ICANN
Transcription
New gTLD Subsequent Procedures Working Group
Monday, 18 June 2018 at 15:00 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. The audio is also available at: https://audio.icann.org/gnso/gnso-new-gtld-subsequent-18jun18-en.mp3

Adobe Connect Recording: https://participate.icann.org/p3xseetlry8/

Attendance of the calls is also posted on the agenda wiki page: https://community.icann.org/x/-igFBQ/

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

Coordinator: Recording has just started.

Michelle DeSmyter: All right thank you. I'd like to welcome everyone. Good morning, good afternoon and good evening to all and welcome to the New gTLD Subsequent Procedures Working Group call on the 18th of June, 2018. In the interest of time, there will be no roll call. Attendance will be taken via the Adobe Connect room. So if you're only on the audio bridge would you please let yourself be known now?

Hearing no names, I would like to remind all participants to please state your name before speaking for transcription purposes and if you would please keep your phones and microphones on mute when not speaking to avoid background noise? With this I'll hand the meeting back over to Jeff Neuman. Please begin.

Jeff Neuman: Thanks, Michelle. This is Jeff Neuman for the record. Welcome, everyone. We have a lot to do on today's call and I know more people are joining us as we speak. But today's agenda, if you look up on the top right hand corner we'll next do roll call – or we'll next do statement of interest and then we have two sections to review in the report, substantive sections but also we have a

preamble that's been posted for you all in the last couple days so we'll go over that preamble.

So the order that we're kind of switching it up a little bit from the email that went out, we'll do the last part of Section 1.8, which we left off on the last call, then we'll look at the preamble, and then we'll look at Section 1.9 and then of course we'll save some time at the end of any other business, talk about where we go from here. I know there's been some emails but I really want to get through some of the substance first before we go address those emails.

So hopefully everyone's connection is working and we can bring up 1.8.2 up on Adobe. And unfortunately, as we talked about the last time, we cannot lock it down – sorry, we can't unlock the document on Adobe because of a security issue that's been brought to our attention. Still not quite what that is but so everyone will – although it seems unlocked for me, is that only because I'm a presenter?

Cheryl Langdon-Orr: Yes, as presenters we should…

((Crosstalk))

Jeff Neuman: Okay, well I'm – I'll ask ICANN staff to help out or Cheryl, because I'm going to work off my own copy just given that it's much easier for me to get to. So we're starting on Page – it would be Page 18 of the Section 1.8. And so it's on accountability mechanisms. We sort of went through this a little bit at a very high level on the last call but I want to make sure that we cover it a little bit more completely. So Recommendation 12 says that, "Dispute resolution and challenge mechanisms must be established prior to the start of the process." And implementation Guideline R says that, "Once formal objections or disputes are accepted for review, there will be a cooling off period to allow parties to resolve the dispute or objection before review by the panel is initiated."

So how was this implemented? We created a number of dispute resolution processes and but essentially if someone wasn't happy, and that someone being either the applicant or an objector, or someone filing for community status or whatnot, the only ground – the only mechanism to, for lack of a better word, appeal your case to was through the accountability mechanisms and that meant going through either the ombudsman or the reconsideration process or ultimately an independent review panel.

There was no mechanism that was developed to substantively review an appeal or for that matter procedurally to review a decision of a panel. And so one of the preliminary recommendations of this work track – this was Work Track 3 – and Work Track 3 preliminary agreed to high level recommendations for a limited appeals mechanism to supplement existing accountability mechanisms available in the ICANN Bylaws. The work track recognizes that additional work on all of these is needed. So these are very high level.

"First, ICANN should create a new substantive appeal mechanism specific to the New gTLD Program. Such an appeals process will not only look into whether ICANN violated by the Bylaws by making or not making a certain decision but will also evaluate whether the original action or – should say, sorry, action or inaction, little typo there, "was done in accordance with Applicant Guidebook. The process must be transparent and ensure that panel, its evaluators and its independent objectors are free from conflicts."

And the work track preliminary agreed to the following additional recommendations regarding the post delegation dispute resolution procedures. So these are the ones – we're not addressing here the trademark post delegation dispute resolution policy because that is really under the purview of the RPMs PDP. So for the other ones that exist, "The parties to a proceeding should be given the opportunity to agree upon a single panelist or a three person panel bearing the costs accordingly and clearer more detailed, and better defined guidance on scope and adjudication

process of the proceedings and the role of all parties must be available to participants and panelists prior to the initiation of any post delegation dispute resolution procedure."

And just looking back at the chat, I see Kristina has the DIDP process which is a document disclosure policy. But I'm not sure, Kristina, do you want to elaborate on that? Is that a dispute resolution mechanism or just the document just to get documents? Kristina is typing. Oh I see, I'm reading down in the chat, sorry about that, to get documents is considered an accountability mechanism. Got it. So we'll note that in there and make sure we update the language.

So what are the questions being put out for comment? There are a bunch of questions we came up with here on the limited appeals process. "What are the types of actions or inactions that should be subject to this new limited appeals process? Should it include both substantive and procedural appeals? Should all decisions made by ICANN, evaluators, dispute panels, etcetera be subject to the appeals process? Please explain."

"Who should have standing to file an appeal? Does it depend on the particular action or inaction? What measures can be employed to ensure that frivolous appeals are not filed? What would be considered a frivolous appeal? If there is an Appeals process, how can we ensure that we do not have a system which allows multiple appeals? Who bears the costs of an appeal? Should it be loser-pays? What are the possible remedies for a successful appellant? And who would be the arbiter of such an appeal?" And finally, "Is there any additional input regarding the details of such a mechanism?"

