
ICANN Transcription
GNSO New gTLD Subsequent Procedures Working Group
Tuesday, 02 June 2020 at 03:00 UTC

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JULIE BISLAND:

Good morning, good afternoon, and good evening. Welcome to the new gTLD Subsequent Procedures Working Group call on Tuesday the 2nd of June, 2020. In the interest of time, there will be no roll call. Attendance will be taken by the Zoom room. If you're only on the audio bridge, could you please let yourself be known now?

Hearing no names, I would like to remind all participants to please state your name before speaking for transcription purposes and please keep your phones and microphones on mute when not speaking to avoid background noise.

As a reminder, those who take part in ICANN multistakeholder process are to comply with the expected standards of behavior. With this, I will turn it back over to Jeff Neuman. You can begin, Jeff.

JEFFREY NEUMAN:

Thank you very much, Julie. Welcome, everyone. I hope everyone is having a good week so far. I know that these are trying times and hopefully everyone is staying safe. Today, our main topics are going to be to finish up the "can't live with" comments on packages one

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through three, and then to get into a discussion of the category one verified TLDs. That's in section 2.3.2 of the registry commitment and public interest commitment section.

If we have time, we'll get into a little bit of the DNS abuse section, as well. But before we do that, let me just ask to see if there are any updates to any statements of interest. Okay. Not seeing any, so that's good.

Let me also just start off by saying that I did notice that the ICANN schedule for the ICANN68 virtual meeting is now out, and I just want to remind or call out, actually, that we are scheduled to have one session during the official ICANN meeting time at ... I believe it's 00:30 UTC time on ... I want to say Monday, which I think is like 8:30 AM local time. So, I think I think it's Monday, not Tuesday.

Actually, I just had it up, so let me just quickly confirm that before ... It is June 23rd at 00:30 UTC, which is, yes, Monday. Well, Monday for some, I should say. It will be Tuesday for many. Actually, UTC time, it's Tuesday. For those in the United States, it will be Monday.

Okay. We'll talk a little bit more about that section as we get closer to the meeting and can really figure out where we are in relation to the draft final report. Any questions on that right now before we start on the "can't live with" comments, which I will ask ICANN to both publish or put in the chat the link as well as bringing that material up. Okay. Not seeing any comments.

So, we're going to start, actually, above where it's at at this point. We're going to start at the last set of comments on the

recommendations for ICANN fees. And so, just to recap the discussion we had on Thursday last week, we were discussing whether or not to keep what we had as implementation guidance with rationale four as implementation guidance or as a recommendation. It seemed to us that the group really, on the call, favored moving it to a recommendation-type language, which meant changing the “should” to a “must.”

But we also added some text to make it clear. I think that one concern that some of us had with making this a hard-and-fast recommendation was that, the way it was previously worded, there were only four particular areas that the money could go toward if there are any excess fees an application four used.

Without some sort of catch-all, in the end it seemed very limiting. So, when we went back, some of us on the leadership team thought it would be a good idea to both move it to a recommendation where there is “must” language but also indicate that there may be other purposes that benefit the new gTLD program that we didn’t list out in A through D in what was the implementation guidance.

So, we think this works but do want to leave it for the group to discuss. So, it becomes the recommendation uses the “must,” but then, also, how some discretion to use it in connection with the new gTLD program, that may not fit in the categories A through D in that list. Alan, go ahead.

ALAN GREENBERG: Thank you. I didn’t participate in that decision and, should I have, I wouldn’t have agreed with it. But given that you have now decided

that and as, presumably, it's irreversible, there is the potential for a very large amount of money to be stuck in this category and not really be usable.

I really think you need some level of exception or something because, ultimately, the board can use whatever money it wants for whatever it wants. The GNSO cannot dictate financial policy to ICANN. So, I'm not quite sure you have the authority to say "must," in any case. But regardless, there is the potential for ending up in a situation which is not desirable.

JEFFREY NEUMAN: Okay. Thanks, Alan. Now remember, these are not auction fees or anything like that. They're fees—

ALAN GREENBERG: I understand what we're talking about.

JEFFREY NEUMAN: Right. Okay, good. Okay. I just wanted to clarify that if others on the call, maybe, weren't following that, as well.

ALAN GREENBERG: Yeah. We're not talking about hundreds of millions of dollars per application but we don't have a clue how many applications there will be, and, should the minimum fee be used, there could be very significant amounts of money put into this program.

JEFFREY NEUMAN: Right. Yep. Thanks, Alan.

ALAN GREENBERG: When you look at the total revenue from the 2012 round—not revenue, but income—it was a big pile of money.

JEFFREY NEUMAN: Yeah. Thanks, Alan. Yeah, and we still have, I think ... Well, I can't remember what it was at last count. I think it was somewhere around 70 million if the fees were kept at \$185,000 from that existing round. So, you are right. It can be substantial. I think—

ALAN GREENBERG: And on top of that, as I said, I'm not sure you have the authority to do it, anyway.

JEFFREY NEUMAN: Right. So, I think section E ... And Heather says this in her comment. I think the addition of E gives ICANN some flexibility without being unreasonably demanding. Yeah. So again, you are right in the sense that we can use this “must” language – at the end of the day, it's ICANN's decision. But hopefully, we would ask that ICANN make this commitment up-front to agree with this recommendation.

Remember, our real recommendation in this whole program is to make it cost-neutral, but realizing that that may lower the costs—or, sorry, the fees—to file an application, so low that it may

encourage some undesirable behavior. That's why we're setting a floor in the first place.

So, it's not the first choice for there to be excess funds. The community is not choosing to have excess funds. The only reason we're having excess funds is a realization or some sort of protective measure to not have some of the undesirable behavior. And that, as Alan is saying, strongly supports the floor. Right. Okay.

And Heather states, as well, "It's entirely reasonable for the applicant to apply on the basis of understanding in advance how the application fee is spent." Right. Yeah. So, any other comments or questions on that one? Okay.

Then, if we can move onto the next one? Which, if you can scroll down ... And I believe Steve may be doing double-duty on this one, again, helping to take notes and running the screen. So, this is in the deliberation section that talks about the communications window.

This is a suggestion which, actually, I think is very helpful. It's from Kathy. It really only changes one word in the previous sentence. So, it adds the word "ICANN's" in front of "communication." So, the only change is, basically, making it clear that it's ICANN's communication and outreach efforts, which I think would be the intent, anyway, but I think it's good to make it clear that this is the responsibility of ICANN as opposed to any other party. So, if that's acceptable to the group? Let me just take a second to see if there are any questions, comments. Nope.

