
ICANN Transcription

IDNs EPDP

Thursday, 25 May 2023 at 12:00 UTC

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JULIE BISLAND:

Good morning, good afternoon, and good evening, everyone. Welcome to the IDNs EPDP call, taking place on Thursday, the 25th of May, 2023. We have apologies today from Dennis Tanaka, Farell Foley, Nigel Hickson, and Edmon Chung. All members and participants will be promoted to panelists. Observers will remain as an attendee and will have access to view chat only.

Statements of interest must be kept up to date. Does anyone have any updates to share? If so, please raise your hand or speak up now. If you need assistance updating your statements of interest, please email the GNSO Secretariat.

All documentation and information can be found on the IDN's EPDP wiki space. Recordings will be posted shortly after the end of the call. Please remember to state your name before speaking for the transcript.

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And as a reminder, those who take part in the ICANN multistakeholder process are to comply with the expected standards of behavior. Thank you, and over to our chair, Donna Austin. Please begin, Donna.

DONNA AUSTIN:

Okay, thank you very much, Julie, and welcome everybody to today's call. We're a little light on attendance, but it looks like we still have a few that are sitting in the back room. And a few of those are SSAC. So I hadn't anticipated SSAC joining us until an hour in. Do we know if that has changed at all? I mean, we can certainly swap the order, but I think we've only got a couple from SSAC sitting in the waiting room. Okay. Alrighty, so we will have our conversation with the SSAC team in an hour.

Just a few updates. As all of you know, we have the Phase 1 report out for public comment. And we've had one or two requests for an extension to the public comment period to take us through ICANN 77. I think we did discuss that this was a possibility. And I think from a leadership perspective, we are willing to extend it just beyond ICANN 77. I can't remember the exact date, but basically by two weeks. So if there's no objection from anybody here, that's what we would like to move forward with. So any concerns or objections from folks? Okay, it's okay with Satish. Alrighty, so we'll keep moving.

Just a note from the staff side. So Steve is currently flying solo at the moment. We think Marika will be joining the call a little bit later. As some of you might know, Ariel has taken vacation, so she's

having a well-deserved rest. But we have Steve with us today. But it is rather early for him on the West Coast.

I guess the other update is there was a GNSO Council meeting earlier today. And I presented basically our timeline for Phase 2 in response to the Board's request to the GNSO Council. So that was presented to Council, and there were no concerns. I was pretty open that while the date that we have for completion is around October 2025, we're certainly going to work hard to beat that.

One of the things that we realized from the leadership side is that what we didn't take into account is the fact that we've already started Phase 2 Charter question deliberation. And in terms of the project plan that we currently have, that wasn't anticipated until we complete the Phase 1 work. So we're in reasonably good shape because we're getting through some of the Charter questions now. And we also have ICANN 77 where we're going to devote four sessions to Charter 2 questions. So I think we are in reasonably good shape. But one of the unknowns for us is what kind of comments we're going to get on the Phase 1 report. If there are serious concerns about some of our recommendations, that may mean we need a substantive rework of some of our thinking and conversations. So that may delay us a little bit. But at the moment, I think we're on track to have the Phase 1 final report delivered to Council by November of this year. And we're also in pretty good shape with starting our deliberations on Phase 2 and hopefully ICANN 77 will help us progress that even further.

We also requested that Council consider the possibility of us having a face-to-face meeting. So that request has now been

made, which puts things in motion. Some of you might recall that it is a six-month lead-in, or at least that's what we've been told. So I think what we're aiming for is something around November, December of this year. If a couple of months down the track, we don't think we need it, we can cancel the request. If we think we want to push it out by a few months and do it early next year, we can. I think we probably have a little bit of flexibility to do that. So that request has been made as well.

Okay, so we will now get into some of the discussion around our Charter 2 questions, which are related to same entity at the second level. So Steve, if you're in a reasonable shape to kick off the conversation, and then we'll help you out as much as we can.

STEVE CHAN:

Hi, Donna. Yeah, so as Justine noted, there is a – well, you also mentioned it, Donna. There was a Council call last night, and the turnaround to here is quite short, and it's quite early, and I am not expert on this. So all the things working for me this morning. So bear with me is all I'm saying. With that, we can get into Agenda Item 3.

And as a quick recap, here are the Charter questions we are examining today. C1, C2, C3, and then C3 is a sub-question to C3, and it's dependent on a certain outcome for C3. So quickly, the first one, C1, is about the – and I'm going to take a look backwards at our discussion on IDN tables, and this discussion is similar in nature. So the first one is about whether or not – it's basically about the principle of same entity and whether or not that

same entity principle should be carried forward to existing second-level labels.

The second one, C2, is about the definition of what same entity means, and it asks whether or not the registrant is the right measure to be able to determine same entity. And it also has a question related to the fact that registries can actually activate variants at this stage. So it talks about what impact it might have on those existing contractual requirements if registries want to be able to activate variant TLDs – sorry, variant domains. Mixing up my top and second.

C3 at a high level is about how to identify the – so assuming same entity is agreed upon, C1, and then assuming C2 has agreed that registrant is the right measure to be able to determine same entity, C3 is about the method to identify a registrant as being the same. So in essence, C1, C2, C3 are sort of cascading in nature, whether or not the group agrees to the principle of same entity. Then it says, how do we identify the same entity? And then three is about the way to make sure that the registrant is identified as the same. So they sort of cascade. So that is the very, very high level review of our chart of questions that we're talking about today. And then as I noted, C3a obviously is conditional and it's labeled as such. It's dependent on what the outcome is for C3.

So with that, let's see. I was anticipating doing these one by one and having the deliberations per question. So unless anyone thinks we prefer to go through all the questions at once, I'm going to go forward with that plan.

All right, so C1. This, as I said, is about the same entity. And the question is whether or not it should be extended to existing second level labels. And so the background here is that there's an existing set of two recommendations from SubPro. And these are in line with what the staff paper had recommended, which is specifically that recommendation 25.6—and again, this is from SubPro, is that a given second level label under any allocated variant TLD must only be allocated to the same entity slash registrant. Or else withheld for same – or possible allocation only to the entity. And then you have a set of examples here. And so what this means is it's a given second level domain name under a set of variant TLDs.

