clear. So let's keep that noted, and then as we go through, make sure that we're clear on the terminology.

Okay, so now we get to I guess the harder part of the policy goals which is the second one. Yes?

STEVE CHAN:

Sorry. As you know, I can't raise my hand. I had a quick comment. Thanks. I just wanted to try to provide a little context about the way that the second policy goal is written where it says the working group believes there's differential treatment, it should be the exception. I'm certainly not arguing about the language, I just

want to provide the motivation for why that was written. It's more from the perspective of creating categories itself, the idea that there's these exceptions to the standard, those are the exception, not to say that the categories themselves are exceptional.

So I only raise this to determine whether or not the concept is supported. The language is whatever, we can always fix the language, but I want to make sure that the concept is either agreed to or not agreed to, and then we can adjust the language accordingly. Thanks.

JEFF NEUMAN:

Okay. Thanks for the clarification, Steve. So if I could try to paraphrase that – and more for myself than maybe for others – what you're saying is the point now which is that, look, this is the list of TLD types, and we're not going to – I shouldn't say it like that, but again, this is kind of stream of consciousness – but there are no other TLD type categories that we're going to recognize for the next application round. So that essentially anything that doesn't fit into these TLD types that we're talking about now would go through the, for the lack of a better term, standard track. Is that sort of what you're saying, Steve?

STEVE CHAN:

Thanks, Jeff. Essentially, it's as simple as saying something like creating additional TLD types should be done under exceptional circumstances, or something to that effect. So just saying that – and I raise this language and create this language based on the conversations and the way it's written in the initial report. So that

was my understanding, that there's appetite to create additional types based on the need to create these differential treatments, in that extending that logic, it's essentially creating different types is the exception that's not done very often, essentially. I'm sorry, I'm not speaking very clearly today.

JEFF NEUMAN: I think I understand, but we have some hands in the queue, so maybe they'll help us. Kathy, please.

KATHY KLEIMAN: Thanks. This isn't why I raised my hand, but Steve, in addition to the language you just read, I think also adding "and with public input" if we're going to create new categories, we should do it, we should let people know and do it with public input.

Jeff, question for you. Governmental entity. This runs a bit to Jim's point as well. What is a governmental – and governmental entity is an applicant. What type of TLD are they applying for? What are we thinking up here? Thanks.

JEFF NEUMAN: Thanks, Kathy. So remember, what we have in the first bullet point means that a TLD type could either be because of the string or as in this case of governmental entities, it's the type of applicant. So I don't think we were envisioning certain types of strings, but others can certainly jump in.

In the last round, governmental entities had special provisions that they could substitute in the base registry agreement that only applied to governmental or intergovernmental organizations, I think, as well, although I'm not 100% sure that it was also intergovernmental organizations, but might be.

KATHY KLEIMAN: Great. I forgot.

JEFF NEUMAN: So that's more the type of entity. Cheryl, please. Sorry.

CHERYL LANGDON-ORR: Thanks. It's a reasonable follow-on for [inaudible]. This is the beginning part of Kathy's point, but I particularly want to pick up on what I think Steve is trying to get to with this language and his intervention, and that is that we don't lose sight of our overarching desirability for predictability and for changes that are not codified when we finish our work should be extraordinary and exceptional. So I just wanted to make sure that we were all thinking along those lines, and if we're not, then we need to know that we're not. So as far as my memory banks go, that's still where we're trying to head with all of this.

JEFF NEUMAN: Thanks, Cheryl. Yeah, totally makes sense, and the way that Steve and you have kind of phrased that, that's also jogging my

memory as well. I see Anne next, and then Cheryl, your hand's still up, or re-up again, I don't know. But Anne, please.

ANNE AIKMAN-SCALESE: I'm just a little bit curious about how this is phrased about the exception, because I think when we were talking about it, there was this discussion, well, it shouldn't happen very often or should be infrequent. But I don't really see it as something that an exception is made later. In fact, we're making the exception now by making the policy recommendation now. So when we talk about something being an exception, we don't want to imply that there's some exception made later if in fact we're creating these different types now that have differential treatment now. we don't actually want to be talking about an exception. We're just creating a policy. We are creating an exception. We're not saying that there's going to be one later, we're saying that these are exceptional types now. So the language is a bit confusing still, I think.

JEFF NEUMAN: Thanks, Anne.

ANNE AIKMAN-SCALESE: [Because we're going to specify them.]

JEFF NEUMAN: Right, and I understand that point. So what if we say – I hate to use the word “exception” again, but other than the following TLD

types, the creation of any additional TLD types would be on an exception basis, developed through community processes, etc. Something like that.