Okay. So then, let's move onto the next one. Oh, Emily is taking the notes here. Good. Oh, wait. No, Steve, I can't even tell who's making it. It's under Emily's comment. Oh, Steve is. Okay. Thanks. Thanks, Steve.

Okay. Now we get into the terms and conditions. This section, the first "can't live with" comment, I believe, may have a substantive impact, if I'm reading it correctly. So, this was suggested by Anne Aikman-Scalese. What we have in there is the previous sentence. It says, "Unless required under specific laws or ICANN bylaws, ICANN must only reject the application if done so in accordance with the provisions of the Applicant Guidebook."

What Anne is proposing to add are the words "or as the board determines in the exercise of its fiduciary duties as contemplated in the ICANN bylaws. So, when I read this, to me, it changes the meaning. What it does is ... We were specific and narrowed this down to, "If ICANN is required under its bylaws to reject an application, it should do so."

But this new language changes the meaning to, "If ICANN, in exercising its fiduciary duties as contemplated in the ICANN bylaws," to me creates a situation where ICANN, essentially, as long as it could tie its rejection to the exercise of its fiduciary duties, it could reject it, which, when I read it, seemed to me to open up a huge loophole to, basically, give the ICANN Board complete discretion to reject an application for any reason it sees fit in exercising its fiduciary duties.

But I would love for comments. I know Paul's on the call and Paul is heavily involved in the previous discussions on this issue. I'm just

kind of curious to see if I'm over-reading that or what I said makes sense. So, I'm having silence, here. Oh, Paul, go ahead. Good. Thanks.

PAUL MCGRADY:

Thanks, Jeff. I was actually trying to see if I can go a whole call without saying much, but since you called me out I'm happy to. I agree with you. I don't know what this means. I knew what it meant before the change.

But now, it seems like the board can just say, "Gee whiz, letting this application go through would violate our fiduciary duties," wouldn't have to justify it. It basically gives the board a chance to rewrite the guidebook as it sees fit after the fact, after all the applications have gone through, evaluations. Even all the way through auctions and everything else.

I think it would be very hard to challenge whatever the board did after the fact. So, maybe there's a way to get it and what it's trying to get at, with this, to make it more narrow. But the way it's written now, you're right, it's a bit of a big loophole. Thanks.

JEFFREY NEUMAN:

Yeah. Thanks, Paul. I see Alan's hand up but, Anne, do you want to maybe give a little bit more rationale? And maybe I misinterpreted it. But if you could? I don't want to force you to speak but it would be really helpful.

ANNE AIKMAN-SCALESE: Oh, yeah. Thanks, Jeff. I'll say something very brief and then just defer to Alan. It's similar to Alan's earlier comment about what the community can and cannot do in order to force the ICANN Board to do these "must" things.

All these directors have fiduciary duties and I think, whether or not this language is in here, the board is going to act in accordance with its own fiduciary duties and each director will do so regardless of what we say.

I think, unfortunately, the way it's phrased now, it just risks board rejection of the recommendation as being too restrictive on the board's fiduciary duties. But if you guys want to try that ... I don't have a dog in the fight but I'll defer to Alan.

JEFFREY NEUMAN: Yeah. Thanks, Anne. Alan, go ahead.

ALAN GREENBERG: Yeah. Thank you. I guess I agree with what Anne just said. I'll tell you why I put my hand up in a second, but fiduciary duties essentially say they have to think about the wellbeing of ICANN and they shouldn't do anything which is against that.

And if the board indeed, as a group, believes that, allowing a specific application to go through, it would be harmful to ICANN, then I don't see how you can stop them from doing that. That is, indeed, their duty as a board, to make sure, and I don't think you can actually tie their hands and not allow them to do that. So, I think I agree with Anne that it's there implicitly, whether we like it or not.

I put my hand up, however, to ask you to give a couple of examples of how the board could claim something is not in ICANN's interest. It would have to give some level of rationale, and I'm not quite sure where the openings are to allow it to misuse this power. So, I guess I'm having a hard time visualizing. You say it opens a barn door and can let anything in. I'm having trouble visualizing any examples. So, can we ... Something in between?

JEFFREY NEUMAN:

Sure. Yeah. So, let me give you an example. So, the board exercising its fiduciary duties. So, in general corporate law, including non-profit law, you have a duty to act in good faith, and as long as a board acts in good faith then there is no breach of fiduciary duty.

So, what this added language says is, as long as the board has a conversation and acts in good faith, they could pretty much claim that any application could be rejected for, basically, whatever reason it wants, so long as it's acting in good faith.

That is very different than saying, "Hey, look. If there's an application that's applied for." Okay, I'll make up an example. So, let's say it is an alternate route. So, let's say it's legitimizing, for whatever reason, an alternate route in an application.

That could be something that could violate the ICANN bylaws because that may legitimize or may go against the one authoritative route. I'm making that up. But it's very limited as to what ICANN could reject an application for that's in addition to what's in the guidebook. But ICANN could ... Let's give another easy example.

So, let's say there's a dot ... I mean, there were plenty of examples from the 2012 round that ICANN, as a board, rejected in exercising its fiduciary duties but would not be considered a violation of the bylaws.

I think that's what we're trying to protect against, so that applicants know the board can't just willy-nilly reject an application simply because it acts in good faith and doesn't want a TLD. So, you could think of lots of examples. Let's say that there is a potential, by rejecting it, there could be a free speech issue, but ICANN may think it's best, in their sole discretion, exercising their fiduciary duty – that it causes too much controversy and, therefore, they should reject it because they don't want governments mad at it.

That may be best for the corporation but that may not be something that is not something that's disallowed under the bylaws. Paul, maybe you can help. Well, you had your hand up, but I was hoping maybe you could help, and probably explain it better than I did. So, Paul, if you can go ahead? And then I'll get to Christopher, and then Anne.

PAUL MCGRADY:

Sure. Jeff, I think you did a fine job explaining it. I'm not a California lawyer but the fiduciary duties of California non-profits, I did a quick little look. Duty of care, right? So, that's part of this. Of course, there's an entire community-based policy development process going on, here. The board ultimately votes yes or no on those outcomes.

So, to simply say that the board can punt its duty of care until the end and then do chunks of the Applicant Guidebook not only is unfair to applicants but, actually, I think, is contrary to the multi-stakeholder model because, ultimately, if the guidebook doesn't matter and it's just going to be, essentially, who can get ahold of the board at the last minute, then we're not spending our time well.

Walking hand in hand in that is a duty of inquiry where board members have to be aware of what's going on and make reasonable inquiries that a prudent person would make. So, in other words, they have to aware. They can't ignore suspicious things or not read the board packet containing the draft Applicant Guidebook and vote on it anyways. So, they've got to do that.

