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**ICANN Transcription**

**New gTLD Subsequent Procedures Working Group**

**Tuesday, 30 April 2019 at 0300 UTC**

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<https://audio.icann.org/gnso/gnso-new-gtld-subsequent-30apr19-en.mp3>

Zoom Recording:

[https://icann.zoom.us/recording/play/iAotXf6oyTR3PqfsHkPKulGeK8LvE4Ki3KkpwwQNZnmCqUt0AHql\\_xyxpbcM1tA?startTime=1556593354000](https://icann.zoom.us/recording/play/iAotXf6oyTR3PqfsHkPKulGeK8LvE4Ki3KkpwwQNZnmCqUt0AHql_xyxpbcM1tA?startTime=1556593354000)

Attendance is on the wiki page: <https://community.icann.org/x/9RVIBg>

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**MICHELLE DESMYTER:** Well, I would like to welcome everyone. Good morning, good afternoon, good evening. Welcome to the New gTLD Subsequent Procedures Working Group call on the 30<sup>th</sup> of April, 2019. In the interest of time, there will be no roll call. Attendance will be taken via the Zoom room, so if you're only the phone bridge today, would you please let yourself be known now?

**KRISTINE DORRAIN:** Hi. This is Kristine Dorrain.

**MICHELLE DESMYTER:** Thanks, Kristine. We'll go ahead and note that. And as a reminder to all participants if you would please state your name before

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speaking for transcription purposes. Please keep your phones on mute when not speaking to avoid any background noise today.

I would like to turn the meeting over to Jeff Neuman at this time. Jeff, please begin.

JEFF NEUMAN: Thanks, Michelle. Welcome, everyone. I'm looking for a button that I used to have, and I can't find it right now. That's the button that's got switching between the different documents. Is there ...

MICHELLE DESMYTER: Yes. At the top part of your screen – one moment here. It's not there yet because Steve is about to share a Google Doc. There we go.

JEFF NEUMAN: Ah, okay. Thanks. That's why I couldn't find the button. Okay, cool.

MICHELLE DESMYTER: Okay.

JEFF NEUMAN: Well, before that document, there should be – where's the agenda? Can we pull that up?

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MICHELLE DESMYTER: Absolutely. One moment, please.

JEFF NEUMAN: Thanks. While that's coming up, it's a pretty simple agenda. It's our standard one, where, first, the bulk of the call will actually be spent on going over the topics for the day, which are starting to go through continuing subsequent procedures and predictability. Hopefully we'll have time to complete both or at least to get a good way through both of them.

But before we do that, let me just ask if there are any updates to any statements of interest.

Okay. I'm looking at the chat. I don't see anything in the chat or hands raised, so that's good. So why don't we just get right into it then? Actually, I should ask, is there any other business before we go into the substance?

Okay. Not seeing any. I'm just going to ask for, Steve and Michelle, your help if there's anyone who raised their hand that I just missed. It's hard to look at all these documents at once.

Right on the agenda, if you go to View Options and look at Michelle's screen, you'll see a link to the document that we're going to be working off of today, which actually also is being displayed. If you go back to View Options and you go to Steve Chan, you'll see that document. So you can either look on the Zoom screen or you can look for [yourself] at the Google Doc. I'll note that some people have already been going through that Google Doc and making suggestions. That's good and shows that you're reading the materials, which is great.

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The purpose of today, and actually all these calls as we go through, is to try to develop draft final recommendations on each of these topics. Last week, we looked at issues on communications and systems, and today we're going to start with looking at just the whole notion of continuing subsequent procedures. We're going to be referring to both Community Comment #1 as well as the initial report section 2.2.1, which also has in there the policy of the GNSO that was approved in 2007 by the GNSO and adopted by the Board in 2008, namely that there shall – the current policy, which is there should be, or there should be – sorry. I should read it exactly. It's that second bullet under policy goals.

“The New gTLD Program should be introduced in an ongoing, orderly, timely, and predictable manner.” That was from the original GNSO policy. If you were to go back to Community Comment #1, which is at that link, you'll see that, of those that commented, which included the GAC, the registries, and, I believe, the IPC, they all supported continuing with that policy.

If you look down at the comments below in 2.2.1C1, you'll see that most of the commenters did support continuing this or a couple [issues]. For example, the GAC had – oh, I hear that someone's off mute. If you're not speaking, can you please mute? Thank you.

Well, someone's not on mute. If we could find that ... I don't – okay. Thanks. So the GAC had explained in its comments – Community Comment 1, as well as the initial report. They just referenced back to their Helsinki advice which basically just reminded the Board that all of the reviews needed to be completed prior to the next round. I believe the GAC also did call

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in their advice for ICANN to make a showing of a demand for another round.

So, if we talk about that, that part of the GAC advice is contrary to the GNSO policy in that the GNSO policy was pretty much an automatic “There will be additional new gTLDs” and did not have in it any kind of call or any kind of showing that a demand must be demonstrated prior to starting the next round. So that’s something we need to talk about on today’s call, as well the BC – I think the GAC as well also said we should take into account the CCT Review Team final report, which I believe we’re doing in the sense that each of the topics that were meant for our policy development process have been – we’ve already started considering those and they’ve been allocated to the applicable sections that deal with the material that was in that report.

Let me then open this up for some discussion of what do people think about the GAC advice. I will note that, in line with the philosophy behind this group, in order to make any changes to existing policy [vote] , we would need a consensus in favor of that change. Right now, the GNSO policy does not have a demand component, but that is something that the GAC has asked for. Any thought son that?

KAVOUSS ARASTEH: Hello. Jeff?

JEFF NEUMAN: Yes? Please.

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KAVOUSS ARASTEH: You said that the GAC advice is in contradiction to or not consistent with the GNSO policy. Am I right to understand that?

JEFF NEUMAN: Yeah, Kavouss. Thanks. The part of the Helsinki advice that – and I’m rewording it, but maybe it’s actually better to get the Helsinki advice up on the screen, if someone could do that or provide a link. Essentially, it stated that – actually, wait. I do have it. I’m sorry. It’s in Consistency Comment 1. I have that up on – well, if someone can bring it up on the screen. I have it up on my screen. I realize that doesn’t help. On the Helsinki communique, the GAC advised the Board that – where is it exactly? The GAC response to question – no, that’s not it. I’m trying to find the exact language and it’s not jumping out at me. Essentially, Kavouss, the GAC advice said that there should be a demonstrable demand prior to starting the next round. If Steve or someone could actually find it, that would be very helpful. So that’s the part that’s inconsistent, whereas the GNSO recommendations that were adopted by consensus did not state anything about a showing of demand.