There's a lot out there for public comment. This is a new kind of area and so we'll be relying on hopefully a good amount of discussion in the public comment period on this.

Can we advance the document? Sorry, I will – I have control of that too. There we go. There we go. Any questions on the questions we're seeking for input? And you'll see a few pages of deliberations.

And then in Part G it says, "Are there activities in the community that may serve as a dependency of future inputs to this topic?" I think we had some discussion on this last time. The Cross Community Working Group on Enhancing ICANN Accountability Work Stream 2 are addressing some elements of the accountability mechanisms.

So, Kristina, please.

Kristina Rosette: Thanks. Kristina Rosette, Amazon Registry for the transcript. One thing that I don't see in the list of questions that were in the discussion is anything about how any such appeal mechanism would interplay with the existing accountability mechanisms. And I think if the work track had a view on that, that should be included and I also think if we're going to be asking all of these questions about an appeals mechanism I think we should also be asking for comments on that impact, if any, such an appeal should have on the applicant's ability to pursue other accountability mechanisms and why.

Jeff Neuman: Thank you, Kristina. Yes, thank you, Kristina. Those are good questions. Let me see if Karen has a comment on whether this was discussed by the work track. Karen, are you available?

Karen Day: Hi. This is Karen for the record. No, we did not discuss that in the work track; specifically we did not discuss any type of limitation on ability to pursue other accountability mechanisms but I agree that those are good questions to ask and have no problem adding them in.

Jeff Neuman: Okay thanks, Karen. So we'll note that as a question to add in to Section E and Jamie, please.

Jamie Baxter: Thanks. Jamie Baxter for the transcript. I think in our discussion group we did distinguish between whether it was a process issue or whether it was more of a substantive issue so if I'm recalling correctly I think we sort of made it clear that you would signify which one you're – which (unintelligible) down but I don't think we gave any further instruction or direction on how that actually plays out. But if I recall correctly I think we touched on that slightly.

Jeff Neuman: Karen, you want to address that as well?

Karen Day: I'm sorry, Jeff, I couldn't understand – do I want to address that?

Jeff Neuman: Oh sorry. I think – yes, so Jamie said that it was discussed during the work track that when someone files an appeal they would indicate whether it's a procedural or a substantive appeal and we didn't include that in there…

((Crosstalk))

Karen Day: That is correct but there was also – there was also the question – the outstanding question which is what we are asking which other members of the work track still had was, should we allow procedural appeals in this new mechanism or should it be limited to substantive appeals?

So if – the question we're asking the community is should we allow both types here in this thing but the – I thought the agreement in the work track was that if there are two types then the appellant would indicate whether they are appealing on substantive or procedural grounds. And if you feel like we need to spell that out and we didn't we can go back and look at that.

Jeff Neuman: So the other thing that – I just went back and looked at it – this is Jeff Neuman, is that there was a whole question of whether it was even possible to distinguish what is substantive versus what is procedural. So I think keeping the questions broad to get community feedback and then diving in much more detail once we get comments back is probably the best way to go

because I saw both types of comments when we went back and listened to those calls.

Okay, I'm looking on the chat, there seems to be some question of consensus, lack of consensus, which I will pause for just a minute until we get to the preamble, which I think we're going to get to next. So are there – is there any other comments or questions on this 1.8.2?

Okay, not seeing any, can we put up the preamble, at least this was another document you should have gotten over the weekend. And what we'll be focusing on is really the section that's titled Preamble, starts on Page 1 and I don't think there – oh there are, cool, Page 1 through Page 3.

Okay so a lot of people have been asking about this and a lot of questions about taking consensus calls and not taking consensus calls and being very clear. So in this preamble, which is fairly short, Cheryl and I have drafted a section which talks about the mechanism we used, the methodology and why, so really drawing your attention to the – I'm going to pull it up here on this page, on Page 2, we talk about if you look at that – the top paragraph makes it clear that we're not looking at Work Track 5 issues and that some of the preliminary recommendations contained in this may need to be modified once Work Track 5 has completed its report. And I know that goes to some of the comments we received from Christopher Wilkinson over the weekend.

But this paragraph here that starts with, "This initial report is structured a little bit different than other initial reports in the past. Given the plethora of issues, and the thousands of man-hours spent on addressing the 2012 New gTLD Program and improvements that can be made to the program moving forward, unlike other initial reports, this one does not contain a statement of level of consensus for the recommendations presented in the initial report."

"The co-chairs not only believed that it was premature to measure the level of consensus of the working group members of dozens of recommendations

contained herein, but that doing so could have the unintended consequence of locking working group members into positions of support or opposition prior to soliciting public comment from the community on those recommendations. To form such definitive positions at this early of a stage could have the adverse effect of being less open to modifications to those positions as a result of community input."

"In addition, although many of the preliminary recommendations were approved by members that participated in the different work tracks, they may or may not be supported by members of the overall working group. In fact, the Overall working group has not had enough time or discussions on all of the materials in the report to form definitive positions on each of this issues. Therefore, any language in this report that suggests that the working group or any of its work tracks is making a recommendation should be read as merely a rough assessment by the working group co-chairs or work track leads."

