
ICANN Transcription
GNSO New gTLD Subsequent Procedures PDP Working Group
Thursday, 06 August 2020 at 20:00 UTC

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ANDREA GLANDON: Good morning, good afternoon, and good evening. Welcome to the New gTLD Subsequent Procedures PDP Meeting being held on Thursday, the 6th of August 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? Thank you. 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. 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 over to Jeff Neuman. You may begin.

JEFFREY NEUMAN: Thank you, Andrea. Welcome, everyone. Hopefully, you've had a good week so far. We have been very active this week and we'll get into that in a minute. But before we do, let me just ask if there are any updates to any Statements of Interest. Donna, please.

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

DONNA AUSTIN: Thanks, Jeff. I haven't formally made a change to my Statement of Interest but I'm now employed by GoDaddy registry. Thanks.

JEFFREY NEUMAN: Thank you, Donna. Congrats on the closing of that deal and welcome as GoDaddy. Congrats, Donna. Okay. Your hand is still up. Did you want to say anything else? Oh, okay. Great.

Okay. So today what we're going to do, we're going to spend the first bit of time talking about the Final Report structure and give a little demo into what the comment survey will look like. And then we'll get into continuing and hopefully finalizing our discussion on private resolution – that section. But before we do that, I just want to take stock and make sure everybody knows that because there have been a lot of e-mails this week and I just wanted to take stock of what you should have already received through various e-mails.

You should have received a copy of the Preamble document. I think that was sent around by Emily, if I'm not mistaken. You should have also gotten a revised Predictability section, as well as an added paragraph to Closed Generics that was sent around. I know that was sent around yesterday on Wednesday. And then finally, there was a link Steve Chan sent around in an e-mail. I want to say it was Tuesday. I think it was Tuesday, which has a link to a document that we're going to go over in connection with the Public Comment Survey tool, which is essentially a document that Leadership and Staff have done to document what we believe

the differences are between the Initial Reports – and I’m including Supplemental in that as well – and this draft final version that we have now. So hopefully you have all of those documents either sent in – I think Preamble is in PDF but I think the others were all links. And then you’ll be getting – actually, I’m not going to go into that at this point. I don’t want to confuse everyone. Yeah, you should have gotten those three things. I just want to double check to make sure you’ve gotten all of those materials. Jim. Go ahead.

JIM PRENDERGAST: Yeah. Thanks, Jeff. I did receive the materials. I guess the question I have is, what’s the correct venue for providing feedback on them?

JEFFREY NEUMAN: Yeah. We’ll get into that. It’s a good question. Hold that thought. Actually, I might as well go over that now as well. So the schedule for our meetings for this next couple of weeks, our goal is to get out the report by not next week but the following week. In order to do that, if we can finish up Predictability – I’m sorry, not Predictability. If we can finish up the Mechanisms of Last Resort, the Private Resolution discussion, then I think what we can do is cancel the meeting for Monday to give everyone a kind of quiet period to review everything that’s out there, and then we can go over all of it on the following Thursday, so a week from today. So that’s if we can finish the Private Resolution stuff today then we can take off Monday and just use that time to keep reviewing documents and sending comments on e-mail so that we can

hopefully finalize everything a week from today. Does that make sense?

Okay. Jim, hand is up. I don't know if it's still up or a new one. Okay. So with that said, I want to turn specifically, though, to the Substantive Differences document before we do the actual demo. Yeah. Thanks, Steve. Okay. Everyone should see that up on the screen now. So this is a copy. If you clicked on the link in Steve's e-mail from, I believe, it's two days ago, or as he just put into the chat, you'll see a document that looks like this. Essentially, it goes through each of the Initial Report topics, and then whether we, Leadership, viewed there being a substantive difference versus the Initial Report. Again, when we say Initial Report here, we mean the initial or the supplemental initials that came out. So we say yes or no, and then we describe what the differences are. There are some where we've said "no," that there's not a substantive difference but still have documented, that there was a little bit of change. So like in the first topic, it's not really a substantive difference, but we note that in the draft Final Report, not only do we say there's no reason to not continue going forward with new gTLDs, which I think is pretty much how the Initial Report said it. We just restate it in the affirmative as well to say that we recommend going forward with it.

Yeah, sorry. I'm just looking at the chat. I think we can do that. Sure. We can send them [audio break] as call kind of summarizing what you should have. And also we're going to be sending out shortly, but I'll go over it.

Okay. The reason why I'm showing this now is you'll see in the demo of the questions or what you should see that the description

of it is really is just for the question. Whether we ask a specific question or B, what this would be. Actually, before we review the questions on this document, I know you haven't reviewed it in complete detail yet but I just tried to explain what [audio break] in the format was. I think a Staff pulls up –

Oh, is it choppy for everyone, my audio? Sorry. Okay. Sorry, I was moving around a little bit. Yes, no?

CHERYL LANGDON-ORR: We weren't sure because you said, "Is this better?" And then it – we can't say if it was better because it wasn't at all a reference, Jeff.

JEFFREY NEUMAN: All right. Okay. Well, I'll keep talking. Let me know if it's better or not. Okay. So then let's move on to the demo. Julie was [inaudible] a well-deserved break for the beginning. So I went through the format. So you don't have to go through everything on the front part, but I'm going to hand it over to you to go through.

JULIE HEDLUND: Thank you very much. This is Julie Hedlund from Staff. So I'm actually going to do a live demo here. I know you said not to go through everything but I want people to see how it works. I'll be quick.

So you'll have to put in your e-mail address. That's important because if you want to save your work. You'll be able to save your

work if you put in your e-mail address, because you'll be able to get a link to get back into your work at any point in time. There are several places after every section where you have the option to save. So that will be helpful.

We also want to emphasize that we will provide you with a link to a Word document. And we're recommending that that you use a Word document to actually – and several people did this for the RPMs PDP Working Group where they entered their information in the Word form, the Word version of the form, and then copied and pasted it into the Google Doc. Yes, you can continue to save your work in the Google Doc and that works very well. But we did have some glitches. I'm sure you heard from other people in the RPMs PDP Working Group where people came up against some character limits. We're working to mitigate that but just another safeguard would be if you wanted to use the Word form and then copy and paste into the Google Doc. Or if you can't use the Google Doc at all for any reason, you can get in touch with Staff. We'll be happy to take your input in the Word format form and then we can put it into the Google Doc for you.

Just noting again, no obligation to complete all the sections in the form, you can skip whatever you want. And there'll be an option at the end for general comments. So if you have something that doesn't fit, you wanted something you want to say that wasn't covered in the survey or doesn't fit for some reason in any of the sections, you can use the general comments to enter that information. There is a character limit for the comment boxes. It's fairly lengthy but if you do have problems, again, we're happy to

help you and if there's another way that we can take your input, we will do that.