So this is what the GAC says. Thanks, Steve, for putting that up there. If you can see, this is from Helsinki. “The starting point for the development of policy should first take into consideration the results of the reviews,” which we’re doing. “In addition, the following should be addressed: interoperability, security, stability” – that’s Point A, which we’re taking into consideration, I think – “B. An objective and independent analysis of the costs and benefits ...” This is the part that I was talking about that I reworded. It says,

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“An objective and independent analysis of costs and benefits should be conducted beforehand, drawing on experience with outcomes from the recent round.”

If you could just go to that next page of the advice, just to make sure we're not ... maybe scroll down a little bit. Just maybe in the rationale there might be some more explanation. Yeah, Paragraph 2 talks about, “Data is not currently available to allow proper assessment.” So that part of it was not in the GNSO recommendations.

KAVOUSS ARASTEH:

Excuse me, which part is not in the GNSO recommendation? You have said 1, 2, and 3, A, B, C. Which one of those advices? Before going to the rationale, go the advice and see three parts. Each one of them is not consistent with the GSNO policy? Number one.

Number two, has there been any reaction from GNSO in relation with the GAC advice at Helsinki? We wish to see whether GNSO has reacted that this part of the advice is not in line with the GNSO policy. Has there been such a reaction to the Board? That is [inaudible]. We have not heard from the Board that any advice, even in Helsinki, is in contradiction of the GNSO policy. We have not heard that. Or maybe I missed that. So could you go back to this area and scroll down to the ABC – the three parts of the GAC advice?

Yeah. Which one of these are not consistent with the GNSO policy.

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JEFF NEUMAN: Thanks, Kavouss. It would be Part B.

KAVOUSS ARASTEH: Part B. The objective and – yes. The independent analysis of the costs and benefits could be, should be, conducted. Has GNSO reacted on that, saying, “Sorry. We cannot do this cost and benefit analysis?” or, “We don’t have any basis to do this cost and benefit analysis” or, “This cost and benefit is not necessary”? Has there been any reactions? That’s my question. Thank you.

JEFF NEUMAN: Thanks, Kavouss. That’s a great question. I’m not sure that – maybe we could put this as an action item. I know that GNSO Council has, for the last number of ICANN meetings, responded to the GAC advice. I’m not sure if that was in place after the Helsinki meeting. That may be a more recent development. We can add that as an action item to look at. So I don’t know the answer off the top of my head, but we’ll take that as an action item.

On the others, we’ve had discussions within this group, and that’s what I’m opening up as well to get thoughts on that requirement that the GAC has in there, just to get thoughts from this working group.

Jim is correct. I think I mischaracterized that as a demand analysis. And you’re right. It’s a cost benefit analysis, and I misworded that. So I will go back and just say it as it is, which is an independent analysis of the costs and the benefits beforehand.



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We do know that the CCT Review Team did do an analysis of competition based on the data it had available. There was an economic analysis on conjunction with the Applicant Guidebook and the registry agreements, where I think there was an independent party that did that. It was not, I don't think, the same as what's called for in this GAC advice, but it was an economic analysis. So please—

KAVOUSS ARASTEH:

Excuse me, Jeff. I pushed the mouse on my name to raise my hand. I don't know whether I appear or not. Let me explain to my distinguished colleagues listening to this or seeing this conversation. We have a regular meeting with the Board. After each ICANN/GAC meeting, they ask questions about the meaning or intention of any GAC advice. I don't recall that I have heard the Board saying that they have difficulty or they see any difficulty or they saw any difficulty in respect to B. I may be mistaken. I don't know. But I am attending all those GAC Board meetings. About one month after the GAC advice, we have a meeting with the Board, and they will question what the GAC means by this, how the GAC wants to apply that. We have not heard of that because we have a, I would say, a continuous review of the GAC advice by the Board to see whether there is any difficulty for the implementation.

This is not urgent. Don't do it now. But please put an action item to see whether either GNSO reacted or whether there has been anything from the Board because I know that, after each GAC meeting, [inaudible] 15 days. You have one or two pages or three

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pages of the actions of the GNSO analyzing the GAC advice and [inaudible]. I don't recall. Maybe I missed that. Thank you.

JEFF NEUMAN: Thanks, Kavouss. I seem to not have a great memory as well. So we've taken that as an action item because I do think that's important as to how the Board had responded to that. Thanks, Rubens, for that link.

Jim, you are next, please.

Jim, I can't hear you. I'm not sure if you've taken yourself off mute.

JIM PRENDERGAST: Is that any better?

JEFF NEUMAN: Much. Thanks.

JIM PRENDERGAST: Okay. Sorry about that. On this question of GAC advice, I think, Kavouss, the way I see it might be a little different, and that is those follow-up calls and the follow-up letter from the GNSO are more for clarifying questions than for acceptance or rejection of the advice. So you could conceivably do those calls and the subject is not touched upon and the ICANN Board still doesn't accept the advice down the road. I think there's a triggering mechanism there.

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I'd also be curious to know if the stuff that's called for in the GAC advice related to this is covered in all in their opinion by what the CCT Review Team did because there's a lot of work that went into it that may get us partway there but may not be a full, in-depth cost/benefit analysis. Thanks.

JEFF NEUMAN:

Thanks, Jim. That's an excellent question. It's the CCT Review Team as well as – I'm remembering that there was an economic study that was done. I want to say it's by ... oh my gosh. What were their names? I think it was the same people that did – I want to say the Analysis Group or something like that. Maybe we can find that. I think the Helsinki communique might have even been after that Analysis Group report. So we'll follow up with those action items.

But in the meantime – ah, yes. Thanks, Rubens. It is the Analysis Group. So in the meantime, though, I want the thoughts of members of this group. Do we believe that any additional studies or things need to be taken into consideration prior to the next round, other than, of course, completion of the reviews, completion of this PDP and any other relevant PDP that needs to be completed prior to it? I want to hear from individual members.

