EN

ICANN Transcription
New gTLD Subsequent Procedures Working Group
Tuesday, 03 September 2019 at 20:00 UTC

Note: Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record.

Attendance and recordings of the call are posted on agenda wiki page:
https://community.icann.org/x/bITkBg

The recordings and transcriptions are posted on the GNSO Master Calendar Page:
http://gnso.icann.org/en/group-activities/calendar

ANDREA GLANDON: Good morning, good afternoon, and good evening. Welcome to the New gTLD Subsequent Procedures PDP call held on Tuesday, the 3rd of September 2019 at 20:00 UTC.

In the interest of time, there will be no roll call. Attendance will be taken by the Zoom room. If you are only on the audio bridge, could you please let yourselves be known now? And hearing no names, I would like to remind all participants to please state your name before speaking for transcription purposes and to please keep your phones and microphones on mute when not speaking to avoid any background noise. With this, I will turn it over to Jeff Neuman. Please begin.

JEFF NEUMAN: Thank you, Andrea. Welcome, everyone. How's everyone doing today? We got a good attendance here. We got – it looks like about 28 people, so that's good. I'm going to take the lead. Cheryl's on a couple of calls at the moment. So, with that said, we're going to basically – the agenda looks again pretty similar to what we've been doing. We're working our way fairly well through the review of Summary documentation, going over high-level agreements and outstanding items.

Today we're going to cover the 2.7.6.2 Security and Stability, which starts on page 39 of the link that's up on the agenda right now and perhaps someone could post in the chat as well because I don't think you can copy it from there. And then, we'll move on to do the applicant reviews which starts on page 41. But before be do that, let me just ask to see if there are any updates to Statements of Interest or anything else anyone wants to cover under Any Other Business? Okay, great.

Before we actually get into Topic #2, the Summary document, let me just thank everyone for some great conversations that we have going on on the list. I'm trying to get the closed generic issue to be discussed on the smaller specific sub-list that we setup to discuss that. By not I think everyone's signed up, so please do continue to weigh in on that subject but please do it on the smaller list if possible, just to see if we can get the discussion going on on that issue.

As we pull up right now 2.7.6.2, you'll notice that this is a 0.2.1, we skipped over for now because we have initially covered it a number of weeks ago when we first started to do the reviews just as kind of a test run that was on delegation rates, and so we've already gone through that material. I'm sure we'll return to it again, but for now we're going to go to this topic which is call security and stability. But we you will see is that because many of the items that one would consider security and stability is actually covered under subjects including the next one we'll talk about, which is the evaluations. This section actually does not have that much in it. Some of it actually is very much a repeat or covering the same subjects as was in the Internationalized Domain Names section which we talked about the last time, so there's really only a couple of things that we have to talk about in this section.

So, the high-level agreement or still the policy goal really is – I'm not sure why that's in the policy goal, that probably should be a high-level agreement now that I am looking at it and I probably should've noticed that before because that's not really a policy goal but policy goal is more to have probably in line with the same policy goal as in the delegation rates in 2.7.6.1. But the high-level agreement that we as a working group have – so we'll move that – is that we support the SSAC position that emoji in domain names at any level should not be allowed. That was after

substantial discussion in the Work Track 4 followed by – I think this was shortly after the SSAC paper was filed and I think even before the Board may have even adopted that paper, which they have since. So, supporting that SSAC position I think is not an issue.

We will talk about in a minute what to do retroactively with some of the gTLDs that may have allowed it in the past, but at this point for the future anyway, we support the notion that it would not be allowed in any level.

Donna is asking why are we supporting "at any level" rather than just the "top level"? The SSAC paper I believe – and I don't know if Rubens is on to confirm – but I believe the SSAC paper talks about all levels. Because our group it talks about the rules and restrictions – yeah, thank you, Rubens. We in Work Track 4 talked about that "at all levels." Donna, is there a question you have on that or concern?

I will note the Registry Stakeholder Group position, which is a little bit down further in the outstanding items or new ideas or divergence, with the Registry Stakeholder Group does agree with the SSAC in not allowing new emoji labels at any level, but it doesn't want us to interfere with already registered emoji SLDs and gTLDs, and I don't think we have jurisdiction over them anyway. And then the registries state that we would support reviewing this decision if and when the IETF IDNA standards allow them, if that ever happens.

Donna's asking if it's beyond scope? Donna, we frequently talked about a number of issues that affect second level domains and the rules going forward, so I don't believe it's beyond our scope. Any other questions on that? We'll just jump back up to the second high-level agreement which is more for implementation guidance. Again, this would be a recommendation that we would – well, it's called implementation guidance. I'm trying to think of another word other than recommendation, but it's something we are proposing but of course if ICANN is not feasible or it there are other reasons it doesn't have the same weight as something we would call a formal recommendation, but ICANN, if you look at the comments, does agree with this recommendation or this implementation guidance anyway, which is talking about that we should have an application submission system which should do all feasible algorithmic checking of TLDs including against

Root Zone Label Generation Rules which we talked about the last time and ASCII string requirements to be better ensure that only valid ASCII and IDN TLDs can be submitted. A proposed TLD might be algorithmically found to be valid, algorithmically found to be invalid, or verifying its validity may not be possible using algorithmic checking and in only in that latter case will there be a manual review. And so, I think that's what came through the discussions we've had.