A duty of loyalty, right? So, they have to advance the organization's charitable purposes. In this case, it's the charitable purposes of ICANN or the multi-stakeholder model of policy development. And so, again, being able to have the ability to reverse course at the last minute, due to political pressure or whatever, is inconsistent with ICANN's own mission.

And then, there's a fourth duty to follow investment standards which don't quite fit here. So, I don't want to overstate it but we do definitely want the board interested in this, but we're not going to do ourselves any favor if we [bake them] a loophole.

Since those who are proponent to this say it's implied anyway, then let's just go forward with the idea that this says what it says, and if there's more power to the board that's implied somewhere we can argue about that later, in the event the board decides to exercise its

implied power in a way that's inconsistent with what the community has come up with. Thanks.

JEFFREY NEUMAN:

Yeah. Thanks, Paul. As usual, you did a better job. And then, while you were speaking, I thought of the, let's say, "XXX" example. So, let's say it hadn't been applied for. ICANN could be acting and exercising its fiduciary duties by saying, "You know what? Approving this TLD, this adult TLD, would make us look bad, and therefore, we should be able to reject it," and with a loophole they could, without the loophole of this language, though, the applicant would argue that it is not prohibited under the bylaws and it's not an XXX-type thing. It's not prohibited by the Applicant Guidebook, and therefore, you couldn't do it.

So, that's a clear example of where ICANN could exercise its fiduciary duties in good faith but still go against what's in the guidebook and take an action that's not prohibited in the bylaws. Thanks. So, let me go to Christopher, then Anne, Kathy, and Alan.

CHRISTOPHER WILKINSON:

Good morning, everybody. I usually avoid speaking at half-past five in the morning, just in case I make mistakes. I'm not going to enter into the legal argument but, on balance, I would support something like this amendment. Basically, I trust the board better than I trust the Applicant Guidebook, for reasons which I've explained on many occasions on PDP, so I don't wish to go into it at this time. So, my consideration is thus. Thank you.

JEFFREY NEUMAN: Thanks, Christopher. Anne, and then Kathy.

ANNE AIKMAN-SCALESE: Hi, Jeff, it's Anne. Yeah. [inaudible], sorry. I guess one of the big concerns here is just the practical concern that, sometimes, when you overstate your case, you don't really end up with the result you're looking for. And I think that, without some kind of reference to the board having the ability to exercise its fiduciary duty, you're going to get this returned to you, as I said before.

But as Heather notes, hopefully the board is going to act according to its fiduciary duty. I'm a little confused about what it is about the bylaws that would require rejection of an application. What exactly does that mean? What would be an example of something in the bylaws that required the board to reject an application?

JEFFREY NEUMAN: Yeah. Thanks, Anne. It's a great question, one that I've not been able to come up with an example. The original recommendation, way, way back said, unless required under specific laws or the Applicant Guidebook, ICANN ... Sorry, it only had the specific laws and it didn't have ICANN bylaws. I do not recall who insisted on having the ICANN bylaws in there but I think, as that compromise, that was agreed to by the group.

So, this sentence is really a hodge-podge of the original recommendation way back when, and then adding the ICANN bylaws to it. Sorry. I don't know an example that would. So, Anne, I don't know if you have a follow-up?

ANNE AIKMAN-SCALESE: I guess, yeah. It's just my suggestion that folks develop some language that the board can actually accept. I don't see them accepting this, but I'll just go onto the next person.

JEFFREY NEUMAN: Yeah, thanks. Okay. Alan, then ... Sorry. Kathy was in the queue.

KATHY KLEIMAN: I'm back in the queue, Jeff.

JEFFREY NEUMAN: Okay. All right. I'll go to Alan and, Paul, if you don't mind, I'll go to Kathy first and I'll come back to you. So, Alan first, then Kathy, then Paul.

ALAN GREENBERG: Yeah. Thank you. I'm not sure that that rejection of applications that would cause name collisions, or could have caused name collisions, could have been rejected if this was in force and actually honored.

So, I'm really worried that we're saying this Applicant Guidebook has to be sacred. But stuff happens and I don't think we can prohibit the board from trying to take action, and I'm not sure the name collision, although it is potentially endangering this ability of the DNS, is against the bylaw. Certainly, not against the law.

So, I think we need to be really careful, here. As much as we want to protect the applicants, we need to protect the overall environment, that ecosystem that we're looking at, also. So, I'm not very comfortable with the recommendation as it was written before this change.

I think this change fixes it because, you're right, it does give the board pretty wide discretion to stop bad things from happening. You may be right – it may stop good things from happening. But I'm more worried about making sure we have the tools to stop the bad things. Thank you.

JEFFREY NEUMAN:

Yes. Thanks, Alan. There are plenty of reasons within the guidebook that ICANN could deny or reject an application, which includes security and stability rationale, as well. So, it's not as if this is the only thing that ICANN could reject an application for.

It's not like we're saying unless there's a law that violates another bylaw, you can't reject an application. No. What we're saying is you follow the Applicant Guidebook, which provides plenty of reasons to reject it, and the only thing above and beyond that is specific laws or ICANN bylaws.

Well, remember, the original terms and conditions said, "ICANN can reject an application for any reason whatsoever," and that's what we're trying to drill down on, that not only were ... All of the comments, or most of the comments, that we go back said that they were not satisfied with the complete discretion for ICANN to reject

an application for any reason whatsoever, which is what the old terms and conditions stated. I'll go to Kathy, and then Paul.

KATHY KLEIMAN: Hi, Jeff. I had a question first, and then probably a comment. So, I'm trying to figure out—and I've been following the discussion on this since we started—is the language in bold the original language, or, “As the law determines in the exercise of its fiduciary duties as contemplated in the ICANN bylaws”? I'm a little confused. Is that the language that we're trying to take out or trying to edit, or is that an edited version? Thanks.

JEFFREY NEUMAN: So, the version that was accepted by the group was the first sentence, not the highlighted part. Anne is proposing the addition of that language, “Or as the board determines.” She said she couldn't live with that language.

So, the standard we really need to accept re Anne's suggestion is pretty much a consent, so this group agreeing, with that new language. So, I'm not hearing that at this point. I'm hearing a couple of people speak out in favor of it but I'm not hearing a diverse group that want to or think that the language should be changed.

KATHY KLEIMAN: Okay. Thanks.

JEFFREY NEUMAN: Go, Kathy. Yeah.

KATHY KLEIMAN: Yeah. So, I'm going to add my voice to those speaking in favor of Anne's language. Fiduciary responsibilities include the duty of loyalty, as well as the duty of care. As you've told us many times—and I think, here, I'm echoing Alan—we're setting up rules not just for one round but for many rounds to come.