ANNE AIKMAN-SCALESE: Yeah. I think it works very well, what you said about “other than the following types,” but I don’t think that we’ll be creating exceptions on the fly afterwards. So that was actually exactly the point, and I think you definitely got it right there with the beginning language that you had. Other than the following types, no other types exist or something like that. I think what we’re saying –

JEFF NEUMAN: I think for the most part, that’s right, although we don’t want to preclude people or groups from making a case later on. after all, if we did, if we were really restrictive during the first round, then the whole notion of a brand TLD wouldn’t have come across. So it is possible that something could come forward after, but you’re right, it’s really an exception and of course would have to be developed through community processes, etc.

ANNE AIKMAN-SCALESE: Okay. Thanks.

JEFF NEUMAN: Great. Okay, so let’s just go through this list, make sure everyone understands why it’s on the list, and whether we have captured most of them. And I will say – and we’ll talk about this again, but in

general, most of the comments that we received were supportive of these particular TLD types and not very supportive of creating additional TLD types. But we'll get more into that in a little bit.

So certainly, the ones that most of the comments had supported were the ones that existed within the applicant guidebook to start with, so that would be the community-based TLDs. Also, in the guidebook, there were certain requirements for certain types of geographic names.

After the round had launched, there was the creation of specification 13 for what became known as brand top-level domains. Within the registry agreements, there were specific provisions that applied or that could be substituted if you qualified as a governmental entity, and as we sort of talked about at the beginning of this call, although not usually referred to as a TLD type when thinking about differential treatment, certainly in the last round, IDNs were prioritized in terms of processing, not in terms of string contention but in terms of the order in which they were processed.

And one of the things that we will need to talk about – although not today, more when the subject of IDNs come up – is how to treat variants of existing top-level domains as well as applications for new strings plus their variants.

So there may be differential treatment for those types of applications. I'm not saying there will be, but it's certainly something we are talking or will be talking more about when we talk about IDNs.

And then finally, Anne has requested that we add applicant support, because when we talk about that subject, it is quite possible that this group could recommend only certain types of entities or certain types of strings or applications may qualify for applicant support. So that's one that we'll keep on this list. If it turns out that we don't end up using a TLD type for applicant support or in determining, then we can take it off the list, but it certainly, for this exercise, helps to keep it on.

And as Anne says, we may consider applications from the global south as being eligible for some sort of differential treatment within applicant support, so that's certainly a possibility.

Let me go back to some of the comments since I last read the chat. Okay, so after the discussion of the words "exception," we have the impact of Work Track 5 on – so Jim talks about impact of Work Track 5 on some of these elements, so that's definitely true, and we may likely have to come back to this area or to different areas once Work Track 5 has substantially completed their report.

Let's see, Steve, Justine says, "Please review because the words category and types are present in the bullets," so getting a little fuzzy between the two. Sorry, I missed maybe what Steve's comment was. Steve, was there a point that you thought there are differences between the word "category" and "TLD type?"

STEVE CHAN:

Hi, Jeff. I thought that was part of the discussion between – I guess the points raised by Jim. I was just mentioning that – well, Justine's suggestion, there's a footnote to try to describe the

difference between categories versus types. And for my benefit, I need to review the transcript to try to actually draft that. I'm not going to try to do that on the fly.

But the part that Justine was just commenting on was there is both the usage of categories and types in the highlighted text, and I just fixed it so it's types in all areas hopefully. So I'll clean that up afterwards. Thanks.

JEFF NEUMAN:

Okay. Yeah. For the most part, I think we used them interchangeably, so we'll have to go back and make sure we're more consistent. So thanks, Steve.

Kathy asks – and I apologize if I missed some of the in-between comments. Actually, let me go back before I read Kathy's. Maxim says in the registry agreement, words are intergovernmental organizations or governmental entities.

Thanks, Maxim, actually, let's be specific. So if those are the words that are used, let's actually use those in that sub-bullet point, because I think that's very helpful.

So Kathy asked the question of, should global south applications be added to this list in light of the discussion above? So I think, Kathy, by adding the words "applicant support," I think that's kind of the placeholder to see whether anything else needs to be added for when we determine what entities – whether there are restrictions or qualifications for applicant support.

So why don't we just keep applicant support in there, not list global south at this point, although understand that that may be added if that's the way we go with applicant support. [Yes, Kathy.]

KATHY KLEIMAN:

I'd at least put global south in parentheses after applicant support, because we're making assumption that all global south applications are going to need applicant support, and that may not be the case, but it looks like ALAC's supported IDNs and NCSG talked a lot about global south applications. So just the diversity we're seeking regardless of whether it comes with applicant support or not is one of the values that we're talking about here.

So again, applicant support kind of assumes you need financial aid, and that may or may not be the case. Thanks.