And then recommendation 25.7 expands those permutations. It's basically the same thing as 25.6. But now it's looking at combinations of variants at the top level and then also variants at the second level. So basically the same thing, I believe, just increasing the set of permutations. And these two recommendations have already been adopted by the ICANN board at ICANN 76. And they are currently in implementation.

So the question boils down to, should these recommendations be extended to existing second level labels? And below I tried to make it a little more obvious what this is asking. So the way that I've tried to capture it here is it's asking whether – for an example, a given example.tld domain name. So the first bullet here corresponds to 25.6. And it's asking whether example.tld, example.tld variant 1, example.tld variant 2 and beyond, however many allocatable variants there might be, it's asking whether or not they should be allocated or withheld for possible allocation

only to the same entity. And the assumption is that the example.tld is already registered.

And then the second one, like I said, is just a larger set of permutations, but it's the same principle. In this case, it is that already registered example.tld. Then example.variant1.tld is one of the permutations. Then it also goes to example.tld variant 1. And then example1.tld variant 1, etc., to potentially a large number of permutations. And then it is, again, the same question, whether or not they should be allocated to or withheld for possible allocation only to the same entity. So, again, this is about whether or not this principle and set of recommendations that came from the SubPro report should be extended to existing second-level labels. And with that, I'll stop and let Donna run the queue.

DONNA AUSTIN:

Thanks, Steve, for that as the setup. So I guess what might be helpful at this point is whether there's some of our registry or registrar colleagues that could actually talk to what it would potentially take or how feasible is it to extend the recommendations from SubPro to existing second-level labels. So if somebody has a second level IDN registered at the moment, how easy is it to find that registrant, set aside the other variants, and on a retrospective basis, I suppose. So is there any of our registry or registrar colleagues who can talk to that? Michael, go ahead, please.

MICHAEL BAULAND: Thank you. First off, I want to say that for existing labels, we only have to take into consideration variants that are variant because of the second level, because we do not have yet TLD level variants. So the first bullet point, example TLD and example TLD V1, even though those are variants, there is nothing to do for existing labels because TLD V1 will not yet have been allocated or put into the root zone. And for variants that are variants based on the second level, so example.TLD versus example V1.TLD, I think we should extend those recommendations to existing second levels, but with the grandfathering process. So if a registry TLD already has a domain example and a domain example V1 that belong currently to different entities, then they should not be forced to take one of them away from one of the entities. But if just one of them exists, then I see no problem to force that future registrations of example V1 would need to be made by the same entity. Thanks.

DONNA AUSTIN: Thanks, Michael. Is there anything that a registry or registrar could do to, notwithstanding what you're saying about grandfathering, but I guess what I'm trying to get to, is it relatively easy for a [registrar or registrar] to identify an IDN second level label and then attach or withhold the variants on an existing registration? Michael? And then I'll come to you, Maxim.

MICHAEL BAULAND: Yes, I think it should be no problem because you anyhow have to do that for any future TLDs. So unless you would just want to restrict yourself to not supporting any future TLDs, you anyway

have to do the technical work to reserve those variants for the same entity. And I don't think it's a big thing. And I even think that several of the current TLDs already do this if they have an IDN table that makes example and example V1 to be variant. Then I think most of them already reserved that variant label somehow to be registered by the same or similar entity. Thanks.

DONNA AUSTIN: Thanks, Michael. Maxim?

MAXIM ALZOBA: I think that grandfathering should be implemented because situation where registrar removes service for one of the existing registrants in favor of some other, it's not very nice from the legal perspective, because you're going to be sued as a registrar. Also, there might be a situation where both registrants have trademark for the string. So it's not going to be easy to decide who has more rights.

And speaking about variants, technically, how easy it's going to be implemented to find all variants and keep database of all variants. I'm not sure I'm ready to answer this. Thanks.

DONNA AUSTIN: Fair enough. Thanks, Maxim. So, Michael, I think what I heard from you is that extending the recommendation to the second level makes sense, but there has to be some kind of grandfathering arrangement in there. Maxim, I think you're kind of saying the same thing, but how easy or hard it is is up for debate.

So any other thoughts from other folks? Satish is saying that he thinks the same entity principle should extend to the second level as well. There would need to be grandfathering if example.tld and example.v1.tld are already registered to different entities. Justine?

JUSTINE CHEW:

Thanks, Donna. I had a question, perhaps to Michael and Maxim, on this concept of grandfathering, if we were to agree to that. Do you see any further action that a registrar might or could take in the situation where two labels have now been deemed as variants, but they are actually registered by different registrants because the rules came in after, obviously. Could and would there be some further action that the registrars could take to perhaps prevent any confusability that we normally would anticipate from two parties having registered labels which are considered as variants?

DONNA AUSTIN:

Thanks, Justine. Maxim, did you want to respond to that?

MAXIM ALZOBA:

Short version. Registrars do only what is prescribed by law and by policies. They will not make any decisions additional themselves because they are not going to be vulnerable to being sued for offering, I'd say, preferential treatment to some third party. And because it rises risks of the decision to be overruled in the court. And yes, I forgot the word for that, to pay for this mistake after the court decision. Thanks.

DONNA AUSTIN: Thanks, Maxim. So I guess somewhat to Justine's question and also Alan has said in chat when grandfathering, if example.tld and example.v1.tld are already registered to different entities, there may be a need to specify what happens to unallocated example.v2 and example.v3. So any thoughts on—because I think Alan's right, if we go down this path of extending the recommendation to second level with some kind of grandfathering, we do need to address some of those what-if questions and suggest some ways that that could be dealt with.

Hadia and then Michael.

HADIA ELMINIAWI: So, my initial thought is that grandfathering, if we actually go ahead with grandfathering, it should be a temporary situation that we would like to get rid of as soon as possible. So, it shouldn't be like a recommendation that we would like to live with. But as long as it's not possible to get rid of it, then we go ahead with grandfathering.

But then there's the question who gets the other variants, and maybe the answer could be no one. The other variants are not allocated until we get rid of this situation. Those are my initial thoughts. Thank you.

DONNA AUSTIN: Thanks, Hadia. So I think we're kind of coming back to—we've had a grandfathering conversation before in the phase one

conversations and I think just setting up what do we mean by grandfathering in this context and setting some of the parameters for that if this and that happens, if this and that happens, and trying to set some of the rules. Maybe it's possible to withhold from registration if there are two variants registered by different entities, maybe there's a way that you can withhold from registration the remaining variants so that they're only—maybe. Depends on how we want to go, but potentially that if one of the existing registrants wants one of the, like B3 or B4, maybe that's open to them. But these are kind of rules that are open to us to set, so we need to give something, give some thought to it. Michael?