I see Christopher Wilkinson in the queue. Christopher, please.

CHRISTOPHER WILKINSON:

Hello. Good morning, good evening, everybody. Can you hear me?

JEFF NEUMAN: Yes, Christopher, please.

CHRISTOPHER WILKINSON: Oh, that's a good. A couple of points. First of all, I suggest that the action item also review the At-Large/ALAC comment on the proposal for the new program. I think they were also doubtful if not skeptical about the overall demand for new gTLDs.

Secondly, I presume that the GNSO policy to which we refer goes back to 2007. I think it's a mistake for this PDP just to assume that 2007 policy just stands, unless it is formally contradicted. A great deal of water has gone under the bridge since 2007, and it's the PDP's job to develop a new policy.

Thirdly, a lot of us think – I think the CCT would support this – that there were far too many new gTLDs created within the specific sphere of English language words. I think the new program must have, as a priority, both in policy and in time, fulfillment of the demand of areas that were not supported in practice in 2012. Just pressing on regardless with 2007 GNSO policy is, to my mind, is not defensible. Thank you.

JEFF NEUMAN: Thanks, Christopher. Let me throw that open to the group. This is the time for discussion, guys. So do people agree with Christopher? Now, the main [thing] we have from the GNSO Council is that, unless we come to consensus as a group on

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changing things, the way it happened in 2012 is what controls. And, of course, 2012 was based on the GNSO policies.

I'll take off my Chair hat for second. My personal view is that, as a group, we should operate based on precedent. Unless there's something to change precedent, we should stay on that same path. Otherwise, it's really difficult from a predictability perspective to operate as a multi-stakeholder organization if we don't give some credence to precedent.

But regardless of my own decision, the mandate that we have from the GNSO is that, unless we can come to consensus on changes, the program will operate the way that we did it.

So, please, this is the time for the working group to—

KRISTINE DORRAIN: Jeff, this is Kristine. Can I get in the queue?

JEFF NEUMAN: Yes, please. Thank you, Kristine. Kristine, please.

KRISTINE DORRAIN: Thanks. I'm on my mobile and I couldn't remember how to get off of the system mute, but then I remembered Kathy Kleiman's wise advice on our last RPM call. \*6, people. If you're on your mobile, \*6 to get off of mute.

Anyway, I just wanted to say that I think – I have a question and a comment. My question is, with the GAC recommendation that

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cost/benefit analysis must be done for the entire program, irrespective of what applications might be and what ideas might come forward – because, if we’re trying to analyze ahead of the time what ideas people might come up with and what innovations people might invent, I didn’t know I needed an iPhone before I had one. So I think we have to be really careful about calling for a bunch of analysis to assume that people know what they want before they want it.

Secondly, I think that we should not throw the baby out with the bathwater to the extent that teams like us have worked very, very hard for a very long time, whether that was in 2007 or 2012, to develop policy which then launched many hundred new gTLDs. I think that we can look back and do a retrospective, which is what we’re doing, to learn, but I don’t think we need to throw out everything that’s been invented until now. I think we take what we have and build on it. I don’t think that we have any indication that things went so far south that we need to spend a bunch of money doing economic analyses. That’s what individual applicants do. They try to figure out if an application is going to be worth their while. If people aren’t going to be interested in their TLD, maybe they shouldn’t apply. And the [COE] exists in order to be able to [defund] a registry if it goes out of business. Thanks.

JEFF NEUMAN:

Thanks, Kristine. Just reading some of the comments from the chat – oh, I’m sorry. I should respond, Kristine. The GAC advice just says that, “In addition, the following should be addressed,” and Part B says, “An objective and independent analysis of costs

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and benefits should be conducted beforehand, drawing on experience with and outcomes from the recent round.”

Then, in the rationale – sorry, Steve. Can you just jump to the next – thank you. In Point # ... well, you know, let me just read both points in the rationale because it’s not that long. It says, “There is currently no public policy reason why further released of new gTLDs should not proceed as a general principle. There are, however, valid public policy reasons for applying a range of requirements at the application and post-delegation stages. The GAC believes such requirements derive at least in part from ICANN’s obligations with regard to the global public interest as contained in existing and proposed articles of incorporation and bylaws.” That’s probably – oh, never mind. I won’t do any editorializing.

Number two is, “Data is not currently available to allow a proper assessment, both quantitative and qualitative, of the round that is now concluding. Some important data, for example, regarding to consumer [inaudible] may not yet be collected. To ensure logical and efficient process, such data should be gathered before policy development moves too far ahead.”

So that’s all the guidance that we’re given, Kristine, from the GAC advice.

KRISTINE DORRAIN: Jeff, can I ask a follow-up?

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JEFF NEUMAN: Sure. Then I'll go to the rest of the chat.

KRISTINE DORRAIN: Okay. Thanks, Jeff. I don't know what the GAC would think of this, so maybe I'm being too cheeky, but isn't what this working group is doing is essentially most about analysis? Taking into account that GAC admits that there is not a lot of hard data – and we know that the CCT RT has said the same thing – there's general lament that there's not [enough] of the quantitative that we want, right?

So, other than that, basically are they just calling for another group, much like this one, to convene and go over the facts of what happened and see if they can make it better? Or am I – I'm not actually trying to be cheeky, but am I misunderstanding?

JEFF NEUMAN: Kristine, I don't think there is any misunderstandings. It just says what it says. Let me just go on to some of the other chat comments while people are thinking. There's a couple comments on the economic analysis. It was discussed in the CCT Review Team report. Anne Aikman-Scalese posts a comment on the role of GAC advice. Let's see. Kathy says that the RPM is not starting from scratch, either, but reviewing the policies. Rubens says consensus is not only needed to change the recommendations but, if the PDP wants to ask the GNSO to do the assessment, then that needs to go by the Council.

Yes, I see your hand, Kavouss. Well, actually, I don't see your hand on the screen, but I will take that as your hand is up. So, Kavouss, please. Then I'll go to Kristine.



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KAVOUSS ARASTEH: Thank you very much. I think that the most appropriate way would be that we are now in 2019. We do something perhaps with the [in-operation] 2021/2022. We need to have the confirmation of GNSO of the policy of 2007. [Some, not doubt, have an] idea of whether that policy that exists is valid or not. This is number one.

