
ICANN Transcription
GNSO New gTLD Subsequent Procedures Working Group
Tuesday, 12 January 2021 at 20:00 UTC

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

Attendance and recordings of the call are posted on agenda wiki page:

<https://community.icann.org/x/5YgmCQ>

The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page

<https://gns0.icann.org/en/group-activities/calendar/2021>

JULIE BISLAND: Good morning, good afternoon, good evening. Welcome to the New gTLD Subsequent Procedures Working Group call on Tuesday, the 12th of January, 2021.

In the interest of time, there will be no roll call. Attendance will be taken by the Zoom room.

I would like to remind everyone to please state your name before speaking for the transcription and please keep your phones and microphones on mute when not speaking to avoid background noise. Please note the raised-hand option has been relocated to the reactions icon at the bottom of the toolbar there. Also, as a reminder, those who take part in ICANN multi-stakeholder process are to comply with the expected standards of behavior.

With this, I'll turn it over to you, Jeff. You can begin.

JEFF NEUMAN: Thanks. I was just looking at the raise-hand button and, for some reason, I guess I don't have the updated one. So mine is still in the same place. Maybe I should update that.

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.

But welcome, everyone. I guess today's agenda is pretty informal and easy, but this is our last formal meeting as a full working group after a lot of years. So everyone should be thrilled about that and all the hard work that has gone into this. So today's discussion really is just to focus on the consensus call designations.

Before we do that, let me just see if anyone has any last updates to their statements of interest before we get this call underway.

Okay. Not seeing anyone with raised hands. Good. All right then. So what we'll do ... There is one item under Any Other Business, and that's going to be for those that are interested in helping to draft a separate response letter to the Board on all of their questions. We'll cover that under #3. But Cheryl and I are here to basically answer your questions. We'll give a high-level overview of the designations but then, really, it's open to you all to just ask us questions. You all have until, I think, 23:59 UTC on Wednesday to let us know if you have any objections to any of the designations, and then you have until the—hold me honest on this staff—the 18th at 23:59 UTC to file any minority or other statements. The reason I'm saying "other statements" is I've been asked by several members if they could file a statement in support. So there's nothing in the operating procedures or guidelines that would not allow a statement of support. So you are fully welcome to submit either of those statements, and they will be linked to the report when it goes out to the council on the 18th.

So any questions before we get into the actual designations?

Okay. I'm not seeing any. Cool. So why don't we pull up, first, just the working group guidelines—

CHERYL LANGDON-ORR: You've got Elaine now.

JEFF NEUMAN: Sorry about that. Sorry, Elaine. While you're doing that, actually, if we can pull up the guidelines, just to review that real quick. But go ahead.

ELAINE PRUIS: Thank you. Sorry. It took me a minute to find the raise-my-hand button. So, Jeff, I'm just wondering and hoping that you and Cheryl will go through your methodology for the designations. I know we talked about it before everybody put in their statements, but I'd love to hear how you weighted different responses according to people's participation in the working group or if their statements were representative of a constituency's position. Or did you score them? I'd love to hear about the process. Thank you.

JEFF NEUMAN: Sure. That's a great question. So let's go over the methodology, and then I'll answer that question because it was actually much easier than I thought and then Cheryl thought it would be because of the responses we got.

So, under 3.6, which has the standard methodology for making decisions—this is in the working group guidelines—the definition of full consensus is pretty easy, right? If no one expresses or says anything against the recommendation itself—so pretty much unanimity or lack of any objections—then that would be full consensus.

A position where only a small minority of the working group disagrees will be labeled as consensus. So, if there's one or more persons that have an objection against a particular recommendation, it couldn't be full consensus. The highest it could be would be consensus.

Then the third designation is strong support but significant opposition. So this is a position where, while most of the group supports a recommendation, there is a significant number of those who do not support it.

The good news here is that we went not just through the topics but through each of the affirmations, recommendations, and implementation guidance of each of the topics, and every one of them, with the exception of one—we'll go through that—had either full consensus or consensus.

So, Elaine, it was pretty easy to label something full or consensus because it's pretty evident. We'll go through the items. The one area, and the one area we debated, was within the auctions topic. That was one where we had to look at the diversity of the responses we got, how active the members were that voiced those concerns, and how representative those concerns were from previous comments that were filed. So all of those went into

... Cheryl and I—frankly some other leadership team members were on the call, too—ultimately decided that we just couldn't classify that as consensus for that particular item. But, to us, there was certainly strong support for the recommendations. Hopefully, Elaine, that answers the question. We'll go through the specifics, and maybe that will help as well.

ELAINE PRUIS: Thanks, Jeff. So I think what I'm hearing is that the strong support but significant opposition is really about the number of those that did not support.

JEFF NEUMAN: No. It was number. We also looked at the fact that they came from different communities, different—

CHERYL LANGDON-ORR: Yeah. Diversity, yeah. [inaudible] that it wasn't just one constituency, that it was a diversity of non-support as well.

JEFF NEUMAN: And then also looking at the comments during the final comment period, where it was consistent with a what a number of the groups had said in their comments. So that's what brought it down from consensus to strong support.

ELAINE PRUIS: Okay. Thanks.

JEFF NEUMAN: Sure. Okay, so why don't we then go to the actual chart? Sorry, there were two charts. Let's go to the designations chart. You all should also have in that e-mail the responses chart as well. So we'll be referring back and forth to those.

CHERYL LANGDON-ORR: Sorry, Jeff. You've got Paul now.

JEFF NEUMAN: Why am I not seeing hands? Okay.

CHERYL LANGDON-ORR: That's all right. You've got me. I'll keep you honest, my friend. It's all right. You've got Paul.

JEFF NEUMAN: All right then. Paul, go ahead.

PAUL MCGRADY: Thanks. Jeff, the reason you didn't see the hand is it went up right as you were switching gears. So I apologize for the late hand.

Can we go back to the chart? I want to understand it because I thought there was a parenthetical that wasn't helpful, and I just want to make sure that I'm reading it right.

So the first two bullets are some form of consensus, correct? Then the third bullet is a form of not-consensus. And the fourth bullet is a form of not-consensus. Correct? The reason why I ask is just because that's how I've always known it to be. But the parenthetical after "divergence" isn't super helpful, right? Because it says, "also referred to as no consensus." But I think "strong support but significant opposition" is also not consensus. Is that how you and Cheryl took that to be? Thanks.

JEFF NEUMAN:

Yes, that it's not consensus or full consensus, but I think it's there to show that, for things that don't amount to capital C/capital P Consensus Policies, they are recommendations that have a good deal of support, even if there is significant opposition. So I think it's important to note. What the council chooses to do with it is certainly a council matter beyond our scope, but we did want to indicate, even if something doesn't get to a consensus, that this particular item still had strong support.

PAUL MCGRADY:

Thanks, Jeff. I appreciate the clarity.

CHERYL LANGDON-ORR:

You've got Alana now, but also, we will go going through that particular one—35—in great detail a little later on. So maybe put a pin in some of the issues. And I think some of it will become clear as well. But we have been conservative in our descriptivism of what is or isn't consensus on all of these.

JEFF NEUMAN: Right. And, remember, you really should read all of the responses because there's a lot of intricacies in there. So someone may, for example ... Not to pick on any individual person, but there was one person that said, "Look, I don't like the designation of communities." But, if you're going to have communities, some of these recommendations make sense and they'll support them. There were a lot of things like that in there. So all of that was discussed, and we wanted to make sure that recommendations weren't thrown out simply because there was a little part of it that may have had some intricacies around it. So we'll discuss more specifics. I'm just trying to talk in general.

But, Alan, go ahead.