MICHAEL BAULAND:

Thanks. Yes. I fully agree with Hadia here, that in the case, we have example and example we want belong to different entities, then we should certainly withhold any further variants from registration. And I think this would even be consistent with the same entity requirement in general, because it says, like, if example belongs to entity A, then entity B is not allowed to register any variant of example. And if we have example belonging to A and example B1 belonging to B, then example B2 can neither be registered by A nor B, because it was always be in conflict with the requirement that it has to belong to the same entity. It would be in conflict with at least A or B. So, yeah, we should keep them, as Maxim said, because we can't take away arbitrary one of the registrations, but we should not allow any further variant registrations unless the situation is clean again, in the sense that one of the variants was deleted, and then the

remaining owner is, of course, free to register all of the existing variants, just as a standard case.

DONNA AUSTIN:

Thanks, Michael. So, Maxim, just before you go ahead, so Steve is telling me that basically we're into the discussion on C2, so Steve, can you intro C2? And then we can continue the discussion.

STEVE CHAN:

Sure, thanks Donna, and thanks Maxim for holding for a second. As was noted, this sort of implies that for C1, it seems that folks are mostly on board with the idea that the same entity principle should apply for existing domain names, second level domain names, but there should be some form of a grandfathering, which is really what this question one is on this slide.

So, as I noted, existing registries are able to activate second level variant labels, this is already an allowable thing for registries. There is a standard set of contractual language, it's already been approved by the registry services evaluation process, that's what RSEP is, and this is a snippet from that language, which is a set of recommendations that are needed for registries to be able to activate a second level variant.

And essentially, in summary, the rules are that the variant IDN must, it's otherwise blocked and withheld, but if there's a desire to activate a variant, it must be activated by the sponsoring register of the canonical name, as described in the registry operators IDN tables and IDN registration rules.

And then, 2.3 here is about making sure that they are using the same NS records as a canonical name, which I'm taking to mean they have to have the same name servers. So these two things are the core of what is required at this stage. So I think the question here is essentially what you all have been discussing is, what should happen where, in theory, the registrant is not the same for two existing domain names that are registered and happen to be variants of each other?

And so this is a theoretical question. We actually don't have data on how many pairs or groupings of existing and already registered domain names are variants of each other and have different registrants. I think some of our registry and registrar colleagues might actually be able to talk about whether or not they, in carrying out 2.2 and 2.3 in this contractual language, if they actually are already enforcing the same entity requirements anyway. So even if the requirements look a little bit different, it might already be the case where contracted parties are in fact already requiring the same entity. So like I said, I just want to flag it to the team that you're actually already discussing C2, which I want to make sure you're aware of because it sort of gives you credit for having a fulsome discussion of C1 already. So with that, please continue. But like I said, I just want to make sure we know we're deeply into C2 discussions already. Thanks.

DONNA AUSTIN:

Thanks very much, Steve. And I guess that's comforting that there's some logic to the way that we're going about this. Sorry, Maxim, back to you.

MAXIM ALZOBA: I think in a situation where two different registrants have strings which are variants of each other in the same TLD as on the second level, it will not hurt to allow registration of further variants of the same string to any of those existing TLDs, of those existing domain names. Because it's already a kind of conflict and allowing to both sides or three sides, we will not change anything because it's just continuation.

But deciding who has rights, it's a bit too much because it's more question from the legal side and from the technical. And given that the URS, UDRP are going to be updated or will require to be updated for IDN variants, most probably the question should go there and not be decided on the registration moment. Thanks.

DONNA AUSTIN: Thanks, Maxim. So I'll just ask you a question in kind of the reverse. I'm not disagreeing with what you've said, but do you see any harm in just setting aside those variant second level domains in cases where there are two different registrants? So if you look out from the other side, do you have any concerns about that? I know what you're saying about assigning rights and that's a concern, but any other concerns, I suppose, in doing it the other way around?

MAXIM ALZOBA: Yes, we have a live example of things related to Olympic Games, etc., which were where the decision was like this. Okay, withhold it until we get it sorted. And until now, it's not sorted. It's something

which blocked and nobody knows where it's going to be, when it's going to be resolved.

I'm personally against a situation where instead of resolving something, you create an endless deadlock. And from procedural point of view, it's a bit pointless. Thanks.

DONNA AUSTIN: Thanks. Michael?

MICHAEL BAULAND: Yes, thanks. One disadvantage of allowing variants to be registered by both of those existing holders is that you would make the resolution of the grandfathering process more difficult or postpone it potentially, because if you just got one domain registered by A and one variant registered by B, the grandfathering would stop as soon as one of those domains is removed. If you now allow further domains to be registered by A and B, which are variants of those domains, you would kind of enlarge the set of grandfathered domains, which I think is not a good idea. We should keep them to the least amount as possible and not allow further registrations to any of those until this grandfathering gets up because one of them is removed. Thanks.

DONNA AUSTIN: Thanks, Michael. So one of the unfortunate things about this discussion is that we don't have data. So we don't know what quantity of names we're talking about. You know, I can potentially see that the registrants could be disadvantaged by a

grandfathering. And I guess the irony would be that they're being disadvantaged on something that wouldn't be inconsistent with the policy. So we're talking about same registrant, same entity, the same registrant at second level. But through circumstance and because of timing, those registrants that fall into that grandfathering situation are potentially being disadvantaged.

So I understand the challenges, but what's the disadvantage here to those registrants that may happen to have two different registrants for two variants, but there's other possible variants that they might want, but it's not possible for them to have? So just, I guess, being devil's advocate here: what's the disadvantage to the registrant if we go pretty hard on this? Maxim?

MAXIM ALZOBA:

Short note. If we're speaking about the grandfathering, I'd say it's the moment in time where for some set of variants, you have different owners. And as soon as one of these owners stop being such—registrants, not owners, you have the simple situation where somebody has rights for all variants. So it's not a permanent label of sorts. As soon as a set of variants has a single owner, there is no need in grandfathering anymore for the whole set. So we don't have to keep track of what was grandfathered. It's just the method of resolution of the situation where you give registration rights only to those who have already something in the variant set. And it could be one registrant or two. And as soon as it's only one, so there is no need in grandfathering anymore. Thanks.