Number two, as I mentioned, you could ask in ICANN [inaudible] to have a confirmation that the GNSO has [inaudible] and the Board reaction that this advice is not implementable or whether [inaudible] too. I have not heard anything from the Board with GAC advice because they're reviewing advice and then they have a pending list. I have not seen anything [tentative] from the Helsinki on this particular [inaudible]. Once again, I may be mistaken. Maybe. But I would request that Kristine, who is at the Board, communicate personally [inaudible] GAC advice and GAC Board meeting could clarify the matter whether there is anything in the Board about the GAC advice and Helsinki. You have reviewed that several times. I don't [even] remember that. So that is [inaudible].

But what I'm asking is that, as far as the GNSO is concerned, the validity of the policy of 2007 could be [still be used] in 2022/2021. Thank you.

JEFF NEUMAN: Thanks, Kavouss. I think that's an important question. That's the whole basis for the public comment that we did and on the initial report. So there was support – I guess the word you used was

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“confirmation” – for the policy, that calling for rounds introduced in an ongoing, orderly, timely, and predictable manner – support came from pretty much every group that responded. The ALAC supported it with some comments on how things should work in rounds. It supported the recommendation and principle. The BRG, the Business Constituency, Neustar, the Registry Stakeholder Group, FairWinds, Valideus, MarkMonitor, the Non-Commercial Stakeholder Group supported it. Then, in the first comment period in CC1, the IPC and the GAC supported the policy, with of course the caveat that the cost/benefit analysis be done.

So I believe – and, as one of the Co-Chairs, I would state that – it does seem there that there is a consensus that does support the policy continuing. So what I’m asking for is the group’s or members’ [views], if you feel otherwise or how you feel about the items that are up for deliberation, including this component of the GAC advice.

Christopher, please.

CHRISTOPHER WILKINSON:

Hi. Look, Jeff. What we’ve described is quite different from what happened in 2012 already. In 2012, there was a single open round, and a number of policy priorities were completely ignored of – we’ve already that there should be phases of the new rounds that should be opened in a rational and progressive way.

I agree with Kristine that you can’t predict what the market would demand if you’ve never asked them. I think it is absolutely

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essential that we take priorities, talk about them, and agree that the first priorities of the next round must be those areas of the domain name system which were ignored or submerged in 2012 by the very large number of applications, some of which were portfolio applications, if not many of which were portfolio applications – I don't know, that took up the process and ignored other priorities. I'm thinking of IDNs. I'm thinking of underserved regions. We've yet to come to the geographical names in the PDP. That will be another big discussion, I'm sure, when the Work Track 5 recommendations finally reach us. And there are others.

So just to argue that the 2007 GNSO policy should be maintained as it was and that what we did in 2012 was all together a good thing and we're just going to do it again is absurd. That will not be treated seriously by the Board, not to speak of the GAC, though I don't speak for the GAC. I have no party in that matter.

JEFF NEUMAN:

Christopher, sorry. I'm trying to keep the conversation going. We understand your point, but we do need to move on. I think your point about having the 2012 round as the default is not something you agree with. Unfortunately, that's what our mandate is. So we'll note your objection, but I think we do have to move on from that because I don't have the authority to override that, even if I wanted to.

Kavouss, I appreciate your agreement with that, but that's not the main need that we currently have.

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Justine posted a comment basically saying that the ALAC support now is qualified. It was that they continued to debate the actual benefits. So let me ask the others in the group. Is there anyone else who wants to comment on this? We've had basically support from all of the constituencies and stakeholder groups that they supported this policy moving forward. We have some qualifications from the GAC and the ALAC and Christopher.

Where does everyone else stand on this? Do we have consensus to change that policy?

I'm not seeing anyone else in the queue. There is a new message. Let's see. Justine: "Yes, we supported 221C in principle as predicated in acknowledgement that the program will likely continue." Anne Aikman-Scalese says, "I think the CCT Review Team report bears on this question. This is not an IPC position." Which question in particular? Sorry. If you could just put that into some context.

KAVOUSS ARASTEH: Can you see my hand?

JEFF NEUMAN: Sorry, Kavouss. Actually I don't see your hand, so I'm not—

KAVOUSS ARASTEH: I don't know how to [inaudible], but I think the question we raised, if you allow me – you said, is there any consensus to change the policy? You could ask the people, do you agree that we need

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confirmation of this policy? I say that we need the confirmation that the policy – when you say policy, say which policy. The 2007 policy? 2012 [practice]? Which one? But I think you question in the other direction, not asking, do we need to [inaudible]? Does anyone think that [inaudible]? I suggested we need the confirmation of the policy. Thank you.

JEFF NEUMAN:

Thanks, Kavouss. I understand your point, and I understand that every issue has got two sides to it and you could ask questions in different ways. But the way this group was chartered, the way that we generally work, is that, unless there's consensus to change the policy, then we move forward with the way the policy is. Otherwise, what's to stop anyone from, in two or three years, saying every single policy ICANN has needs to be confirmed every three or five years, like the UDRP or any of the other policies? You can't really operate an organization where you have to confirm everything every five years or every so often. I know it's been twelve years or whatever it's been.

I'm saying that, in the comments we got, the BC, the IPC, the Non-Commercial Stakeholder Group, the registries, the registrars – actually, I'm not sure the registrars commented on this point – were all in favor of keeping the same policy and no changes.

All right. Let's move on then and talk about some other aspects of this in 2.2.1. Rubens says, "ICANN should confirm every 50 years." Kavouss says, "We should take into account the comments made by GAC." I agree, Kavouss. That's why I'm asking members of the working group to comment on whether we

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think these things need to be done, but I'm not getting many in the group that are commenting that they agree. Of course, you can comment by e-mail, so don't feel like you have to do it on this call.

Anne says she's trying to raise her hand. I'm sorry. Yes, I do see your hand. Sorry, Anne. Anne, please.

I can't hear you, Anne. I'm not sure if you have audio hooked up. Can we check that?

Okay. Is staff – do you all see this, Michelle and – okay. Michelle's working on it. Let me just – we'll come back to Anne – also mention that Christopher, as we did on this call, and an individual, John Poole, did make some comments they don't see the need for certain additional new gTLDs.