"After a comprehensive review of public comments received on this report, the working group will deliberate further on the preliminary recommendations contained herein. It is possible that as a result of the deliberations, there may be supplemental reports released by the working group seeking additional public comments. Once all of that is completed, the cochairs will conduct a formal consensus call, at the plenary level, on all recommendations before the working group issues its final report."

"Therefore, comments on any preliminary recommendations, options and/or questions presented are welcomed and encouraged. In addition, in some cases the working group was unable to reach preliminary recommendations. The community, therefore, should not limit itself to commenting on only the preliminary recommendations, options, and questions specifically identified in the initial report, but on any other items that may not have been adequately addressed. For example, if there is an option you believe the working group should consider, but that option is not presented or even discussed in the

initial report, please let us know that new option in detail, along with any background, context and supporting documents."

So that is the preamble. I think it says everything we intended to say in there that's been discussion but let me look at the comments and if anyone's got a question, please do raise your hand.

On the subject of consensus, leadership should not lock down the document on June 20 and post to the Wiki per work plan since we only received the documents on Saturday and we have not seen several sections yet. In addition, short minority statements should be permitted to outline issues for public comment so that process is not entirely dependent on the version intended to be posted. Sorry, sessions, or revisions, not sessions.

And so the reason why Anne, we are not having minority viewpoints in here is that the minority view should all be presented in the deliberations. And we're not taking a majority view or a minority view; we're not taking any kind of call. So if you have a viewpoint that is – if you have a viewpoint it should be in the deliberations section as opposed to having a minority statement. I'm not sure what the role of a minority statement is when there's no majority statement so if you want to discuss – and we'll discuss the comments on lockdown after – later on this meeting in any other business.

Anne says, "Feedback from constituencies should be taken before the initial report is posted for public comment." Again, Anne, I'll ask, why? Why do we need to do that when the constituencies are going to comment in the public comment period anyway and we didn't take consensus. So Christopher, you have the floor.

Christopher Wilkinson: Hi, Jeff. Christopher Wilkinson for the record. And we have an echo. Very short, very quickly, the preamble does reassure me to a certain extent that the concerns that I expressed, as you put it, over the weekend are somewhat attenuated but since I haven't read the preamble before this

meeting, must reserve my position but I think you and Cheryl and others are moving in the right direction. Thank you.

Jeff Neuman: Thanks, Christopher. Looking further at the comments, minority – Anne says, "Minority views also should be reflected in the questions for public comment to outline the issue as discussed in our last call; you agreed to that." The IPC list that they had not provided much input, that's right, you were looking for more comments from them. Anne, sorry, you're misinterpreting. I said that we were definitely looking for comment from them like the IPC as well as all of the stakeholder groups and constituencies during the public comment period.

And Anne, if there are any other questions you want added to the questions, let us know. I'm not sure what it means to add minority views in the questions themselves. Give an example? Multiple people are typing. So while people are typing, I've given the work track leads until the end of today to make sure that they are – that all of the sections – obviously we're going through 1.8.2 and 1.9 now, but I've given the work track leads until the end of the day today, California time, to make sure that the revisions reflect their understanding of the conversations. And we will send out all the revisions tomorrow.

So there'll be time to check to make sure that all the questions are included that we've gotten from the – either the emails or the discussions on each of these sections. And so when that's released, if you could let us know, Anne, or anybody else, if we're missing questions that were discussed or submitted in email.

Susan says, "I think the questions as drafted are attempting to elicit where there are minority views but the opportunity for working group members to suggest additions during these calls." Yes, thank you, Susan, that's exactly what we're trying to do. And Anne says, "Jeff, please give the working group more than one day to review before releasing to the Wiki." Anne, hold that thought until any other business where I go over what the plans are. I've seen

your email, I understand your point and we're going to discuss at the end of the call the next steps forward so just hold onto that.

I just want to make sure that everyone's comfortable with the preamble. Is there something we're missing that we said we'd cover in there? I know, Jim, you were curious to see this preamble and make sure all of this is reflected so without putting you on the spot but sort of putting you on the spot, does this cover what you expected it to cover? Are we missing anything in there?

Jim Prendergast: Yes, thanks, Jeff. It's Jim. You know, I haven't had a chance to go through it more thoroughly than when you just read it; it came sometime yesterday and I was busy with the family so I'll take a look at it and comment on the list if I need to. Thanks.

Jeff Neuman: Great. Thanks, Jim. I know we just sent it out and I appreciate that and really if you can just let us know if there are some gaping holes in it, things that we said we would put in there that we haven't then we can add some text in the next couple days.

Okay, so seems like that's pretty well understood. Just to go through the rest of this document that you'll see here, it contains more than just the preamble. You'll see some just to kind of go through – this is all (unintelligible) that are going to surround the conclusions and next – or I'm sorry, the – Steve, help me out here, where does all the sections that we've been reviewing for the last several months, that fits into which part of this table of contents?

Steve Chan: Thanks, Jeff. This is Steve Chan from staff. The – all the excerpts that we've been reviewing for the last couple months – you just scrolled away from the page I wanted to refer to, it's Section 2 essentially where you'll have deliberations and – you might if I take control, Jeff? So right here, for those that are in the Adobe Connect room, all of the sections that we reviewed will be dropped into this section called Deliberations of the Working Group. Yes, that's about it. Thanks, Jeff.

Jeff Neuman: Thanks. Sorry about the control issue there. If we jump back a little bit just to give you kind of a layout of the executive summary, which there's not much there because we realized that doing a full executive summary would be essentially 30 pages or 40 pages and would do away with the notion of an exec sum, so a lot of this is a repeat of what's in the preamble.