DONNA AUSTIN: All right. Thanks, Maxim. Justine?

JUSTINE CHEW: Thanks. This is Justine. So I just wanted to make sure that I understand Maxim and I hope Maxim can understand, I think, is what the rest of us are saying. So the way I read it is if, for argument's sake, there is a group of, say, four labels that are now being deemed as variants of each other in that variant set, and two of those variants have already been registered by different registrants—so I don't think we're saying that you have to give preference to one over the other. They both get to keep the label that they've already registered. But what we're saying is to preserve the grandfathering and to not add complications or extend the life of the grandfathering, we don't allow the registration of the other two labels in that set to either of the existing registrant until such time that, like Maxim says, one registrant, for whatever reason, drops out of the picture, then the other surviving registrant gets rights to the entire four label set. That is the situation that I understand some of us are probably looking at. I could be wrong, but please correct me if I'm wrong. Thank you.

DONNA AUSTIN: Go ahead, Maxim.

MAXIM ALZOBA: The whole idea of IDNs EPDP is to allow registrations only to the same entity. And by allowing registrations in the variant set to the same entities, they already have rights, I'd say, somehow, because of historical reasons. We'll not change that. But a

situation where we add additional prohibition of registrations, especially for only those who have rights for registrations, just from a logical point of view, it doesn't look very nice. Because if you allow registration of variant 3 and variant 4, it doesn't change the whole picture. The whole picture is that owners are different. It's not going to change that. And even if it's five domains, it will not extend time, because the time depends on the ability of registrant to pay and to exist. And it doesn't matter if they have five or six or three domains. It doesn't change that.

So when we do not change the picture, I don't think we need additional rules, because simplicity usually works better. Thanks.

DONNA AUSTIN: Thanks, Maxim. Justine?

MICHAEL BAULAND: Okay, thanks. I'm going to push back against Maxim because, number one, the grandfathering is the grandfathering of existing situations, as you say, Maxim. I do not believe grandfathering extends to future incidences where you are creating more complications that then fall into the grandfathering situation.

Also, in the example that I gave, if you allow the third and fourth labels to be registered by either of the registrants, then we are also breaking this principle of same entity rule. So how does that reconcile with the principles that we are adopting? I just don't see the logic of it.

And if you talk about simplicity, I think it's even more simple to just withhold registration of the third and fourth label until such time there is clear evidence that there's only one registrant that is entitled to the entire set. Thanks.

DONNA AUSTIN:

So thanks, Justine. So I understand where Maxim is coming from, and I'm not sure that I agree that you would be breaking the same entity principle if you allowed registration of the variants by either or for a second level that's in that grandfathering situation.

But what I'd like to do is I think we've had some really good discussion here, and I think that the group is certainly going one way that for various reasons. What makes more sense is that if you have variants at the second level that happen to have two registrants, or you could actually have a situation where there's three or four registrants of the variants, then it makes sense just to keep that as it is and not complicate things further by allowing one of those registrants to register one of the variants.

So I think what I'd like to do is I think we have had some good discussion here. I think Steve's right on C1. I think we've agreed to extend that same entity principle recommendation to the second level. I think we also have agreement that we need a grandfathering arrangement because we've recognized that there probably are situations where we have second level variants that are currently registered to different entities. So we don't want to undo that because that's a disadvantage to the registrant. So we just need to work out what the grandfathering rules are. And I think that's where the interesting discussion has come in.

So what I want to do, I think we'll accept this as our first conversation on this question and maybe we can get some write up done of this and then maybe come back to this next week if we have time, if folks have had time to think about it and have any additional thoughts. Maybe we can come back to this next week or maybe it's one of the questions we'll pick up when we're in ICANN 77.

But I think there's been good discussion. I think there's just some finer details we have to work out about those rules of grandfathering, but otherwise I think we're all pretty much on the same page. So is that okay with folks? And I've not kept up with the chat. So if there's one last thing that folks would like to say on this topic, then now would be a good time to do so. We'll have SSAC joining us in about 10 minutes.

Okay, so I think we're all good. Appreciate the discussion. I think we're making some really good progress. Steve, do you just want to introduce C3 and maybe we can spend five minutes of it and then we'll, I know we've got the SSAC team coming in, so I want to open the room up to them.

STEVE CHAN:

Sure, Donna. Thanks. This is Steve again. There's actually a second piece of C2, which you might want to think about. No problem. So, and I definitely do welcome being correct if I didn't get this quite right, but the text that you see above is exactly the same that was on the previous slide. This is the contractual amendment that a registry can request. It's already been approved via RSEP and it can get integrated into your contract. And this

amendment allows the registry to activate second level variant labels.

And so what I was seeking to make clear is that these existing requirements, they don't say same entity, they say same sponsoring registrar of the canonical name and then also that the NS resource records should be the same.

So the question here at the bottom is if there's an agreement to put the same entity requirement, why would it impact these existing rules that current registry operators are contractually bound to follow for activating IDN variant labels?

So, in other words, shouldn't existing ROs that already have this contractual amendment be required to rely on the or comply, I guess maybe might be a better word, with the same entity principle to allocate or withhold for allocation second level variants in the future? So, in essence, what would be the status of this existing language if this group were to create new requirements for the same entity? If you want me to go C3, I can also do that, Donna, or you can take a pause and discuss this one.

DONNA AUSTIN:

Let's see if folks have any thoughts on this part. And I'm sorry, Steve, I forgot there was more than one bit to C2. So any thoughts on how the same entity requirement at the second level could potentially impact the rules from the registry operators for activating IDN variant labels? I mean, my thinking on this is that this is more about ensuring that this will be consensus policy. So the agreement should be consistent with whatever the policy is.

So what we have in front of us may necessarily have to change to be consistent with whatever the policy becomes. Michael?

MICHAEL BAULAND: Yes, thanks. I think this existing requirement is already quite close to the same entity requirement we want to impose. I think there would just need to be one additional point, 2.4 or whatever, that also states that those variant IDNs that will be activated must belong to the same registrant. And I think we still have to decide what it means, what a same registrant is. But depending on that outcome, I think if we add that requirement to the existing contractual language, then everything should be fine. Thanks.