Again to save your work, you'll want to have your e-mail address in and then you can enter Submit in several different points at the end of the various sections and go back anytime. You can enter Submit at the very end, of course. And once you do that, all the submitted comments will be display publicly but the e-mail address will not be displayed, noting that. We'll insert the date of the public comment form once that is ready to go.

Then we just have some background information here with respect to the format of the report and, in particular, that there's five different types of outputs. We're calling them Affirmation, Affirmation with Modification, Recommendation, Implementation Guidance, and/or No Agreement. And so we're asking for your comments on the outputs since there are a variety of them, and I'll show you with an example in the survey here shortly.

Then there's a Table of Contents and you can skip around to the different parts of the Table of Contents, if you want to. Or you can just hit the Next button at any point and it will bring you to the next section.

Here you will be asked to provide your name. This is standard for all public comment periods. We ask also for your affiliation. That is a required bit of information again, also standard for public comment forms. It is helpful to know if you are providing input on behalf of another group because we are keeping track of whether or not you're submitting as an individual or as part of the group.

Again, you have the option to save your progress if you want to quit. If you click that button and you hit Next, you're going to get the Submit button but your copy of responses will be e-mailed to the address you provided. I'm not going to quit right now. And so on to the next.

Okay. All right. So noting something about the format here that's important, we are breaking up the survey, as well as the topic areas into topics as opposed to sections, so you'll be familiar with the titles. Continuing subsequent procedures is the first. This tracks according to the draft Final Report. But instead of calling a section, we're calling it a topic because these are really actually topic areas. So topic 1, we'll just note that the text that's in the document that tracks the differences is also the text that you see here, and that the description of the differences intended to serve as a resource for readers, etc. I'm not going to read that off. You can see it. And then we're going to have a reference to the page in the Final Report. I do not believe that it's possible for us to put live links into the Google Doc but we're actually talking with Tech Support and we'll see if that's an option as well. But we will have a page reference so you can go back to look at that.

So then what you're going to see here is in the cases where there are no substantial differences but minor differences. So that's true for this topic, continuing subsequent procedures. We've just listed what the minor differences, which is the affirmed purposes for introducing gTLDs. Then you have an option to choose support the outputs as written, that is the outputs that are listed in that under that topic. Indicate that you can live with the outputs as written or if you have no opinion. Or if you choose the following

response, you have a text box to reply. So if you can't live with certain aspects of the output and if you choose this then we ask that you enter your information here. Or conversely, if you choose this option that you have new information or interest that the working has not considered, again we give you a text box for you to put your input there. And then again, of course, you have the option to save your progress, but we're going to continue to the next session.

I'm checking the chat for hands up or questions. But otherwise, I'm just going to keep going. So topic 2 is Predictability. Again, this tracks to the final Final Report. Here in the description of difference, there are substantive differences. These substantive differences are listed here. And then again, we reference the page and the draft Final Report so you can refer back to that. Again, you have the same radio buttons. So the same options, you'll see all the same options, except in the case where there are questions. Questions will have a slightly different format.

I see Jim that you note that you have some questions. Yes, thank you. If you wait until I'm done, that would be very helpful. There might be other things that you have questions about. I don't have an answer with the "can't live with" consensus call. I'll defer that question to Jeff to answer. But again, you have the same radio buttons in each instance.

Again, where we expect that there are no comments because you're supporting it as written, and you can live with it as written, or you have no opinion, there is no text box for those. But in the cases where we expect that you'd have comments because you can't live with certain aspects, we'll want to know that and there is

a text box associated with those. Then the usual save your progress. I'll go to the next section.

Here this is a topic, again, that has substantive differences and you see them listed here. Just to make it very clear, this is the exact same text that's in the document that was sent around earlier this week that shows the differences between the Initial Report and the Final Report. And again, the same radio buttons, same options. Again, going on to the next section.

Here on different TLD types. Again, there are substantive differences and we've listed them here. All the same. Application submission limits – that topic here just to show you an example. These are all in order so these are the first five topics. Application submissions limits had no substantive differences, no minor changes from the Initial Report. So there's nothing listed here. Again, the same radio buttons.

Finally, just to show you what the end of the report is like. So this is if there's anything that you believe has not been covered, any recommendations that you think that the working group should be considering, and there is a text box for you. Or are there other comments and issues raised pertained in the draft Final Report. And so these are the open items. And then there's the option to submit or you can go back if you want to save all your work and go back in and finish later.

So I'm going to stop there and I'm happy to take questions. Thank you.

JEFFREY NEUMAN: Thanks, Julie. Jim, why don't you go ahead?

JIM PRENDERGAST: Sure. Thanks, Jeff. And thanks, Julie, for walking us through that. So I actually have three questions. I guess the first goes back to one of the initial pages that had the deadline for comments is insert here, after this date any comments submitted will not be considered. We've had a history of groups asking for an extension on the deadline for comments. So I'd be curious to hear from Cheryl and Jeff how those will be handled. Are those decisions that solely rely with the Leadership of the working group or is that ICANN Staff decision, knowing that some important constituencies typically do ask for extensions?

The second question I have is, I think Julie may have answered it in the last minute but there are more than eight topics that will be part of this Google form, I'm assuming because we have a 125-150 page report. Okay. Yeah. Got it. So, there'll be a lot. This will be a much longer form for folks to fill up, which is good to hear.

Then the third is more of a suggestion than anything else and that is since we, the members of the working group, needed a tutorial on this, I think it would be beneficial if there was either a pre-recorded or multiple opportunities for the public who's being asked to comment on this to go through a tutorial on how to fill up comments because this is really a deviation from what is the norm in the past. Thanks.

JEFFREY NEUMAN: Yeah. Thanks, Jim. Actually, I mentioned that to the others in the Leadership team that we should do a webinar shortly after the release of the draft Final Report to go over exactly what you said, a tutorial on this form, as well as just kind of a general overview of at least the sections that we believe have substantive differences.

So let me ask if there any other questions while I scroll back into the chat. So one of the things I noticed –

CHERYL LANGDON-ORR: Jeff?

JEFFREY NEUMAN: Yeah, go ahead, Cheryl.

CHERYL LANGDON-ORR: Well, no. It's just we didn't answer one of Jim's questions, which was what happens with extensions. It would be Leadership team, which of course includes interaction with Staff, but it's only ICANN staff, yay or nay on an extension, it would be a Leadership team, is it or is it not? Is another week going to be allowed or is another two weeks going to be allowed? But hopefully at this end of the game and with this particular format, we won't be looking at much in the way of extensions and certainly on other groups I've been involved in, even if it is an important part of ICANN who's asked for a rather longer extended time will be told, "Well, yes if you can get it in by that date, we will do our best to integrate it in our processes." And that has happened, for example, to the

Government Advisory Committee from ATRT3 in a recent task.
Thank you.