ALAN GREENBERG: Thank you very much. I'm not going to talk about the specifics of that recommendation, but, Jeff, something you said I think is key, and I think we need to explore it a little bit more. You said how council handles it is not something we can control. And that's true, but we do know how council used to handle these, and we know that it has changed. Up until relatively recently, a recommendation that didn't have consensus—i.e., that word in the title—was not adopted as GNSO policy and therefore it became the consensus policy with the approval of the Board. That has now changed. We don't know how the Board will handle it, but the GNSO Council has chosen to pass these things on.

So I think it's really important that we understand what our intent is by passing on a recommendation—I put that word in quotes—that does not have consensus. There is some potential that it will get passed on by the GNSO, and there is some potential that the Board will approve it. Is that really what we are intending to do based on this?

If a recommendation, in our discussions much earlier, did not have something akin to consensus, we wouldn't have put the label recommendation on it. Now we have a situation where things have the label of recommendation and, therefore, you're following the guidelines and assessing consensus level. What is our intent? What does this working group hope the GNSO will do with it? We have no control, but do we hope we'll do with it? Do we expect them to pass it and it becomes a consensus policy without consensus? Or do we expected it simply to be noted? Thank you.

JEFF NEUMAN:

Alan, I think you may get a different answer from every person on that. So I have my own personal views, and Cheryl, I'm sure, has her personal views, and you have yours. At the end o the day, it's going to be a decision for the council. I'm happy to give my personal views, but I don't think they amount to any kind of weight of anything.

So, at the end of the day, our role is to document the work of this group. The fact that there's strong support? You can't just throw that out? Yes, there may not be consensus, but if there's a good deal of people that support it, the Board should know it if the

Board has to make a decision on something. Sorry, I'm getting into my personal views. So forget that. I don't want [inaudible].

ALAN GREENBERG: Jeff, do note that council now has a history of passing on recommendations that have divergence as the evaluation.

CHERYL LANGDON-ORR: Yeah, we are well aware, Alan.

JEFF NEUMAN: So the good news here is [inaudible].

ALAN GREENBERG: No, no. I know we don't have any—at this point, anyway.

CHERYL LANGDON-ORR: No, no, no. We are well aware of that, and we discussed it in detail in the over-three hours we spent on this.

JEFF NEUMAN: Yeah. Donna puts in the chat that there's a fine line between strong support and significant opposition. I think, when we go over this section, you'll see why that one section was not divergence. I hope you'll understand why we still believe that there's strong support. So, in this case, there could be. I agree with you, Donna, but I don't think, in this here, that's the case.

Also, I just want to point out that we are not working on capital C/capital P Consensus Policies. This is no a (capital C) Consensus (capital P) Policy that is meant to revise any existing contract or be imposed on any existing operator.

So I said I wouldn't get into personal views. I'm going to stop there. I'd rather just get into the specifics, but Anne has got her hand raised.

ANNE AIKMAN-SCALESE: Yeah, Jeff. Just a procedural question there to assume for the moment that council says, "Well, hey, strong support. That's not really consensus. We don't like that," and does not pass it along to the Board. Would we consider then that recommendation or that category to be something that the Board would require two-third majority to overturn and go with the strong support?

JEFF NEUMAN: Sorry. Can you repeat that? I missed something there. Sorry.

ANNE AIKMAN-SCALESE: Yeah. Suppose council says, "Hey, this does not have consensus. This is a strong-support item and, pursuant to what Paul McGrady says, this does not have consensus. So we, GNSO Council, will not pass this recommendation along to the Board. We don't support it in council. It's not consensus, we don't support it, and we're passing it along to the Board." Is that then something that, if the Board wanted to override that and accept the recommendation because it has strong support in the working group, would then

require a two-thirds majority to override that determination by council?

JEFF NEUMAN: No. If something doesn't pass by a super majority of the council, the Board is not ...

ANNE AIKMAN-SCALESE: Mmm. I don't know.

JEFF NEUMAN: [inaudible]. Look, I think we're getting into good theoretical discussions of what the council can do with it. I personally really like talking about this, but I think that's not really our role. I'm happy to defer to Flip and other councilors that are on this call to discuss this topic. The good thing, I believe, is that there's only one item that fits into there. So a lot of this is theoretical in most areas.

So, with that said, why don't we go to some of the specifics here? For all of the items that have full consensus, we're not going to go over those now. Just to note that, for the overall designations, we did not, for those items, believe that there were any comments that were filed either relating to that topic or that spoke out against it. So it's pretty easy to see on those by looking at the responses.

As Cheryl said, we were very conservative on our designations. So there was some debate on predictability as to ... Well, actually, no. Sorry. There wasn't any debate on predictability. There was

only one comment that came in from one organization that basically said that there was a lack of support due to them not being convinced of the value of the SPIRT team. Everything else had full consensus within that one.

For applications assessed in rounds, the only comment that came in was ... I think maybe there were two people that said that they did not want a round to start until some gating factor that they had in there. So those two persons were generally from similar backgrounds and constituencies and, therefore, we felt comfortable with a consensus designation as opposed to anything else.

The different TLD types. There was only one comment that came in there. That comment did not want communities as a recognized TLD type. So, therefore, that 4.1 was labeled as consensus. Well, the whole topic is consensus, but in reality, when you drill down into it, the other recommendations in that topic had full consensus.

I'll stop there. That's really 1 through 8. I don't know if there's any questions. Anne's hand is raised. Is that a new hand?

ANNE AIKMAN-SCALESE: My screen is not showing a hand raised. I don't have a hand raised, as far as I know.

CHERYL LANGDON-ORR: No, you don't have a hand raised. Jeff, I think your video has also disappeared, so there might be some little laggy thing happening. But your audio is fine, so keep it going.

JULIE BISLAND: Actually, Cheryl, I think we lost Jeff.

CHERYL LANGDON-ORR: It sounds like we have lost Jeff indeed, so I will continue while we get Jeff back. So you'll notice here that what we're discussing is listed in this third column—the designation notes. And you'll see that, when there was any—even one—comment that was not supportive or an objection to a particular subpoint of any of these topics, we have listed where that has occurred. So, in this case on the different TLD types, there was some comments in on 4.1, but it was certainly a consensus-level designation. But even though there was full consensus on, you'll note, in some of these that we've just gone through, what you could consider the majority of the points, our conservative approach was we will label it as consensus and note that it was full consensus on which points and consensus where that occurred.

Moving down to the next fun topic, 5—the application submission limits—that, along with the next one, 6 and 7 and 8, did not receive any objections and, therefore, we were comfortable giving it the full consensus designation.

Topic 9, however, did get comments in. In particular, there was some concerns to do with 9.9 through to 9.12 and, as well, 9.15. But there was full consensus on the string of 9.1 through to 9.8 and also 9.13 and 9.14. So you'll see we've gone to a good degree of granularity, and this granularity—these three columns;

not the leadership notes, but these three columns—will be being provided as part of a table at the beginning of our report.

Jeff, I've got through to 9, and we have Kathy's hand up, which doesn't surprise me, seeing that she commented on 9. So I'll go to Kathy, and then you can pick up the lead. Kathy, over to you.

KATHY KLEIMAN: Cheryl, did you want to comment first on 9.9 and 9.10 and how you labeled the consensus call? That might be a good way to frame it, and then I'm happy to follow up.

JEFF NEUMAN: Sure. Okay, 9 is obviously one of the more interesting ones. What we looked at ... I sent out an e-mail in response to George as well. If you look carefully at the responses—can we go to that document; the response doc—the only person that indicated opposition to the recommendation—that's what we looked at—was you, Kathy, on that. There were a couple members—

KATHY KLEIMAN: Jeff, with respect, that's not true. Elaine Pruis' comment starts, "I do not support Recommendation 9.10." That's how it starts.