DONNA AUSTIN: Thanks, Michael. And that seems pretty sensible to me. And I think I don't think it's our job to draft the actual language, but it is our job to draft a recommendation to ensure that there is language there to cover that, if that's the policy we're coming up with. So any other thoughts on this one?

Okay, so there's some discussion about whether it should be registrant or whether it should be same entity. So it could be a legal body or a person or both. So I think that comes back to what's commonly understood now is [what is a registrant.] The problem with same entity is that I think what we're seeing is that in this instance, same entity is kind of the registrant and the same entity for the application process is the applicant. So I guess it doesn't matter which way we do it. It's just that we define what we mean by registrant or what we mean by same entity. So that's just

detail that we would need to include. Any other thoughts on this?
Maxim?

MAXIM ALZOBA:

When registrars interact with some third parties who want to become registrants for a particular domain, they may request some business certificates for the legal bodies. And for persons, it could be IDs or, yeah, to verify that it's the particular person who claims that he or she is a person. Or when you have an email and you're trying to understand if it's the same legal body as was announced in the email.

And I think it's more question for legal advisors, because if same entity is enough in contractual terms, then we don't need to go further. Because the methods to prove that the person is the person vary a bit across countries. Somewhere it's a driver's license, somewhere it's a passport, some way it's ID. So I don't think we need to go further.

DONNA AUSTIN:

Thanks, Maxim. I think where we are here is to the question here, should existing ROs that already have this contractual amendment be required to rely on the same entity principle to allocate or withhold for allocation second level variants in the future? I think the answer is yes. And I think that's consistent with the conversation that we've been having. So I think we're good.

Alrighty, so we're going to draw a line under this now and we'll discuss on the leadership call tomorrow where we'll go next week in our discussion. But thank you very much, everybody, for the

conversation today. What we're going to do now is open up the room to allow our SSAC colleagues in so that we can have a conversation about our phase one recommendations. So Julie, if—it's probably already underway.

JULIE BISLAND: All right, they've all been promoted, Donna.

DONNA AUSTIN: Okay, terrific. Alrighty. Thanks, Steve, for moving along. All right, so who's my go to today? Who's representing our SSAC folks here?

STEVE SHENG: Hi Donna, this is Steve Sheng, the SSAC support. On the call, we have Lyman Chapin from SSAC, we have Jiankang Yao on the SSAC, John Levine, and also Jim Galvin, I think Jim is a little bit of both roles. Patrik Falstrom might be able to join for 30 minutes, but he's not here yet. I think that's the SSAC members on the call now. Thanks.

LYMAN CHAPIN: Steve, Jaap is on also.

STEVE SHENG: Oh, there you go, Jaap. Sorry, my apologies.

DONNA AUSTIN:

Okay, thanks very much, Steve. So welcome Lyman, Jaap, John, Jim and Jiankang. Thanks for joining us. So the purpose of the call today and the reason that we reached out to you is that you may be aware that we have published our initial report on our phase one charter questions that were related to the management of variants at the top level. And given we don't have SSAC representation on the working group, and we did have a conversation with some of you earlier in our processes, we thought it might be worthwhile exercise to just have a conversation with you about some of our recommendations and I guess get an indication from you whether they sit okay with.

I guess what we're looking for is, assuming that SSAC will be providing input on the public comment, where are we likely to perhaps be at odds with SSAC, and if there's an opportunity to kind of tease that out so we get a better understanding of why some of our recommendations might be problematic then that's helpful for us as we try to reconcile the public comments with recommendations. So that's kind of the background to why we thought it might be helpful to have a conversation with you. So we very much appreciate you being able to join us today.

So I don't know if any of you have anything to say by way of introduction or whether you just want us to kind of get into it. Okay, so I'll just assume you want us to get into it. So next slide please, Steve.

So what we've tried to do is identify the recommendations that are related to the early input that we received from SSAC. So I appreciate there's quite a bit of text on the screen, but that's the recommendations. I guess the one personally that I thought might

be of concern is the preliminary recommendation 8.1, which was related to the ceiling value.

So our recommendation is that no ceiling value for delegated top level variant labels from a variant label set is necessary as existing measures in the root zone LGR to reduce the number of allocatable top level variant labels as well as economic, operational and other factors that may impact the decision to apply for variant labels will keep the number of delegated top level variant labels conservative.

So in considering this charter question, what we became cognizant of is there are only seven scripts that actually have allocatable variants. And with the exception of Arabic, the others actually put a ceiling on the number of allocatable labels so it's somewhere between two and four is my understanding. So with that in mind, and also those other—from an economic perspective, we didn't think that—depending on whatever the application fee is, that that's going to limit the number of variants at the top level that will be sought.

From an operational perspective, there's some unknowns about how variants are going to be managed at the top level, so that would perhaps lead to a conservative approach. So we just felt on that basis that no ceiling value was really required. But we do understand that on face value, the fact that there is no ceiling value might raise some concerns. So I wonder whether you have any thoughts on that or whether there's any concerns that you wanted to share with the group or any questions you have for us on that one.

STEVE SHENG:

This is Steve, the SSAC support. Thank you for sharing this recommendation 8.1. I think when the SSAC wrote SAC 60 and the follow up comments, it's really to advocate the conservatism approach. I think the reason for that is because they're likely to be permutation effects of variant delegated at the top level, and then you have at the second level, and the third level. So I think that's the reason for the conservatism approach.

I think, understanding from the GNSO deliberation, where you think that conservatism will be achieved through economic operational and other factors. So I think that's the policy deliberation conclusion. So I think we will probably need to see, and that might just suffice actually. But we'll have to see, going to the round as a test, whether those factors in play will indeed lead to conservative activation of variants. Thanks. And other SSAC members, please join. Thanks.

DONNA AUSTIN:

Thanks, Steve. So I guess one of the things I can say is that one of the principles that we applied to our discussions was one of conservatism. So we did try to adopt a conservative approach to our recommendations understanding that variants at the top level haven't been available previously or allowed previously. So there are some unknowns. So we did attempt to be reasonably conservative in the recommendations that we came up with.

So I'm concerned that it's not a good use of time for me to just read through our recommendations in the hope that it might trigger

something for the, for the SSAC members to engage in discussion, but I don't know. I don't know what would be a better approach.