And then in 1.2, Preliminary Recommendations, we again quote some of the preamble but what we are going to do is take – we're going to pull out the – what's listed in the recommendations and the questions and have them as annexes in the back, so if anyone just wants to see those sections, they can go directly to an annex without going to the full – reading the full report. So that's there not to – just to make it a little bit easier for those to figure out, okay, I want to do public comments, what are the questions, and so they can easily turn to that as opposed to looking through the entire report.

And then you'll see a – in 1.3 very short section, it just talks about how we've done Community Comment Number 1, Community Comment Number 2 and how we split the issues from the original discussion group into work tracks. So all that is pretty boilerplate and basic but please do look at that and see if you have any issues with it and it does say at the end in 1.4 that the report will be out for approximately 60 days public comment and what the next steps will be.

As Steve said, Section 2 is the deliberations, that's where everything we've been working on will get put into. Section 3 under Conclusions and Next Steps, you'll 3.1 again highlights the working group did not seek to take formal consensus calls on any of the preliminary recommendations contained in the report, and then another statement of the next steps, which again says that there may be supplemental reports released by the working group seeking additional public comments.

Section 4 is purely a background section that just describes how we got here with the GNSO Council motions, the discussion groups…

Cheryl Langdon-Orr: Jeff, we don't hear you at the moment. We – okay, we seem to have lost Jeff. It's Cheryl. So let's – let's continue (unintelligible) sure staff will be dialing out to him. Pardon me, excuse my croaky voice. So if we can just scroll down beyond the issue background, bottom of Page 10, and note that it covers how we did the process that – what the background of the program is and in terms of the relationship with the GNSO Council, then we go into details of the subject as identified by the working group what we're going to be looking at in which correlates to the work track divvying up of its role, we take any comments on that in chat as we go through.

If I can push us to 4.2.1, the related work by the GNSO and the community, this is the section where we note the various efforts within the community working with the working group, the CCT-RT work, the SSAC review, Government Advisory Committee input and Cross Community Working Group on the Use of Country and Territory Names as well as the Rights Protection Mechanisms in all gTLDs, and of course the IGO and INGO identifiers in all gTLDs.

A bit of white space there which, remember, (unintelligible) we're still looking at final formats but in the section (unintelligible) you would expect some white space. Moving onto 5 – and I see Jeff is back – Jeff, is your audio right? You want to jump in now on 5 so I can take a sip of water?

Jeff Neuman: Yes, sure. Sorry, this is Jeff Neuman, sorry, my computer decided that at that moment it would be a great time to reboot itself, so if someone can – from ICANN can add me as a presenter then I can scroll through it but Section 5 is a general section that's in – that talks about how we divided the work and again is very procedural but 5.1.1 describes – we'll obviously replace that chart that's in Working Group Membership with the actual membership so it won't have Name 1, Name 2, Name 3.

We'll also have the statements of interest link over there and just all the kind of procedural stuff that we find in every single initial report of course with the caveat that as you know the caveat that it's only as current as the report is so there may be people added to the group after this.

Then finally, what we do here in Section 6 is there have been several opportunities for community input starting with at the very beginning when we asked each of the constituencies and stakeholder groups and supporting organizations, advisory committees to provide us with a library of all the statements that they've filed in the recent years from – on new gTLDs no matter what issue it was on or how they filed it and many of the groups we've received statements from have archived their documents or at least pointed us to their documents where it could be found.

And then we have CC1 which talks about the overarching issues and CC2 which talked about work track-specific issues so this is all just going through kind of the procedural items. And a statement that said, "All the statements received were reviewed by the working group as part of its deliberations on the relevant topics."

Page – we're now on Page 19, which is Section 7, will be a copy of the charter as one of the annexes. The next annex will be requests for stakeholder group, constituency statements that will include copies of those in Annex B. Page 21 is the Annex C which is the request for input from the SO/ACs. We'll put that in there. Page 22, this is something which we don't need or well, sorry, won't say Example to be Deleted, this is where we'll start putting in the sections on the preliminary recommendations and the questions, so we'll put those as additional annexes and then you'll notice the great Latin terms used in Annex E, which again is just a placeholder for what will go there.

So that's the format of everything that's going to surround the actual – this Deliberation sections that we've been working on. Are there any questions on that? So there is a – just going to the chat, "It would be great if the final draft of the initial report could be reviewed by the working group even dividing into work tracks in the first session in Panama that would assure that everyone is on Board for what will be put out for public comment." Okay, thanks, Anne, we will – I promise you we'll save the last 15 minutes of the call, 20 minutes, talking about what we're going to do in Panama.

Susan asks, "What is the difference between B and C? Why do we have them separate?" So Steve, I'm going to put you on the spot to answer that question.

Steve Chan: Thanks, Jeff. This is Steve Chan from staff, and I'll take a cut at that. I believe Annex B is focusing on the stakeholder groups and constituencies while C is focused on the supporting organizations and advisory committees. Why they're separated I think is just a matter of how the template was designed. We're not beholden to use that format; if we wanted to confine them I think we could probably do so. But that's just how the template has been designed. Thanks.