JEFFREY NEUMAN:

Yeah. Thanks, Cheryl. Sorry for missing that one. Yeah. What's intended right now is that the public comment period, if we can get it out, if we can get the report out the week of the 17th then we'll do a public comment period that ends the last day of September. So it is a fairly lengthy public comment period. Understand it's a lengthy report but hopefully, again, the comments are focusing on the sections that have substantive differences as opposed to everything, which sort of goes to the question that Susan raised which is, what if someone essentially wants to comment on something they agree with or that they answer "no opinion" or "can live with"?

We've designed this form in a way that we really want comments. Like if you support it, that's great. Obviously, if you can live with that, that's great as well, or if you have no opinion, that's totally fine. But what we're really trying to get at are the comments where there's certain aspects that they can't live with, which brings us to the next point, which is perhaps that radio button can say can't live with some or all aspects of the output, I guess, is something that we could maybe change that to and then have a description of why below that. Just saying that kind of off the cuff. If others from ICANN Org disagree or anyone else in the Leadership team, please weigh in as well.

The other thing is we would obviously recommend – and I don't know the answer, Donna, maybe Julie knows the answer to your

question of can more than one person work on the document at once – but we strongly would recommend and most people I think would do this anyway, to do the document in Word first and then copy and paste it over here.

Justine then puts in the chat – and I'll get to Martin in a second – that the number is different. Yes. We've numbered things differently for this. Julie says multiple people can work on it. Great. We've numbered each topic as its own separate number because things got confusing with the 2.6.1.1.5, whatever. So we did a little bit different numbering but the new numbering corresponds with the topic numbers. You'll see that new numbering and you'll see the draft Final Report shortly for all the sections that have been done. I'll go into that a little bit later.

Okay. Martin and then Alan.

MARTIN SUTTON:

Thanks, Jeff. Just following on from Susan's question. I just want to kind of understand what sort of comment would be applied to a "Yes, we support this" that would add further benefit to the evaluation or assessment of any of the comments coming in? Because I think the way that we're trying to do this is to understand that there will be lots of comments coming in. How do we avoid any subjective analysis of those comments? Can we put them into clear categories? So if there is a "Yes, we support," I'd like just to know from Susan where she feels there would be an even stronger need for free text that needs to be assessed. This is where we've come into problems before where it's sometimes hard to understand what is in the context of the responses beyond

that. So I'd be interested in that from the Leadership perspective as we've tried to sort of improve on previous experiences of using the Google forms to make this effective and useful. So, that would be good. Thanks, Jeff.

JEFFREY NEUMAN: Yeah, thanks, Martin. I think what you said is precisely, you know, someone supports it or says they can live with it or just doesn't have an opinion. It really was the whole notion of, well, do we really need them to put text into as reasons why. When we were discussing this, we just didn't think that that would add a huge amount of value. If you support only part of it, Justine, that's what the next part. So you wouldn't answer one of those three buttons, you would scroll down and we'll discuss the wording, but you would select "can't live with certain aspects of the output" and then explain that in the text box below. So that's what you would do.

Paul asked the question in the chat – and then I'll go to Alan – why do we use the words "can't live with" as opposed to "does not support"? I don't have a good answer. We just went with "can't live with" but I don't think there's a reason why we can't change that to "does not support certain aspects". But let me ask Cheryl and ICANN Org if there was anything we specifically wanted to get across with the "can't live with."

CHERYL LANGDON-ORR: I think it was simply following the conventions that we used in the working group recently. Certainly, simple enough to change if that's the working group will.

JEFFREY NEUMAN: Okay. That's what I thought. So thanks, Cheryl. Paul's recommending "do not support" and perhaps we can make that option "does not support certain aspects or all of the output" I guess, because someone had asked a question of what if they disagreed with the entire thing. Alan, go ahead. Alan, go, and then I'll get back to Martin.

ALAN GREENBERG: Thank you. On the "can't live with," certainly the connotation of that in the terms of the EPDP, which has used the expression exhaustively, there's a significant difference. One is if you say "can't live with," you mean that and that may essentially say you're rejecting the whole damn thing because you cannot live with that. "Don't support" simply means you don't like that item. In terms of the PDP, there were plenty of things that any of the parties didn't support but accepted in the sense of compromise but "can't live with" is one level higher than that. Certainly that's the context that the EPDP used. However, I raised my hand for a different reason.

This Google form eventually translates into a Google spreadsheet, if I remember correctly, how one retrieves the output of it. Having filled in more than my share of these forms, having done it in a Word document or something, and then laboriously cut and paste into this other document, sometimes with errors, sometimes with frustration that the document – it doesn't fit. Is it possible for Staff to give us what the output format is, which I presume is a line or a column in a Google spreadsheet which we can use an Excel spreadsheet, and then we can submit the Staff in that form. It will

require just a little bit of a primer for telling us how to fill in the fields that are the radio buttons or something. But that means we can actually create a document and play with it and then simply send it in, instead of a laboriously cut and paste in 150 different places. Thank you.

JEFFREY NEUMAN: Yeah. Thanks, Alan. Let's take that – oh, Julie, you can answer it now? I was going to say we take it back but, Julie, go ahead.

JULIE HEDLUND: Thanks for that. Thank you, Alan, for that question. It has been asked. As you may know, we used this form for the RPMs PDP Working Group. We would not be able to integrate that data easily or not without a great deal of manipulation to integrate that data with the data that we're getting from the Google Form. I know what you're saying and I understand but it's not simply a matter of done importing what you're giving us.

ALAN GREENBERG: I wouldn't consider it as input, I would consider it's a cut and paste from an Excel spreadsheet into the Google spreadsheet. All right. It would certainly simplify life for some people. Thank you.

JULIE HEDLUND: Thank you, Alan.

JEFFREY NEUMAN: Okay. Thanks, Alan. Martin, I didn't mean to cut you off. It sounded like you were going to say something.

MARTIN SUTTON: Thanks. Yeah, Jeff. Thanks. I think most of what Alan covered was good on that. But I just wanted to also sort of explain that there is this range of choices that we've created here, which hopefully builds on from learning from the previous public comment periods. I think that one of the main things was to make sure that we had that "Yes, I'm willing to compromise" position so there's that "I can live with this, but I don't necessarily support it." So perhaps I do vet towards what Paul was suggesting, which is instead of "I can't live with it," say, "I do not support." So I just wanted to make that clear that there was some thinking behind this to give that range and perhaps the terminology we can improve. So that's great. Good feedback. Thanks a lot.

JEFFREY NEUMAN: Thanks, Martin. I think that makes sense and I'm okay with the "does not support" because this is not the consensus call. When we do a consensus call, that's really when we're asking the working group to put the "I don't really like it" but I can live with it because of the compromises that we've all made or whatever it is. But for public comments, I don't think we need to be as stringent as the EPDP was.