JEFF NEUMAN:

Okay. Thanks, Kathy. So why don't we just put in a comment next to applicant support? Global south or other entity type that may qualify for applicant support. Just to make sure we don't forget when we come back.

I think I was just about to read – oh, from Jim. Jim says [Steve is] also the distinction between application types. Right, so to refresh everyone, when an applicant applied for a TLD, they were asked right up front, "is this going to be a standard application or a community?" And I think those were the only two choices.

But if you applied as pretty much either of those, you can then also, within your application, indicate whether you're applying for

just a regular generic or whether you're applying for geographic or whether you're applying for a specific type of TLD.

So I think we need to keep note of Jim's point, and certainly as we talk about the application process in the future, make sure that we decide whether to keep those two tracks, two tracks meaning standard or community, or whether we just do away with that and just ask questions of all applicants for the TLD types.

Okay, let's go over the comments, or just the types of comments that we got in. So this brings us under the section high-level agreements first, and as we stated earlier in the call, there was support from most commenters to maintain the existing categories from the applicant guidebook and to not create additional types. And sorry, let me rephrase that, there was support from most of the commenters to maintain existing categories that were in the applicant guidebook and the ones that were subsequently created, like the specification 13 dot-brands and not to create additional categories.

And if you remember, there were a number of different types that we had listed in that initial report as potential TLD types, including things like nonprofits, including validated or verified top-level domains, and other types. Most of the comments that came in did advocate for keeping just the ones that were around for the 2012 round.

But as we go down in the comments, some ideas that were presented or some concerns or divergence, you'll see that the government of India had said that, well, it's possible that the addition of additional categories or TLD types could simplify the

application process, or introduce flexibility where it might be needed, and they gave some examples.

And the government of India believes that country, territory TLDs should integrate ways for applicants to respect the specific legal framework the registry operator will operate under. So I think that mostly falls within what Work Track 5 is discussing at this point. The same thing for the – sorry, not the same thing for the next point.

The next point was raised by the coalition of geographic TLDs but doesn't necessarily apply to geographic TLDs, where they say that in the future, we should determine if there's a need for additional categories. The Business Constituency had a tentative suggestion that a new category be created for global south actors. That kind of is in line with what Kathy had brought up just before.

The national association of boards of pharmacies, NABP, who operates dot-pharmacy at this point, does support the notion of adding verified top-level domains, and in particular, as we'll discuss in future weeks, they believe that synonyms or exact translations of existing verified top-level domains should not be allowed to proceed or allow existing TLD to file a string confusion objection. So they're saying that validated or verified TLDs should have differential treatment in certain respects.

The Council of Europe supports creating a not-for-profit category where that category would be treated differently for the purpose of fees, so having lower fees. So that would qualify if we decided that that made sense, because we're talking about differential treatment if we did decide that nonprofit applications or TLDs

should be treated differently, then that would be on the list of TLD types.

Google had a new idea that said that there should incentivize top-level domains that align with user expectations. So this is sort of similar to the CCT review team where there should be incentives – as the CCT review team had mentioned – for registries to have restrictions or to essentially be a validated or verified top-level domain.

Okay, that covered a lot. Let me go back to the chat. Let me see where we start with this. There's a plus one for global south from Christopher. Kathy Kleiman, "I think global south are a possible priority set. Many will be IDNs but not all of them."

Steve says, "It's probably helpful to think what differential treatment is needed beyond application support," and Kathy says, "We're trying to encourage diversity." And then Steve says "But what would be the differential treatment?" And Kathy says, "Like prioritization maybe one of them."

Anne is saying to Kathy, "That could mean that if I form an applicant and it hails from the global south, then it doesn't matter how much western controlled money is behind it, we get preferential treatment. Not sure the goal would be accomplished that way." And Justine says she has the same misgivings.

Okay. So it seems like a lot of this is centered around a couple different areas, whether it's who should get applicant support and then the next question of, should any applications get priority?

Since we already have a discussion planned in the future on both of those topics, rather than add additional types of categories, let's get through those discussions, and if as a result of those discussions it does turn out that the group supports certain types of [NVs] or certain strings to get differential treatment, then we can go back and add them in. But at this point, because we haven't decided those particular elements, we should just have a note like we do for applicant support and for priority that if we decide in the future that certain types fall into that, then we'll add them back.

Okay, so then there's some discussion that's a little off topic on locations of registries. I'm going to skip that for now just because it's not completely on this topic. But let's go back to all of this.

What we're going to find is there's lots of individual comments from entities or even stakeholder groups or constituencies on "You could have this type of entity and this type." We have to make a decision as a group.

Now, some of them we can push off a little bit until we, as Steve said, decide the type of differential treatment that we're talking about, but at some point, we do need to put kind of a stop on the discussion of categories.