Jeff Neuman: Thanks, Steve. So let me ask generally, do we mind if it is – does anyone – does anyone object to combining those into one annex? And to answer Susan's question, we're not seeking – the feedback we're seeking will not be different whether it's the stakeholder groups, constituencies, or the advisory committees. I think that answers your question, Susan, if I understand. Okay and Susan thinks we should combine. Does anybody object – oh, sorry, Steve, do you want to – maybe I spoke out of turn. Steve, please.

Steve Chan: Thanks, Jeff. This is Steve again. Actually just to – I think for further clarity, the sections Annex B and C are not necessarily to collect additional input, it's rather to provide a historical record of what input was sought from those respective groups. So they're, you know, so the purpose is not to seek

additional feedback, the you know, the initial report itself is what we're seeking feedback on, not Annex B and C necessarily. Thanks.

Jeff Neuman: Thanks, Steve. Ken, please.

Ken Stubbs: Yes, thanks Jeff. There are a couple questions I have. I'm still concerned about the compression implications on how fast we're moving here. I want to make sure first of all, part of this is just out of ignorance. There's going to be public commentary period for this report or is this report being made available at Panama so that people will have the opportunity to review it and public comments and so forth will be deferred until people have had time to review this adequately because these are very significant documents and very, very long.

And the follow up to that is, if there are going to be public commentaries, do we have a process here that will allow us to accumulate the public commentaries for us to review and discuss in subsequent meetings to Panama? Thank you.

Jeff Neuman: Thanks, Ken. Hold that to the last 15 minutes please. I'll ask everyone again, just hold those questions as to what we're doing in Panama and the document, we'll do that under – we're reserving the last 15 minutes. I really want to get through the substance of this stuff on the call as a priority and then we could talk about what's going to happen next. Okay, that being the case, can we then pull up 1.9?

Cheryl Langdon-Orr: Ken, Cheryl here. Is that an old hand or did you want to come back?

((Crosstalk))

Jeff Neuman: Yes, okay so looking at the screen here 1.9, Community Applications, obviously a very widely discussed item and you'll notice that this came from implementation guideline F which said, "If there is contention for strings,

applicants may: i) resolve contention between them within a pre-established framework – or sorry, pre-established time; ii) if there is no mutual agreement, a claim to support a community by one party will be a reason to," I don't know if we have a typo there? But we should check that, but basically it's to give priority to that application.

"If there is no such claim, and no mutual agreement a process will be put in place to enable efficient resolution of contention and; iii) the ICANN Board may be used to make a final decision, using advice from staff and expert panels."

Implementation Guideline H said, "External dispute providers will give decisions on complaints." So how was this implemented? When applying, applicants could indicate whether they had a community application or – sorry, community-based application or not and if there was contention then in instances where there are contention, the – I someone qualified as a community-based application, and the others did not, that someone would get priority over the others that applied.

But even if there was only one applicant vying for the same string, or vying for the string, then regardless of whether there was community priority evaluation or not, the commitments made in their application for the community applicant, was included in Specification 12, again, regardless of whether there was any string contention resolution.

According to Module 4, string contention, the Applicant Guidebook in 4.2, Community Priority Evaluation, if there is no self-resolution of string contention for community-based applicants of identical or confusingly similar strings, a CPE may be requested. The panel appointed by ICANN. They reviewed them and determined whether the criteria was fulfilled. And again, for instance the single – if there is a single applicant that prevailed in CPE then they were the ones to proceed.

If more than one community-based application is found to meet the criteria, which I do not believe happened, but if there were, then contention between those qualifying community-based applicants would be resolved via auction, and if no applicants passed CPE the contention set that contention would be resolved via self-resolution or an auction of last resort.

Recommendations here, the work track had a number of extensive discussions on the topics of string contention and communities. In addition, it received a number of comments related to the treatment of communities during the 2012 New gTLD round in – sorry, Community Comment Number 2. Although the work track has yet to come to an agreement on any preliminary policy recommendations, based on many of the implementation related issues identified by the work track and wider community, it has come to some level of general agreement on the following CPE implementation guidance related suggestions.

First, CPE process must be more transparent and predictable. Two, CPE evaluations should be completed in a shorter period of time. Three, the evaluation procedures should be developed before the application process opens and made easily and readily available. Four, the CPE process should include a process for evaluators to ask clarifying questions and where appropriate engage in a dialogue with the applicant during the CPE process. And finally, less restrictive word count for communities to engage in clarifying and providing information.

So what are the specific questions you'll see a number of them. First, during its deliberations, a number of attempts were made by the work track to define the term community for the purposes of evaluating community-based applications, but no definition could be universally agreed upon. One of those – it should say – attempts can be found here. And that is a – if you click on that link that is a several page document that went out just before not the last meeting but I believe it was the meeting before that. Karen could – and Robin

could correct me which meeting it was but that was the topic of discussion at that meeting. And we really didn't get too much agreement on a definition.

So we're asking the community, how would you define community for the purposes of community-based applications? What attributes are appropriate? Do you have specific examples where demonstrable community support should or should not award priority for a string? Thank you, Kristina, for the typo or, sorry, the fix, that's a typo. Do you believe examples are useful in developing an understanding of the purpose and goals of any community-based application treatment?

Number 2, Should community-based applications receive any differential treatment beyond the ability to participate in CPE, in the event of string contention?

Next question, Could/should alternative benefits be considered when scoring below the threshold to award the string for example, maybe giving support in an auction.