JEFF NEUMAN: Kathy ...

KATHY KLEIMAN: Go ahead.

JEFF NEUMAN: So, if you look at the comments that came in, you will see that there are several members that think that we should have discussed the rationale a little bit more and that there were a couple members that may not have supported 9.10 for including certain things in a contract. But, in general, we felt that, when looking at the group as a whole, there was only a small minority of working group members that opposed the recommendations. Remember that we stated that, if any member did not respond to the consensus call, that was deemed as support. So, unless it specifically said, “We do not support this,” then we did not count that as a lack of support.

So, when you look at the roster of working group members and you consider—which is what we did—the active members, Cheryl and I came to the conclusion—we are willing to stick by it—that all of these items, at a minimum, had consensus.

KATHY KLEIMAN: May I respond now?

JEFF NEUMAN: Sure.

KATHY KLEIMAN: Okay. I’m a little concerned about the framing and “we’re willing to stick to it.” I’m hoping perhaps Cheryl might share this side

because, Jeff, your mind has been made up for a long time on this. But the whole purpose of this consensus call designation discussion is presumably because your minds aren't completely made up, that there is an ability for us to talk. When I look at your recent e-mail saying I'm the only one who objected to this recommendation, I think that's clearly not correct. So we see others saying that this should not be a part —9.9 and 9.10—raises concerns, and should not be considered part of a consensus recommendation. Not my words—other words.

What happened was that a lot of what we agreed on for what PICs should be used for is now incorporated in Recommendation 30.7 and 31.16. We have the use of private PICs/RVCs for GAC advice, for settling GAC early warnings, even for settling formal objections. What we're talking here is something that has been the topic of great discussion, and yet we didn't solve it, we didn't resolve it, and lots of people, not just me, are raising questions, whether it's Elaine or Jessica Hopper or Jim Prendergast, me, or George Sadowsky. There's a great deal of concern about this recommendation, and I would think, given the diversity and the numbers, it does rise to substantial. So certainly it's not just me.

CHERYL LANGDON-ORR: Thanks, Kathy. Let's go to Elaine, and then I will have a go at responding. Go ahead, Elaine.

We're not hearing you, Elaine.

ELAINE PRUIS: Thank you. Sorry for not finding my unmute button quickly. I just want to say, if we consider all of the reasons why there is not support for some recommendations in 9, there's the implications that the impact of adopting all of 9 as is is pretty profound. It's not that we're going to affect one small part of then program. It could have impact on the registry contracts, which will then spill into four registry contracts and possibly historic registry contracts.

So, if I was unclear in my non-support statement by singularly picking out 9.10, then I would like to revise my statement to say I object to all of 9.

CHERYL LANGDON-ORR: Thanks for that, Elaine. Can we make a note of that, please, staff?

ELAINE PRUIS: Additionally, if we are talking about not just the number of people who submitted comments but the diversity and range of people, some of the issues were brought up well after the public comment period closed on the draft final report. So some of the concerns we didn't even get a chance to talk about until after that happened. Board members expressed some concerns about these recommendations. I really can't agree to consensus on Recommendation9, considering that.

CHERYL LANGDON-ORR: Okay, great. Thank you. Can we bring back up the definitions—the section of out the guidelines—please? Thank you. Excellent. The consensus designations are specific to the input on the last

reading—in other words, the call for consensus. That consensus call is what we measure, not everything leading up to it.

With these, even with those definitions in front of you, we believe that noting the objections—and we did note them to 9—even shifting to all of 9, Elaine, we would still have minority-disagree and most agreeing to sections of 9. However, if you want us to reconsider, we assume the reconsideration level that we may find being proposed from some of the working group would be that it would fall to the next level down. At the no-consensus level—that divergence level—we would be looking at a significant proportion of the ... Between 30 and 40 regular active participants of the working group would need to be giving their bifurcated input.

Elaine, I'll go back to you, then to Paul, and then back to Kathy. And unless there's an objection—

JEFF NEUMAN: Cheryl, I—

CHERYL LANGDON-ORR: I was going to say, unless there's an objection, I'll go to Jeff. Okay, Jeff. You want to take it over first? Go ahead?

JEFF NEUMAN: Yes. I think we need to be careful with revising opinions now. We'd have to think about how to do this because there may be a bunch of people that did not respond because they supported

these items that should also now be offered another opportunity to respond. I'm just not sure how that would work.

Elaine, the only thing I would also state is that if you could go back through every single affirmation and recommendation in Section 9 and be very specific. I'm not sure if you actually object to every single one. But you can pull up the recommendations in 9?

ELAINE PRUIS: Jeff, can I reply while you're doing that?

JEFF NEUMAN: In a sec. Hold on. The point here is that it 9 covers a fairly broad area. So, if you did intend to object to those, then we would just need to understand that that also means Specification 11 3A and 3B, Affirmation 9.3, etc.

CHERYL LANGDON-ORR: Jeff, we don't need to write people's minority reports. We just need to have them received on time and appended as the discussion is going on in chat.

JEFF NEUMAN: True. Okay. Kathy is next, or was there someone before Kathy? Sorry. Cheryl, you—

CHERYL LANGDON-ORR: It was Paul, unless Elaine wants to say more. It's Elaine and Paul and—

ELAINE PRUIS: Yes, I do. Thank you.

JEFF NEUMAN: Go ahead, Elaine. Sorry.

ELAINE PRUIS: So my statement about not supporting 9 overall is in response to what I thought I heard you say: because I didn't object to 9.9 and 9.10, then it's not a strong enough opposition, where it doesn't align with Kathy's opposition, or it doesn't count along with everyone else's. So I don't have a problem with the RVCs being written or an application. I have a problem with them being wrapped into the contract, considering the issues that the ICANN Board brought up in the public comments, which we didn't have significant time to address or come up with, in my opinion, a reasonable recommendation going forward. Happy to write a minority statement, but I don't want my opposition to be misinterpreted.

JEFF NEUMAN: Okay. Thanks, Elaine. Yes, certainly you should include anything you want in that minority statement.

Let me go to Paul and then Kathy.

PAUL MCGRADY: Thanks. Perhaps I'm misunderstanding what's happening, but it sounded like Elaine wanted an opportunity to amend her public comment, and then Jeff was talking about some process where everybody gets to write in and amend their public comments. I hope that's not the path we're going down. That's a disaster. A deadline was set. There are methods to object if somebody believes that Jeff and Cheryl got the designations wrong. There's also the minority statement process, which is open to all. But the idea of some window for everyone to go back and revise and resubmit public comments is a complete dead-end and a mess.

So hopefully Jeff or Cheryl can confirm that that's not what's happening—what they're talking to Elaine about is about submitting a minority statement rather than opening a window for people to amend their public comments retroactively. Thanks.

JEFF NEUMAN: Paul, thanks.

CHERYL LANGDON-ORR: Uh—

JEFF NEUMAN: Just let me because I think—

CHERYL LANGDON-ORR: Sorry. I was just going to say—

JEFF NEUMAN: Yeah, go ahead.

CHERYL LANGDON-ORR: It's not a public comment, of course. It's a consensus call response, which happens to be public. But, no, that's not what's being offered, as far as I'm concerned. Back to you, Jeff.

JEFF NEUMAN: Yeah, I was going to agree with that, basically saying the reason we're not doing that is because then we would have to open it up for everyone and that's not what we want to do. I don't know if I cut in and out during that, but, no, that was not what I was suggesting. It is for filing her minority statement. Then she's able to do that.

Kathy, go ahead. You're next, I think.

KATHY KLEIMAN: Thanks. Cheryl and Jeff, I would like to contest the designation of consensus on this and formally request, based on the record before the working group, that it be lowered one notch.