There are a lot of things we can't envision. If all goes well, these rules will be going on for a long time, but we certainly couldn't have envisioned the pandemic that we're living in. Also, it was said that board members can review the Applicant Guidebook, and understand it, and work with it. But the board is going to change, the laws are going to change, as is noted here, and circumstances will change.

And the board operates not just for its own interest but for the benefit of the Internet community as a whole, and that's in the bylaws. So, I think it's important to specify what's actually true, that the board will be exercising its fiduciary duties, as indeed it must, and that we're really not smart enough to have envisioned everything. There will be things that we can't. We have to leave some room for that. Thanks.

JEFFREY NEUMAN: Yeah, thanks. And I think without the language it is an implied duty, that they do have implied fiduciary duty. But the very difference in what we're saying here ... What we're saying here, or the added language, is not only saying that there's an implied fiduciary duty. It's saying that, basically, ICANN could exercise any fiduciary duty

by just discussing the issue. Basically, for any reason it can reject the application. So, I worry about—

KATHY KLEIMAN: I'm not seeing that, Jeff.

JEFFREY NEUMAN: I worry about free speech. I worry about controversial applications, maybe like a .gay-type thing in a future round. That's what I worry about. Oh, Paul, go ahead.

PAUL MCGRADY: Thanks. I guess one question, and then a comment. I'll start with a comment, which is that in relationship to introducing the new gTLD program, the bylaws enshrine the multistakeholder process, not board decision in the last minute [fee-up] process.

Under core values, number four, "Introducing and promoting competition in the registration of domain names where practical and beneficial to the public interest, is defined through the bottom-up multistakeholder Policy Development Process. So, again, trying to create a loophole the circumvents the core value, I think, is very troubling.

And then, I guess my question is ... And let's see if I can figure how to get the Zoom window back. Here we go. My question is, for those who are proposing this additional clause, what fiduciary duties exist that are not required under specific laws? There are specific laws

governing the board's activity as a California Public Benefit Corporation. So we have "unless required under specific laws."

So, where do the fiduciary duties of the next clause come from, if not under specific laws? I guess that's my question, because I think what we're doing here is we're saying it twice, and in an attempt to say it twice we're saying it the second time imprecisely, and that's where the loophole problems come from, especially in an environment where it's already settled in the bylaws itself that the registration of domain names is going to be worked out by the community through a bottom-up process, not a top-down one from the board. Thanks.

JEFFREY NEUMAN:

Yeah. Thanks, Paul. I think the major problem is the words "in the exercise of its fiduciary duties." The verb there, I think, is what's adding the huge loophole. If you were to say that its fiduciary duty requires rejection, that would be one thing.

But saying that you want the board to determine through exercising its fiduciary duties, which is only the duty to meet, confirm good faith, and, as Paul said, make a reasonable decision, not necessarily the right decision, but a reasonable decision, that's exercising your fiduciary duties.

So, if the group wants the words "fiduciary duties" in there, I'd be perhaps saying something like, "Unless required under specific laws or required by the board's fiduciary duties." That's different than saying, "If the board determines in exercising its fiduciary duties."

So, that's where the real problem lies. If approving an application violates a fiduciary duty, that's implied anyway. And as Paul said, that's in accord with the laws. Very different than saying "exercising fiduciary duties." It's a huge loophole. Go ahead. I don't know if Anne's hand is new, but Alan is in the queue. So, Alan, go ahead.

ALAN GREENBERG:

Thank you. I'm really troubled if we're putting in words that mean we think that if it's not in the Applicant Guidebook the board cannot do it. Now, based on what Jeff just said, maybe there is an implicit escape for ICANN, anyway, but that sounds like, if they're using an implicit escape which is outside of the words in the bylaws, then it's going to be challenged up the yahoo and that's not what we're looking for.

We are just not prescient enough to think of all the right things. I'm reminded of the recent U.S. Supreme Court decision saying the California courts can limit some religious things, citing an old line from a previous Supreme Court justice saying the constitution should not be a suicide pact.

The words were written. We didn't always know what they were going to mean in the current situation, and we have to be able to interpret it. In this case, the board is the Supreme Court and they need to be given latitude to make decisions which are for the good of the corporation and for the good of the Internet, even if the Applicant Guidebook didn't foresee it.

So, I'm not going to be a legal expert and tell you what the words should be to do this. We have enough lawyers in this group, including you and Anne. But I really think we need escape clauses here, and if we believe the Applicant Guidebook has to be sacred then I think we are putting our head in the ground. Thank you. And if this coronavirus problem that we're having, that nobody could have visualized what it would do to the world, is not the example that we're not all that prescient, I don't know what is. Thank you.

JEFFREY NEUMAN:

Yeah. Thanks, Alan. I will again note for the record that the community did not support the board having the authority to reject and application for any reasons whatsoever. So, I don't think we can put that in there. Certainly, I think that comments can be filed to that, but we can't generate a draft final report that goes against what the community comments and our initial recommendation in the initial report was. I don't see how we can do that. So, go ahead. And again, Anne, I'm sorry. I don't know if that's an old hand.

ANNE AIKMAN-SCALESE:

Yeah, Jeff. [inaudible] just say again what your proposed compromised language was. I mean, I'm not sure that I would call fiduciary duty references a loophole, but I wanted to try to understand better exactly the language that you were submitting and whether that would help us to get past this, because you have a number of people commenting.

JEFFREY NEUMAN: Something like, “Unless required under specific laws or by ICANN’s fiduciary duties.”

ANNE AIKMAN-SCALESE: Okay.

JEFFREY NEUMAN: Maybe “as set forth in the ICANN bylaws,” so we don’t lose that.

ANNE AIKMAN-SCALESE: Okay.

KATHY KLEIMAN: Jeff [cross talk].

JEFFREY NEUMAN: Hold on. Yeah. Let me just get that written in, Kathy, and then I’ll go to you. Sorry. And then you would cross out up to the comma. So, that would be a potential. Christopher, go ahead.

CHRISTOPHER WILKINSON: Thank you, Jeff. Just to say that I’m with Alan on this one and, personally, I find the repeated use of the word “loophole” pejorative. This is not a loophole, it’s a statement of the obvious. There are elements of the Applicant Guidebook which are being supported by some members which are anti-competitive, and there are obligations in the bylaws to be pro-competitive. I rest my case. Thank you.

JEFFREY NEUMAN: Thanks, Christopher. But remember, if it violates the bylaws by being anti-competitive, then they already have that without the words “fiduciary duties,” so that wouldn’t be needed. Paul, go ahead, and then Kathy.