Four, What specific changes to the CPE criteria or the weight/scoring of those criteria should be considered, if the mechanism is maintained? Five, in the New gTLD Round, it was determined that community-based applications should have preference over non-community-based applications for the same string. Some have argued that this preference should continue, others have claimed that this preference is no longer needed. Should the New gTLD Program continue to incorporate the general concept of preferential treatment for community applications going forward? Is the concept of awarding priority for community-based applications feasible, given that winners and losers are created?

Finally, the work track also considered a report on CPE prepared by the Council of Europe, which noted the need to refine the definition of community and re-assess the criteria and guidance for CPE in the Applicant Guidebook

and CPE Guidelines. Although this paper has not been officially endorsed by the European Commission or the GAC, there are a number of recommendations in this report on community-based applications. The work track is seeking feedback from the community on this report and more specifically which recommendations are supported, not supported or which require further exploration?

Okay, we have a chat – a queue forming so let's – let me go to Jamie first.

Jamie Baxter: Yes, Jamie Baxter for the record. Jeff, I just want to go back to Section C, because it dawned on me the first – very first bullet point there is – in my mind isn't necessarily that clear because it says, "The CPE process must be more transparent and predictable." What's dawning on me is that people's interpretation of transparent and predictable are very different as we're finding out. And perhaps there needs to be an extension to that recommendation that actually – or questions that go with that recommendation that actually asks for examples of what they mean by transparency and predictability because otherwise we're – we may not be answering the right questions or the recommendation may not be clear enough. Hopefully that makes sense what I'm saying.

Jeff Neuman: Yes, thanks Jamie. I think it does make sense. I will ask Robin, I guess is – this section or maybe it was Karen, I'm sorry, I forgot, but perhaps would you all be okay with adding a question that asks about I guess how can the CPE process be made more transparent and predictable? Would that address your question, Jamie, and then we'll figure out how they define that.

Jamie Baxter: I think so, sort of suggesting what are the elements that make something more predictable and more transparent. So just because there are some documents shared on the ICANN website doesn't mean that there's full transparency. And we need to get down to the nitty-gritty of that because there's a clear discrepancy, I think from the applicant side and the ICANN side as to what transparency actually means. Thanks.

Jeff Neuman: Thanks, Jamie. That's a good question. And Robin says, "It works for her. That would be helpful to see what the community means by transparency. Good point. Karen is good with that too so, yes, we will add that as a question. Kristina, please.

Kristina Rosette: Thanks. Kristina Rosette, Amazon Registry for the transcript. Really more of a kind of process type suggestion, in Section E we've got a number of questions here that could actually be answered with just yes or no. And I don't think that's helpful. And I don't know if there's any mechanism in place for staff or a group of us to do it or just put something in the preamble that makes clear we're not looking for yes or no answers; we're looking for if your answer is yes, please provide your reason; if your answer is no, please provide your reason.

I know – I've tried to kind of spot these as we go through but at this point given the time we're working with, I'm not sure that's feasible anymore. You know, I'm not wedded to any particular way to do this, I'm just really worried that we're going to end up getting a lot of yes/no answers that aren't going to be terribly helpful.

Jeff Neuman: Yes, thanks Kristina. That's a good point. And I can certainly talk it over with Cheryl and – to see if we can add – because we do ask for feedback and we do ask them to be specific. We could probably – I'll put Cheryl on the spot but do you think –I think we can add something in there to make sure that we – or ask for non-yes or no answers. So I think we can do that in the preamble. And then certainly where we can spot in these questions where it seems likely we'll just get a yes or a no, and perhaps we can just ask for, you know, put in something like please explain.

((Crosstalk))

Cheryl Langdon-Orr: …responses as Karen has said wherever possible. I'm sure we can make a tweak in the preamble to request, of course we can't demand but we can encourage.

Jeff Neuman: Yes. And something tells me this community is a fairly wordy community anyway so I don't know if we'll just get yeses or nos, but it's certainly possible and we should make it clear that it would be most helpful to us to receive actual explanations. So we will go over those as well. Any other questions on the questions we're asking? Should we be asking additional questions? As Kristina says, "Yes but by Question 200 they could be out of steam." That's true.

So you'll notice a bunch of material in the Deliberation section, talking about different meetings that we discussed these at and the different calls and the different emails that are in here. And then finally I think – this is going down to Section G, "Are there any other activities in the community that may serve as a dependency or future input into this topic?" And we were not able to identify any at this time.

Does anyone have any other questions or comments? Anne says, "I will definitely be looking for a question of whether community should be defined more merrily than in the 2012 round or not." So, Anne, if you look at the existing questions, and then I'll get to Susan – I see in the queue – but if you look at the existing questions, is there anything – sorry, taking me a second, and of course – is there anything in here that you think would address that already? So in Number 1, we ask about the definition of community and what attributes are in there.

So can you just maybe – while you're thinking about that if you could just elaborate a little bit as to whether you think the question asks what you want it to ask or cover what you want it ask or not while I go to Susan, please.

Susan Payne: Yes, thanks Jeff. It's Susan Payne. Yes, this is probably a bit nit picking, but this Section 1.9 is on String Contention Resolution and then the only section within it is about community evaluation – community priority evaluation. And those obviously aren't the only string contention situations that arise. And I think we've addressed other issues of string contention elsewhere in the document. But I wonder if we could think about having some kind of a cross reference back to where people could find the other sections because I'm just trying to think of perhaps, you know, groups or constituencies that perhaps think about working in teams to break this document up in order to address it and put comments in.