So other than the discussions that we've had today, and on the comments in the chat, does anyone think that there are additional types of categories that we should be thinking about?

Okay, I'm not seeing anything additional, so it seems like we've got the right set of TLD types with of course the caveat that some

additional ones may be added depending on how we come out on applicant support and prioritization. Jim, please.

JIM PREDERGAST:

Yeah. Thanks, Jeff. I guess the only other question I would have was in the last around, we really didn't know what – we didn't realize we'd get as many types of TLDs applied for as we did. So do we need to leave a placeholder for future innovative types that may come along in the next round that the collective mind here on the call and in the working group just don't fathom but some entrepreneur comes up with? Or am I overthinking that one? Thanks.

JEFF NEUMAN:

Yeah. Thanks, Jim. I don't think you're overthinking it at all. I think we sort of discussed the notion of that being the exception to the rule, but as with any exception, you do have to come up with a subsequent process to handle additional requests.

So on the one hand, we don't want to set the expectation that we as a community are encouraging lots of differential treatment for different types, because that wouldn't be very predictable, but on the other hand, if there is something that comes across that we just haven't thought about, there should be a process.

That process may be as simple or complicated as just a change request from an application or some sort of one-off request from an applicant to be treated differently as opposed to developing a process for being considered a TLD type. So we'll have to think about that as we move ahead.

And it sort of is a really good transition to the next section, which is – because I'm looking at the comment from INTA, which is that a very first step should be considering whether a potential TLD type requires differential treatment or contractual provisions, meaning if someone were to come forward and say, because they are this new type of TLD, the very first thing they would ask for is some sort of differential treatment, whether that's contractual provision – I'm sure everybody would like to ask for priority, but I think we'll need to narrow down the types of differential treatment that new potential TLD type applicants could get.

I see Christopher's got his hand raised, so let me go to Christopher and then we'll move on.

CHERYL LANGDON-ORR: I think Steve might have been first, but over to you, Jeff.

JEFF NEUMAN: Sorry about that. I did not see the chat. But yeah, let's go Steve, and then Christopher. Thanks, Cheryl.

STEVE CHAN: Thanks, Cheryl and Jeff, and thanks, Christopher, for your patience. I was hoping to again provide a little bit of context. I can't remember if it's in the issue report or the initial report, but it talks about types and that the creation of type and the new gTLD program is not intended to validate or invalidate a type of business or a type of TLD or a category.

I think the idea of creating these types is connected to what Jeff mentioned from INTA, that first step in deciding to create a category is because there is a need to treat it differently, and as I said, it's not to validate that as a type. So that was essentially the test I think the working group talked about way back when they first talked about TLD types, so I was hoping to bring that up as context and maybe historical knowledge on this topic.

So I don't know, it might be helpful to think in the context of whether or not you need to add whatever it might be. And I see there's talk about the global south. So when you talk about that, as I mentioned earlier, what is the different treatment that needs to be introduced for that category? Thanks.

JEFF NEUMAN:

Yeah. Thanks, Steve. And for global south, once we get the discussions done on applicant support and priority, or sorry, those are two different discussions, then we'll know whether the group supports differential treatment, and at that point then if the group says yes, they do, then it would be a different TLD type.

Christopher.

CHRISTOPHER WILKINSON:

Hi. Jeff, I think we need to keep an open mind on this. I think Steve's last statement facilitates that. It's not conceivable that this working group or even the ICANN community as a whole could predict what the categories or types of applications would be worldwide. You'll have to suck it and see, and you cannot exclude or put everything else that's not one of your chosen types into a

bucket that's called everything else. I can think of several categories of applications – and for the sake of example, notably, the three-letter currency codes which would be more sensitive than pharmaceuticals, but which to date would be in the bucket. You'll have to keep an open mind and probably not determine this until you see the applicants.

JEFF NEUMAN:

Okay. Thanks, Christopher. I guess the question we need to consider is when we think about TLD types, as Steve said, we're not saying that there can't be applications for, let's say, currency codes. What we're saying is – or what we have to think about is what kind of differential treatment should they be given. And certain of those, I think we do need to put a line in the sand by saying, "Look, unless we have put it in the guidebook, in the rules or in the policy, that we cannot just decide after the fact to give priority to a new type of application that comes forward after applications are submitted." Right? there has to be some sort of line in the sand.

However, that does not mean that we could not necessarily as a community decide to give them different contractual provisions for example. So I hope that makes sense, that we do in certain areas have to draw a line in the sand. We can't have ICANN be receiving requests that say, "Hey, I'm a blockchain top-level domain, and because I'm new and innovative, therefore I need to get priority."

However, if it is a different type of TLD for which the [current] contract may not contemplate, we could have ICANN getting

some requests to change those. I see a hand up from Kathy, and then I don't know if that's a leftover from Christopher or a new one.