One thing I think most of us did agree on in our discussions – certainly it was agreed to or is supported in the CCT Review Team – is the notion of developing metrics around any subsequent new rounds or procedures to define success and to help with measurements. There were a bunch of new ideas, I would say, that – I shouldn't say new ideas. A bunch of ideas and concepts that came about as a result of the initial report. So that's what I want to spend some time talking about now with this group as to the thoughts.

ALAC proposed a number of specific metrics that's in they're comments that's related to things like abuse and diversity. The BRG made a comment that success really goes hand-in-hand with the business model. So we need to be careful to not group all types of top-level domains in together. For example, brands a

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different measure than, let's say, an open new gTLD. So the BRG says, rather than using the term "success metrics," maybe we just call it new gTLD metrics.

The BC stated to measure against regional geographic outreach in their comment, and the Registry Stakeholder Group suggested to measure against usage and growth, location of registries, and types of registries, and have more in their comment. Kathy asks in the chat, "What does it mean by "diversity"?" We can go to that comment and see if they provide more context for that.

I think each of these, in addition to – actually, we should mention that there is the health indicators, that ICANN has already established certain types of metrics based on previous advice from the ALAC and the GAC and others. So that's already in play.

So I think there are some good proposals in there for different types of metrics, and now is a good time to – thanks, Rubens. It's called Domain Name Marketplace Indicators. I think what would be very helpful is for people in the working group to look at all of these, comment on what you agree with, which types of measurements. So I do think that many of these are worth putting in as examples of the types of metrics that should be used, but at the end of the day, we still need to come up with what a definition of success means. So you can have all the metrics in the world, you can have metrics on how many registries there are in each country in the world, but unless we define what we think is an acceptable amount of an acceptable geographic distribution, you have metrics but it's almost metrics for metrics' sake.

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So I'm really interested in thoughts that you might have, or members of this group have, on – first of all, do people agree with the BRG comment that we should be using or we may be wise in having different types of success metrics based on the different types or business models of the TLD?

Have we gotten Anne's audio fixed yet? Do we know?

ANNE AIKMAN-SCALESE: Jeff, can you hear me now?

JEFF NEUMAN: Yes. Thank you, Anne.

ANNE AIKMAN-SCALESE: Okay, good. I was trying to figure out how Zoom operates differently from Adobe. I am on my phone line because it doesn't come out, so I prefer the phone line.

I think that this general overall question that's being raised by Kavouss and Christopher – I commented in the chat that I think that [BCP] are to review – [bears] on this issue that Kavouss and Christopher have been vocal on. That's because I think that there are questions and issues addressed in that review which could potentially put some of those issues to rest.

So I think, rather than creating this brick wall within the GNSO which says, "Sorry, but the 2012 policy stands, and nothing you have to say matters" – I think that's not a productive way forward –



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we need to somehow get the GAC to look at the CCT RT review and coordinate and approach moving forward.

Now, the reason I think that that's true is because, as you know, under the bylaws GNSO policy advice would require two-thirds vote to override GNSO policy advice. But, at the same time, GAC public policy advice requires a 60% vote or eleven directors to override GAC public policy advice. So what we don't want to create is another bottleneck. We need to figure out how to provide information that will smooth the way for the next round. I think that that information exists within the CCT RT report, which Jonathan Zuck, I think, was one of the Co-Chairs of. So we need to get a dialogue going there because it's the continuing organizational structure problem that ICANN has when GNSO advice comes up against GAC advice and the Board says, "Well, you guys try to go work it out." We need to work more effectively and coordinate now. Thank you.

JEFF NEUSTAR:

Thanks, Anne. The CCT Review Team referred the question to us on what is the definition of success because they have a difficult time – well, they had a difficult time with a couple things. One is there was no definition of success. Two, there was no method to collect data against which you could apply metrics. So they had difficulty all the way around.

So their final report – and maybe Steve or ICANN could correct me if I'm wrong – I believe, did refer to us. I remember it did in the initial and I'm assuming it did in the final. It referred to the question that we need to come up with definitions of success. That includes

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on this for the New gTLD Program as a whole, as well as for then applicant support program as to what would be success there. So the CCT Review Team understood that it was a review team and was not setting policy, so they referred the question to us. So we need to come up with a definition of what would constitute success.

So I don't think, Anne, that they did answer the question, other than saying we need to solve that – "we" being the ICANN community. So this is a dialogue I'm going to continue on e-mail because it is crucial. The reason I'm spending so much time on it rather than just moving to the predictability model is that this really goes to the heart of ongoing rounds or ongoing subsequent procedures. We want to make sure that the next group that does some type of review, whether it's another CCT Review Team or any other review team, looks at the next round has some objective, or hopefully objective, kinds of standards to look at to see if we succeeded or not.

As Kavouss says, "Good luck." I agree with you, Kavouss, that it is very difficult to come up with a definition, but frankly, that's what the CCT Review Team punted to us. So it would be good to try to meet that challenge.

I know that there's some discussion in here about the Board's reaction to the CCT Review Team. I know that there was certainly some controversy there, but I don't think this was one of those areas of controversy. This was an area the CCT Review Team concretely said that we need to provide guidance on what success would mean.

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Okay. Steve, can we scroll down a little bit? Sorry, Anne. Your hand is still up – ah, Donna, please. Thank you.

DONNA AUSTIN: Thanks, Jeff. Donna Austin from Neustar. Can you hear me okay?

JEFF NEUMAN: Yes.

DONNA AUSTIN: Okay, great. Jeff, I just wanted to pick up on a couple things that you said. And Kavouss is right. The definition of success is really challenging. I think what's important here is the distinctions we make between the success of a TLD, the success of the program, and the success of applicant support. So maybe it's the categorization of the different elements that maybe a small group of us could spend some time identifying. It shouldn't be a lot of categories. Maybe half a dozen. And maybe defining some success metrics for those.

To some extent, I also feel like, to determine success, you almost need targets. That's another complicating factor as well. So I agree that this is a pretty important discussion. I don't know whether there were targets for the 2012 round.