Alan just went. Okay. So let me go to Susan.

SUSAN PAYNE:

Thanks. Hi, Jeff. So I'm just responding to Martin's question to me, really. One of the things that I envisage, and I think it would probably be where people take the "can live with" box. Martin sort of asked why I envisage people might want to make comments.

There's a lot of groups that are participating in this. Some of them are not directly internal to ICANN. They're not necessarily constituencies. There are various other collections of people who have an interest in this output. And I think sometimes groups sort of need to express their views, if you know what I mean. If you're going to take "can live with," they may well want to explain why they're willing to make that concession, and I'm not sure that that box or that checkpoint as it's currently written as "can live with" the output really reflects the kind of nuanced "I'm willing to compromise," that perhaps some of these groups would be trying to express, and so they would want to be making that clearer by some sort of a comment. So that was my response to that.

The only other comment I have is just that I think when we then get these comments in and go through them, the comments will all be negative. And so when we're going through them as a working group, we will have to recognize that that. And so that potentially on some recommendations, it will seem like there's an enormous amount of non-support because all of the text will be negative, and that's not necessarily reflective of how many people have supported it. And I know we will have had the tick boxes for that but the perception from the group will be that there's an enormous amount of negative response. So we'll just have to be aware of that and not overcompensate for what may be, in reality, a small number of negative comments.

JEFFREY NEUMAN: Yeah. Thanks, Susan. I think you're right. We're going to definitely have to, when we review this, keep that in mind. But Martin wants to respond and then Cheryl. So Martin, go ahead.

MARTIN SUTTON: Thanks, Jeff. Susan, really good points. Thank you so much for the feedback on that. I'm just wondering whether we can contain the feedback section. So if we do a free format option to respond to that specific response, whether we frame it in a way that really teases out any specific points, I think we just got to be careful because one of the concerns is that we're going to have a very bulky report, we're going to have lots and lots of responses back in, and we don't want to be too subjective, you don't have to be really subjective. We want to really make sure that the responses are in a format that we can easily understand and put into certain buckets. So I think we can use some of your ideas there to potentially put in a free format for that particular item where we're willing to compromise but we just also want to make sure this is put on record. I understand that and I think that that's reasonable. We just need to work out a way that that text response doesn't get filled up with lots of different ambiguity responses that are hard to decipher. Thanks.

JEFFREY NEUMAN: Yeah. Thanks, Martin. That was it. I mean, we didn't want to get someone to tick off support and then you read their comments and wait a minute, do they really support it because now they just

criticize every single aspect, or they say they can live with it and then they criticize every single aspect. That leads us to ambiguous results.

The support comments, again, yeah. As Martin said, there's going to be a lot of materials submitted. Sorry. Someone want to jump in?

CHERYL LANGDON-ORR: I'll respond. Yeah. I do. Me after Martin, remember?

JEFFREY NEUMAN: Yeah. Sorry, Cheryl. You may have let your hand down, so sorry about that. Okay. Go ahead, Cheryl.

CHERYL LANGDON-ORR: You recognized me, Jeff. You did recognize me so I didn't mean to keep waving at you. I'm usually not that difficult to miss.

Okay. I just wanted to respond to Susan. Yes, I agree with what Jeff said too that we obviously are going to have to be as the 40 or so people who will be doing the analysis on all of this. I'm very aware of what we've asked for. So that's why we're going through this with this length of detail. And if we all need psychological support to not feel too badly about going through negative comments, I'm sure we can do that for each other.

I want to ask you a question, and not just you but you and the rest of the group. What is it, as a working group, you want to do with the happy comments? To what end are we going to go through

positive affirmation beyond “Yes, I support”? We’re going to take in to account in our knowledge of how many people clicked the “Yes, I support”? But I don’t think that we’re trying out purely mathematical or only anecdotal. It’s not going to be one way or the other analysis. We do have a very limited time to do the analysis, unless you’re planning on being here for an awful lot longer than I felt that we’re going to do before the final goes to the GNSO Council. So I’m unsure why we would be, other than nice to have, analyzing happiness.

So, I popped it in the chat but it doesn’t make a lot of sense to me to go into that much detail. We’re trying to apply a simplest approach and encourage people to be very tight with their responses. And if that means that a few entities who are not very used to these processes need to send a 37-page Word document separately, well, we as a working group will then work out how we as the working group integrate that or not into our analysis.

JEFFREY NEUMAN:

Thanks, Cheryl. Thank you. So let’s go to Greg, but we need time to talk about the – I see Paul and then who else is in the queue? I’m going to cut the queue off now because I really want to get on to the substantive topic and people can send e-mails on this as well. But let me go to Greg, Alan, and then cut it off at Paul. So Greg, go ahead.

GREG SHATAN:

Thanks. I’m concerned about the potential extent to which we are eliminating comment from the public comment. I think it should not

be turned into a public poll instead. My experience from having written a lot of comments as you say a lot more about the things you're unhappy about than the things you're happy about, so I'm not concerned too much about having to worry about analyzing happy. But if there are reasons why something is particularly important or why they want to register, support for a particular purpose or reason behind it, it can be helpful to know, but I think it's more important, the critical comments. And we're talking about there being a problem if somebody were to indicate support but then they criticize every aspect or they indicate something else. But the question is, okay, if you have somebody who criticizes every aspect, how do they answer this if it's not non-support? Maybe they are supporting it with modifications or supporting it with reservations. This cannot be entirely metrical. And we need to know why the numbers are what they are. Because then we're just going to get into another Donut scenario where we're looking at – we've made some numbers that are not particularly meaningful and then we pretend they're meaningful and move along. So I think we need to know why we're getting the answers we're getting and I think we need to have space for narrative. We can encourage people to be crisp and to indicate that a long exposition is not going to necessarily help their cause or ours. If support is conditional, we need to know why it's conditional so we need to leave space for comment because this is more nuanced. Some people like to answer, give five stars and nothing more in the review, or two stars. But this is not an Amazon comment section. Even there there's a lot of stuff. I know we want to avoid the ambiguities of trying to convert answers into a tool, but I think we

just have to watch out that the pendulum doesn't swing too far in the other direction. Thanks.

JEFFREY NEUMAN:

Thanks, Greg. Look, let's make it clear. No one's prevented from typing anything that they want into the free-flowing text box. It's not like choosing the support radio button will prevent you from entering text in the text box that's below it. So anyone that wants to enter any texts and they want to enter, they can. Also there's a spot at the end too that they could put any texts that they want to. So we're not suppressing anything. We're just trying to organize it in an easy way for us to analyze it at the end.