If you scroll down to ICANN Org's comment on this, they agreed that automation – I put it in blue just so I can remember to read it here. That's my own putting in blue – automation can be built into the application system to check applied for gTLDs against specific lists such as if we have a reserved names list, the ISO 3166 list and the Root Zone Label Generation Rules. There can be some level of algorithmic checking of apply of gTLDs but the availability of deterministic list of labels and whether the Root Zone Label Generation Rules are defined for the scripts then these labels would determine how complex it would be to implement this. So, it seems if my reading is correct – and of course, I think Trang is on the call, can correct me if I'm wrong, that ICANN Org thinks that this new idea is a good idea but we'll have to obviously check on the feasibility, which is not really going to know until all of the rules are in place. It's not going to know whether everything will be able to be checked using an automated tool, which is why it's going in from our perspective as implementation guidance as opposed to any form of hard rule or recommendation.

Anyone have any questions on that? And since I don't see Trang's hand, I'm going to assume I got that right, which is okay. I can be corrected later on too.

Rubens says, "I think feasibility is already mentioned in the implementation guidance, so it seems ICANN Org mostly agrees." Yup. I think that's right.

Okay. You'll notice that we skipped some of the algorithmic string review comments because those from the BC and from the RySG I believe were covered with the IDNs and also in the ICANN Org comments, so I think we've covered those.

And we've covered the emoji. Is there any comment anyone has on either of those two subjects? I know we went through it quickly, but like I said, most of this section was either moved to other sections in dealing with the evaluations, which is what we're going to talk about next or name collision which will come up in the future, etc.

Okay. So, let's then move on to – oh, I'm sorry. I forgot a couple of – whoops. Let me just read the CCT recommendations. We will cover this I think in the next section, so at least I do remember seeing it, that talking about possible incentives for registries to adopt proactive anti-abuse measures. I believe that does come up later. And then, there was a recommendation for in the CCT Review Team recommendation that said, "To further study the relationship between specific registry operators, registrars and technical DNS abuse by commissioning ongoing data collection and regular publication of this data where abuse is identified, ICANN Org should develop a plan to respond." So, this was more geared towards ICANN Org but when we do talk about certain elements of data collection, we will touch on this as well if there are recommendations that we have for additional data to be collected going forward.

Okay, now we can jump to the next section. Okay, this section is pretty extensive and it's got a number of different components built in. This is on the applicant reviews and so this covers all the three different kinds where we grouped everything into basically three different kinds of evaluations.

The first is the Technical/Operational Evaluation, the second is a Financial Evaluation, and then the third is Evaluating Registry Services. So, we'll try to tackle these in three different sections but some of them will overlap as you'll see later on. So, the goals – what we're seeking to accomplish, we don't believe that they've changed from the 2007-2008 policy. We still believe that the high-level goals still remain. There are some adjustments that are being proposed that we'll go through and you'll see those more with Recommendations 7 and 8 but for now these recommendations, Principle D, Principle E, Recommendations 1, those three are pretty much retained the way they were which is a set of technical criteria must be used for assessing a new gTLD registry applicant to minimize the risk of harming the operational stability, security and

global interoperability of the Internet. Second one Principle E is a set of capability criteria for a new gTLD registry applicant must be used to provide an assurance that an applicant which for whatever reason Google Sheets always wants to turn into the applicant. They don't think it's grammatically correct, but that an applicant has the capability to meet its obligations under the terms of ICANN's Registry Agreement. And then Recommendation 1 is that ICANN must implement a process that allows introduction of new top-level domains. Actually, that first part is really relevant to other sections but then it goes on to say the evaluation and selection procedures for new gTLD registry should respect the principles of fairness, transparency and non-discrimination. All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. This is last sentence is important. Normally, therefore no subsequent additional selection criteria should be used in the selection process.

So, those three were pretty much untouched both by Work Track 4 and through the initial report in all the comments that we received. Recommendation 7 is mostly intact. Applicants must be able to demonstrate their technical capability to run a registry operation for the purpose that the applicant sets out. And you'll see later on a proposed revision just to state that this can be done either before the application round, it's some sort of pre-approval process like we've been talking about or it can be done during the application process. So, you'll see the specific language a little bit later.

Recommendation 8, applicants must be able to demonstrate their financial and organizational operational capability. This recommendation you'll see some proposals, though none at this point have high-level agreement but hopefully – well maybe actually, some of them may have high-level agreement but we'll discuss those and see where those fit in for changes to that one.

Recommendations 9 and 18 also are intact which states that there must be a clear and pre-published application process using objective and measurable criteria and 18, if an applicant offers an IDN service then ICANN IDN's guidelines must be followed.

So, those were the policy recommendations from the previous round and then now we can see what additional high-level agreements that we think we have based on the Work Track 4, the initial report or comment period etc.

The first one is that ICANN should publish any clarifying question and clarifying question responses for public questions to the extent possible. And the note you'll see in the comments is that it was supported by all but the Registries and FairWinds point out that so long that there's no confidential information that's published. So, it is possible that clarifying question on the public questions could ask for confidential information and if that's the case then the recommendation would be to treat those confidentially, but otherwise, that one of the issues we had with the last round was none of the questions were published. Generally, they were not published and the answers were not published either.

So, in some cases, there were amendments to the application based on answers to the CQs and if that were the case and it was changes to the application that was to a public portion then that may have been published but it depended on the circumstances. But in general, answers to the CQs (clarifying questions) were not published. Here we're saying they should be published. Answers should be published especially if they're public portions.

Okay, it sounds like someone – Phil, is that you? Anyone has a question? Okay. Does anyone have a question about that?

Okay. The next one – and there's no reason why this is red other than I changed the structure of the way it was, so it's easier to read. But for all types of evaluations – so this is for technical, operational, financial and any other – the recommendation is that we restrict scoring to a pass/fail scale. That last time, there were some questions that had a 2-point scale where you can earn extra points. But at the end of the day, you couldn't earn a zero anyway on any other questions, and therefore it didn't necessarily make too much sense since it didn't matter whether you passed by one point or you pass by 15 points, if that was even possible. You still passed.