CHRISTOPHER WILKINSON: That's a new one.

JEFF NEUMAN: Okay, so let me go to Kathy, then Christopher.

KATHY KLEIMAN: Actually, I'd be happy to go after Christopher.

CHRISTOPHER WILKINSON: Okay. Thank you, Kathy. Just very quickly then, first of all, as I see it, the main purpose of these categories is to determine the quality and nature of the evaluators in terms of languages, in terms of professional knowledge in the sector's concerned. And I don't think that has come through quite clearly enough as yet.

That is that the evaluators at each level could not possibly be standing. They have to be qualified to deal with the application that they've got before them.

And then Jeff, your description is quite valid, provided the work is done to make those classifications almost watertight. In WT5, we're far from there. So let's not think that it's going to be easy. Thanks.

JEFF NEUMAN: Thanks, Christopher. I don't think any of this is easy. But yeah, I appreciate the comment. So Kathy, please.

KATHY KLEIMAN: Okay, so just a quick comment. I think Christopher's comment makes sense. The quality and nature of the evaluators, the language issues, and also, Jeff, [what] would have been said earlier, that we may think we've got it all covered, but brands were remarkably a new type of TLD that was created, and it was created very quietly. A lot of that was done behind closed doors.

So we have precedent on this that there was something people hadn't thought about. I like the idea of doing it very much in the public if we're going to create a new category. But I'm sure we're going to see a lot of new categories come up over the years. So thanks for leaving room for it. I think that's really important.

JEFF NEUMAN: Okay. Thanks, Kathy and Chris. Just looking at the chat to make sure that we are caught up. Let's see. Cheryl says, "Don't think we need to close the door on that in this type of planning, but any exceptions of differential treatments need to be exceptional. Nothing wrong, I trust, with still having one's application treated as standard."

Okay. And then Justine says "With TLD types, [it is how what type] the applicant sees its application [is falling with that?]" Again, just want to clarify and then we'll move on.

What we're talking about is not how a category an applicant puts itself into or how it wants to be classified. It is purely whether any form of differential treatment would apply to that type of TLD or application.

So this is not meant to say that in the future, a trade group of top-level domains that all deal with musical theater could not form its own type. It's really to the point of, are we going to treat it differently for the purpose of either application, how it's processed, how it's viewed in string contention, or what contractual provisions apply or do not apply to it? So I think we really need to think of it in that sense, and it's not, as you've said, meant to validate or invalidate any kind of business model.

Okay, so then scrolling down, we talked about the dot-pharmacy one, which I do think comes up in other discussions about – well, as referred to here, I think a string confusion objection, and the notion of string confusion. So I think if we decide in those discussions to treat those TLDs differently, then we would come back and add them as a TLD type.

The BC and the registrars asks about differential treatment for brands, and they're suggesting a possible fast track. So again, if we did decide that the order of processing or having a different track or anything like that, if we did say yes to those, then those would be a different TLD type – or, well, the brand already is a different TLD type, so that would just be an added attribute of that TLD type.

Google, same comment as before, and then there's a note in here by INTA saying that talking about some types of TLDs potentially

being able to suggest an alternative string. I think that falls – let me see if that would fall under a different discussion that we’re having.

Steve, let’s highlight that. I’m not sure, that may be a completely new idea as opposed to falling within another discussion later on. I’m just trying to grasp that.

STEVE CHAN: Hey Jeff, quick comment.

JEFF NEUMAN: Yeah, please go ahead.

STEVE CHAN: [I was sort of distracted,] but I think you're talking about the one from INTA about the mark plus? Is that correct?

JEFF NEUMAN: Yes, that’s correct.

STEVE CHAN: Okay. So just a reminder, this is actually one of the comments that we found in public comment that seemed to better apply to the RPMs PDP. So this comment was actually referred to that PDP instead for them to consider, at least if I recall correctly.

JEFF NEUMAN:

Let's check that. For some reason, I don't recall referring that to the RPM group. So I think because that's not talking about like rights protection mechanism of let's say allowing a trademark claim to have a mark plus, I think this is really saying this is how to qualify for spec 13.

So in specification 13, it says that you have to have a trademark that exactly matches the string in order to qualify for spec 13, but there were some applications for spec 13 that couldn't qualify, because it had the mark plus something else or for some reason wasn't eligible for trademark protection.

So that's the way I interpreted INTA's comment, but I'm not 100%. So why don't we action item to just make sure that we have that right?

Okay, let me go back to the chat because there's a couple things in here. Sorry, keeps jumping when someone types a new comment in. Okay, Anne says that GAC consensus advice calls a verified TLD a TLD that should be subject to safeguards. Is that therefore a type?