And remember, this is a draft Final Report. We've had four public comment periods already, right? So we're expecting that the only stuff that's going to be in here is new information or comments on the new stuff as opposed to the general – I joined the ICANN world three years after you did your first comment period. But this is really supposed to be a draft Final Report. So yeah. Part of the reason that we set it up this way is that there is no way on Google forms to prevent someone from putting in whatever they want into the free form, and so we separated it out because we want to encourage comments for those that don't support elements, but they can still comment on it if they support it.

Justine would like to play with the demo. Let's take that back. I mean, this is just showing it for the first time here. So we'll take that back.

Oh, sorry. Last point before I get to Alan. Actually, I think Paul was at the end. But anyway, before I get to Alan, last point is that we are not going to do a Donut chart. Okay. For those that participated in the RPM, it is not our intention to treat this like a poll or anything like that. There will be no Donut charts for us to look at. Okay. Paul has put his hand down. Okay, Alan, go ahead.

ALAN GREENBERG:

Thank you very much. I was commenting on the discussion of, how do we analyze plus comments ones support? Many of us have done many of these analyses. It's very subjective. When we see what the comments are then you have to react to them. It's simple as that. I've written enough comments to public comments that I think the number of approaches the mathematical definition of infinity. And the ones that I tended to say we should say something positive about are often ones where we think there's going to be strong disagreement from someone and we're trying to counter it. Occasionally, you say you support something just to be nice to the people who wrote it. So there's also two different motives and I think that has to be judged based on what we see the overall comments being. I don't think we can prejudge how we're going to handle the type of comment until we see it in the context of the other comments. Thank you.

JEFFREY NEUMAN:

Yep, thanks, Alan. Okay. Still some old hands out there. I'm going to assume those are old. Is there any other questions on this? It started I think with Jim's first question. Yes, there'll be one of

these for each of the topics we only have, as I said, on the last call. We would only show a couple topics for the demo.

Okay. So Paul says, “How in the world can we back that stuff out of someone’s comment, you have to disclose you like someone who...” Okay. So it’s just some chat on there. Anything else about this?

Okay. So the important thing to take away from this. We’ll take all the comments that we got back, and that’s great, and see if we can fix some of the wording issues and think about the text boxes and things. But I also want to stress that the document that we showed before this, which is the description of the differences, that’s going to be used for – sorry, can you scroll up one little bit? Okay. Either way, you can show that other document, that’s fine. But that’s going to be used on the top of each of those questions where there’s substantive differences.

So the one we looked at was – I forgot we just looked at. Was it the – whatever. But what’s in that column are the current proposed wording for the description of differences. And this document is out for feedback, yes. We’re hoping that you can give feedback on our e-mail and not hoping to go through all of this on a call, but if there are substantial feedback and questions about different items then we can go through that on the call next Thursday. But I do want to get to finalize the mechanisms of last resort, at least the Model 6 stuff that we had started going through. And if we can finish that today then we will have Monday off.

Yes, Justine. So comments on all of the different things that I mentioned at the beginning of the call should come in over e-mail, and then we can discuss those on the final call. So let's go to the Model 6, and I believe where we ended was the determination of – that wasn't this one. Oh, it is. Sorry, it's a different color than I'm used to looking at. Okay. Sorry, Steve. I think it was a little bit – yeah, we finished the procedural stuff. Go down a little bit more to transparency. We finished ... Okay. Here we are. I'm sorry. There you go, on the private auction bidding.

This is the transparency requirements. The only things that were different from the previous draft that that we looked at – sorry, Steve. This is the same as the draft we looked at on Monday night or Monday or Tuesday, whatever day it was for you, but it's different. The differences are red line from the version previous to that. So what we added in here was a recommendation from Paul to put in a timeframe of when the stuff would be disclosed, and so we put in the 72 hours requirement in there. So the information that we are requiring to be provided and disclosed, that it will be disclosed to ICANN within 72 hours of – we expect within 72 hours of a private auction or bidding process that notices provided to ICANN, and then ICANN would publish the same within 72 hours of receipt and it will include all of these elements. These were all discussed in the last version.

If you scroll down a little bit, for the contact information, we put in a footnote. If you can go down the footnote, it basically says, "Contact information will be subject to the same publication rules as contact information was treated in the application process." So if contact information is not normally provided or is not normally

disclosed to the public then the contact information that's provided to ICANN about the resolution would not be provided. So it's just basically saying treated the same as you treated it.

Okay. Then scroll up back. Sorry to keep going up and down here. The only item that was added from the previous list was the value of Applicant Support bidding credits or multiplier used if applicable. So if a private auction or private bidding process decides to honor the bidding credit rules then they would disclose that. Or frankly, if it's the ICANN auction as well then they would include that because this applies to both ICANN auctions and private auctions.

Elaine, go ahead.

ELAINE PRUIS: Thanks. Can you hear me okay?

JEFFREY NEUMAN: Yup.

ELAINE PRUIS: Okay. I'm sorry if I'm out of turn here, but I just wanted to point out that I added a comment earlier today that I'd like to discuss. Right below your cursor there, if we could put me in line to talk about that if I'm ahead of the game.

JEFFREY NEUMAN: Yeah. Thanks, Elaine. We're not quite on the other forms of private resolution.

ELAINE PRUIS: Okay.

JEFFREY NEUMAN: We'll get there. So, Christopher, go ahead.

CHRISTOPHER WILKINSON: Hi. Good evening. Thank you for giving me the floor, Jeff. Just very briefly, I have other things to say about private auctions. But what you just suggested is that the participants in a private auction could choose among themselves whether or not to respect a multiplier or other priority rule that was applicable. If I misheard, I hope so because that would be extremely grave. If we go through the whole business of creating a multiplier for the benefit of certain priorities, and then if you said participants in a private auction can choose whether or not to respect it, come on, that blows a hole through the whole policy. Thank you.

JEFFREY NEUMAN: Thanks, Christopher. I don't see it the same way because at the end of the day, the applicant who gets Applicant Support could say, "You know what, no. I don't want to participate in a private auction if you don't apply the multiplier. We'll go to the ICANN Auction of Last Resort." Right? So a private auction is just that, it's

private. But everyone has to consent to it. You can't force anyone into it. Okay.

CHRISTOPHER WILKINSON: Just to say this. What you just said reinforces my belief and conviction that private auctions in this context are completely wrong and should not be allowed. Thank you.

JEFFREY NEUMAN: Okay. Thank you, Christopher. So now we're into the other forms of private resolution. So the items that we all agreed would be in there before we get to Elaine's comment. So we all agree that if a contention set is privately resolved through a mechanism other than a private auction, the following must be disclosed. The first one is the fact that the contention set or part of the contention set has been resolved privately and the names of the parties involved, which applications are being withdrawn, if applicable, which applications are being maintained, if applicable, if there will be a change in ownership of the applicant or any changes to the officers, directors, key personnel, etc., along with the corresponding information. And then all material information regarding any changes to information contained in the original application.