CHRISTOPHER WILKINSON: Jeff, a little more neutrality from the chair. Let’s exclude the word “loophole.” Thank you.

JEFFREY NEUMAN: Fair enough. I will not use the word “loophole” but I will say that the original language said if something’s prohibited by the ICANN bylaws they can reject it. Okay. Go ahead, Paul.

PAUL MCGRADY: Thanks. So, I think it’s a bit ironic in that, as Anne indicates, she thinks if we don’t make this kind of change the board will send it back, and presumably the board will be operating under its fiduciary duties when it reads the Applicant Guidebook and when it sends it back if there was a problem. So, I think we’re kind of worried about nothing.

But to Jeff’s point in terms of compromised language, I don’t think “or by the ICANN Board’s fiduciary duties” makes any sense because fiduciary duties don’t exist in a vacuum apart from specific laws. There are specific California laws that fiduciary duties.

But I could see, “Unless required under specific laws, for example the ICANN Board’s fiduciary duties, ICANN must only reject an application ...” If we want to call out fiduciary duties as part of specific laws that way, that makes sense, but putting in “or by the ICANN Board’s fiduciary duties” seems to imply that those exist outside of specific laws, which they don’t. Thanks.

JEFFREY NEUMAN:

Yeah. Thanks, Paul. I think you’re right. Yeah, it could be, “Unless required under specific laws, including the ICANN Board’s fiduciary duties,” something like that instead of an “or.” I think you’re right. That’s what happens when you create language on the fly. Kathy, go ahead.

KATHY KLEIMAN:

Yeah. Let’s not take out that language yet, please, because I don’t think that’s right. “Unless required under specific laws,” I think, referred to when we ... Can we go back to the original language? It’s really hard to work when we’re editing the very language that we’re talking about. I’ll wait. Okay. “Under specific laws” can also mean laws, treaties, international laws. We’re not just referring to California laws and the laws of fiduciary responsibility, here.

So, “specific laws” is one term. I think “or by ICANN Board’s fiduciary duties” is another set of rules and guidance that is not a subset or all-consuming of specific laws. I think those words make sense. It’s not a subset, it’s not an example. I think to capture what Anne was doing you have to keep “or by the,” or something else that shows that these are separate things. Thanks.

JEFFREY NEUMAN: Thanks, Kathy. I'm not sure I understood that, but perhaps others did.

KATHY KLEIMAN: ICANN bylaws are not completely dictate ... "Specific laws" can refer to many, many other things. "Fiduciary responsibilities" also refers to the bylaws, and that's what we're trying to capture here.

JEFFREY NEUMAN: So, if you put the word "including" you're not excluding others?

KATHY KLEIMAN: You're not capturing it all, either, because, here, we're combining some of the specific laws—GDPR, for example—and saying that the ICANN Board's fiduciary duty somehow would fall under that kind of specific law, or international law, or treaty law, and it doesn't. It falls under California law.

I think, here, we're trying to point to two kinds of separate sets of empowerment to do the extraordinary. We don't want the ICANN Board overruling or setting aside most applications, but we're trying to reserve them the right to do it under the right circumstances.

And so, I think the current language is the right compromise between the original language and what Anne offered, and I think Paul's changes dramatically change that. Thanks.

JEFFREY NEUMAN: Yeah. And there's a discussion going on in the chat, so it's really ... As Heather points out, it's the ICANN Board members' fiduciary duties. This is a lot of wordsmithing. I think we know the concept. Let us work on this offline, because I really want to get to other areas, because we're spending, I think, way too long on this. I don't think there is disagreement here. I think it's just wordsmithing.

So, fiduciary duties are not set forth in the bylaws. What you would say is, "Or the ICANN Board members' fiduciary duties" "Or the ICANN bylaws" would make that technically correct. So, it's not as "as set forth." You would take out the words "as set forth in the." Okay. So I think, again, we can work on the wording here a little bit. I'll go to Anne and Alan quickly, please. If we're off on the substance, let us know.

KATHY KLEIMAN: Yeah. I think it probably makes sense that ... Chris was raising, "Who's our board liaison?" Was that Avri? It just makes sense to check the board liaison. I know Karen's on the call, but she can't speak with the board. So, maybe Avri [cross talk]?

JEFFREY NEUMAN: Well, Avri can't speak for the board on this one, and we don't want to put her under any kind of pressure to answer that question. I think Avri understands, and maybe we can talk afterward, but I don't want to put Avri on the spot.

KATHY KLEIMAN: I didn't mean that you could have Avri go on record now, Jeff. I just meant check with her later.

JEFFREY NEUMAN: Okay. So, Avri said she's going to go back and check. Okay. So, can we scroll down, then, to the next one? Okay. So, this is a change suggested by Anne. Okay. So, this involves substantive changes made to the Applicant Guidebook. So, what we initially said is, "Applicants must be allowed some type of recourse if substantive changes are made to the Applicant Guidebook or program processes if such changes have or are reasonably likely to have a material impact on applicant."

So, Anne is correct in her comment that we don't specify what that recourse is. So Anne suggested, "Applicants must be allowed to challenge substantive changes made to the Applicant Guidebook," and she adds in "through appeals, or requests for consideration, or both," and then, "applicant has got the burden of proof to demonstrate the change has or is likely to have a material impact on the applicant."

So I understand, Anne, what you're trying to achieve here by stating that there should be a way to challenge, but I don't believe the appeals mechanism or the requests for reconsideration are appropriate venues. We're only creating appeals for things like a rejection of an application or appealing an objection, things like that. So, it wouldn't be an appeal.

And as far as a reconsideration request, a reconsideration request, remember, is an accountability mechanism under the bylaws and I

highly doubt that if the board made a substantive change that would violate the bylaws. So, I don't think those are the right ways to get it addressed but I understand the comment about having some sort of mechanism to be more specific on the recourse.

I think when we were initially discussing this, and props in the rationale, we were thinking more of things like a refund as opposed to challenges. But let me go to Alan. Or actually, let me ask, first, Anne, if you wanted to explain or provide additional context.

ANNE AIKMAN-SCALESE: Yeah, Jeff. It's just really what you said. It's that this is a recommendation and it's a "must." We don't know what "some kind of recourse" means, and it's a "must." So yeah, it's just [what's the appropriate] remedy, I think. That's my recollection.

JEFFREY NEUMAN: Right. So, I think the intent here was both that they follow the process set forth in the guidebook to make those changes, which is the predictability model, etc., but also that opportunity to get a refund, I think, was the other. I'm not even sure that this necessary belongs in this section, this recommendation. But go ahead, Alan.