To Kristine's point that she made while ago, I think there is a lot of data that we can access on the 2012 round. We should – I don't know whether it's this group. Maybe it is this group. Maybe we need to take some time to understand what data is available and

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then develop some metrics because I don't know that it's impossible to do, and I don't know that it potentially is really difficult to do, either, if we can strip it down a little bit and just be really clear about what we're trying to achieve. Thanks.

JEFF NEUMAN:

Thanks, Donna. I like your use of the phrase "targets" as opposed to "success." "Targets," I guess, is less of a loaded word. So maybe we could start using that, or "milestones" or something to indicate what we can measure against at a later date.

I strongly encourage people to read the CCT Review Team report because I'm convinced that they also had a very difficult time with the data that was out there. They spent a lot of time trying to collect the data to come up with these targets and then ended up finally punting to us, saying, "Well, we can't figure it out, so you guys should."

Kavouss is saying, "I do not see any possible way to come up with a general definition of success. However, some description of relevant satisfaction or dissatisfaction may be formulated."

Okay. So I think this is a good conversation to continue on e-mail, perhaps taking some of the elements from the CCT Review Team report, posting them on the e-mail, and then seeing what we can add to it. But this is a question that was given to us, and we can't throw up our hands and just say, "We can't do it. It's impossible." I do like Donna's idea of perhaps forming a small team.

So let's see what conversations we can get on e-mail because, frankly, there is a lot of people from the 2012 round. You'll get

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some people that will say it's an absolute failure. Others will say it's an absolute success. They're both right and they're both wrong. Because we had no target, we had no definition. It's whatever a person believes. I don't think we want to be in that position moving forward.

Okay. Steve Chan has his hand – Steve, is your hand up? Is that what you're saying? Please.

STEVE CHAN:

Thanks, Jeff. I can't actually raise my hand, as I've noted a couple times. So, yeah, you'll see a note from me like that. So Steve Chan from staff. I just wanted to highlight something which is under the policy goals. You've been talking about how to try to define success. There's a line here, just sort of a strawman, to try to capture what, at a very, very high level, the purpose is for new gTLDs. If I'm not mistaken, I think this actually comes from the 2012 recommendations from the GNSO and then is also captured in the Applicant Guidebook. It talks about, at a high level again, how the primary purposes of new gTLDs are to foster diversity, encourage competition, and enhance utility of the DNS. Again, at a high level, that's, I think, what was intended upon the release and with the release of new gTLDs.

So if you have a high-level structure, what you could try to do is maybe create – I don't know – more specific targets within that structure, within that framework, which could take into account what I think the BC might have said about trying to maybe parse it out based on different categories of TLDs or usage.

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I guess I wanted to draw attention not what the strawman is but I think is actually pulled from the AGB about what you're trying to accomplish with new gTLDs, which is another way of trying to look at success. So I don't know if that helps, but I just wanted to add that. Thanks.

JEFF NEUMAN:

Thanks, Steve. I think that'll help us categorize the different types. Let's also take the CCT Review Team because that's what they worked with as well. They did come out with the factors certainly for competition and had a much more difficult time with choice and trust because of the lack of data that they had. I do think the stuff from the 2007 GNSO policy that was in the guidebook is a good to build upon, like you said.

All right. I'll let Anne's comment on Zoom just stand the way it is. Why don't we move on now to the predictability framework? Steve, I don't know if you – oh, maybe I'm not on the right document ... Yes. Sorry. That was my fault. So on the predictability framework – before we start this discussion – and we're going to go over what each of the group said or at a high-level what each of the group said – we really need to as a group focus – I sent it out in an e-mail response to Kathy's earlier e-mail on the non-commercial's opposition – is that there are very real issues that have been identified by the community a number of different times on the predictability of the program in general: the way that changes were made by ICANN staff in the middle of the program, or by ICANN org, the different issues that arose after the program had already launched, meaning after the application windows had opened, and how those issues were dealt with.

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So we put together the predictability framework, which did have some support, or did have support within the work track that was looking at it. I understand that there are certainly comments that do not necessarily support the model that was developed.

I'm going to ask two important questions. Can things in the model that was developed be improved so that you would support it? Or, if not, what takes its place? I'm going to say this from the outset because this was said by a number of commenters and a number of the discussion very early on in this group. The existing GNSO processes, meaning the PDPs, EPDPs, guidance, etc., the group did not feel would adequately on its own address issues after the application window opened, that it was certainly an improvement for before the application window opens and it may be appropriate for a number of issues after the application window opens but not all types of windows. So please do think about that when you're providing comments.

Kathy, please.

KATHY KLEIMAN: Hi, Jeff. Can you hear me?

JEFF NEUMAN: Yes.

KATHY KLEIMAN: Okay, great. At the outset – I know we're about to dive into things – though, while some parties would like to do it, I don't think it's

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within our authority or authorization to replace the GNSO policy process. To the extent that we are dealing with policy questions, whether they were foreseeable and we didn't foresee them or they are new once the process is undertaken, I don't think it is within our scope or purview to replace the GNSO process, which has become much more ... Since 2008/2009, a lot of GNSO processes has been created and clarified, including by people in this working group and on this call, which is tremendous. I think we can use it and see how the new processes and clarifications can help us, but I don't think it's within our authorization to replace the policy making process. Once we hit something that's policy, we've go to figure out how to address it.

So I just wanted to check up front whether you think we're somehow changing the policy process. Thank you.

JEFF NEUMAN:

Thanks, Kathy. I can answer that pretty definitely as no. We're not changing any of the policies or processes that have been established. This is for the category of issues – I'm not calling them policies because I don't want to get into the debate of policies versus implementation – that come up that are outside of what the GNSO processes would deal with. Examples of that would be from the last round – understand it's not going to be a problem this time, but if they had come up or do come up – when the ... So the policy was in the last round that the applications were to be – there was supposed to be some form of approach to prioritize the processing of applications. What ICANN had come up with was digital archery.



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Now, it became clear that digital archery was not going to be a successful way to implement the policy that was discussed. So ICANN staff then had to come up with some other process. The process they came up with didn't change any policy. In fact, it didn't even change a number of areas of implementation. It changed perhaps some of the execution of the implementation. So none of the GNSO frameworks or processes actually would have addressed that.