So all of that needs to be disclosed. The part that was crossed out which is the part that Elaine wants to talk about was the other material terms of an arrangement to privately resolve the contention set, financial or otherwise. The reason we cross this out is because we didn't think that we would have agreement

within the group or enough agreement within the group to put it in this model based on the discussions. But go ahead, Elaine.

ELAINE PRUIS:

Thank you. I just don't remember talking about this. I wanted to make sure we actually had the conversation before we accept this change. So obviously, I would like to have the original text which says all material terms of any arrangement has to be disclosed. So can we talk about that and find out if there's sharp agreement or disagreement? Thank you.

JEFFREY NEUMAN:

Thanks, Elaine. So the way I interpret it – and Paul and others can weigh in – was that this was the part of it that was most hotly contested on the calls last week, or whenever we did this, that Susan and Paul who have actually posted some comments in the chat were very much against disclosing any other information. But go ahead, Paul or Susan. I don't know if one of you wants to weigh in.

PAUL MCGRADY:

Hi. I was double muted. Yeah, we did talk about this. We talked about it for quite a bit of a call. So we can talk about it again, of course, if the co-chairs want to. This sentence will require disclosure of all kinds of sensitive information.

So say for example, there were two parties in a contention set, one own the trademark, the other in that trademark owner's point of view was a top-level squatter, it happens. And demand letters

were sent, lawsuits or threaten, and ultimately because litigation is expensive, that brand owner paid this top-level squatter to go away. That's the kind of thing that will signal to the whole world what that brand owner is willing to pay for squatters to go away. It will create a cottage industry of top-level squatters. So I kind of wanted very kindly, gently push back on the notion that we've not discussed this. We've discussed this one a lot, and it just goes too far to bridge too far. Thanks.

JEFFREY NEUMAN:

Yeah. Thanks, Paul. And Donna was another one who weighed in. You know, at the end of the day, if there's any information that would otherwise or should otherwise be in an application, that has to be disclosed through the Application Change Request. The only thing that wouldn't necessarily be in a change request is that we get a notice that it was settled, who it was settled by, what's being withdrawn, and what's being maintained. So that's why that was kept in there.

ELAINE PRUIS:

So I am recalling those conversations. I thought the concern was about not wanting to reveal trade secrets or proprietary information. But my concern here is that there are all kinds of deals that could be made that could impact the overall outcome of the program. And I think we're remiss to not ask people to tell us or tell the community or the public what arrangements have been made in order to resolve a contention. That's what we're missing from 2012.

JEFFREY NEUMAN: Yeah. What I think, at this point, we don't have the agreement to put it in the sort of recommended Model 6, but what I think we should do is make sure that we add a couple of sentences to Deliberation section to say that some working group members proposed adding this requirement as well and then put in the rationale for why others opposed it so that we can at least include it in deliberations. I think this is one of those things, Elaine, that perhaps it feels strongly then you put it in a public comment back to the section.

ELAINE PRUIS: Okay. I'm happy with it as long as it's included in and available for the public comment, that's fine. Thank you.

JEFFREY NEUMAN: Okay. Absolutely. Okay, Alexander?

ALEXANDER SCHUBERT: Hi. Just the section above, you have to disclose any entity that owns at least 10%. What if the applicant entity is owned by entities that each own less than 10%? So nobody, no entity or person or whatever owns more than let's say 9%. So, no ownership has to be disclosed at all in this case?

JEFFREY NEUMAN: This is the same as what the rule is in general for what ICANN makes you disclose in the application. So if you went to the

beginning and looked at it, you had to own more than 10% in order for it be – sorry, the application actually was 15%. So we put 10% in here, so it's a little bit different. But you still have to list your officers, your directors, and things like that, key personnel.

ALEXANDER SCHUBERT: The key personnel, but no owners. In other words, you can change the ownership of a TLD in general and for the auction at any time. For example, take the .web example. If they had 10 subsidiaries owning the application or 11, actually, then they could have changed the ownership of the .web application and would have spared all those trouble that they have now. Nothing could have been done because nobody would have known who owns the application.

JEFFREY NEUMAN: It would have to be owned by enough people so that each – it has to be owned by at least 11 people and entities.

ALEXANDER SCHUBERT: So you can file anonymous applications as long as you spend 11 times \$60 in Colorado for LLCs. I just wanted to know.

JEFFREY NEUMAN: No. Again, this applies to the real parties and interests. And if the real party and interest is a parent that owns all 11 of those subsidiaries, that has to be disclosed. That's in the definition of a real party in interest.

ALEXANDER SCHUBERT: Okay. So you could do it in a tax haven because nobody would know who that is. But if you would do this in the U.S., for example, someone could probably get to the ground of it and find out that it's all owned by one entity. Okay, that makes it a bit better. Thank you.

JEFFREY NEUMAN: Okay. So let's go on to the next section. I do want to get this completed. Oops. Sorry, there was a little bit of – sorry, go up a little. Actually, the highlighted part again was to make sure that in the event any arrangements to resolve string contention result in any material changes to the surviving application, such changes must be submitted through the application change process, and then we cite to that. So again, we're emphasizing that for clarity that you need to go through the application change process.

The next section is – so this one was just something that I think Paul had wanted in there and some others just to make it clear, that except for the disclosure requirements we have above, there's nothing that would require additional disclosure other than what's normally meant for the applications. The sentence that says the information obtained from the contention resolution set may not be used by ICANN for any purpose other than as necessary to evaluate the application in accordance with the requirements set forth in this guidebook.

There was a question. Well, there was a request to delete it. The rationale there was, we do want to use this information for

evaluation purposes or at least have that right. So I think it was Paul that maybe requested this initial language. Well, Paul requested a little bit more restrictive language. We then changed it to this. But can we put something else in there to allow for the use of the information for the evaluation of the program, not just the application?

Paul says it literally says evaluate. Yeah. It's for evaluation of the application. But I think what – not I think – what Christa is asking here is that we want this information to evaluate the program and the whole private resolution process to be.

Jim, is your comment on this particular section, or should I jump to Paul? Okay, Jim, go ahead and then Paul.

JIM PRENDERGAST:

Thanks, Jeff. I see where Christa is coming. I guess I have another concern in it and I still don't have clarity on it. I apologize for raising it but we can provide clarity on this call. I think that would be beneficial. That is there was a debate on e-mail, I believe, involving Marc Trachtenberg and Elaine when it comes to Competition Authority Review. And I think there was agreement that ICANN inherently has the right to refer anything to Competition Authority as part of the New gTLD Program. We didn't have to have language in here stating that and that would be, I guess, either inherent in the terms and conditions or explicit in the terms and conditions. So I'm concerned about this particular paragraph potentially gutting ICANN's ability to do that. So I'd like some clarification, if in fact, that does prevent ICANN from doing it if they do see the need to. Thanks.