So with preliminary recommendation 8.2, and these are preliminary because that's how we described it when we go out for the first public comment process. So in order to encourage a positive and predictable registrar and experience a framework for developing guidelines for the management of gTLDs and the variant labels at the top level by registries and registrars must be created during implementation.

So what we're acknowledging here is that at some point in time, it would be helpful to develop some kind of guideline best practice for managing TLDs and their variant labels by registries and registrars, but recognizing that it won't be possible to do that until there's been some experience in the space. So we've got implementation guidelines, guidance there that the framework should outline the scope and steps involved in developing the future guidelines. So we're not anticipating that as part of the implementation process that those guidelines would be developed, but rather the way in which they should be developed in the future so that they would involve the relevant stakeholders to develop those, those guidelines.

In terms of the application process, so one of our recommendations is that a future IDN-gTLD applicant must be required as part of the application process to explain why it seeks one or more allocatable variant labels for its applied for primary IDN-gTLD. And the same requirement applies for existing registry operators from the 2012 round. So basically as a mechanism to—

you need to be able to justify why you require the allocatable variants. So there must be a need and you must be able to state that within your application. And in evaluating the explanations submitted by applicants, it needs to be evaluated consistently across the board. Next slide, please, Steve.

You know, also for a future applicant, they must be required to demonstrate their ability to manage the applied for primary IDN-gTLD string and the applied for allocatable variant labels from both the technical and operational perspective. And that also applies to the registry operators from 2012.

So we don't actually know what that would look like, but it is a requirement that we have recommended [it] be built into the application process. So I guess part of what that looks like will be implementation detail. I'm not going to go through the implementation guidance. I'll just focus on the recommendations.

So this recommendation might seem a little bit inconsistent with what I said about the no ceiling in terms of cost might be a prohibitor. But what we've done in terms of the application fee, so what we're recommending is that a future IDN-gTLD applicant applying for a primary gTLD and up to four of that string's allocatable variant labels during the application round basically will incur the base application fee. So it's not going to be the case that they're going to have to pay the application fee five times. Basically what we're saying is it's one fee and it will be the same whatever ICANN decides the base application fee will be for the next subsequent procedures. That's the fee that will be applied for an applicant with its primary IDN-gTLD string and up to four of its

variant labels. I see Lyman has his hand up. So, Lyman, go ahead, please.

LYMAN CHAPIN:

Thank you, Donna. I want to make one general comment before I make a specific comment about your preliminary recommendation 3.7. It occurs to me that you may be a little bit wondering why you're not getting a lot of response from the SSAC folks that are on the call. And I just want to remind everybody that although we as individuals, as I think many of you know, have pretty strongly held opinions about some of these topics, as SSAC members, almost everything that is within the purview of the IDN-EPDP and the GNSO for that matter, are policy questions concerning the way in which IDNs will be managed by registries and registrars and other affected parties. They don't exist in any meaningful way within the actual domain name system. And so the arena in which SSAC is most comfortable operating is one in which the concept of a variant, in a very literal sense, doesn't exist. Because once you get to the level of the DNS, everything is encoded in such a way that there is no coupling of domain names, nor is there any technically feasible way to accomplish that. And of course, we've been over this ground before, and that's not a problem. But I just wanted to point out that you may not be getting too much response from SSAC on this call, simply because many of these issues are questions of how you manage the user experience of variants in such a way that it's consistent with the principles that have been laid out. And of course, you've all spent quite a bit of time and effort doing just that.

Specifically, with respect to recommendation 3.7, I should point out that the SSAC comments on the GNSO new gTLD subsequent procedures draft final report, which is SAC 114, essentially said almost exactly what your preliminary recommendation 3.7 says. So in that respect, certainly SSAC's formally taken position is consistent with what you've suggested here. Thank you, Donna.

DONNA AUSTIN:

Thanks, Lyman. I appreciate the context. And yeah, I do recognize that there are some idiosyncrasies that all our different groups have, so I appreciate that. You know, for SSAC, you have a specific task, and maybe what we're doing here is a little bit outside of that. So I have Michael, and Jiankang.

MICHAEL BAULAND:

Thank you for that clarification or information, Lyman. I fully agree that from a DNS perspective, variants simply do not exist. And in that context, I think our approach to not really limiting the number of allocatable variant TLDs, but making the applicants pay for the variant TLDs, even if it's always in a bundle of four or five or whatever, is in principle, I think, in line with the general TLD application process, because you also do not put an upper bound on the number of TLDs in total that may be applied for. So I think the variant approach mirrors this, and if people want to pay for 1,000 variant TLDs, then they can apply for them and get them. Similarly, like some entity could apply for 1,000 TLDs that are not a variant of each other. Thanks.

DONNA AUSTIN: Thanks, Michael. Good point. Jiankang.

JIANKANG YAO: Could you turn to previous slide? Yes. So for 8.1, so no ceiling value for top-level variant label may be okay, because ICANN will use money or economical power to control how many variant TLDs could be allocated or dedicated. But if GNSO sets some policy for second-level domain names or variant names, maybe they sell the name with a package. One package, how much money? So maybe the package is 1000, 100, or 10 or 2 or 3, maybe.

So maybe we, I think GNSO may set some general, but maybe now fix the value to say, fix the ceiling value. Maybe say some general sentence, say we should keep the number of variant names conservative. So maybe I think that's better because in the second level, maybe there are many variant domain names. So that's my point. Thank you.

DONNA AUSTIN: Thanks for that. So as I said, I think based on the research and discussions that we had, we do think that the reality is going to be reasonably conservative, particularly given that it really is only Arabic that doesn't have any ceiling at all on the number of allocatable variant labels that can be available at the top level.

I think we did reach out to the Arabic generation panel to see if they could help us out with perhaps what would be a reasonable

number of variant labels for Arabic, but I don't think we got a response back from that. Thank you. Can we move forward again, Steve?

Okay, so I think we're on recommendation 3.11. So basically what we're saying is that it's only a base application fee that you would pay for the primary IDN gTLD and up to four variant labels. Once you get past four variant labels, there would possibly be additional fees, but that is something that would be determined by ICANN. So that's recommendation 3.12.

3.13, a future registry operator applying only for allocatable variants of its delegated primary IDN GTLD must incur a discounted base application fee that ICANN considers to be appropriate to any costs associated with evaluating the application and consistent with the cost recovery principle.