That's a good point, Anne. I think it does. I'm not sure it's called verified, but whatever the GAC calls it, there are certainly unique contractual provisions that were required to be added to their category one – I think it was category one – top-level domains. So that's actually a good question as to whether that is a type.

Let's add that actually. Give that some more thought, because it does have some different contractual provisions. Okay. Jim says maybe you could find [inaudible] INTA. Yeah, I'll try.

Kathy says, "I think the [SubPro referral] may have been misunderstood." No, Kathy, I think Steve realized he was mixing it up with something else. So I don't think this was referred to the RPM group. We're going to go back and verify, but yeah, so we'll get back to everyone after this call.

Five new messages. Okay. Let's see. There's a new hand from Kathy. Okay, Kathy, please.

KATHY KLEIMAN:

Yeah. First, thanks for checking with the RPM working group, because there was something like this that we've been discussing in our subteam, so we should definitely clarify it. So I appreciate that.

so this comment has to do with the BC, Registrar Stakeholder Group new idea asking about different treatment for dot-brand applications, suggest possible fast track.

Jeff, you described it as an attribute, but I think we're talking about a new idea here, and I seem to recall that when we talked about new ideas when we were going through the comments, new ideas, if they're accepted by the working group, my understanding is – and we talked about it many times – will go out for public comment. And I just wanted to reaffirm that, that as we talk about this prioritization, particularly dot-brand and any kind of fast track, that these will go out for public comment. Thanks. [inaudible].

JEFF NEUMAN:

Yeah. Thanks, Kathy. I think the reason I said it's an attribute is because in a future discussion, we're going to talk about the processing of applications. So that's really the appropriate place to talk about whether brands should have that type of priority.

So I think that that was the purpose of saying that. Only for that purpose.

Okay. Going to the next comment, I think these are repeated ones from Google, and the altered mark plus. Okay, so we talked about those. Going on to the additional considerations, ICANN as an organization has concerns. Well, it's not really concerns, it just wants us to explicitly state clearly the requirements of each TLD type, and of course, how that type of TLD is treated differently.

So I think that is our purpose, and hopefully, we will succeed in doing that. And then it asks us to consider how an applicant will classify itself or how it will be known or made known that this application is for this type of top-level domain., So we'll certainly, as we finalize these and the different attributes and different treatment, we'll certainly indicate whether that's something that needs to be in the application, and if so, how is that referenced or how is that made known?

Okay, so some other things that came up in the comments, if we go down to referrals, these are referrals not to other groups but referrals to other sections where we talk about the particular topic.

So for example some comments came in on different types of fees applying to different types of groups. We'll address that when we talk about the fees. There were comments on how community

priority evaluation should be treated for community applications. That will be discussed when we talk about CPE and community applications in general.

There were some comments on geographic TLDs that are being discussed by Work Track 5, so we don't need to go over those. As we talked about before, dot-pharmacy, NABP, talked about potentially a string similarity or a string confusion objection, so obviously we'll talk about that when we talk about that type of objection. And when we talk about IDNs, there was a comment about trying to make things easier for brand owners to apply for IDN TLDs of their existing brands, and then Fairwinds has suggested that certain contractual obligations, like the EBERO – emergency backend registry operator – and the COI, continuing operations instrument, may not be necessary for certain types of TLDs. So of course, we'll talk about that when we get tot registrant protections.

Okay. let me just scroll down. I think that puts us to the end of this particular section. Steve, if you can just – sorry, I know you're typing in. Is there a way you can just scroll own to make sure – yes. Okay.

So what time is it right now? It is – okay, yeah, we do have some time. So let's get into the next subject, which is on application submission limits.

So there were two areas that came out in the discussion of whether there should be certain limits placed on applications. One of the areas that was discussed really is should there be a limit on the total number of applications submitted on a cumulative basis?

So for example, should there be a limit of – and I'm making this up – 10,000 applications and after we reach that limit, we accept no more? That was the one type of question that was addressed by this subject, and then the other one is, should there be a limitation on the number of applications filed by any individual or any individual entity? So that's the second area.

A lot of this was addressed in our first community comment, so community comment one. There is a link there. We also addressed this in our initial report, and analyzed that in subgroup A.

What we really came up with from the comments that were received and the discussions is that if we are to establish any limits, there must be a clear rationale for establishing these limits. Essentially, another way to say it is we shouldn't have arbitrary limits.

It must also be operationally feasible to implement any policy that we develop on this. In this case, it must be feasible to enforce those limits. So if we for example said that no entity or individual associated with that entity could submit or be associated with a certain number of applications, we would need to make that completely airtight. And as we go down to this topic, you'll see that that does become difficult to do.