And particularly if we have a catch all that says, you know, is there, you know, please answer the questions that we're asking plus anything else you want to say, we might find a lot of people giving us commentary on other aspects of string contention in relation to this rather than elsewhere in their responses, if you know what I mean.

Jeff Neuman: Yes thanks, Susan. We can go through the document and see where we have other string contention discussions. We did notice that after we completed all of the work tracks that there was a gaping hole where we did not cover auctions, private auctions or even ICANN auction of last resort. So we did notice that we have not covered that. And we've not asked any questions because these subjects have not been talked about within the working group or the work track.

So that was something we were going to discuss in Panama of how we get the discussion going on those other items, but where we do see other areas in this report where we address string contention, I think we can drop in some links.

Okay, Anne says, "The work track summary seems to be posing a policy change to narrow the definition." Okay, let me go to that one here, the Work Track Summary. Are you talking – sorry, Anne, just to clarify, are you talking

the Deliberation section? Okay, Anne says, "Comment, I still need to look at what is says about dotNavajo. Please note our firm represents the Navajo Nation for various matters. It's a registered trademark. I don't know whether it's appropriate to frame this example in this manner – in the comment."

I am going to address this to the work track leads but I believe, Anne, you may have mentioned or someone may have mentioned this as a specific example in the work track discussions, which is why we would have quoted it or put it in there, so let me ask Anne and – sorry, Anne, let me ask Karen and Robin and maybe even ICANN staff if you can help on this question.

Robin Gross: Hi, this is Robin. If you could just remind me what the question is here?

Jeff Neuman: Yes, so I'm trying to find it – what section is it in, Anne? I'm sorry, I'm just trying to – what paragraph? It might actually be in the questions itself. Hold on. Anne, do you – just what page is that on so just we can go find it? If you can just put a page number and – I don't know why I'm missing it. Okay, while we're waiting for page number we'll come back to that. Jamie, please.

Jamie Baxter: Yes, Jamie Baxter for the transcript. I'm wondering if maybe with respect to Question 1 if it's important to point out or ask an additional question that, "Do you believe that community needs to be further defined based on the current policy?" because I think I get what Anne is saying is that Question 1 sort of assumes that we need to define community and I don't know that that's necessarily everybody's thinking or at least define it further than what the current policy says. So maybe that's something to consider?

Jeff Neuman: Okay, thanks Jamie. Let me go back up to the questions here. So Question 1 is, "During its deliberations, a number of attempts were made by the work track to define the term 'community' for the purposes of evaluating community-based applications but no definition could be universally agreed upon. One of those attempts can found here. How would you define

'community' for the purposes of community-based applications in the New gTLD Program?"

And so, Jamie, you think that that's advocating for a – maybe we could add to the – add to the question, "Is the definition from the 2012 round appropriate? Or do you have any questions or comments?" Let's take that on – I understand your question, Jamie, so let's take that on and maybe we can figure that out. And I see that the reference to Navajo is on Page 9. Steve, please.

Steve Chan: Thanks, Jeff. This is Steve from staff. I was actually going to note exactly what Justine did where the example was. But further I was just – I was wondering if Anne might be able to clarify if the usage of Navajo string is problematic or if the overall writing of that section about try to distinguish the various uses of a specific tribe versus a more general term like Native American or dotTribe whether those examples are problematic as well because if it's just the example then perhaps a simple fix could just be to remove those references to Navajo. Thanks.

Jeff Neuman: Yes, thanks Steve. And I just – I think so Anne is saying the use of Navajo is problematic. Okay, we're going to try to make it more general but I think an example is helpful so let us take that back and make that – we'll try to figure out how to take out the word "Navajo" but make it – but still make the example have meaning. Okay.

So any other questions or comments on Communities? As Christopher Wilkinson said, "There's many tribes in many countries in history that's real generic, not North America specific." Right. We were just trying to use an example that was discussed to point out the issue but we can certainly generalize it. And Jamie says, "It's important that the question not presume that the current policy definition of 'community' is insufficient. I'd be uncomfortable if the record states that the reason CPE was controversial

because it lacked a clear definition of 'community' and not further reasons such as the evaluators or the evaluation process." Okay.

Anne says, "Dealing with Native American tribes is sensitive. Tribal names are not generic." Okay. Thanks, Anne. Kristina, please.

Kristina Rosette: Kristina Rosette, Amazon Registry for the transcript. I had put something in the chat but I just wanted to flag that I think the way this current paragraph s written, and I'm talking about the paragraph in Section F that references dotNavajo, is that it's really – it's not taking into account that back in the day, the original intention of community was very broad and that it was certainly anticipated that it could cover economic communities and in fact, you know, one of the other examples that we did use in discussing it back at that time as well as dotNavajo and dotMaori was dotBank.

And so my concern is is that as this is drafted I think it kind of presumes the answer to the question that we're actually asking. And unfortunately I haven't come up with a way to tweak it that I think addresses that.

Jeff Neuman: Okay thanks, Kristina. Let me ask Karen and Robin, is this paragraph needed?

Robin Gross: Hi, this is Robin. Can you hear me okay?

Jeff Neuman: Yes.

Robin Gross: Yes, I don't know that this paragraph is particularly needed or not, you know, specifically because of the references, maybe the references to specific groups could be removed or even changed because I do think it is a little bit helpful in terms of trying to understand the kinds of communities that people were looking to try to protect when this policy was created. But, you know, I certainly don't want to have people mention – groups mentioned in here who

are not comfortable with it. So I would really have no problem with taking it out.