So this is for those issues, to help with categorizing those issues, that are outside, in addition to what the GNSO processes are.

Now, very emphatically, we are not intending to replace – and it says that right up front – any of the GNSO processes. So where an issue does involve policy, it has to go through the GNSO processes. But where there are issues outside of that, including certain issues that arise after the application window, that's where we need something, some predictability framework. So that's what we're talking about. I hope that helps as we start this discussion.

KAVOUSS ARASTEH: Excuse me, Jeff.

JEFF NEUMAN: Yes? Is that Kavouss?

KAVOUSS ARASTEH: Yes. Sorry, I still have problems raising my hand. Yes, I understand that we are not authorized or no one could change the

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consensus policy approved by the Board from the GNSO. However, we don't know which policies they are talking about. 2007? Any amendment of that? What was [inaudible] 2012? [inaudible] there was some of the 2007? So we need to have the confirmation of the policy [inaudible] today. If GNSO [inaudible] this is the policy [inaudible] with 2007, any changes which have been approved as a subsequent medication to that policy or amendment. But we would like to be clear what policy they are talking about. 2012 was different from 2007 [inaudible] differently. Christopher mentioned several [inaudible]. So that is the question. The question does not change the policy. The question is, what policy are they talking about today? That is that.

And the second question is, for how long has this been going? 60 minutes or 90 minutes? Just let me know because here it is morning and I have to go for some other activities [inaudible]. So up to what time [inaudible]? Thank you.

JEFF NEUMAN:

Thanks, Kavouss. I'll start with your last question. These are scheduled for 90 minute, so we have another 18 minutes or so. On the first question, with the predictability model, when I talk about changes to policy, I'm talking about all the policies that are in fact up until when the program launches. So, if there are any changes to whatever policies are in place at the time of the launch of the next round of new gTLDs, those need to go through the regular GNSO policy processes, whether that's a PDP, expedited PDP – whatever mechanism the GNSO Council deems to be appropriate for that particular policy issue.

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However, there will be certain issues that come up that are outside of that. What the community has tasked us with is developing a predictability framework so that we can't predict necessarily the outcome of how each decision would go, at least we have a framework to make sure these issues don't drag on for years and that they follow some sort of agreed-upon process.

I will note that the Board did, in its letter to us, to the PDP, support this notion of a predictability framework and looked forward to us providing more details about it. There was also support for a predictability framework from a number of groups. Maybe – actually, before I get to that, I just want to make sure I covered what's listed in the bullet points under policy goals. So, “To the extent” – this is the first bullet point under 2.2.2, after the background information; it's under policy goals – “that issues arise after application acceptance window commences that may result in changes to the program and its supporting processes, those issues must be resolved in a manner that is predictable, transparent, and as fair as possible to the overall affected parties.”

The second principle is that we want to promote the predictable resolution of issues. The community should rely on – we've called it a predictability framework that's specific to the New gTLD Program that guides the selection of mitigation mechanisms. Three, in the event significant issues arise that require resolution via the predictability framework, applicants should be afforded the opportunity to withdraw their application from the process and receive an appropriate refund. So to the extent that changes are made that impacts the applicants' application, then they should be allowed to withdraw.

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So those are the three basic principles. If we scroll down, the recommendation we have in the initial report was to create what we were calling – although I know people don't like this because it is confusing, and certainly the Non-Commercial Stakeholder Group comments reinforce the principle that this is very confusing with our IRTs. So we should give it a different name, but what we called it in the initial report was a standing implementation review team that's constituted after the publication of the guidebook to consider changes in the implementation, execution, and/or operations of the New gTLD Program after it's launched.

Now, notice it does not have the word "policy" in there. That's important and that's intentional because changes to policy would have to go through the GNSO mechanisms. It says, "And the introduction of further evaluation guidelines not available to applicants when applications were submitted. The predictability framework is intended to provide guidance to the standing IRT in how issues should be resolved."

So what we did in the initial report is we basically said the standing IRT would look at the issue raised from the community or ICANN org and would then provide advice to the ICANN org and to the GNSO to say the standing IRT would say, "We think this is an execution issue. We don't think this falls within the normal GNSO processes. Therefore, we would kick this other process off." Of course, the GNSO Council could disagree and would then therefore kick off its own GNSO procedures. But it's really to help guide the GNSO Council and not replace it at all.

Kathy, you have your hand up from here, so please, go ahead.

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KATHY KLEIMAN: Unmuting. I think I follow Anne, Jeff.

JEFF NEUMAN: Okay. Sorry about that. I'm seeing ... oh, yes. Sorry. Well, I see – let's go to Anne and Christopher, then Kathy, I guess. Anne, please?

ANNE AIKMAN-SCALESE: Thanks, Jeff. I just wanted to clarify something. You said initially that the GNSO policy processes that exist prior to launch are in place and are not affected by the predictability framework, but it sounded as though you said that this predictability framework is designed to affect how issues are dealt with after launch. In fact, there's nothing that can change those existing procedures that the GNSO follows because it's within their realm to determine whether an issue, policy, or implementation or – at what level it has to be dealt with.

So there's nothing in those procedures of input from the GNSO or guidance from the GNSO or EPDP from the GNSO or PDP from the GNSO that changes based on when a window or a round launches.

Now, if this predictability framework is intended to [effect] a change in those procedures and modify the bylaws, which would be necessarily, we're probably going to need to be a bit clearer about that because policy or not policy is a GNSO Council

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decision and doesn't rest with an IRT, no matter what you call it, and doesn't rest with staff.

So it ultimately, if you're trying to introduce something that makes things more predictable, you can do that up to a point, but you can never stop the GNSO from saying that it's policy if they choose to or from saying that it's a matter of fact that they don't think so and implementation should proceed.

The second point I had to make is there's a lot of confusion that's been generated about this standing IRT because you guys have now said that these are two different entities, that there's an IRT prior to launch and that there's this other entity that we've all along been calling a standing IRT but now you want to call it something and that never the twain shall meet. I think an important part of the support for the predictability framework assumed that there would be some continuing understanding from the IRT that's convened to implement the program and a standing IRT that deals with policy issues after launch because we saw it from 2012. Issues arise after launch, and you need people who understand how the policy was developed.