So really what that's about is that if an applicant at any point in time already has a primary IDN gTLD already delegated and in future rounds they want to apply for the variant, then it wouldn't be the base application fee. It would be discounted in some way. Next slide, please, Steve.

Okay. So part of our discussions, some of the discussions relate to what do we do for future applicants and some of the questions related to what do we do for those existing registry operators from 2012 that have IDN gTLDs but couldn't apply for variants. So what's the treatment for existing registry operators?

So in terms of fees, so if an existing registry operator from 2012 round applies for up to four allocatable variant labels of its existing

IDN gTLDs in the immediate next round, and this only is for the immediate next round, the base application fee will be waived for that application as a one-time exception. Or if any application rounds subsequent to the immediate next round, that application would incur a discounted base application fee.

So one of the things that we've recognized throughout our discussion is that IDNs are a priority for the board. They have been for some time. They're part of the strategic plan. And they're important for the expansion of the Internet to get to those next billion users who aren't necessarily English speakers. So, and also recognizing that those IDN gTLD registry operators from 2012 have been disadvantaged in some way because they haven't been able to serve their language communities because of the absence of variants.

So that's why we came to the recommendation to waive the application fee as a one-time exception for the 2012 registry operators. If a registry operator from 2012 applies for more than four allocatable variants of its existing IDN gTLD, in the immediate next round, the application may incur additional fees similar to that would be determined by ICANN. And if they apply in any round subsequent to the immediate next application round, that it would incur a discounted base application fee. Next slide, please, Steve.

So 3.7 is about single-character gTLDs. So we affirmed recommendation 25.4 from the SubPro PDP final report that single-character gTLDs may only be allowed for limited scripts and languages where a character is an ideograph. At the time of our deliberations, the only script that met the criteria is Han script, which is used in Chinese, Japanese, and the Korean languages.

We have reached out to the Chinese, Japanese, and Korean generation panels to see if they can provide some guidance, I suppose, guidelines on what can't be applied for, so it leaves open what you can apply for. But the recommendation is basically that we're not recommending single-character gTLDs until such time as we have that information from the generation panels or that guideline.

3.22. Only an applied-for gTLD string that conforms to the mandatory string requirements, including IDNA 2008, the IDN strings, as well as the root zone LGR can be submitted through the new application submission system. So that the essence of this recommendation is really about the possibility that the application system may have incorrectly reflected the root zone LGR in whatever the standard is.

So the essence of this recommendation is really about the possibility that the application system may have incorrectly reflected the root zone LGR in whatever the component of the application system must be. There may be an initial algorithmic check that decides whether the string is invalid or whether it's blocked. And recognizing that there may be some problem with the system, we're allowing the possibility that the application can continue with a warning that it could still be disqualified. But if the applicant thinks that the root zone LGR has been incorrectly used in the application system, and that's the reason why their string has been rejected, they can still submit that application and see where it ends up. So it would go through different reviews, including DNS stability review, to see whether the string was

indeed valid or not. So that's the essence of that recommendation. Next one, Steve.

3.24 is, again, connected to what I just spoke about with the application system. The string similarity review is probably where we had the most discussion. And particularly, Steve Sheng, going back to your initial intervention about the permutation issues. This is where we really did get into some really meaty discussions about permutation. And that's when the strings would go through the string similarity review and what components of the variants need to be part of that string similarity review.

So we had a small team that looked at this. I think Justine oversaw that. I think it went for about eight or nine weeks. And then when it came back to the group proper, we had a number of weeks deliberating on this. So again, one of the principles for us here was to be conservative. This recommendation does have the potential to add complexity to the application process. And that's feedback that we have received from ICANN Org already. Not that they could provide any detail on what that complexity would be, but just the volume of numbers means that it could take a while for, given the string similarity review is a visual thing. It's not something that goes through a system. It's actually a visual review. This could take a considerable amount of time.

So our preliminary recommendation here is that the string similarity review must be modified to compare and applied for primary gTLD, no matter whether it's an ASCII string or an IDN string and all of its allocatable variant labels against the following. So it's to be compared against existing gTLDs and all their allocatable and blocked variant labels. Existing ccTLDs and all

their allocatable and blocked variant labels. Strings requested as IDN ccTLDs and all their allocatable and blocked variant labels. Other applied for gTLD strings and all of their allocatable and blocked variant labels. And all strings on the reserved names list and all of their allocatable blocked variant labels. Any other two-character ASCII strings and all of their allocatable and blocked variant labels. So that's kind of strings that already exist and their allocatable and blocked variant labels.

And in addition, the blocked variant labels of an applied for primary gTLD must also be compared against the following. So existing gTLDs and all of their allocatable variant labels. Existing ccTLDs and all their allocatable variant labels. Strings requested as IDN ccTLDs and all their variant labels. Other applied for gTLD strings and all their allocatable variant labels. All the strings on the reserved names list and all of their allocatable variant labels. And any other two-character ASCII strings and all their allocatable variant labels if the applied for gTLD string is a two-character string.

I can't remember the numbers that we had on this, but we're talking about a comparison of thousands of strings at a point in time, which understandably is going to add complexity to the process. So this was our most difficult discussion. And what we have come up with, I would say, is very conservative. Next slide, please, Steve.

And just a recommendation that's associated with that, and this is an exception to the proposed modification to the string similarity review in accordance with recommendation 4.1. The string similarity review panel may decide whether and what blocked

variant labels to admit when conducting a comparison. So there is a little bit of discretion there allowed to the string similarity review panel. Any such decision by the panel must be based on guidelines or criteria that justify such an omission on the basis of a manifestly low level of confusability between the scripts and labels being compared. So a small amount of discretion there for the panel.

4.3, during implementation, the guidelines and or criteria must be developed for the string similarity review panel to decide on the omission of blocked variant labels. So during implementation, the guidelines or the criteria need to be developed so that it's not up to the string similarity review panel to develop those guidelines. That will be done ahead of time by the IRT.

4.4, all labels from a variant set comprising the primary gTLD and all of its allocatable and blocked variant labels must share the same outcome of the string similarity review. This means that the string similarity review in accordance with the preliminary recommendation 4.1 and 4.3 determines that if an applied for primary string or any of its variant labels is confusingly similar to an existing gTLD or ccTLD or any of its variant labels, the entire variant label set of the applied for primary gTLD will be ineligible to proceed in the application process, so basically knocks out the whole application.