And then the second high-level recommendation is that we believe in analysis of Clarifying Questions, guidance to the Applicant Guidebook, Knowledge Articles, Supplemental Notes, etc. from the 2012 round need to be sufficiently analyzed with the goal of improving the clarity of all questions asked of applicants, the answers expected of evaluators such that the need for the issuance of Clarifying Questions is lessened.

Now, I'm going to – and I'll get to Jim's question in a second – just comment on this one. If you recall or some of you may recall that we tried to get a lot of these Clarifying Questions published to the group so that we could analyze them and we could help draft some of these new questions or help ICANN Org with trying to make things more clear but because of some initial difficulties with the original application system which is since been put bed a long time ago, the difficulty of getting the data out combined with the uncertainty that ICANN had about having permission from applicants to see those questions and a whole host of other issues. We were not able to engage in that task for them or with ICANN but hopefully in the implementation phase, when ICANN is in the process of rewriting some of the questions and criteria that this analysis will be undertaken. I know that ICANN's already been doing some of this analysis but – so our recommendation is framed as an analysis should be done. Unfortunately, we couldn't do that with the time that we had and the constraints that we had. I think Rubens has answered Jim's question right. It really was the cross-referencing of private questions and soliciting potential confidential information that we had to say to the extent possible.

Any questions to the CQ analysis recommendation that we have up there? Okay. Sounds pretty non-controversial. I wish I could say the rest is just in the same category but I'm sure we'll have discussions on some of these.

So, for Technical and Operational Evaluations, if an RSP pre-approval program is established, as we've previously talked about in a previous section, a new technical evaluation will not be required for applicants that have either selected a "pre-approved" RSP in its application submission or if it commits to only using a pre-approved RSP during the transition to delegation phase.

Now, one of the reasons that's an "or" is because we have not yet resolved that question of whether someone needed to select an actual RSP or whether they could just check off that they will use one and if they just commit to using one, at what point in time will they have to commit to a specific one? Is it prior to delegation? Is it prior to signing a contract etc.? That's why this recommendation at this point is in the conditional. If we come up with a definitive answer to that question or those questions then we would change this recommendation to reflect that decision.

Oops, sorry about that. Any questions on that one? Hopefully, that makes sense. Alright. Good. And of course, you can ask on the list if you think we're moving too fast. Don't hesitate to ask any questions.

The next recommendation is to consolidate the technical evaluation across applications as much as feasible even when not using a pre-approved RSP. For example, if there are multiple applications using the same non-preapproved RSP, that RSP would only have to be evaluated once as opposed to being evaluated for each individual application. And of course here we're also talking about everything else being equal, meaning that there's nothing unique technically or operationally that one of those applications has which would necessitate a separate review.

So, assuming that there's one non-preapproved RSP that has multiple applications associated with it and assuming the services to be evaluated are all the same, that ICANN should only have to do that once as opposed to doing that multiple times. And if that is the case then of course we would have to figure out what happens with the fees paid to ICANN etc., which may be related to Jim's question. Jim, you've got your hand up, so please.

JIM PRENDERGAST: Thanks, Jeff. Do I still have the squeaky voice like last time?

JEFF NEUMAN: No, you actually do not sound like a chipmunk this time.

JIM PRENDERGAST: Good. Great. Thanks. Jeff, what you read and then what you summarized were two different things, I believe, and I think there's an important distinction that probably should be noted in the text and that is, as long as the schedule of registry services are the same for the application, because I think that's what would necessitate at least in a non-preapproved RSP. That would necessitate different testing or evaluation from ICANN's perspective, I believe.

JEFF NEUMAN: Yeah, Jim. And I think the initial report did say that. I think we just summarized here in the bullet but we will certainly make sure that that is the case in the recommendation that it has to be similarly – as you said, it's the same registry services that would need to be evaluated for all of them, and if it's the same then yes, it would not necessitate a new evaluation. But of course, if there was something different technically about it that related to the registry services then it would either need to be a modified evaluation or a full evaluation again.

As Rubens says in the notes, the registry service might be performed by a service provider different from the one providing basic domain registration services. Rubens, do you want to give an example of something like that just so to make it easier for others to understand? Okay. So, .secure if they had a validation service that was provided by someone other than the registry services provider then that may need some sort of evaluation but that would not necessitate evaluating the RSP again if the RSP is just providing the same services for the multiple applications. Thanks, Rubens. Good example.

Alright. Emily is saying that the recommendation may not have had that full qualifier but I think it does need to have that qualifier. For some reason I thought it may be it's just in the discussion as opposed to the recommendation, but we should definitely – as Jim said, I think that's right. I think that's the intent.

Okay. So, then the next high-level agreement for technical and operation evaluation states that for applicants that outsource technical or operational services to third parties, applicants should specify which services are being performed by them and which are being performed by the third parties when answering the questions.

So, sort of related to the example that Rubens gave, although I don't know that that's an actual example maybe that is, but let's say you had an application for a validated top-level domain and you had a registry services provider that was doing part of the functions but then you had another organization doing the validation of certain criteria to make sure that the applicant meets that specified criteria, then in the answers to the questions applicants should state that party A is doing the RSP services and party B is doing the validation services so that ICANN understands who's doing what and questions and evaluations can be appropriate for the entity that's doing those services.

A fourth high-level agreement recommendation is to retain the same questions that were in the application the last time, so that was if you look at, I believe, it's the appendix to Module 2 or attachment. I forgot what it was called but it was number two which had all of the questions in it with the exception of 30b, which we'll talk about in a couple of minutes. The recommendation is to keep those same questions. Alright.