What I point to—sorry; forgive the law professor—as evidence is Jeff's recent to George, where he said the only objection to the recommendation came from Kathy, and one person's objection does not indicate a lack of consensus.

Respectfully, I think this means you guy misread it when you were going through yesterday, which is possible. There is a lot of material out there. But you have objection during the consensus call period, including the extension that you so generously gave me, which I deeply appreciate. You have an objective from Elaine Pruis to 9.10. "RVC must continue to be included in the applicants' registry agreement." You have questions on 9.[1]0 also raised and concerns. You have areas of non-support from Jessica Hooper. Jim Prendergast also raised issues and concerns.

So, if you look at the careful reading—then I raised objections—you have concerns raised from different stakeholder groups on this issue, strongly opposing 9.10, and I don't think that has consensus support. So, respectfully, I think these materials do need to be read carefully, and I don't think they were read the way the writers intended them to be seen, which was as opposition to 9.10. Otherwise, they wouldn't have raised it. That's why they raised it. So I would lower this one notch because you have numbers, you have diversity, and you have active participants. Thank you.

JEFF NEUMAN:

Thanks, Kathy. I believe those need to be submitted in writing—the contention—so if you could send something to the list. I will add that, yes, my e-mail response said one person. I would also add that two or three people does not necessarily make for a lack of consensus either. So we're happy to—

KATHY KLEIMAN: Four, five, six. You're getting pretty close now to the numbers on the auctions issue.

JEFF NEUMAN: Yeah. So we'll go to the auctions issue separately. I believe that Cheryl and I are in lockstep with this one, and we stand behind the consensus designation. But we're happy answer to it.

KATHY KLEIMAN: I would like to ask, because, again, that e-mail that you sent that said it was only my view? That's just not the case. Careful reading shows that there was non-support from multiple active participants in this working group. Doesn't that lead to a reevaluation right now or after the call based on the existing record of the consensus call?

JEFF NEUMAN: I don't know if there's a specific format that Jim has asked about in the chat. I don't believe there is.

I'd also like to note that one of the factors that Cheryl and I took under consideration was that two of the persons were from the same company. But we're happy to put in writing a further explanation as to why we labeled all of Topic 9 as consensus.

KATHY KLEIMAN: Can I ask Cheryl a question.

JEFF NEUMAN: Sure.

KATHY KLEIMAN: Okay. Cheryl, what does that mean—that the contesting of designation comes in by the deadline? I thought we're here to talk about it. I thought that that's the purpose of this [meeting]. Maybe I'm misunderstanding.

CHERYL LANGDON-ORR: No. Kathy, we've got a deadline, which has been in a our workplan all along. I think it's 23:59 UTC in another 24 hours.

JEFF NEUMAN: Yeah. Wednesday.

CHERYL LANGDON-ORR: Staff, can you ... Wednesday. It's already Wednesday for me, Jeff, remember. There is a deadline for the contesting to come in. So we would prefer it to obviously be in writing. We've been forewarned now that it will be coming, and that's fine. The main thing is that it goes to the list, so the list knows it's going on.

KATHY KLEIMAN: Okay. Quick question. What would you like to see in that? I apologize. It's a new piece of writing.

CHERYL LANGDON-ORR: Pretty much what you said will be fine. If you want to just write down what you've said, that'll constitute it because there is no format. Remember, this guideline is relatively fresh off the presses. Maybe for next time, people do this there will be a template for it, but right now there isn't.

KATHY KLEIMAN: You're going to create it. Thanks much.

JEFF NEUMAN: Thanks. Kathy, the only thing I would ask is, in your filing, that you could just indicate whether it's all of 9 or only parts of 9, just as specific as you can, please.

KATHY KLEIMAN: Okay. But sticking as much to what was on the record at the consensus call deadline sounds like what you're looking for.

JEFF NEUMAN: Yes.

KATHY KLEIMAN: Which was multiple statements of concern, opposition, and on-support. Okay. Thank you.

JEFF NEUMAN:

Okay. Is there any other—sorry. So we should go through ... I don't think we need to go through anything else on 9. Does anybody want anything else on 9 to go through?

The reason why I have another note in here was that there were a couple people that filed comments with just some different aspects of DNS abuse. But, overall, I think we've seen this statement, and the leadership notes. By the way, we're not going to include the leadership notes in the final report. This was just really for you all so that you can understand our thinking on some of these. So this is not any kind of formal statement of anything, but it was just to hopefully give some insight into what we were thinking.

It seemed to us that there was full consensus in the notion that the DNS abuse work is important and that a holistic solution needed to be developed where there was one or two comments on whether it should be referred outside of SubPro. Then there was another person that filed a comment that said they disagreed with ccTLDs being included. So I just wanted that to just be understood.

The next one I have on here that there were comment filed on was #12. This was an interesting one, too, because, when we were discussing it, the comments that came in were really on the notion of only having the translations out two months prior to the start of the period as opposed to the four months that the English version comes out. So there were a couple people that had that in their comments. But the entire topic, we thought, had consensus for us to declare that anything [with] a lack of consensus in the topic would be to undue the recommendations that say that it should be translated in the six U.N. languages, which is not, I think, what

people had intended. So we want to make it clear that 12.1 through 12.8 certainly had full consensus, and we still think that 12.9 and 12.10 had consensus in general.

Sorry. Kurt says four people. Sorry, I'm not sure what we're on here.

Okay. Just trying to understand. I might be missing something. Four disagreed with 12.9. So four people disagreed. Four people had said that they disagreed with the notion of only having it out two months prior and not longer. Yes, we did not find that that was enough for Recommendation 12.9 and 12.10, which had multiple parts to not receive a consensus designation.

Yeah. And as Jorge is saying, some of the comments did exactly what Jorge is saying—they were written in such a way that, yes, they wanted more, but they preferred having those recommendations than to not having any recommendations on them.

We also did go through the ramification of not finding consensus on the recommendations and whether that was really the intention of those that filed comments. So someone that said, "I think it should do more," but didn't necessarily say, "I oppose this as it is" ... The "I think it should do more" is something that's perfect for a minority statement, but it's not something that would overturn consensus.

Cheryl, I know you had some strong views on that, too, so maybe you want to explain or maybe you can do a better job—

CHERYL LANGDON-ORR: Sure. I certainly did. A comment that, for example, as Jorge was just saying, that something should be strengthened is not an objection to the recommendation. That's that the recommendation doesn't go far enough. So we didn't count that against a consensus designation, but we expected that that would come in from either, in the case of, for example, this particular one ... There would be advice given by various advisory committees relating to this. So it didn't count against consensus. It was left as part of consensus, but we recognize that the comments stated that things did not go far enough or were not, in some cases, long enough or early enough or whatever, not that they shouldn't happen or be addressed. Okay?

JEFF NEUMAN: Yeah. Thanks, Cheryl. Any other questions on 12?

Okay. We can skip 13 and 14. Topic 15: application fees. You can see that, if you break it down, we labeled the entire section as consensus. We believed there was full consensus on 15.2 to 15.6. 15.1 and 15.7 did not have full consensus. I believe one of them related to that one working member disagreed with not having a different fee structure for brands. I'm forgetting right now the other one off the top of my head, but there were not much more than a couple people that said anything on that.

Okay. Sorry. I'm just looking at the comments here. Jorge says, "Many inputs are critical of the gaps or the omissions, meaning that we could have gone further. It's sort of opposition but not one that was just to break the consensus." Right. I think that happened in a few cases, like DNS abuse, like translation issue. I'm sure that

there are others that we'll get to—oh, applicant support. Certainly, getting to applicant support now—Topic 17—there were a number of comments that wanted to go further, but none of the comments ... Or at least there was not enough objections filed to these that would have changed the designation from consensus to anything lower. So, as I state here, there's full consensus on ... So, in 17.1, the entire paragraph seemed to have full consensus, except to the extent that it referred to bid credits, which there were a couple comments on. So we couldn't label 17.1 as full consensus because it included some words referring to the bid credits.