So there shouldn't be two separate bodies of an IRT that's for launch and some other body that's after launch. That doesn't make any sense. Thank you.

JEFF NEUMAN:

Thank you, Anne. Just to respond to that, an IRT – and Implementation Review Team – maybe be convened – this is a regular IRT – by ICANN staff to assist with the implementation of

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whatever the policies are. So I'm making it very vague, but that implementation review team by definition ceases to exist once the policy has been implemented, period.

Now, what we're creating here is a new being we called a standing IRT that would be in place to help provide guidance to the GNSO and to ICANN on issues that arise after the launch. Whether that's constituted with the same people or some of the same people as were on the original IRT for the policy implementation is not something we're going to dictate in this group. That may make total sense, but I think that, from our perspective, we shouldn't, as a working group, dictate how the GNSO constitutes that in the future. But what you said makes some sense, to have some consistency. But that would be a GNSO decision at that point in time, I think.

So I'm hoping that makes a little bit more sense. Maybe, because Justine now says she understands it, I've done a better job. I'm hoping. Because I know it's not an easy concept.

Let me go to Christopher and Kathy because they've been waiting very patiently.

CHRISTOPHER WILKINSON:

Hi. Good morning, good evening, again. Jeff, on these matters – predictability – a lot of the discussion earlier on this process focused on predictability from the point of view of the incumbents and the applicants of – I think that misses the point. Most of the predictability problems that have arisen since 2012 have arisen from third parties. We need to be

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much more conscious of the need for predictability for third-party interests.

Two examples of this. Work Track 5 has declined to discuss the protection of the three-letter currency codes – USD, for example. I can assure you that, if we do not have a policy for the three-letter currency codes, along the same lines as three-letter country codes but specific, it will be totally unpredictable because the main third parties are the central banks in all our member countries. Work Track 5 is being completely head-in-the-sand by refusing to discuss the three-letter currency codes, and PDP has to do so.

The second examples related to geographic names. There's a voice in WT5 which would try to exclude the governments or public authorities from participating in the decision for geographical names if they're going to be used for non-geographic purposes. I can assure you that this is recipe for 100 mini-Amazons. Unless you take account of the third-party interests in predictability, the policy will fail.

Regarding IRT, it's very important that, at that level of decision, the incumbent interests are not present. Thank you.

JEFF NEUMAN:

Thanks, Christopher. Just to answer that really quickly, we do use the term "affected parties" precisely for the reason that you said at the beginning. We did not want it to only imply applicants and registries/registrars. We do use the term "affected parties" so that, if there was a change and that change did impact or affect others, then this process would kick into place.



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So I think that that's a valid point. We've tried to address that. If there are better words that we can use, let us know. But that's certainly the intent.

CHRISTOPHER WILKINSON:

Okay. Thank you.

JEFF NEUMAN:

Kathy, I'm sorry. You've been waiting patiently. Let me go to you for the last word on this for tonight, and then we'll pick up back here next time.

KATHY KLEIMAN:

Great. Thank you, Jeff. I will try to be coherent at 12:30 in the morning, our time. I think you're right, Jeff – and I'm going to try to a few things together that people are saying – that calling it a standing implementation review team is not the right term. By definition, it can't be implementation because, as you noted, it's about issues that are arising after the policy has already been interpreted and implemented. These are new issues.

So let's call it a gateway. The first thing the gateway has to do is decide what's a policy issue and what's not a policy issue. I think Anne said that. So that's a problem. I think it's a problem, and then calling it an IRT, which is kind of constituted independently – so it's really a gateway as a group who's initial issue has be, is it a policy issue or not a policy issue? We have to look at closed generics as one of the examples that came up after applications

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were received – so after the IRT. The original IRT probably would no longer have been constituted.

So I'm going to pose that a group should exist with Councilors and probably with representative working group members because it's not an IRT. It's going to be looking at policy issues. It's going to be looking at non-policy issues. It's going to be making decisions that are very gray because – we've had this discussion already in the working group – what's a policy issue to you may not be a policy issue to me. But, ultimately, this is the Council's decision.

So let's please call it something else and then think about how to constitute it. Thanks.

JEFF NEUMAN:

Thanks, Kathy. I agree with you that we need to call it something different. That's how I started this out. So we'll try to come up with a name. It's a little bit more than just a gateway, Kathy. So if it indeed is an issue that it doesn't really fit under the GNSO processes – so it's not something major like closed generics or changing the registry agreement – but more like we're going from digital archery to this other type of lottery, or we're going to change PDT – Pre-Delegation Testing – instead of we're going to add this other element to the test – let's say it's something like that, which could have an impact on applicants or those that are prepared to do testing in one certain way and now that's all changed – this team – let's just call it a team for now; we'll come up with something better – would then say, "We don't think this is something that the GNSO" – if it's within the GNSO. Let's say the GNSO agrees. This team would then also work with ICANN to

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help resolve that issue. So it's a gateway for things, but it's also then the team that would lead the effort in helping ICANN org resolve that issue, helping the community resolve that issue.

So let's – "The Oracle." Thanks, Rubens. So we're going to try to come up with a name, but that's the goal. Kathy, if we could think about it in that way – "Post-Application Advisory Team." Sure. If we could think about in those terms, Kathy, then can you tell me, for the next call or on e-mail, whether that would resolve some of the non-commercial concerns, and if not, what else we would need to do to resolve the non-commercial concerns and also the concerns by – I think it was the Electronic Frontier? Freedom Frontier? If I remember the acronym. Because that's really what we're trying to do, and, when we define it that way, I'm hoping we can make some progress.

Okay. Thank you, everyone. I know it's a long call. I myself had to fight through a migraine, so I appreciate everyone staying on. So long. Definitely keep the conversation going on e-mail. So look out for some e-mails from the leadership on some of these issues.

Thank you, everyone. Can you please, Michelle or Steve, post the time of the next call in the chat or say it?

MICHELLE DESMYTER: Sure. One moment. Next meeting is next Monday, May 6<sup>th</sup>, at 15:00 UTC.

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JEFF NEUMAN:

Okay. Thank you, everyone. I know there is the GDD Summit next week, but we're still going to move ahead with what we can because not everyone participates in that. So please look forward to talking next week. Thank you, everyone.

**[END OF TRANSCRIPTION]**