The next one I've highlighted in blue because it relates to the policy goal above that we talked about, which is that applicants must be able to demonstrate their technical and operational capability to run a registry operation, for the purpose that the applicants sets out – that's from the original, and then we have added, either by submitting it to evaluation at application time or agreeing to use a previously approved technical infrastructure. I think what we mean is either by a previously approved registry services provider, I think is what we mean there if we adopt the RSP program. Hopefully that makes sense.

Steve is posting here, "I wonder if this bullet retained the same questions. It might need a qualifying statement since there is also suggestion to improve the clarity. So, maybe it's about the framework." Yes, Steve. I think that's right. I can't remember what it said in the initial report, but I

think the intention was to keep the same structure of questions, the same topics for the questions, but of course anything we can do to improve the clarity, absolutely. Thanks, Steve. That's a good note.

And then the last high-level agreement for all – for technical and operational evaluations. The technical and operational evaluation may be aggregated and/or consolidated to the maximum extent possible that generate process efficiencies, including instances both where multiple applications are submitted by the same applicant and multiple applications from different applicants share a common technical infrastructure. This is sort of a belt and suspenders kind of recommendation. I think it's meant more to cover the instance where we didn't necessarily adopt an RSP pre-approved program but I think it still could apply, for example, if an applicant says that they are going to do – and I'm making this up. Let's say they say I have 10 validated TLDs. We're going to use the same registry service for all 10 of them. We're also going to use the same validator for all 10 of them. It's going to be the same infrastructure, security, all that kind of thing, then I think this recommendation's basically saying, "Look, you shouldn't necessarily have to evaluate all of them every single time using the same kind of rigor." Once you evaluate everything, assuming all the other applications are alike, you shouldn't necessarily have to do each application over again if they are that similar.

A couple of discussions here on the language to use as opposed to framework. Rubens suggest retain the same substance of the questions and Steve says, "Okay, unless I hear otherwise." I think that covers it. I wouldn't worry at this point about the exact language but to the extent that we can find better language, great. Keep the suggestions coming.

Okay. Now, I think we get a little bit more controversial. Financial evaluation. So, these next high-level agreements are solely with respect to the financial portions of the application and the evaluation. To the extent that it is determined that a Continued Operations Instrument (COI) will be required – which again is still conditional at this point but to the extent that it is required – it should not be part of the Financial Evaluation, but rather should only be required at the time of executing a Registry Agreement.

I think that shouldn't be controversial. Just to go over some of the things that the Work Track talked about. All these people had to go get Continuing Operations Instruments even if they were the ones that never ended up with the top-level domain and some of them had to incur a number of cost that were related to this element just securing it, not to mention the time and the resources. And we had 19,030 applications but only 12,000 or so TLDs that sign, so there's presumably hundreds of COIs that never had to be utilized at all. And so therefore, it just seemed to make sense that as long as part of the Registry Agreement and it's checked before the agreement is signed, if there is a COI required, that seemed to the group to be enough and that it shouldn't have to be submitted for the evaluation.

The second one is that for the financial evaluation to provide further clarity on the proposed financial evaluation model, the following are a sample set of questions of how financials would be evaluated. Question 45, identify whether this financial information is shared with another application. This is to get at the whole efficiencies, argument and making sure that these applications are grouped together and not evaluated in isolation.

46, financial statements audited, certified by an officer with professional duty in applicant jurisdiction to represent financial information correctly or independently certified if not publicly-listed or current registry operator in good standing.

And then the third one question 47, the declaration certified by an officer with professional duty in applicant jurisdiction to represent financial information correctly, independently certified if not publicly-listed or current registry operator in good standing, of financial planning meeting long-term survivability of registry considering stress conditions, such as not achieving revenue goals, exceeding expenses, funding shortfalls or spreading thin within current plus applied-for TLDs and that there should be no other financial questions. So, for those involved in these discussions I think it's safe to say that this subject was probably the most discussed one in – I think it was one of the most discussed ones in Work Track 4. A number of different models were presented and you'll see when we come up to the discussion items below some strangely named models but talked about different ways that financial evaluations could take place.

In the last round, ICANN did ask for business models, how the registry proposed generating revenue to pay for the services. But at the end of the day, ICANN did not evaluate the business models at all. It really just kind of did a cursory look at them to see if they somehow made sense, I guess, but didn't really look into the numbers to test the assumptions and the other elements of the business model. So, if I wanted to run a .neuman and I said that I thought I could sell a billion of them – alright, maybe that's a little lot outlandish. Maybe that would've been so out the ordinary. But let's say I said I could sell 10,000 of them at $1,000 a piece and I put down that my cost would be less than that and I stated a business case that looked semi readable, that that pretty much passed what I can have required. ICANN didn't look at the questions say, "Hmm. Do we really think that the registry can sell 1,000 .neumans?" or whatever I said. It had no way of doing that or assessing it, and so therefore applicants spent a lot of time on questions that really would never scored or evaluated and this was determined by the group to cover the elements that the smaller – the Work Track 4 had though would cover enough for financial evaluations. So, before I get on to the next recommendation, I see Alexander has his hands raise. So, Alexander, please.

ALEXANDER SCHUBERT: Yeah. Hi. You can hear me?

JEFF NEUMAN: Yup.

ALEXANDER SCHUBERT: Okay. Fine. Great. I actually like that question and the test on applicant. My question would be if someone would apply for let's say .oakland as a city and he would have the permission of an Oakland that has let's say 150 people and say, "Well, I'm providing .oakland for those 150 people. I have nothing to do with the Oakland, California." Would that test catch them and say, "I have here 150 people in your Oakland, and you're providing

domains to .oakland, you will never make it. So, would the financial test catch a person that is applying for a city that has whatever, a thousand people or so?