So the other points here are important, too. We believed, if we broke it down, there's full consensus on the restrictions on assignments if we do have bid credits. There's full consensus on giving unsuccessful applicants for applicant support the ability to keep their application alive by paying the remainder of the fee.

However, there was only consensus on the gaming exception in that sentence. So the sentence actually read, "Unless" ... I'm trying to think of the exact words, but it was paraphrasing something like, "Unless gaming is found, an unsuccessful applicant for applicant support should be able to pay the remaining fee." What we found was that the responses to the consensus calls that came in said that they didn't necessarily agree that ICANN should be in the business of determining gaming, and there were comments of how that would be done. But those comments don't negate the underlying main point of that recommendation, which was that unsuccessful applicants for applicant support should be able to pay the remaining fee and have their application considered. No one objected to that. So this

is one of those areas where we certainly considered the main thrust of the recommendation. We didn't want to get rid of the main thrust of it simply because one part of it or one aspect of it may not have had full consensus. But it was enough to move it from full consensus to—

CHERYL LANGDON-ORR: Yeah. It gets a consensus designation then. Exactly.

JEFF NEUMAN: Yeah.

Okay, going to terms and conditions—I'm not seeing hands; I just want to double-check—(Topic 18), for most of this, we had full consensus. The reason why it didn't get full consensus on everything is that there is one member that did not support the notion of allowing ICANN to have a covenant not to sue in the terms and conditions, even if there was an effective appeals and challenge mechanism. So that was all we received on that one that took it down from full consensus to consensus.

Reserved names. That's an interesting one, too, because there were six recommendation in there, I think, and all of them had full consensus with the exception of one, which said to reserve PTI. And there were only two responses that objected to PTI being reserved.

I'll stop there for a second and give some people time.

Okay. String similarity (Topic 24). Just to break it down, to us it seemed like there was full consensus on not allowing plurals and singulars. Where there was a couple comments or responses back was whether the exception, meaning if two applications—one for plural or singular of the other—had different intended use, then they should be allowed. There were a couple of responses that didn't necessarily support that. So that was the one area that moved it down from full to regular consensus.

Jumping to applicant reviews, this almost had full and complete ... There's, what, 17 or 18—18—recommendations in here. The first 17 had full consensus, and one member had responded, to a particular small Roman numeral within 27.18, that they did not like the recommendation allowing incumbent registries to use their incumbency to automatically qualify financially during an evaluation of another TLD. So that's the one. And that was one Roman numeral out of, I think, three that were in there.

CHERYL LANGDON-ORR: You've got a hand up from Christopher.

JEFF NEUMAN: Oh. Sure. Christopher, go ahead.

CHRISTOPHER WILKINSON: Hi, Jeff. Good evening, everybody. I'm not quite sure where you have jumped from to, but it looks to me that you jumped over 21.1. I would submit that there was not full consensus on geographic names. I have, on several

occasions and in my most recent posting, made quite clear that I do not support several aspects of the Work Track 5 report, and I think you should not present that as full consensus. Thank you.

JEFF NEUMAN:

Okay. I think we need to go back. Cheryl, dropping it down to consensus I don't see as a big issue. We'll go back and make sure that that was reflected in your comment. Thanks, Christopher.

Sorry about that. Let's go then to 20 ... Where are we here? 30, actually. There was one member of the working group that opposed some of the language on the GAC advice and removal of the strong presumption. That was essentially contained within 30.2, 30.4, and 30.6. So that was what brought it down to consensus as opposed to full consensus.

Oh, sorry. I skipped 29. I apologize to Anne. Go ahead, please.

ANNE AIKMAN-SCALESE: Thanks, Jeff. As noted in my e-mail, in several places where there's one member objecting to a part of the recommendation, you note that that section is consensus rather than full consensus. And we had an exchange regarding 29.2. So I'm requesting that, as to 29.2, which is about just continuing the system-controlled interruption [and], if no, there's no new framework, that one be less than full consensus.

JEFF NEUMAN: Thanks, Anne. We'll go back and look at that. We might have just missed that.

ANNE AIKMAN-SCALESE: Thanks.

JEFF NEUMAN: So sorry about that. We will note that one done, too. And I apologize for skipping that.

Okay. 34. There was a comment that was submitted again that did not believe that communities should have any priority. So it knocked some of the recommendations down from full consensus to consensus. We asked that member, despite that objection to the notion of communities getting priority, if it turned out that they got priority or it turned out that there was consensus on giving communities priority, would that member object to the other recommendation? The person came back and said no. The only places that they would object were what's indicated here, which is why those few items don't have full consensus. So I think that's important to note.

There may have been something else in communities that pulled it down. It might have been something ... It was 34.11. For some reason, that rings a bell. Anyone recall? I don't know what that number jumps out at me. We spent all day looking at it.

Oh, the threshold. Right. There was—thank you, Marc—a comment that didn't support the lowering of the threshold. They

didn't mind, necessarily, that it was rephrased as a percentage, but they did not support lowering the threshold. Thanks, Marc.

Okay. There may have been two comments on that. But that still, in our view, would not detract from the consensus designation.

Okay. I'm going to skip the real fun one now—35—like we did yesterday.

CHERYL LANGDON-ORR: I was going to suggest we do exactly that—run through the rest and come back to 35.

JEFF NEUMAN: Yeah, because I think the only other one that didn't get the full consensus was Contractual Compliance. That was one where the member that responded, in this case, said they can't support because it didn't go far enough. So they had the magic words in there that said that they don't support the recommendation at all because it doesn't go far enough, which is very different. So that's why it dropped to full consensus.

Griffin, thanks for that in the chat. I knew there may have been one other. Right.

Okay. Let's go to the fun one now. So this one we had to break out in different parts because, while there were certainly a considerable number of comments that came in on 35.4—in fact, some of the responses to the consensus call were only on 35.4 and not on the rest of 35—we considered them separately.

What we came up with was that there's certainly consensus on the notion of resolving a contention set through means of an ICANN auction of last resort. So that was essentially 35.1. We believe there was consensus on the fact that communities should receive priority. So we wanted to make sure it was known that that had consensus.

To us, it seemed like there was consensus on the notion of private resolution of contention sets. There were a couple of comments that came in against the notion of private auctions but didn't come in against private resolution completely. So, in 35.4, we believe that there was significant opposition from a diverse set of persons within the working group with diverse backgrounds that did lead to the strong support but significant opposition.

So, if we can ... Let me go to my own list here because I know I wrote down the people that had that. Give me one sec. Sorry. Okay. So, for 35.4, we had Kurt Pritz, Peter LaMantia, Marc Trachtenberg, Jorge Cancio, Martin Sutton, Paul McGrady, Sophie Hey, Mike Rodenbaugh, Jessica Hooper, Anne Aikman-Scalese, Justin, Greg Shatan, Christa Taylor, [and] Phil Buckingham [who] partially opposed that. And some of the members above only opposed sealed bids with respect to brand. So that could even be parsed out a little bit more. So that's the significant opposition that we saw.

Now, of course, there were a lot of active members that either supported it or didn't file a response and, therefore, we didn't think it rose to the level of divergence or lowered to the level of divergence—however you would interpret that.

CHERYL LANGDON-ORR: Jeff, you've got Anne and then Jim.

JEFF NEUMAN: Yes. Please go ahead. And then Kurt. Anne, Jim, and Kurt.

ANNE AIKMAN-SCALESE: Thanks, Jeff. I wonder if it's worth noting those that filed responses to the consensus call that focused comments on brands only. Is it worth noting that in the summary here of the consensus call? Because I don't see any reference to the brand issue in your summary, I don't think.