And then if any limits are imposed on the overall number of applications, or the number of applications an entity may submit, it must be fair to all applications. So we shouldn't be discriminating against certain type of applications. It really needs to follow not only predictability but also fairness.

We also need to support – this really should go without saying, but as we think about these limits, we also need to talk about whether this is supporting competition and consumer choice. Does that make sense from a policy level as to how we're going about evaluating this?

Seeing some interesting comments, so let me go back and make sure. Let's see. So I think there's still some leftover discussion, but Kathy, then I think this one relates to the current subject.

"[By limit] applications, in a similar vein, applications by single company in partnership venture must be limited. There are incumbents in this community who have the time, resources and interest to submit thousands of new gTLD applications. Such unlimited applications are not fair." Okay.

So this was a quote from the public interest community, I think, that that came from. So let's now go back to the high-level agreement. And this may differ from the comment that Kathy quoted, but most of the comments that we got in said that no limit should be placed on the overall number of applications or the number of applications a particular entity may submit.

This is also in line with our discussions within the working group from the past several years. It's also in line with community comment one. That's not to say that we did not get comments. We did get comments from some groups like the one Kathy referenced, and also, I think Christopher has made the point as well that there should be limits.

But in reading the bulk of the comments, most of them did not support placing any types of limitations. They had different reasons for not supporting that. One reason was it wasn't fair, but the other reason was that there was no real way to police that or enforce that. So we haven't quoted whole comments here, but if you go back to the comment tool, both for community comment one as well as the initial report, you will see that as well.

So let's go back to Kathy. Kathy's got her hand up. Please.

KATHY KLEIMAN:

Yeah. Thanks, Jeff. First, the public interest community in this case was led by the Electronic Frontier Foundation, a leading digital rights group, and very well informed on this. In fact, when I got to them today to ask if they still support the two dozen limited applications for each company, they said actually, two dozen is too many. They actually support fewer, although they didn't give me an exact number.

In terms of policing, sorry guys, it's a silly argument. We police all the time in this area, especially in telecom. We have ownership reports, we know exactly who owns what, we know about foreign ownership. This is done all the time in many countries. Very doable.

And most of the commenters, let's face it, were future applicants. Past, future or both. So what you're hearing here between the comments of the Electronic Frontier Foundation, which were signed on to by other leading members and thinkers of the public interest community, and Christopher Wilkinson, so you're hearing

from different parts of the community, is that there's a real concern here with kind of a domination of those parties that are awake and at the table right now versus those who will wake up and be at the table in the future. Thanks.

This is really important, and I think we have to think very carefully about this, but you've got two major comments on the table that say we need to limit this. Thanks.

JEFF NEUMAN:

Yeah. Thanks, Kathy. So I hear what you're saying and understand that. I don't think we should discount the other comments that came in. I don't think it's fair to say that they all came in from existing applicants and those that are interested in the next round.

In fact, one of the organizations that opposed the notion of applying limits was the International Trademark Association, and they are comprised of thousands of brands and companies and trade associations. So I'm not saying to discount what the public interest community has said, but I don't want to discount other comments that have come in.

So we need to have a consensus on changing the rules. So remember the mandate of the group or the charter of the group – sorry, that's not the right word – the way the group has been operating has been that if we cannot get consensus to change things, then it remains as was in 2012.

So I don't think it's at this point – we're not taking a consensus call right now, so I don't want to make it sound like we are doing that.

But just to note that the majority of the comments that we got in did not favor any types of limits. We can certainly go back and certainly – well, let me ask the group that’s on the call at this point about their thoughts, and has anything changed from the previous discussions we've had on this subject?

So Christopher, I'm going to wait to see if there's anyone else who wants to be in the queue that hasn't spoken yet, because I know that we've certainly heard your views on this. So let me go to Jim and then I'll go to Christopher. Jim, please.

CHRISTOPHER WILKINSON: Jim is muted.

JEFF NEUMAN: Yeah. Jim, are you –

JIM PREDERGAST: The old double mute, the mute on the phone and on Zoom. Sorry.

JEFF NEUMAN: That's okay. Thanks, Jim.

JIM PREDERGAST: So the question I raise is in another part of the discussions, we're talking about contention sets and the possibility of using a victory auction whereby applicants have to put their bid up front and then

that would determine who's the winner of the contention before you get to evaluation.

That type of auction might actually have the benefit of limiting the number of applications that a party could put forward, because they'd have to calculate what their maximum exposure would be if they were in fact to win all their application contentions. That could probably be a pretty big number, so that's just something to keep in mind as we're talking through this, that there may be other things that we can use besides a blanket prohibition or a blanket limit that would achieve similar results. Thanks.

JEFF NEUMAN:

Yeah. Thanks, Jim. And the overall point is that as you said, we can decide to do this in different ways. So let me go to Christopher, and then we'll read some comments in the chat.