JEFF NEUMAN: I think there's some assumptions in there in your question because you're also assuming that the only funding source is by selling registrations as opposed to maybe the government's paying for that service to be done, or maybe they're doing it out of the charity or however it is. They still have to submit their financials. It still has to be certified, if you look at some of the criteria, by an officer in the local jurisdiction. So, there still some semblance of checking to make sure that this is an entity in good standing, that could at least just being certified by someone independent that they could run these services. And Rubens says to question 47, someone would have certified that the business plan would be feasible.

ALEXANDER SCHUBERT: The average portfolio applicant that would claim they're selling both .oakland domain names to the tiny Oakland was 1500 people, this could be a test where ICANN would say, "Wait a moment, you have 1500 potential [inaudible], how many will buy a domain name? Let's say 20% that's 300 domains. No, you're not going to make the financial [test]. Unless of course this is a person that lives in the tiny Oakland that say, "I'm wealthy and I'm going to finance this." I'm talking about abusers that potentially get generally okay from a very small city and claiming they're providing domains only to the very small city, without the billionaire and the background who's going to finance all of that. So the question was rather, could this be a safe net to prevent that people get the letter of foundation from a very small city claiming they are just serving the small city.

JEFF NEUMAN: I'd like to, if possible, get away from the city example because –

ALEXANDER SCHUBERT: Okay.

JEFF NEUMAN: I think the reason being is that it could be extenuating circumstances and I don't want to touch on issues of sovereignty and all that. So if we can make your example someone wants a .neuman with 1 at the end by the way, Rubens. If they want that and they say that they are going to sell 150 and that's not nearly enough – in your mind anyway – to run a registry. Let's talk about it in that kind of context.

Rubens, are you in the position to talk about the discussions of the group, or is it really just your answer before which was that it needs declarations by someone independent, declaration of an officer with professional duty in the applicant jurisdiction to show that the financial formation is represented correctly, is in good standing, etc.? Rubens is saying someone would have to lie in order to do that. The certification should cover that.

We're also not saying – well maybe you are saying, I don't want to say that. Rubens, do we have in here still a simple credit check could be done but not every jurisdiction you could actually do a credit check, so that was also one of the issues if I'm not mistaken. Of course, this doesn't cover all the other checks that they would do, for example, the background checks of financial … criminal checks and other things.

Okay, Rubens is saying, yeah, that's part of the background check, not the financial evaluation. Okay.

Any other comments or questions on that?

ALEXANDER SCHUBERT: Sorry. It's kind of a follow-up question. If you say that the background check or the certification has to come from a certain jurisdiction, is that jurisdiction of the applicant or the target? I'm going to go back to cities. Someone in the Caribbean and they're

applying for an American city, would the certification have to come from that American city or from the applicant jurisdiction, which is the Caribbean Island?

JEFF NEUMAN: Well, again, geographics have some unique aspects especially if there's going to be a letter of consent or a non-objection is required. So presumably where that is required, that would be the responsibility of the sovereign, I guess. But in the general sense, it's going to be where the applicant is located because that is the only place that could certify to the applicant's compliance with laws and being in good standing. So there'd be no way if you had the U.S. applicant that let's say got permission to target a city for geographic purposes in another country, presumably that other country would – in order to give its consent or non-objection would most likely have to do something like that. But it does say pretty clearly applicant's jurisdiction.

Okay. Then moving on to the next one. We're still in the financial. This is amending Recommendation 8 which states that "Applicants must be able to demonstrate their financial and organizational operational capability in tandem for all currently-owned and applied-for TLDs that would become part of a single registry family."

For the questions above that we just talked about, it's important that applicants give a holistic view of everything that they intend to operate, not just application by application. So if you had a portfolio player that wanted to apply for 300 of them in the future, they're going to have to show the capability to do 300 of them as well as the ones that they may currently already have and for their affiliates, which we'll talk about in a couple of minutes anyway.

Okay, so let's get into a little bit more specifics here on the high-level recommendations. Just to go over what some of the comments either added to new twist to it or in some cases didn't necessarily agree, but because they were high-level agreements, we think these were kind of on the fringe. With respect to publication or clarifying questions and responses, ICANN said that the technical evaluation was performed in tandem with the financial as the two are interrelated. As such, clarifying questions for public parts of the application could reference information in

confidential parts of the application. This may no longer be a consideration – if you look at our preliminary recommendation. However, should the PDP Working Group alter preliminary recommendation 2.7.7.c.13 based on community input from the public comment period, the PDP Working Group may want to consider this potential implication. Additional consideration: If "during the procedure" implies that questions and responses are issued to the applicant, applicants with larger priority numbers will have an advantage of having the "answers" available to them, making the evaluation less meaningful. Applicants that have smaller priority numbers will be disadvantaged.

To tell you the truth, I didn't fully understand why that would be an advantage or disadvantage, or maybe just the risk of getting – if you want that higher priority number, you're going to have less people in front of you to go through the process and therefore, you will have to be one of the first ones. But that is – in my mind anyway – I think that's the quid pro quo. If you want to go first then you're happy about your priority number as being smaller, then you know what, you might have a harder time of clarifying questions because there wouldn't have been this many people that have gone through it before you, but maybe I'm wrong. Does anyone really think that that's an advantage or disadvantage that we should somehow modify things for?

It's like my older brother used to argue. He would say that I had it easier than him because my parents let me do more than he did because they just knew more information. Actually, my older daughter says the same thing about my younger one too. It's sort of easier sometimes on the second one because we've been through everything before.

But on the first part of that where it says the interrelationship between financial and technical, I think we've addressed it but others can weigh in where we say if they are asking for confidential information then it's possible that you wouldn't necessarily have to publish the specific question or you could redact the confidential portion of the question. Or you pose a question because it doesn't refer to anything confidential. But if the answer for something confidential, you redact that part. I think these are all workable but I'd love to hear from – if others feel differently.