JEFF NEUMAN: There's not necessarily going to be a summary. These leadership notes were just for you all to understand our thinking. We were not planning on any other kinds of explanations. We can't rewrite the recommendations. So we're not in a position to do that.

Sorry. I'm looking at some of the other comments, but let me go to Kurt and then ... I thought there was another hand up, too. But, Kurt, go ahead.

KURT PRITZ: Thanks. I wanted to point out that, essentially, 11 out of the 21 respondents—21 meaning those who responded on a recommendation-by-recommendation basis, including those that agreed with all the recommendations ... So more than half

disagreed with the recommendation, and two more said, “We don’t know. We need further discussion.” So that’s actually 13 out of 21. So, to me, it seems that the proponents of an auction that’s held remote in time ... the sealed bids are collected remote in time for when the auction happens ... And even whether it’s a sealed bid auction, to me, is supported by a local minority, and actually there’s divergence on this issue. If anything, the recommendation might be the opposite. So my opinion would be that this is divergence.

I understand that there’s 250—or something like that—members of the working group, but as Cheryl Langdon-Orr stated earlier, typically there’s 30 vocal participants in the discussion. If you go back in time and look at this discussion about this topic, you’ll see that it’s a relatively limited number of people. So to have 13 people speak up against it is remarkable compared to all the rest of the recommendations. Thank you.

JEFF NEUMAN:

There were some that submitted responses that just said that they support everything. There were others that specifically ... Because of the way that we set it out, a non-response was considered a lack of objection. So a number of people didn’t respond because they supported everything. So, while 11 people is certainly significant and we recognize that, that is why we labeled it as strong support but significant opposition. That’s exactly why we did it.

The people weren’t asked to support. They were only asked to indicate areas where they did not. So, Paul, your statement that

very few people supported this in the working group I don't think is an accurate statement. Again, we don't operate in the way that you have to voice support in order to be seen as supporting it. That's not the way it has worked.

I don't know, Cheryl, if you want to add anything to that.

CHERYL LANGDON-ORR: Nope, not at all. We recognize that it is a significant opposition. If you're assuming around 42 active participants out of the 250-odd, it sits at around—what would it be about?—the 30% mark? I'm not very good math. I don't know. But, yeah, it's significant opposition, which is why we've stated it as such.

JEFF NEUMAN: Yeah. So, again, you're free to file a minority statement. You're free to object to the designation. Then, of course, Cheryl and I will respond. But we did spend a lot of time on this one. This 35.4 was certainly a more difficult one.

Also, 35.4 has a bunch of component parts, too. So while some may have objected based on just brands, they may not have objected for others. So that kind of thing also needs to be taken into consideration. But, again, you're free to file a minority report. In no way are we saying that this has consensus.

Anyway, Kurt and then Paul.

CHERYL LANGDON-ORR: You had Jim.

[KURT PRTIZ]: [That was an older hand].

JEFF NEUMAN: Sorry, Jim. I didn't mean to miss you. I knew there was someone else, but I couldn't remember. Sorry, Jim. Go ahead.

JIM PRENDERGAST: That's okay. Thanks, Jeff. This is not on 35.4, but it goes back ... Could you repeat what you said as it relates to private resolution? I want to make sure I captured that correctly because I thought I heard one thing and I can't believe I heard it. So thanks.

JEFF NEUMAN: Yeah. So let's go to 35.whatever. I think it's 1 or 2 or ... So this is where it got a little interesting because some of these resolutions have a number of parts. While there were some ... sorry. I'm waiting for this to be displayed. Is there anyone that can display that—the outputs?

Okay. So, in Topic 35.1, this was an interesting ... It was just an affirmation of the previous policy, and it seemed like, to us, there was not significant opposition to affirming the previous general policy. While there were certainly some comments that did not like the notion of private auctions—this, I think, gets a little bit more into #35.2—there certainly was, we believe, consensus that there could be private resolution by means of forming business combinations or other joint ventures, as in Topic 20. The second

bullet point—“Any material modified application resulting from a private resolution will be subject to a new operational comment period”—seemed to have consensus support.

On the notion that all contention sets resolved through private resolution shall adhere to the transparency requirements, there did not seem to be opposition to that, although there may have been one or two comments saying that there should be more things that are transparent.

Where it got a little dicey was 35.3. If we scroll down a little bit. So, in parsing the comments out, it did not seem like there was an objection to having to submit an application with a bona fide intent to operate the gTLD. I think where we got a couple comments in was, “Well, how was that actually evaluated? We’re not convinced that it could be evaluated.[”] But it still seemed to us that there was consensus that you still had to have a bona fide intent.

So, when we looked at all of the comments, to us, while there were a few comments in there that did not support the notion of private auctions, there just didn’t seem to us to be significant opposition to the recommendation as a whole.

JIM PRENDERGAST: Can I react?

JEFF NEUMAN: Yeah. Please, go ahead. Sorry. That was meant for you to react to.

JIM PRENDERGAST: Okay. Sorry. I just don't know how the queue is working. So let me ask you this. Did you, as you mentioned on previous recommendations, also consult the public comments that came in on auctions in general and those that were filed by the BC and others in opposition to the inclusion of private auctions?

JEFF NEUMAN: So, on that one, we certainly went back to previous statements where members of the working group from that particular organization expressed a view. But, no, not in this case because no member of the working group from the BC, to our knowledge, came in and opposed these recommendations in a way that would have us lower the designation.

JIM PRENDERGAST: So I guess I'm confused now because you mentioned in a previous section that you did, in fact, go back and consult public comments, regardless of where they came from. But, this case, you didn't. So I've seen treatment of public comments two different ways, depending on the recommendation. So that's a big concern for me right there.

And I would say your comment that there is not opposition to private resolution is, in fact, accurate. However, the poisoning of that is the inclusion of private auctions. So I think you're really playing some tricky word games here in trying to describe what's being supported and what's not.

JEFF NEUMAN: So we're in a weird position here where we can't rewrite the recommendations. So I understand what you're saying. We're not trying to play word games here. We're trying to operate in a way to not necessarily— I'm just trying to think of the right words here ... to basically state that an entire recommendation has significant opposition, where we saw that a consensus did not have an objection to the entire recommendation. But, again, that's something that you can file an objection to, and we can go back and look at it.

JIM PRENDERGAST: I guess my last point—I'll yield to others; I know there's a queue—is you threw us for a loop when you said, "Be specific to the specific recommendations that you're objecting to.," and now you're saying, "Well, just because you only objected to one portion, it doesn't mean you objected to the entire recommendation." If we had known how to communicate to you clearly ahead of time instead of pushing us in one direction, I think the feedback you would have gotten on the consensus call would have been a heck of a lot different, including my submission. Thanks.

JEFF NEUMAN: Thanks. Well, I can only speak for myself. The reason we wanted it specific was because we didn't necessarily want entire recommendations thrown out because of potentially one part of the recommendation. So, if it turns out that, when we go back and

look, private auctions in itself did not have consensus support and there may be significant opposition, we wanted to be in a position to state that private auctions may have had significant opposition, but the notion of privately resolving a contention set through other means did not. That was why we wanted it to be specific—because we didn't think we wanted entire recommendations to be thrown out because we can't really rewrite these.

Sorry. I see Anne and Christopher. Is there anyone before that we might have missed?

CHERYL LANGDON-ORR: Paul has got his hand up.

JEFF NEUMAN: Sorry, Paul. Go ahead. I can't see.