ALAN GREENBERG: Thank you. My reaction to looking at the text highlighted in yellow is, what would happen if, indeed, an applicant went for one of these appeals mechanisms and won? We'll have a situation where the board changed the Applicant Guidebook, 7,000 other applications have gone through under the new, revised rules, and then some

judicial process reverses it and says, "You must undo it," perhaps two years later.

It would lead into a paradox situation that we just couldn't accept. So, for that reason alone, I wouldn't want to see this put into any of our rules. It could create just a horrible situation where we have processed things and, now, we're told we have to undo them and rerun time again under the old set of rules. So, I just don't think we can do that.

JEFFREY NEUMAN:

Right. I think we're getting a little off-topic, probably because appeals are mentioned here. This is not really an appeals issue. The recourse that was intended was refunds. We just didn't want to ... And as you see, the implementation guidance below, where we talk about name collision refunds or something like ... Yeah, refunds for name collisions.

I think we probably could just solve this by clarifying that it's refunds that we intended and not go through a whole rigamarole of appeals and all that kind of stuff. If an applicant claims that they were materially impacted by the change then they should be able to get some sort of refund.

So, if we made the language more clear, that the recourse is refunds, would that ...? I think Justine seems to be okay with that. Anne, would that satisfy your comment?

ANNE AIKMAN-SCALESE: Yes, that's what we mean. I just know what we meant. I maybe over-anticipated what remedies applicants would want but I'm okay with refunds.

JEFFREY NEUMAN: Okay. Thanks. Yes, Kathy says, "If applications are withdrawn, that's yeah." Obviously, if you keep your application in despite the change, you're still able to go forward, then, yeah, you shouldn't get a refund unless you withdraw it. So I think we understand that, or we should clarify that.

And this would be different from the normal refund schedule, right? Because in the normal refund schedule they're just looking at the amount that has already been processed. This is kind of that extraordinary case where there's a substantive change that materially impacts your application.

Okay. So, we got those notes. Let's move onto the next one. Oh, sorry. Did we just skip something? Can you go up a little? I feel like we've just missed something. Oh, never mind. Sorry. My fault. Keep going you were right. It's hard, Steve.

STEVE CHAN: No problem.

JEFFREY NEUMAN: Paul, go ahead while we're scrolling down.

STEVE CHAN: Jeff, I was just going to mention there are no suggested changes in package two, which you probably already know.

JEFFREY NEUMAN: Yeah, okay. So, Paul has got his hand up. Steve, can you scroll to package three?

PAUL MCGRADY: Thanks, Jeff. So, I don't know what "some type of recourse" means. If we mean full refund, why aren't we just saying full refund? I mean, "some type of recourse" could be a \$25 Starbucks gift card. If we are trying to say applicants must be given a full refund in the event substantive changes are made to the Applicant Guidebook or program, why don't we say that? Why punt what we mean later? Because it may not at all be clear to whoever decides what that means later. Let's just say "full refund."

JEFFREY NEUMAN: Yeah, Paul. So, that was discussed during the original discussions. I think that we just hadn't come to a conclusion that the full refund should be awarded. So, I think we were sort of punting to the implementation team on that one. I understand your comment, I'm just not sure, at this point, we should put "full refund" in.

I think we initially had something like "commensurate refund" or something. I think this is one that we'll put some refund language in and, hopefully, I think we do kind of punt it to an implementation team. Alan, go ahead. Steve, can you just scroll to package three?

ALAN GREENBERG: Thank you. A question before you scroll – or too late, now. It says that the changes made to the Applicant Guidebook, and we're suggesting that a full refund be made. Is it not possible that a change that is made to the Applicant Guidebook causes a grievance and the applicant wants to be compensated but doesn't necessarily want to withdraw their application?

The change may well allow the application to go through, but with some significant change which will impact them. So, the implication here is that if a change is made the application is null and void, and that may not be the case.

JEFFREY NEUMAN: Yeah. Thanks, Alan. That was Kathy's point earlier and we—

ALAN GREENBERG: Oh, I'm sorry. I missed that.

JEFFREY NEUMAN: Yeah, that's okay. So, we said we'd clarify that.

ALAN GREENBERG: Okay.

JEFFREY NEUMAN: Okay, So, package two had no comments, which was good. So, we'll go to package three. Okay. So, the first set of changes were, I

think, submitted by Valideus, which, for the record, is the company I work for, but I did not have a role in these comments, for the record.

So, Susan Payne states that we basically state the rationale in a negative term. If you look, it basically says that, consistent with our overall approach, we're basically only approving it because there is no compelling reason not to. That really is not consistent with the deliberations.

I think there were many positive reasons to continue the new TLD process, and they were stated over and over again in the comments. So, essentially, this suggested language changes to the more positive, which is, "The existing politics of new gTLDs states that there will be a systemized manner of applying for gTLDs to be developed in the long-term."

And then, this is where the language is different: "In affirming the continuation of this policy, the working group applied the consistent approach outlined in section ..." And then, we talk about where that was in the report.

Again, this is a rationale for an affirmation. That's why the language added by Susan makes a lot of sense, because the rationale that is in the paragraph before it doesn't make it sound like we're affirming it. It makes it sound like we're just by default letting it go through, and that's not consistent with the discussion that the group had, which is, on a more affirmative basis, to want to continue. Anne, go ahead.

ANNE AIKMAN-SCALESE: Jeff, I'm sorry. I submitted an issues report on package two. I've just forwarded that again to you and Steve. I'm not sure why folks said that there were no comments on package two. So, my e-mail was timely and I just forwarded it to you again.

JEFFREY NEUMAN: Yeah. Thanks, Anne. I'm sorry about that. I'm going to turn this over—

ANNE AIKMAN-SCALESE: I'm not saying that I expect you to address that now without knowing that it was there, apparently. I don't expect you to all of a sudden, on the fly, deal with it.

JEFFREY NEUMAN: Yeah. Okay. I will put that in, then, with ... When we review package four, we'll also review your comments to package two.

ANNE AIKMAN-SCALESE: Okay, thanks.

JEFFREY NEUMAN: So, sorry for missing that. Okay. So, any comments on this more positively worded rationale for the first affirmation? Okay, good. Let's go, then. Keep scrolling down. Okay. This is, also, Susan has recommended some additional language, just adding the other side.

So, “While the working group recognizes that some parties believe the new gTLD market to already be saturated, others have indicated that they are aware of interested potential applicants, including .brand.”

So, this is in the rationale section. It certainly is consistent with the discussions we’ve had. It’s not in a recommendation or implementation guidance. So, I would recommend accepting it but let me just give ... If anyone wants to make any comments. Okay. Thank you, Susan and Valideus. We’ll scroll down to the next one.