Okay. Let's see some agreements. So good. The BC had suggested that it may be helpful to provide financial models and/or tools. Suggests that the system should be able to evaluate applications where the applicant creates a new entity that may not have full multi-year financials.

I think the first part of developing models and tools, if we're no longer evaluating models, it may not need the models but I certainly so think – and I think it was a recommendation somewhere. I don't know why I'm remembering it. But to the extent possible that there are materials that can aid applicants in understanding what it would take to run a registry I think it's certainly a good idea – and I can't remember where that came from, but we may just want to come back to that and see if we can find that elsewhere.

Rubens says he remembers something like that too. Okay, so we'll search for that in light of the BC comment.

The second thing was on improving the clarity of application questions based on the data from 2012 round. This is supported by the registries, precautions against making substantive changes to the questions that would make subsequent procedures incompatible with the 2012 round. I'm not sure if there's anyone that can give us some more information on what would make it incompatible with the last round. If someone's got an example.

Emily is going back to the last one. "I believe the BC comment was in response to the sentence on…" Okay, ICANN won't provide financial models or tools, but it will define goals and publish list of RSP's organizations and consultants.

Alright, jumping back to where we were on the third item, the technical and operational. For Technical and Operational Evaluations, there was an idea in there to not require a full IT/Operations security policy from applicants. This relates to the question 30b that we were talking about above that asked for the complete security plan, which I've got to tell you just from being on the applicant side, that was the most difficult thing for us to send over to ICANN. Because at the end of the day, when you have a security plan, that's a document you don't want anyone to ever see except those that have to certify for ISO or other kinds of compliance. You certainly don't

want to be submitting it through an application system. If anything, that's a type of document we may allow someone to come into your premises and evaluate but not ever take out of the facilities. And ICANN had said in 30b you need to submit the entire thing through this application system. So that made a lot of people very nervous in doing it. This recommendation was supported by not surprisingly by the Registries, Neustar, the BRG. The Registrars, however, and SSAC did not agree with this. Technical and operations evaluations should still be required, especially for applicants that are using an RSP to support dozens of TLDs. That was from the Registrars.

The SSAC stated that full IT/Operations security policy from applicants must be required. The goal of the technical evaluation is for the applicant to demonstrate its expertise and assure the secure and stable operation of the registry.

The GAC also disagreed because security threats should also be considered.

ICANN Org doesn't have an issue with the recommendation from a technical or operational perspective but encourages the working group to consider ICANN's mission to ensure the stable and secure operation of the Internet's unique identifier systems.

So at the end of the day, I think that there's no consensus – I think it doesn't appear to be complete agreement on this particular item. I'm wondering if there is a way where things can still be evaluated but without submitting an entire policy through an application system. Perhaps that's an onsite visit or some other way or limit the policy to only the applicable components. I'm not sure.

Peter says, "Aside from not sharing security policies and processes, security processes are in a constant state of change as new vulnerability risks emerge."

Rubens says that curious someone called a security policy a security threat.

Okay. Perhaps this something we can do some more thinking about. Martin, please.

MARTIN SUTTON: Hi, Jeff. Thanks. Just thinking about that further, a number of corporates do find it extremely troublesome to provide copies of their own internal security policies. So I'm just wondering whether there is a way to look at this quite differently where a certain set of questions specifically asking what do you do have in place, do you have X, do you have Y? So that it becomes a set of questions that inform sufficiently about what levels of policy are in place without actually disclosing the full policy. That's just one idea to think about in terms of specific examples where corporates are often – and rightly so – reluctant to disclose their policies on security.

JEFF NEUMAN: Thanks, Martin. Maybe just adding or taking that and using the SSAC language, perhaps saying that we would encourage an implementation Review Team to find ways for an applicant to demonstrate its expertise and assure the security and stable operation of the registry through means other than supplying the actual security policy.

Your comment is there should be questions that you should be able to get at an applicant's expertise or to demonstrate without actually showing it the policy.

MARTIN SUTTON: Yeah. Sorry, Jeff, just to tag on to the end of that, if there is still some requirements there, it could be an option to do an onsite visit for instance. Again, sometimes you can review a corporate security policy but it needs to be onsite. You can't take it away and they won't send it electronically to a third party. So I think there's different ways that that can be accomplished with the same or even better result than what we have. Thanks.

JEFF NEUMAN: Thanks, Martin. I've certainly from the legal side seen many corporates do a security type audit before entering into a contract with another entity that asks, "Do you have this and that? How do you deal with this? How do you deal with change of control request?" and

a whole series of questions. I'm sure many of you have seen those types of things as well that could be a viable alternative. But I think not being the expert ourselves in this, I think if we encourage an Implementation Review Team to find other ways in which an applicant who demonstrated its expertise and assure – I'm reading their words here – the secure and stable operation of the registry, citing maybe some of the examples we talked about in this call. Does that sound like something we as a group could support?

I believe that would be in line with the SSAC as we're using their language. The registrars I think are a little bit off-topic on this one. The GAC I think it would also address their concerns.

Peter is saying they could pose yes/no questions.

Martin is saying it's a useful approach.

Justin agrees.

Justine is asking how often the policy is activated, reviewed/updated, etc.

Peter is saying a checkbox questionnaire …

Right. I think we can put all these as examples and it's more implementation guidance, but I think what the recommendation is that applicant should not have to send over their entire security policy, which is – it's always amazing to me how an organization dedicated to security is recommending that another organization send over everything it has on its own security. But be that as it may, I think it makes sense for us to acknowledge the importance of security, stability, and assuring that applicants have this knowledge and expertise, but I think we can do it in other ways.