PAUL MCGRADY: Thanks. So, on this specific issue, I think we have to be really careful about that private auctions coming into being was not in the recommendations. Some people made some recommendations to modify the 2012 default, where private auctions were part of what happened. And it is that recommendation to ban them that was up for consensus, and consensus wasn't reached to ban them. So I just want to be careful because I think we started talking about it in a flipped way as if somehow there was a proposal to introduce private auctions into the program, and the opposite is in fact true.

I also, again, gently want to resist, “Well, if I had known, I would have written it differently,” or, “I’d like to submit amendments,” or whatever. The consensus call is a consensus call, and I really think it’s dangerous to start going down the path of allowing amendments to consensus call documents, either directly or indirectly through objecting to the designations. Objections to designations, I think, must have to do with somebody’s disagreement about how various things were tallied up and weighed. They really can’t be a second bite of the apple because now you don’t like your consensus call document.

So I am hoping that the leadership of this PDP holds the line on that. I think it’s terribly important that we don’t have a perpetually amendable consensus call document submission window. Thank you.

JEFF NEUMAN:

Yeah. Thanks, Paul. I think you probably stated it better than I did. You definitely stated it better than I did. We’re looking at the actual recommendations that are before us, not the proposals that were made that didn’t rise to the level of getting into this report.

Sorry. There were others in the queue, and I don’t know why I can’t see people—

ANNE AIKMAN-SCALESE: It’s Anne, and then next I think—

JEFF NEUMAN: Great. Thanks, Anne. Sorry.

CHERYL LANGDON-ORR: Yeah, you're next, Anne, and then Christopher.

ANNE AIKMAN-SCALESE: Thank you. Jeff and Cheryl, you guys indicated that the leadership comments and reasoning were not going to be part of the final report, but I honestly would urge you to keep those leadership comments in, where you summarized your thought process on things. I think, if you don't do that, there are going to be a lot more questions about them raised at the council level and beyond. I think your leadership notes are very helpful, so I'd like to ask you to consider to keep them in the final report.

CHERYL LANGDON-ORR: Anne, my immediate response is that the document, as you've got in front of you, is a public document. It's part of the meeting notes, and we can reference it. But, in terms of basically what is an executive summary table, I'm going to stick with not having it in the introduction to the report. But, as a piece of supporting material as it's writ here, it can certainly be appended. That's not a problem. But not in what needs to be a clean and easy read—what got what level of designation. We can put a footnote and link, however. That's not a problem.

JEFF NEUMAN: Yeah. Thanks, Cheryl. Thanks, Anne. And I do now see Christopher. Sorry. Christopher, go ahead.

CHRISTOPHER WILKINSON: Thank you again. Jeff, I may have missed something. I have not written specifically about private auctions recently because I thought, from previous conference calls, that the idea was completely dead. If some of us are trying to resuscitate, I'd just say that my personal, political, and moral judgment is that this indeed would be a grave mistake. And there are certain categories of names that, if they go to private auction—to phrase—all hell would break loose. No. What I don't understand is why leadership is pushing for this. I see no grounds for that. Thank you.

JEFF NEUMAN: Thanks, Christopher. I want to be clear that there's no recommendation in here that says we should have private auctions. That's not anywhere in this. If you look at the recommendations, they talk about ... Let's go back to 35.2. All it talks about is, "All private resolutions reached by means of forming business combinations or joint ventures resulting in the withdrawal of one or more recommendations need to go through the application change process." That's one. Number two is, "Any materially and modified application resulting from private resolution in general will be subject to a new operational comment period." Then it talks about objections and things like that. Then the third part: "All contention sets resolved through private resolution shall go through the transparency requirements."

That's what the recommendations are. It doesn't say that we support private auctions or that we're against it. All it says is that, if there's private resolution, they need to adhere to this. And that's what we did not see significant opposition to.

If you look at the next one, the next one says that there needs to be a bona fide good faith. By the way, I did say that I would stay as long as working group members wanted to because this is their call. Others can leave, but I'm here for the long haul if ICANN can keep the room open. So I'm happy to do this.

So 35-point ... I'm just trying to look at the chat here. So that's what's in the resolutions, and that's why I think it's important to look at those and then look at not what's not in here but what is in here.

Let's see. And who's next? Anyone else?

Am I still being heard? Because this is the same kind of quiet I had when—

CHERYL LANGDON-ORR: Yeah, you're being heard. There's no one else in the queue. Just that's it. No more hands up.

JEFF NEUMAN: Okay. So I guess I'll just do a last call for any questions or comments. I think, overall, I am ecstatic that I think we've achieved full consensus or consensus on almost every one of these. Even with the discussions we've had on auctions and even

considering the discussion today on the RVCs and PICs, we all should be pretty happy that everything else came in as consensus or full consensus. So I think that's a huge accomplishment.

For a response to the Board, there was a desire expressed prior to the end of the year that some members of the working group formally or informally draft a response to the Board to their questions. No requirement that we do so. So I think, on a very informal basis, if anybody wants to work on that, if you could let us know—by “us,” I mean ICANN staff—so we can get together a Doodle poll and discuss what would be in such a letter and work on it.

Anne, sorry. Go ahead, Anne.

ANNE AIKMAN-SCALESE: Just very quickly, I think I understand the logic with respect to closed generics and saying there's full consensus, but Jorge had asked a question about that on the list, and I think that you said that we would discuss it during this call, the point being, I guess, that there's full consensus on the test of the final report because there were no recommendations. Is that how we are designating the full consensus? Thanks.

JEFF NEUMAN: Right. There's full consensus on that text. There's full consensus on not having any kind of agreement. As we were joking around yesterday on our leadership call, if we tested the working group, there'd probably be full consensus on not being happy that there's no agreement. But, unfortunately, that's not a question that's

before us. A lot of us wish that we could have come to some sort of proposal or some sort of consensus on a proposal, but when we state full consensus there, it's full consensus on the text.

ANNE AIKMAN-SCALESE: Thanks very much for that explanation. Thank you.

JEFF NEUMAN: Cool. All right. There was something else, but, Cheryl, you go ahead.

CHERYL LANGDON-ORR: No, I was just going to say that, if we can have those names for people who want to contribute to drafting up something to react to the questions that the Board raised, probably—what do you reckon, Jeff?—within the next 72 hours we can send out a Doodle for something to start up in the week after next, I would think.

JEFF NEUMAN: Yeah. Thanks, Cheryl. That's great. That's good. By the way, this is not something that's going to get transmitted with the report. This is just that some people said that they wanted to respond to the Board's questions.

I also do want to reiterate, because there were a couple people on this call and on e-mail that said that the Board expressed concerns on the enforceability of PICs or RVCs. That's not actually accurate. The Board asked questions. The Board asked if we had considered certain things. The Board never said, ["]We are

concerned that it is in a problem.["] I think it's important when we talk about these issues, whether it's on this mailing list or in this letter that comes back. I don't want to put any Board member on the spot, but if I am misstating that, please do correct me. But I don't think it's accurate to say that the Board has issues with it. The Board expressed questions and, "Had we considered this, this, and this?' But the Board is not on record saying it has concerns about doing this. So I hope that that just is taken into consideration.

KATHY KLEIMAN: Sorry. Jeff. This is Kathy. When you said it has concerns about "this," what is "this"?

JEFF NEUMAN: Sorry. The Board never said it never has concerns about the enforceability of PICs and RVCs. The Board had questions to ask—if we had considered these issues. Period.

KATHY KLEIMAN: Jeff, may I?

JEFF NEUMAN: Yeah, yeah. And, again, if I'm misstating that, please do speak up.