So, this is Justine’s proposed edit. Sorry. Can you scroll up to the affirmation, real quick? Affirmation for rationale two, just so we have some context. There we go. This is affirming principle A, which said that the new gTLD must continue to be administered in an ongoing, orderly, timely, and predictable manner.

So, going back to the rationale, Justine proposes ... So, what we said in the rationale, a major theme was the need for predictability: “The desire for an orderly, timely, and predictable new gTLD program is universally supported.”

And Justine puts in, “A major theme that was repeatedly raised throughout the lifecycle of this PDP was the need for a balanced predictability for all parties involved. It’s on this basis that desire for an orderly, timely, and predictable new gTLD program is universally supported.”

So, Justine’s changes are really just to add some more clarification. I think they’re good changes. I didn’t see any, really, substantive changes to the meaning and I think it makes the paragraph, in my

view, personally, better. But let me just, again, see if anyone's got any comments on that.

Okay. I think this should go in the "accepted." And then, let's see. This part was proposed by Anne, which is referring to, "The working group chair has directed a letter to GNSO Council relative to [adjusting] CCTRT recommendations for DNS abuse holistically and attaching that."

So, I don't see an issue with that. I think that's a good add. Although, staff has suggested that we put this under global public interest. Oh, right. Sorry. So, "The letter is available at ...". Anne, is it essential that we have that here for assessing in rounds, or is it okay to just put it in the global public interest section, which we'll talk about in a little bit, anyway?

ANNE AIKMAN-SCALESE: I think, Jeff, that it just needs to be wherever it's most relevant given what we are anticipating from both GAC and SSA advice as far as DNS abuse. So, I don't know if ... We just have had to explain a lot about why we're not addressing it. And so, it just needs a prominent enough position so that it's very easy to point to, because the advice is, "Implement CCTRT prior to blah, blah, blah."

JEFFREY NEUMAN: Yeah, understood. So, staff is suggesting that it's most relevant under global public interest, but we can discuss that because we are going to go over that, as well. This is listed right now in a dependency for ... What's the above section? Continuing Subsequent Procedures.

Yeah. The letter was not really about whether we should continue Subsequent Procedures or not, or the GAC advice on that, so I do think, as staff suggests, it's more appropriate in the global public interest discussion where DNS abuse is mentioned.

And if this working group did not discuss the issue of whether the working group believed the CCTRT recommendation on DNS abuse was a dependency toward the next round, we understand that the GAC is saying that, perhaps the ALAC is saying that, but that's certainly not consensus within the [team]. So, the more I think about it, I think it's much more appropriate not as a dependency here but as an attachment to the global public interest section. Okay.

So, there's a recommended change here from—I'm trying to remember who it's from—Anne, changing it to a “must,” which I think is appropriate since we don't really use “shall.” “Shall” also recently has come under attack in the legal world in favor of using a term like “must.” So, I think that's a good suggestion there.

Okay. I think we're making some good progress, now, so thank you, everyone, for staying with us. Okay. On this next change, first of all, I want to thank Justine because I think she took a section that was a little bit confusing in the way it was and, I think, made it better.

I don't believe there are any substantive changes in Justine's language but, certainly, it's organized much better. So, I would recommend ... I'm not going to read the whole thing because it's really long, because it takes the whole previous part and rewords it.

So, I will, as chair, throw out that I think what Justine did was excellent work and I think should be accepted. Obviously, give everyone time offline to review it, unless you have some comments now, but I want to say that I support the changes that Justine has made. Justine, go ahead.

JUSTINE CHEW:

Thanks, Jeff. Yeah, I agree with what you've said. I mean, you've basically explained my rationale for it. There is one point under the paragraph that starts with "however," which is the second bullet. I tried to intimate this to Cheryl and I think she's [sort of passing this to Shawn].

But anyway, the other bullets pertain to things that could happen within the evaluation process, but this particular bullet, the second one where it says, "If [RO's] has terminated the Registry Agreement, blah, blah, blah," this is not an outcome of an evaluation process. Is it a post-delegated consequence, if you catch my drift.

So, something that happens after that particular window has closed and the delegated string has been delegated. But it becomes available again because the RA has been terminated. So, it's not part of the application window, per se. It's a consequence that comes after the process.

So, I think that particular bullet may need to be pulled out and placed maybe at the bottom, or somehow, but it shouldn't be lumped together in that paragraph that starts with "however," as well. Thanks.

JEFFREY NEUMAN: Yeah, sure. Thanks, Justine. So, I think the reason it's in there is because this language is going to apply not just to the next round but to all subsequent rounds. And what it's saying is ... So, there have been a number of brand registries that have, for example, withdrawn their application – I'm sorry, have terminated their Registry Agreement. And what we're just trying to say is that, since that brand registry executed a specification 13, in that agreement it says that ICANN cannot delegate for two years.

So, this whole section is about what strings would be available in a subsequent round, and what we're saying here is that strings that were previously delegated in a prior round that has now been withdrawn can be reapplied for, but only if it's after the two years. So, it does belong in this overall section. Perhaps not in this, under the "however." We can look, but it does belong in this section.

JUSTINE CHEW: I'm agreeing with you, Jeff. Yeah. I'm just saying that the placement of that bullet is a bit awkward. Thanks.

JEFFREY NEUMAN: Okay. I think that's right. So, we will find a good place, perhaps, under all of these, or somewhere where it's not mentioned during the application stage. Anne, go ahead.

ANNE AIKMAN-SCALESE: Thanks, Jeff. I remember when I first was reading Justine's rewrites. I thought that they were good, as well. I do have a clarifying question to ask about the substantive meaning of this language. So, here's

the example. There's not anything in the AGB that's going to prohibit an application for closed generics, based on what we know now.

My question is, if an applicant applies for a closed generic, whenever the window opens and it's not prohibited, but it's still in limbo on that whole issue because we don't have a new policy on it, does that prevent a subsequent application for the same string for an open string, under this language?

JEFFREY NEUMAN:

Yes, it is still in limbo or open. It would, because there hasn't been a final resolution of it. Again, I don't want to get into the whole a "closed generic" discussion. So, I think what you're asking is, if an application is in limbo for whatever reason, because there is some action or something that's required to take it out of limbo—I'm trying to really generalize it—then may someone apply for it?

And the answer is "no," because the application is still pursuant to these kinds of appeals, or I think it says the ... Can we scroll down a little bit? There is a sub-bullet, there. "The applicant." I'm trying to see if this one addresses it.