JEFFREY NEUMAN: Thanks, Jim. Good question. Paul, can you respond to both of those points, and if you have another question here?

PAUL MCGRADY: No, no. I can respond to both of those, and I think I can solve both of those. So maybe we could say for any purpose other than is necessary to evaluate the application, the New gTLD Program or to otherwise comply with the law. And then if ICANN feels like it's about to sign a contract with the party that would violate some law that Jim's worried about, then they can use the information. So that all seems very reasonable, we think. Those are the harms we're trying to prevent. I'm trying to prevent ICANN understanding that pocketbooks of registry operators and come up with unique and fun pricing programs designed to make it more expensive for those who have more money. Thank you.

JEFFREY NEUMAN: Okay. Thanks, Paul. Jim, would something like that work? I think it resolves at least Christa's point and I think it wouldn't act as gutting what we agreed in the terms and conditions. Great. Okay. Thanks, Jim.

The next section used to be called Rebuttable Presumption but right now we just put it as factors to consider in determining non-good faith intent. Remember, we added a requirement that all applications must have a good faith intent and we define that above. What we wrote in here was, "Consideration of non-good faith intent must be determined by considering all the facts and

circumstances surrounding the impact of applicants and applications. The following are some factors that may be considered by ICANN in determining non-good faith intent. The existence of any one or all of the factors may not themselves be conclusive of non-good faith intent.” And then we go into the scenarios that we talked about a couple times ago.

Let me go to Paul and then Marc.

PAUL MCGRADY: Thanks. I don't know what non-good faith intent means and I'm putting this into the chat. I also think that it smacks of fraud in fraud, which is a tort, rather than in contract. What we're talking about is a violation of the terms and conditions. So I put into the comments a way to resolve that and tie it back into what this actually is. [Inaudible]. I hope those get a lot of the weirdness of these paragraphs go away. Thank you.

JEFFREY NEUMAN: We sort of lost you there, Paul. But I believe you said that your comments that you put into resolve this. Steve, do we have those comments? Are they in the draft?

PAUL MCGRADY: Jeff, can you hear me now?

JEFFREY NEUMAN: I can. Yes.

PAUL MCGRADY: Yes, they're draft comments. They're way, way at the bottom because all the comments push all the other comments down. But basically what they do is they try to tie this back in as what the Applicant Guidebook is, which is we're looking for potential breaches of contract, not non-good faith intent, which is sort of a fraud term or a tort term, right? In fact, I've never heard of non-good faith. I've heard of bad faith. Anyway, if you look at my draft, if you look at my comments, I hope they get airtime.

JEFFREY NEUMAN: Okay. Thanks. I think your comments are now being shown there. As you said, they were pushed down. So if you decide to keep this language proposed, changed from non-good faith intent to whether or not an applicant breached the terms and conditions. I don't think we're looking for breach of terms of conditions, what we're trying to look for, if you scroll up, keep going. Sort of the beginning of Model 6, right? You have to keep going.

"Applications must be submitted with a bona fide good faith intention to operate the gTLD." So I guess if we put that in the terms and conditions I guess then maybe ... we could put lack of good faith intent, I guess. Paul, that's what we're going towards. I mean, that's why it was phrased in that way.

PAUL MCGRADY: Thanks, Jeff. I'm sorry to jump in. But I think it gets squirrely because then we're asking somebody we don't know who yet to get into the head of the applicant and decide whether or not they

had non-good faith intent, right? I think what we really are wanting to say is that contractually, you have to have a bona fide intent to run a registry when you submit this application, and if you don't, that's a breach of the terms and conditions. And how we're going to figure that out is not trying to get into your head by a good faith or non-good faith analysis. Instead, we're going to look at these factors. And you've listed the factors out and those factors make sense. So what we're doing here is we're switching up contract theory with tort theory and it's super confusing. So I think that my comments make it clear, this is a contract issue. Whether or not you came to the table, with a bona fide intention around the registry is a contractual requirement. It's not an emotional requirement, it is part of the contract. Thanks.

JEFFREY NEUMAN: Okay, thanks. Other hands raised? So Marc, go ahead, then Greg.

MARC TRACHTENBERG: Jeff, can you hear me?

JEFFREY NEUMAN: Yes.

MARC TRACHTENBERG: Okay, great. Several comments here. One, I reiterate, I just don't think that these are really good proxies or factors for determining bad faith or non-good faith, whatever you want to call it. I mean,

there are plenty of other ways that these things could happen. I mean, you apply for a lot of strings, you could end up in a lot of contention sets and private auctions, where more than half of them, bidders receive proceeds from the successful bidder. There could be a variety of reasons why your string is not delegated into the root within two years and there could be a variety of reasons why you need to sell the TLD. So I think, in general, these are not good proxies or factors. But then, when you further put in, they make – ICANN can take these into consideration and these could be factors. I think that you are trying to get into people’s heads and maybe the new CPE be a million times worse and you have a million [inaudible] where you have these debates that rage on for years and years and years. There’s complete chaos as people argue back and forth over the subjective determination.

So while I’m not opposed to having the requirement to having bona fide good faith intent to operate the registry, I just don’t think that this is a good way to determine that. It’s only going to cause more problems. I’ve said this on calls and in e-mails, I think we should not seek complicated subjective solutions. We should seek more objective and simpler solutions. Otherwise, the next rounds maybe even more of a train wreck than the first round.

JEFFREY NEUMAN: Thanks, Marc. So then what would factors?

MARC TRACHTENBERG: I don’t know. I mean, I don’t know what good factors are. I’m not trying to just poo-poo on these things or to blow things up. I don’t

know if there are good factors. But if there are, these aren't them. The fact that we haven't yet figured out good factors should it mean that we pick these bad factors, which is only going to result in disputes and conflicts?

JEFFREY NEUMAN: If that view is shared by a number of members of the working group – this was the basis for the compromise. The compromise to allow project resolution was to make sure that there was a good faith intent to operate the registry. If we can't have that or anything as listed as potential factors then we can't have out of a compromise. They are examples, right? So basically what it says is – I mean, if you read the paragraph above it, "Consideration of non-good intent must be determined by considering all the facts and circumstances surrounding the impacted applicants and applications. The following are some factors that may be considered by ICANN in determining good, non-good faith intent or lack of good..." whatever we end up saying there. "The existence of any one or all of these factors may not themselves be conclusive of non-good faith intent." These are just factors to look at but none of them alone or even combined is necessarily a bad faith intent or non-good faith intent.