Okay, it seems like, at least on this call, we have some support for that. Going through the financial portion. If COI is required, it should only be required at the time of executing a Registry Agreement. That was the high-level agreement.

Some members of Registries Stakeholder Group did not necessarily agree with that. They believe that a COI is a valuable mechanism to check for good financial operations. Again, that was a few of the stakeholder group members that was not the entire RySG. And ICANN Org has a new idea – requests the working group provide guidance on the challenges associated with the use of Standby Letters of Credit. Credit as discussed in their Implementation Review Report.

So, I'm going to push this one onto – I believe we talked about COIs in another section when we deal with the Legal Agreement and transitioned to delegation. So I think we should put those comments in with that section. I don't think ICANN Org disagrees with the notion of, what if it's a Letter of Credit or COI, whatever it is. We don't think they're disagreeing that it can be done at the time of executing a Registry Agreement. I think that's more in line with just talking about the form of this kind of instrument.

Okay. So on all of the proposed revisions that were often high-level agreement, there was a lot of support expressed for a number of the items. I will note also FairWinds notes, in particular, supports self-certification for single registrant TLDs where domain name sales will not be funding TLD operations. I think that's a common comment, just phrased differently from brands and Valideus similar type of argument. Valideus supported if we look at the above. I think we put in the one set were supported. For the list of all those ABC and D – thanks, Emily. You made me do it – that comes from the initial report and Emily has posted all that text that you see now of what is ABCDE, and so on in that comment.

The Non-Commercial Stakeholder Group does not agree with the self-certification. If the applicant and/or its Officer are bound by law in its jurisdiction to represent its financials accurately. So I think it's okay there with that. But notes that regardless of local law, the applicant has an obligation to prove to the ICANN evaluators that it has the wherewithal to ensure long-term survivability of the registry. States that it is unfair to waive these showings by the largest companies and require them by the smallest. This will result in higher costs for new entrants, smaller entrants, and entrants from the Global South.

Not sure I fully understand that one since the smaller companies are still going to have to endure the higher cost to apply. Because according to this comment, it wants evaluators to make sure that applicants have the wherewithal to ensure the long-term survivability of the registry. So whether you charge the large companies or not, you're still going to have to charge the smaller ones to show, to demonstrate.

Rubens says, "Non-Commercial Stakeholder Group seems to not have noticed that the language says "independently certified". So they all have to get someone independent to certify it, whether large or small, and so they're all going to have to endure those costs.

The SSAC says publicly traded companies must not be exempted from the financial evaluation. The barrier to be publicly traded is very low in some jurisdictions such as "penny stocks" in the United States, and such companies do not "undergo extensive ... screenings." For example, in the USA, not all public companies are subject to the SEC's reporting requirements. Exemptions should not be extended to, "officers, directors, material shareholders, etc. of these companies," all of whom should be subject to background screening. No applicant should be allowed to self-certify that it has the financial means to support its proposed business model. None of the proposed reasons to allow self-certification provide surety. There is great variance in requirements from jurisdiction to jurisdiction and they provide no reasonable baseline that can replace due diligence during ICANN's evaluation process.

Any thoughts on that? I'm not sure if penny stocks were included in the public company. I think it had to be one of the major indices. So I'm not sure that the SSAC interpreted that waiver or exemption correctly. They may have to go back or if someone else knows off the top of their head, but I did not think that simply being a penny stock or doing one filing will get you that certification. We'll have to go back to those requirements, but I disagree with the – just from taking off my Chair's hat, putting on my lawyer's hat that's worked with public companies and advised public companies, I can tell you that the financial scrutiny that public companies have to go through is exponentially higher than what ICANN or its financial evaluators are able to do.

Emily has posted the requirement, but we'll go back and we'll research that a little bit more. I'm not sure that the SSAC comment is correct perfectly. But if it is then we'll go back and make sure that we're talking about the right kinds of jurisdictions.

Anne says, "Publicly traded company means different things in different jurisdictions." That is correct. But there were in the Applicant Guidebook some – it didn't just say publicly traded companies – period. It did have some kind of criteria in there. Before we jump to certain assumptions, let's park that one and make sure – as Jim said, come back to it if it's something different.

ICANN does note that the third-party certification could be an appropriate mechanism to "demonstrate" that the applicant meets these goals, but it's unclear how self-certification would allow the applicant to "demonstrate" meeting these goals as self-certification by definition does not require the applicant to make any demonstrations.

Also, it does not take into consideration the independent auditor or independent certification that's required in there.

Alright, Trang then clarifies that it's companies traded in the top 20 exchanges. We'll have to go back and look why they picked the top 20 exchanges. My assumption is they did that because they were fairly confident that those top 20 exchanges all did the financial scrutiny that ICANN was concerned with at the time. So let's just go back and maybe we can get that answer just looking in the past documentation.

The registry comment – Some registry members support replacing the current financial submission by an affidavit with requirements similar to the business planning questions, like having an obligation to represent financial information truthfully. But other members had some concerns about that approach.

There was a recommendation to include affiliates of publicly traded corporations and with the notion of publicly traded corporations being having certain exemptions. This makes sense from a

law against speaking at least for the major indices in the U.S., and I know in the UK that when you apply to go public, you have to have all of your subsidiaries get evaluated as well. So I think that including affiliates should not be an issue especially because there are a lot of entities that use affiliates to apply for these TLDs for liability reasons.

Trang has her hand up. Trang, please.

TRANG NGUYEN: Hi, Jeff. I'm sorry. It seems that we're going through the background screening section but the comment that you just read out from ICANN Org is actually in relation to the financial evaluation, so I will lower my hand and wait until we get to that section.