CHRISTOPHER WILKINSON:

Good morning again. Thank you for remembering that I had comments on this matter. I'd just at this stage make three small points. The first is that from many points of view – and both personally and as an international economist and as having been exposed to this issue in the last 20 years in several different contexts, the 2012 document, the AGB, does not carry very much weight. There are a lot of mistakes in it. So I have reservations about your default that anything that is not agreed has to go back to the mistakes we've made ten years ago.

Secondly, I think the issue of the maximum number of applicants for the round is false. We're discussing in parallel the whole issue

of phases or windows and how long the next round would be open for. I repeat that the main constraint on the number of applications entering the pipeline is the capacity to evaluate and to take decisions.

So just having a sort of large number as the maximum number is false. We should have a practical number for the first phase, and reopen a new window when that phase has been dealt with. This will go on for several years, no doubt.

And finally, on the number of applicants per company or per entity, Kathy seems to have a privileged hotline to the Electronic Frontier Foundation which I do not enjoy, but look, if you want to have diversity, competition and consumer choice, you cannot have single registrars – and I pass on the problems of vertical integration – making applications for hundreds of names. That will go obviously in the opposite direction. Thank you.

JEFF NEUMAN:

Thanks, Christopher. So the first part, I actually do – so I want to highlight those in two different parts. I think most of the debate we're having now relates to the number of applications by a particular individual or an individual entity, but does not apply to the overall number of applications.

So, is it a correct statement to make that the working group does not -and in line with the comments that were received, that the working group is not going to recommend an overall limit of the number of applications? But we're still discussing at this point whether it's for individual entities.

So can we at least take issue number one off the table? Meaning we're not recommending any limitations on the overall number of applications. Is that a fair statement?

Not seeing any comments on that –

CHRISTOPHER WILKINSON: Jeff, it's fair, provided that it can be handled. But if the result is 1000 applications in the first month, that can't be handled, unless staff have access to evaluators and other resources, which I believe they do not currently have. It's not a question of the absolute number, it's a question of the size of the flow.

JEFF NEUMAN: So, understand that, Christopher. The only thing we have to go on now though is ICANN Org's written statement in the comments that said that it will scale to handle the number of applications that are received. I'm paraphrasing, but essentially, they did not indicate that there was a number of applications beyond which they could not handle.

So we could talk a lot amongst ourselves, but ICANN Org did submit that statement, and I would advise the group not to make its own inferences of what we believe ICANN can or can't handle. The way I view it is that ICANN had its opportunity to make the statement that there was a certain number they couldn't handle, but they didn't. So I think we should take them at their word at this point. But understand the other point.

So I think let's stop here because we're getting to the end of the call, and I do think we have touched on a subject that requires more discussion both on e-mail and on the next call, which is the concept of application limits on an individual entity or person affiliated with entities. Sorry, that was a bad paraphrase, but essentially, that's what it is. So I don't want to give that short change. So that's where we'll leave off.

Let me just take two minutes to discuss what we're thinking about or the very preliminary discussions on ICANN 65 in Marrakech. At this point, there are very early draft schedules that are being sent around the working group chairs as well as the SO and AC leadership.

Because it is a policy meeting, the PDPs certainly have priority on the sessions, unlike in the first and third meetings of the year. So we believe that Work Track 5 will have essentially a morning, most likely the first morning of the meeting, and the rest of SubPro will have several sessions, some of which will, I think they'll be split into the first two days, I think. Maybe one on the third day. But not all in the same day. So that will come out soon. The exact content of those meetings, we do not know yet. It depends on where we think we'll be, but we'll certainly follow up in future weeks talking about what our exact plans will be for those sessions. So just a little heads up on that. And for those of you that are involved in your own stakeholder group constituency advisory committee planning, if you could also keep in mind that because it's a policy/outreach meeting, that to hopefully be understanding when scheduling your own sessions to help us make sure that we can get as many attendees to the policy working sessions as we can.

So that's a request by us to limit the number of conflicts if possible. Any questions at this point? Okay, well, thank you to everyone. Our next call will be on next Tuesday. Not Monday. It's on Tuesday because in the United States and in the UK, potentially elsewhere, there is a public holiday on Monday, May 27th. So our meeting is on Tuesday. So please do make note of that. You should have gotten invites, but that is not on our normal day.

Thank you, everyone, and for those of you here in Boston, I'd love to see you all. For those of you not, I hope to talk to you all next week. Thanks, everyone.

CHERYL LANGDON-ORR: Thanks, everyone. Bye for now.

TERRI AGNEW: Thank you, everyone. Once again, the meeting has been adjourned. Please remember to disconnect all remaining lines and have a wonderful rest of your day.

[END OF TRANSCRIPTION]