"The ICANN Board does not approve new policies or procures that would allow one or more of the applicants from a prior round to cure the reasons for which it was placed in the non-approved." So, I think this one may get at the situation you're talking about.

ANNE AIKMAN-SCALESE: Okay. Thanks. And so, in that situation, if an applicant goes ahead and makes even 20 or 25 applications for a closed generic, that's an effective block against an open string for as long as there isn't any policy on closed generics? It just blocks all subsequent—

JEFFREY NEUMAN: No, I wouldn't say that because there is going to be a rule, one way or the other, before the application window opens. So, it's not like you can apply for something that intentionally violates the rules in the hopes of blocking.

ANNE AIKMAN-SCALESE: No, there will be one way or the other but I don't think that's known at all. Because the board was looking for a Policy Development Process that addressed that, and I don't know that there's going to be anything known before the application process.

JEFFREY NEUMAN: Yeah. Because it's a known issue, I would find it very hard to believe that ICANN will not settle that issue one way or the other prior to opening up the window, and I don't really think we can ... We shouldn't really plan on a contingency like that. The ICANN Board's going to have to decide what to do, one way or the other, and that's a hard contingency to plan for. I don't think that would be—

ANNE AIKMAN-SCALESE: So, didn't we just tell them that they can't reject an application unless it's in compliance with a specific law or a fiduciary duty of an individual, or a member, or board members? Didn't we tell them that they can't?

JEFFREY NEUMAN: Yes, and I'm not sure why or how that would come up.

ANNE AIKMAN-SCALESE: Oh. Okay. Well, I guess what we're saying is if they reject closed generics it doesn't violate that policy of they can't reject an application except for a reasonable [cross talk].

JEFFREY NEUMAN: Right. There are a lot of grounds in the Applicant Guidebook itself to reject an application. That's the point I was trying to make. So presumably, when the guidebook is created, they're going to have something in there that addresses closed generics.

ANNE AIKMAN-SCALESE: I wouldn't think so, though, because there's no policy on it. Are they going to kick it back to us? Whatever, I don't want to go [inaudible] on it.

JEFFREY NEUMAN: Yeah. All right. Let's, then, scroll down to the next one. Okay. So, Justine recommends some language which I think is good here in recommendation rationale three, the first one. We say, "As part of

the new gTLD program.” I think Justine’s just really putting in a verb in here. Or instead of saying, “As part of the new gTLD program,” it’s basically saying “to administer,” which I think makes sense. It doesn’t change anything substantively but does make things more clear.

Okay. So, the next one is just spelling out Competition, Consumer Choice/Trust. I think that’s good, too. Should accept that. Some other typo-type things. Okay. Anne would like to, in this section, add a dissenting view on the principle of, basically, allowing applications to be submitted even if there are still things that are pending. And so, this is Anne’s dissenting view.

So, if you scroll up a little bit? So, we need to make a decision, here. I think calling it a “dissenting view” is appropriate here as opposed to a “minority view,” because you haven’t taken any kind of consensus. So, if we as a group want to include some of the dissenting views, in the rationale would be the appropriate place to do so.

I don’t have a problem putting in dissenting views as long as it doesn’t overtake the ... I don’t want to say “majority.” The main view of the working group. So, I guess we won’t discuss it now but I’d like for the group to think about whether we want to include dissenting views. It may set the expectation that we’re going to have dissenting views wherever they are and that this report’s going to capture all of them.

We can say something, I guess, in the preamble. We can add some language that says some dissenting views are included where a text was submitted, but this may not include all of the dissenting views.

So, something to think about. We're not going to decide it here and now. So, if we are okay with including dissenting views, this is what Anne would like stated. Ultimately, in a final report, they'd be minority reports, but because this is in the rationale section I'd like to know what the group thinks.

So, let's scroll down, then, to the next one, because we're not going to discuss the substance of this one. Okay. So, this is alternate text from Kathy for part C, rationale. And so, this is the part that covers where we talk about receiving comments above on ... There was a proposal or several proposals that did want limits on the number of applications.

One of those suggested 24 and the working group considered it. Kathy would like to change some of the language to say, "The Working Group reviewed and discussed strong comments," and then puts in, "the rationale provided for this dissenting view is that potentially unlimited application numbers favor At-Large, existing entities at odds with the overall goals of encouraging," etc.

So, I have a split view on this one. I think, including the dissenting view, so that's the last part of the paragraph, we need to make an overall decision. So, like Anne's comment before, if a dissenting view wants to be included I think the working group should decide that.

However, I would not be in favor of including the word "strong" before "comment" because we don't put ... That's basically adding a qualifier for a comment, and we don't do that anywhere else in the report. We don't say whether things are strong or weak, or other types of things.

So, I think I would propose not accepting the word “strong comment,” but to the extent we allow dissenting views we should put Kathy’s language, specifically that latter part of the paragraph, down as a dissenting view. Okay. Paul McGrady agrees with that and Kathy thinks that’s a good compromise.

Can we scroll down? I know we’re at the end of time but we’re getting sort of toward the end. There is not a huge amount more but I think we will ... Can we scroll down if there is any more, actually? There’s one there which is just adding ... This is not really substantive. I think it’s just adding a sentence in there, which should be accepted because it is, ultimately, what we concluded. It’s from Justine.

I know we’re going fast but that’s really just a clarification, which I think is good. I believe that’s a typo. I know we’re a couple of minutes over, but if we can get through ... Okay. I think we should ... Is this the last one? Can we just scroll down a little bit? Yes.

So, we’ll do this very first thing on the call on Thursday. Next call is Thursday, June 4th, 20:00 UTC, for 90 minutes. We’re going to do this one pretty quickly, and then this last comment, and then we will go into the validated TLDs and DNS abuse.

The DNS abuse, just to provide a preview, really is not much for us to discuss because we already submitted a letter to the council. So, with DNS abuse, the only thing is, basically, to acknowledge the GAC’s comments on it and, basically, refer to the DNS abuse letter that we wrote to the council.

So, that really should not take more than five, ten minutes at most. So, what I'm going to do is change the order. We'll do this one part, then we'll do the DNS abuse, and then we'll go straight and spend most of the hour and a half on the validated TLDs.

Package four comments are due, I believe, at 23:59 UTC Thursday, Steve? I think that's correct. It's on that e-mail chain. It's seven days. Yeah. So, if we're wrong about this, I'm wrong about that, I'll send around a note, but it's in that e-mail that asked for those comments. Okay. I want to thank everyone. It's a good call today, so talk to everyone on Thursday.

JULIE BISLAND:

Thanks, Jeff. Thanks, everyone, for joining. This meeting is adjourned.

[END OF TRANSCRIPTION]