If an applied for primary string or any of its variant labels is confusingly similar to another applied for primary gTLD or any of its variant labels, the entire variant label sets of the two applied for primary gTLDs will be placed in contention. So that's the options there. So if it's similar to an existing, it's out. If it's similar to

another applied for label, then it goes into a contention set. And the contention set resolution is the same as for recommendations in SubPro. Do we have another slide, Steve?

I don't think I'll go into the string confusion objections, except that we have some recommendations that apply for string confusion objection. Next slide please, Steve. Recommendations that discuss the outcomes of a string confusion objection and limited public interest objection, legal rights, community objections. So there's also provision in there for those kind of objections as well. Any more, Steve?

So this is all really objections. So 8.6, any delegated gTLD and the delegated allocated variant labels, if any, not validated by the proposed root zone LGR update must be grandfathered. So there is the possibility that at some time in the future, the root zone LGR will be updated. And that may mean that some of the TLDs that are already delegated are not consistent with the root zone LGR. But we've identified that those TLDs be grandfathered. Well, that's our recommendation. And following on from that for any future versions of the root zone LGR, the generation integration panels must make best efforts to retain full backward compatibility with the delegated gTLDs. So basically when they're doing that review, consider the TLDs that exist and try to ensure that they don't fall outside the root zone LGR. But anyway, basically what that is. What else have we got, Steve?

5.3. Sorry, guys. I've been talking for a long time here. If the root zone LGR is unable to retain full backward compatibility for validating any delegated gTLDs as well as the delegated and allocated variants, the relevant GP must call out the exception

during a public comment period and explain the reasons for such exception. Next slide please, Steve.

STEVE CHAN: I think that's actually it.

DONNA AUSTIN: Okay. So that is really the end of the run through, and I apologize if any of our SSAC members were on the webinar that we had the other day and this is all repetitive. But to the extent that this is helpful for your understanding of how we came to some of the recommendations, that's great.

I don't know whether it would be helpful to know whether we should expect input from SSAC on the public comment process that we have open at the moment. I know that that may not be the case, but it would be good to know. Steve Sheng.

STEVE SHENG: Yeah, thank you Donna, for the effort, and for GNSO to reach out. I think we'll take your question back to the SSAC and the leadership about providing comments. The SSAC has provided comment in SAC 60 and SAC 120, so I think that's to the extent the SSAC has provided comment, but I'll take action item to go back and see on this, whether they will provide further comments.

On the previous slide on updating the backward compatibility of LGR, I think—and this may probably already be in the LGR procedures. I think this is one particular question SSAC was

thinking about when it wrote SAC 60, right. Usually these process, when there's community objections of decisions of the LGR, there needs to be a transparent process to update the LGR.

On the issue of conservatism, I think, probably a little bit more thinking may be needed on that. I remember when the SSAC was doing research on SAC 120 and it identified the Arabic script may be a particular problem because the number of potential variants that can be activated. I think this also comes down to what Jiankang said. We are looking at routes for the top level. But from the domain name itself, it's a domain name that consists of top and second levels, right. So the permutations is a concern for SSAC. So I just want to leave it up there. Any SSAC members want to chime in? I think the GNSO team has really reached out in good faith. Thanks.

DONNA AUSTIN:

Thanks for that, Steve. I think that's some good, helpful context there. I guess we can go back to SAC 120. And as I said, we have actually reached out to the Arabic generation panel because we recognize that for those other generation panels that have allowed for allocatable variants, of which there are six others, it's between two and four that they allow. So we did recognize that there could be some challenges with Arabic, but we haven't heard back from them. But it's helpful input.

One thing I was going to mention is that our public comment period currently closes on the 4th or 5th of June, and we've had a couple of requests to extend that. So we're likely, well, I think we agreed today that we'd extend that by another two weeks. So it

would be around the 20th, I guess, of June, 18th of June, but it will be after ICANN 77.

STEVE SHENG: Thank you for that. I will note that. I think the SSAC will abide by that timeline if it decides to send in a comment. Thanks.

DONNA AUSTIN: Terrific. Thanks, Steve. Steve.

STEVE SHENG: Yeah, Donna, another point, just to raise in SAC 120, there was a bit of discussion that for the applicant to provide justifications. And that justification is not like the [pro forma] justification. But it's really for them to make the case that the variants to be activated will actually be used. So I think that it's a little bit more teeth to that justification than simply pro forma, because that's one way to implement conservatism. It's really to justify that these are actual in use, because activating it, there's cost associated throughout the ecosystem. So if one were to do that, then it's important to know that those will be used or currently has been, there's linguistic context or a script contact, those will be used. So I just wanted to get that coming in. Thanks.

DONNA AUSTIN: Thanks, Steve. So I think it's recommendation 3.5, is, justify why you need the TLD and the variants, but there's a couple of other recommendations that also come into play. I think the current

rules are that with a TLD, that you have 12 months to delegate it from the time of signing the registry agreement. And we have the same requirement for the TLD and its variant labels.

Usage might be a little bit different, but certainly, they have to be delegated within that period of time. I think there is an allowance. You can talk to ICANN and perhaps get another 18 months to do that. But in thinking about that, we decided that maybe one of the things that could push into usage and also reduce the number of variants being applied for is that there is a timeframe in which you have to delegate all those, the primary and the variants. I think we also have a recommendation that you don't necessarily have to delegate the primary first, you could do the variants first so that the order doesn't necessarily matter, but you still have to delegate the set that you've applied for within a 12 month period.

STEVE SHENG:

Noted. Yeah, I saw 3.5. Just thinking about to add a little bit more teeth to that so that that does become a meaningful way. I think it's really striking the balance, right. There's the desire and then what is being used and what can be delegated and activated and finding the right balance. I think it's really the key, and preserve the conservatism. Thanks.

DONNA AUSTIN:

Thanks, Steve. Okay, I don't see any other hands, so thank you very much to our SSAC colleagues for attending today and I hope this was helpful. And if you have some time to think about, you got any other questions, then Steve Sheng can talk to our Steve and

get the message through and we'd be happy to answer any questions offline that may come up in future discussions.

So thanks everybody for your time today. To our team, we'll see you back here next week. Thanks, Julie, you can end the recording now.

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