JEFF NEUMAN: Okay. Thanks, Trang. Please raise your hand again so I – I don't know why I raised my hand though. Just raise your hand again when we get there, please.

Valideus generally supports the exception of inclusion of registry operators in good standing and it lists the other comments it has with what it supports in there. So that's just support for those exceptions.

Now, we did supply models in the initial report to show how if we did want business models to continue to be evaluated which doesn't look like we're leaning that way. We then said, "If you want models to be evaluated then these are the different financial evaluation models that could be evaluated." I'm not going to go over the Registries Stakeholder Group divergence on one of the models because I don't think we're moving in that direction. But of course, if that does change, we'll certainly look back at the comments on that model.

Alright, then going down to the next one. I think we're going to end after this one simply because I think registry services are pretty complex subject so … and Trang has got her hand up now, so let me go to Trang.

TRANG NGUYEN: Thanks, Jeff.   There had been some comments that you read out with regards to certification for the financial aspect of the application. I just went back and took another look at the preliminary report, and in fact the preliminary recommendations that were in that report provided for the option to either self-certify or submit a certification via third party. It was mainly the self-certification option that we had some concerns about. And in particular, the concern is that – you know, you are correct that ICANN Org did not evaluate business models, meaning we did not try to assess whether or not a particular TLD could have X number of registrations. That was not something that we assessed. However, part of the financial evaluation is to ensure that the applicant understood what it took to run a TLD. And what that means is what it took for them to technically run the TLD from an infrastructure perspective and then how much it cost for the applicant to support that type of infrastructure to achieve the desired registration volume. That is the evaluation that was done and the self-certification does not allow that type of evaluation so it will be a different kind of evaluation if the PDP Working Group suggests self-certification for financial evaluation.

To explain that a little bit more, for example, if you intend on achieving a million registrations in your first year, certainly the marketing plan has something to do with it but in order to support a million registrations, you have to have a particular technical infrastructure in place. Does the applicant understand what to build but also how much it would cost for them to support that infrastructure and do they have the money to support that infrastructure in order to achieve that one million registrations.

A key part of it was really trying to make sure that the applicant understood what it takes to run this TLD. So I just wanted to bring that up as background for why we raised the concern that we did for the self-certification of the financial aspect of the application. Thank you.

JEFF NEUMAN: Thanks, Trang. Just to clarify, the high-level agreement part, we have high-level agreement that financial statements audited, certified by an officer with the professional duty in applicant jurisdiction to represent financial information, etc. That is a high-level agreement on the financials itself. The only part we have self-certification on is the business model itself. Not on the whole financial evaluation, Rubens. I don't know if I got that correct.

On the business model itself, Trang, you're saying that a self-certification should not be enough, but I'm a little lost because we're just on the question of people could say whatever they wanted in that section on the business model, and ICANN didn't evaluate it. So what's the difference of someone certifying that their business model makes sense and then putting that model in there, and then not scoring it? I mean what's the difference between what we're saying and what you're saying?

TRANG NGUYEN: Jeff, may I?

JEFF NEUMAN: Yeah. Please, yes. I'm sorry, yah, absolutely.

TRANG NGUYEN: Thank you. Thank you for that clarification. It sounds to me like there's no change from what was done last round which was that ICANN Org did not evaluate what the business model is. So if the self-certification that is applicable just to the business model, meaning this is how the TLD is going to be used, this is how many registration the applicant is intending to achieve. In the first year, second year, third year that's fine. What the evaluation does is the evaluation take that at its face value, the self-certification of the business model takes that at face value, and then make sure that the rest of the application makes sense.

For example, if the applicant says they're going to achieve a million registrations in the first year, they're going to have three gold-plated servers around the world in order to support that million registrations, but they only have $100,000 in the bank for everything, including $80,000 that they plan to spend on marketing. Obviously, that's not enough to support three gold-plated servers.

That's the type of evaluation that's done. It's above and beyond just looking at the financial statements as you recall the financial section of the application that did include five different questions. Only one of which was about the financial statement. I hope that clarifies it. Thank you.

JEFF NEUMAN: Yeah. I think it does for me, Trang. And I asked Rubens to confirm and that's his recollection as well. So yes, it's the self-certification is only on the business model. So it's really just confirming the practice that ICANN did in the last round except it's adding that element of having an officer certify that they believe the model is appropriate and can support the TLD. So we're still getting the financials and still having that independently audited, etc. But it's now confirmed that ICANN is not going to be evaluating the business model per se.

Okay. I think this is a good place to stop. We're going to take over from registry services going forward. In order to do this section, I'd really love it if you all can read a schedule. We'll send it around with the agenda, but essentially in Exhibit A or Appendix A – I forgot what it's called exactly – on registry services to see exactly what we're talking about and how we're distinguishing between registry services that could be pre-approved versus those that would have to go through a services evaluation panel.

I know it can get very confusing but I read the comments a couple of times and it seems to me that while the comments made a lot of sense, I don't think the comments really understood what we were saying needed to be evaluated and what didn't and why. We'll put that in the agenda. Exhibit A. Please read it. Come prepared to talk about that and we'll start there. We will get into the next section as well.

Thanks, everyone. We will talk to you on Thursday. If someone can just post the time on there, Thursday, the 5th at 03:00. Wow, nice early one. For many of you that's 30 hours from now. For all of you, that's 30 hours from now.

CHERYL LANGDON-ORR: Not that we're counting, eh Jim.

JEFF NEUMAN: So, for many of you, it could be late Wednesday night. So please do look at the calendar. We'll talk to you then. Thanks, everyone.

CHERYL LANGDON-ORR: Bye for now.

ANDREA GLANDON: Thank you. This concludes today's conference. Please remember to disconnect all lines and have a wonderful rest of your day.

[END OF TRANSCRIPTION]