MARC TRACHTENBERG: The way this is written is exactly why people are going to argue about this for years. It's so completely subjective that it's going to go around in circles and circles and circles with request for consideration after request for consideration, reconsideration. I mean, it's so open-ended. There's no objective basis. When you

have no objective basis at all whatsoever, it's purely subjective, that's when you create the greatest opportunity and likelihood of disputes that go on forever, which is not good for [inaudible] round. That's bad.

JEFFREY NEUMAN: Yeah. The problem is you're making the case for those that oppose private resolution completely. If you can't have controls on what goes on in private resolution, which is what the Board was worried about then if we can't make this work, you've just made the argument for the other side.

MARC TRACHTENBERG: It's not the other side for me because I'm not arguing that you have to have private resolution. I mean, I think people should be able to have private resolutions. That will facilitate the movement forward with the program, but frankly, I don't care either way on this issue. What I do care about is creating more structures that are almost certainly going to create problems and jam up the entire program. That's not a good solution. We need to avoid these types of solutions that are better guaranteed to cause problems and disputes that go on for years.

JEFFREY NEUMAN: I don't disagree with that, Marc. I just don't see the other side of the coin now that you're making that argument. But the other side of the coin is what Justine has in the chat, which is we can ban private resolutions altogether. Paul is right with his comment that we need to try to put this out for comment and ask for comments

on it to see if there are other examples of determining good faith or whether as Marc, you said, whether this is pointless or a futile exercise that's just going to lead to protracted reconsideration requests and all that other fun stuff.

MARC TRACHTENBERG: What I'm seeing here, the cure is worse than the [inaudible]. I think these gaming issues are a real problem. The Board is concerned about it and other people are concerned about it, and I think it should be addressed. But here, the cure is worse than the problem.

JEFFREY NEUMAN: Okay. Thanks, Marc. Greg?

GREG SHATAN: Thanks. Every time I'm almost through putting something in the chat, I get called on. In any case, I certainly support trying to get through on private resolution and try to put action into the compromise that's developed here. I do have problems. And if we did ban them because we can't work this out, it's almost like we're banning private auctions because we can't define why we're banning private auctions. Because if we were clear about what we were trying to avoid, we should be able to find more clear indicia of what that thing is. And it's a horrible reason to ban something because you can't define what it is that makes it appropriate to ban it. Maybe what we need to do is work backwards from the reasons that people want to ban them or the Board was concerned about them, and try to find indicia that are more directly

indicative and maybe to define in a non-exclusive way what constitutes bad faith itself as opposed to non-good faith.

I googled “non-good faith” there are four [audio break]. One is on an Indian chat page that bounces between at least one different language spoken in India and English, almost word by word so I would not use that as a semantic source. The other two sources are this working group. So, I don’t think we should use non-good faith intent as a term. If we mean bad faith or lack of good faith, we should say it, but is a lack of good faith enough? Maybe in terms of a concrete suggestion, which I know you’d rather hear than what I’m saying, is we could at least put before one, two, and three for which there is no reasonable good faith explanation.

And I think we also have to avoid – are these quasi criminal acts? In other words, is it somehow a bad thing in the ICANN world to apply for five or more strings? And is it bad if, by chance, these things happen? Because we’re kind of being critical of these and to some extent, it is bad not to get delegated within two years. That’s what you’re asking for extensions and the like. But I think maybe the problem is that we’re kind of pussyfooting around or tiptoeing around what it is that we’re trying to solve, and that’s why we’re ending up with these uncomfortable extractions. Well, that music tells me it’s time for me to go.

JEFFREY NEUMAN:

Thanks. I like the sentence you said about these factors. I know we’re running up against time, so we’ll see if we can put that in. There’s a lot of hands here and we’re sort of at the end. So,

Donna and Paul, just one minute, then if you could just make your point quickly.

DONNA AUSTIN: Mine was just a question of clarification. So at what point would ICANN be making this kind of determination?

JEFFREY NEUMAN: It would have to be after the fact, after these occur, most likely after they either finish, get a contract, or the activity happened. It would be very late, let's put it that way. Very late in the process.

DONNA AUSTIN: So if somebody has applied for 10 strings then the determination would be made after the resolution of those 10 strings, if they all go to private auction?

JEFFREY NEUMAN: Correct.

DONNA AUSTIN: Okay. Thanks.

JEFFREY NEUMAN: Thanks, Donna. Paul?

PAUL MCGRADY:

Thanks. I just wanted to say I really thought that there was a nugget in what Greg had to say, that instead of going to non-good faith intent or bad faith intent, I think that his idea that in the event that one or more of these factors or other factors, which are not included here to address Marc's issue, these will be non-exclusive factors exist, and there is no credible explanation for why then it could be deduced that, there is a likelihood that the bona fide intention around the registry did not exist. Because there are scenarios you could apply for five and you could pick the five. That five tech giants also wanted and you could be a small time guy and you could just straight out get outbid. That doesn't mean that you're a bad faith person, just you should be able to say, "Yes, I wanted to run all five of those and here were my business plans. By the way, the five biggest tech companies in the world bought them instead. They just flat out outbid me." That stuff happens. So I think we should latch on to what Greg had to say. Thanks.

JEFFREY NEUMAN:

Thanks. I wrote that part down too. So look, we are over time, in the outstanding discussion items below, I think it's really just what the punishment would be. I think we're at a point where we'll try to incorporate the feedback from today, write a revised Model 6 up. But I think we're at a point where – I think we don't necessarily need this meeting on Monday. I think we can do it online and we have all this stuff from the chat. So I want to remind everyone what's coming. I know we're gone over a little bit, but you have now and we'll send out this [inaudible] e-mail. You have the full preamble already and we'll again indicate where it is. You have

the revised Predictability, Closed Generic sections, you have the Substantive Differences document that's going to be used as a basis for the survey form. You're going to get as well, shortly, most likely either later on today or early tomorrow, you're going to get the full draft Final Report with the preamble in there, minus the Predictability, Close Generics and this Mechanisms of Last Resort. Actually, I'm sorry. We'll have the – I can't remember now. It may not have the Predictability, Close Generics and Mechanisms of Last Resort, although we may get in there if we can.

So please use the week to review those in the issues list. Okay. It has the Closed Generics, just not the Predictability. So that we can have a conversation on Thursday to go over all of the outstanding stuff but we'd like to get it all done online, if we can. Does that make sense?

All right. We're getting there. We're getting towards the end. We have to get this out the week of the 17th. We have no choice. Otherwise, we will miss our end of the year deadline for the final Final Report. So lots of stuff to do, please do pay attention to it, and we'll talk to everyone. We are going to cancel Monday's meeting. Please use that time to look at everything and let us know if there's any comments. Otherwise, we will talk to everyone next Thursday. Do we have the time? I know we have the time on the calendar. I don't know if anyone has post on the chat but you should have it on your calendar. All right. I think that's it. 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]