KATHY KLEIMAN: But then we explored those concerns with our liaisons, who told us they were speaking as individuals. But experienced, long-term

members of the Board who we talked with further expanded their concerns and the enforceability and necessity of evaluating the 2016 bylaws that have been adopted since 2012 that hadn't been really part of our consideration. So I think the Board letter was further expanded and fleshed out by our discussion with the Board that you and Cheryl so kindly arranged for us. So I think there's a larger ... And then we discovered more. So there's a big issue here, and so much of it is not captured. That's what I think we're hearing about this recommendation—that it does have substantial opposition. Thanks.

JEFF NEUMAN:

Thanks. I'm just looking to see if Becky or Avri want to weigh in. Again, I'm not here to put them on the spot.

But the other thing I would say is, when you go back, Kathy, your response back to the consensus call did state that there were certain areas where you did support PICs or RVCs, especially where they were used to resolve ... I'm trying to figure out the words you used, but if I remember correctly, you supported them with respect to resolving GAC early warnings, GAC advice, or I think what you termed as formal objections—

KATHY KLEIMAN:

Jeff, may I? And you and Cheryl brilliantly put them in to Recommendations 30 and 31. They're outside of 9 now, which leaves a real question of what's remaining in 9, what the residual is. And we have no idea because we haven't talked about, and so much of this, as others have pointed out, happened after the

comment period. I don't want this one to be the legacy. This could haunt us for a long time. I think we have to report out how much we've learned, how little we know, and how divided we are. Thanks.

CHERYL LANGDON-ORR: You've got Avri responding now.

JEFF NEUMAN: Oh, great. Yeah, please. In the chat or ... Yeah, go ahead, Avri.

AVRI DORIA: Hi. Just a quick comment on concerns versus questions. It is true to say that the Board is not expressing a concern because the Board did not sit down as it will later and make any full Board decisions. Certainly, in the conversations there were people who brought up those issues, and perhaps it would be fair to say they were concerned about them, although they may have used another word, and therefore the questions. The questions didn't come out of the blue. The questions came out of some issue that people wanted to ask more about and wanted to ask if it had been considered. I don't know if that helps, but it's somewhere in between the "It's just questions" and Board concerns. Thanks.

JEFF NEUMAN: Thanks—

CHERYL LANGDON-ORR: And we'll be responding to those questions, which I think is what you would like to hear then, Avri—that we are going to, separate to this report, go through all of the questions and respond to them.

JEFF NEUMAN: Yeah. I think one other thing that has always come up, since this is our last call and everything ... Personally speaking, one of the things that I struggle with is, how does a working group handle a situation where, let's say, the Board, at the end of the day, says, "No. I think we've satisfied all of our concerns and we're okay with it"? Then where does the working group sit on these recommendations? I think, far too often, we took the direction within this working group of, "Oh, crap. What if this is against the bylaws? Does that undo every one of our recommendations?" I don't think we also looked at it from the other side of, "Well, what if it is actually permissible?" Then do we as a working group stand behind these recommendations? I think the answer ... Well, I don't know what the answer is. That's why we had the consensus call.

Part of me had wished—again, this is just speaking personally—that those questions would have been brought up in 2016/17—much earlier on—so that we would have much more time to either solidify our thinking on this as a community and, if it was technically an issue with the bylaws, then we could work on amending the bylaws in the community or not. It certainly did come up late in the process. But, again, that's my personal view. That has nothing to do with the responses we got back to the consensus call.

CHERYL LANGDON-ORR: I'm sure we'd all design the whole five-year exercise differently if we were starting over again, Jeff. But we didn't, and we haven't, and we're where we are, which is at the end of the process.

Avri, your hand is still up. Did you want to say something else?

Okay. Jeff, I would suggest that we're heading towards wrap-up at this stage.

JEFF NEUMAN:

Yeah, I think so. I just want to thank everyone for your incredible work on this. It's been a long five years or so, maybe a little less. But certainly with the amount of topics and then topics that were added on top of topics and being prior to PDP 3.0, it's amazing how far we've come. And there's still a lot of work to do, but I really feel strong, even with the one or two things left outstanding. I really feel like this is a strong foundation for the development of an applicant guidebook and for hoping that we can move forward in the process and introduce competition.

So I want to thank personally Steve, Emily, and Julie, who have just been so incredible just through this entire process and have just done an incredible job covering all of this.

I want to thank Avri, who is the other first Co-Chair with me. I don't know if you all remember that, but Avri—and actually, technically, I think Steve Coates was another Co-Chair for a short amount of time—did a ton of work before. But also being in that position and being on the Board now has been such a huge asset for all of us.

And, of course, Cheryl these last few years has seen a number of different sides of me, some of which I think she finds amusing, some not so much.

CHERYL LANGDON-ORR: Well, most of them I find amusing, Jeff.

JEFF NEUMAN: And I also do want to thank the many leaders that we've had for all of the work tracks. So I'm probably going to forget a bunch, but we had Karen Day and Michael Flemming and Christa Taylor and Rubens. Cheryl was also a work track lead. Then—

CHERYL LANGDON-ORR: And Robin.

JEFF NEUMAN: Robin Gross. And we had, of Work Track 5, Olga and Javier.

CHERYL LANGDON-ORR: That was a phenomenal team.

JEFF NEUMAN: Yeah. And Martin and Annebeth and—

CHERYL LANGDON-ORR: Christopher served for a while.

JEFF NEUMAN: Yes. For those of you that don't know, even though Work Track 5 closed, Robin, Annebeth, and Martin—and Michael for a while, too—really were involved in [inaudible] gave us great advice, especially in these last couple weeks, too. I apologize if I'm totally forgetting anyone. Am I forgetting anyone?

CHERYL LANGDON-ORR: You may have not stated Olga and Javier quite as much as you should have.

JEFF NEUMAN: I think it did. I thought I did. Sorry. But, yes, absolutely. So they were instrumental, and without the, we couldn't have done all this. And, of course, thanks to Terri and Julie and—oh, God; I'm forgetting people; sorry, guys—ICANN staff that has just been helping us—

CHERYL LANGDON-ORR: Jeff, this is beginning to sound like an Academy Awards moment, and I'm going to start running some music behind you.

JEFF NEUMAN: [Good].

CHERYL LANGDON-ORR: Jeff, we also need to thank you, as Alexander has put up on chat. There is a huge amount of work that goes in from all of the leadership team and the staff, but, Jeff, we do need to single you out and thank you for the incredible amount of preparation and effort that you put into all of this.

But I want to say, in addition to echoing all of the thanks to all of the people that Jeff has mentioned, I think everybody who has been involved in what I can only describe and continue to describe as a ridiculously large and badly designed exercise—because it was—should be very proud of these outcomes. They may not be what each and every one of you wanted. You may or may not be happy with compromise, and we may still indeed need to look at some of the designations based on what comes in the next 24 hours. But this is work that I think you can all stand back and say, “That was a darn good effort and a sometimes painful but nevertheless successful process,” about. And we did it while all sorts of things were transitioning, even how we do PDPs. So it’s something you can all be proud of. Congratulations all around.

Now we just need to see what happens when Flip takes it to the GNSO Council and their deliberations and discussions come out of it. But it is a matter of, “Watch this space. More will happen. More will come,” and I would like to think that many of you will be involved in various ways in the future with the development of the Applicant Guidebook when it comes and, of course, being involved in the various implementation aspects, be they the SPIRT team or otherwise.

I don’t think there’s much more to say, but I’m going to give the last word back to Jeff.

JEFF NEUMAN:

Thanks, everyone. I think the last word is just to remember the couple deadlines coming up. That's by 23:59 UTC on Wednesday. Make sure, if you're contesting any of the designations, please have it in by then. Then, by 23:59 UTC on the 18th, please have any statements—I'm going to stop calling them minority statements—if anyone wants to file anything else.

So, unless anyone else wants to say anything, I just want to thank you all. Let's stop the recording. Thanks, everyone.

[END OF TRANSCRIPTION]