But one thing that has really come out in the working group is the sense of everybody has got a different idea about what a community should be in their own mind and without some kind of shared understanding, a shared set of criteria in their head as to what a community should be that receives this kind of protection, we're not – we're all sort of just talking about, you know, things in the abstract and we really needed to get a little bit more clarity, get a little more substance to what we mean by community.

So that's really all we're trying to do here, you know, in no way is it trying to exclude different kinds of groups from the analysis at this point at all, but just trying to remind folks that we need to get a better understanding as to what it is that we're talking about here, a shared understanding because everyone's got a different idea in their own head as to what a community should be and until we can sort of reach some shared understanding I think we're going to be sort of going around in circles on this issue for years to come. Thanks.

Jeff Neuman: Thanks, Robin. I'm seeing some support for dropping the paragraph so let's – leaders – work track leaders, just if we drop the paragraph just make sure it still says everything we need it to say and if it does then we'll just drop it. Okay, Anne's got a comment saying, "Agree, the overall draft in the current version presumes the answer to the question we should be asking, and I raised it many times in the work track discussions. We need to acknowledge that the shared understanding in 2012 was much broader." Okay, so we will go through and fix that.

Okay, anybody else have any last comments before we go to any other business? Okay, thank you, everyone. So as I said at the beginning of the call, we've asked the work track leaders to make sure that the revisions that staff has made into the draft based on the conversations we've had and the

emails we've received to make sure that it reflects – the revisions reflect those conversations and emails.

There are some comments that we received that were not comments to change the draft necessarily but were comments of more of substance on the questions that were being asked. And for those we are keeping track of those comments and the thinking of the work track leadership is that we would post all of those comments on the public comment forum so that other people making comments could see what comments we've already received on some of these issues.

Now we can do that in one of two ways, we can either ask you all that submitted those comments to include it in your other comments that you're submitting; or we can include it as just a, you know, just have staff post the document that says these are the comments that we've already received putting them in the comment forum. So we're not losing those comments at all, we are not ignoring those comments, they're very important, some of them or all of them were very good but they were not about changes to the draft and they were more about agreeing or disagreeing with certain recommendations. So we just wanted to point out that those will be covered.

So each of the work track leads have been asked by the end of the day today, California time, so the end of Monday, the 18th in their time zone, but certainly by the end of California's time zone, to make sure that they have checked all the sections to make sure those contain revisions and we will release all of those starting tomorrow including the change we've been asked for in the preamble.

And so the thinking is that we will post the full document on the Wiki on Wednesday and that we will allow the working group to make any last comments until a week from Friday. I understand that that's during the ICANN meeting, but really what you're looking for in the revisions is to make sure that the discussions on these topics and emails submitted are covered. It is

not to raise any new issues, it's not to argue on the substance of whether you agree or disagree with the material in there, it's really for the purpose of ensuring that the revisions were made and that the document is ready to go out for public comment.

The document will go out for public comment on July 3 which is what we've intended all along, so we still intend to release it for public comment then. And then the question that I have that I can't answer right now because I'd like to discuss with the work track leaders is whether we should use one of our sessions in Panama to discuss this report or not. We really don't want to spend too much time during the face to face ICANN meeting because there's still a lot of work to do to discuss the report. But I would like this to be full leadership decision so we will be discussing in the next day or so whether we would like to use up some of our time in Panama in the face to face to go over some of these revisions.

So I would ask that you just give us a day to confer with the rest of leadership since we're all moving fairly quickly to see whether we should use up any of that time. My initial reluctance, just to put it out there for everyone, is the Panama meeting is also for those outside of the working group, right, it's for outreach, it's for the public to attend. If we spend too much time on this working group that none of them will have seen, although they could if they go to the Wiki, that none of them have seen, I'm worried that it will not be a very useful session for them and/or that they might be lost or they might derail the conversation, not intentionally, but just because they would rather discuss something of substance that's in the report.

So I'm putting it out there, those are my concerns. But this will be a full leadership team decision as to what we do. And so we should get back to you in the next day or so. Jim says, "If not these revisions, then what's on the agenda?" That's a good question. What's on the agenda so far well, I'll go backwards, so there's three sessions for the working group for Work Tracks 1-4. The last session is scheduled to look at the CCT Review Team

recommendations for the working group since we will need to start taking those up since they are deliverables for this working group.

The first two sessions are to discuss one of two different types of subjects. One type of subject to discuss will be areas that we know we really haven't covered but need to start figuring out how we're going to cover. One of those examples we just discussed on this call is the issue of private and public auctions or auctions of last resort, however you want to call it. We know that we have not adequately covered that subject and we need to so as to really discuss with the working group how we can make progress on that issue.

Another one is to potentially discuss how – what kinds of strategies or how can we get to take the next step on closed generics, whatever that next step might be, and I just lost reception again.

Cheryl Langdon-Orr: Okay, it sounds to me like – Cheryl here – we may have lost Jeff again. While he's coming back let's pause for a moment and see if there's any questions and comments so far. One thing I wanted to say is that even – and I'm supportive of what Jeff has said regarding our wanting to make sure we balance the opportunity for input to the discussed by people who are not as deeply familiar with every dotted I and crossed T as you are on these words in the interim report, we will come up with hopefully some way that also allows any particular comments that you all have to be captured during our Panama experience.

With getting our working sessions together we're trying to make them as interactive as possible so not the usual going through documents and calling for input where we tend to get perhaps three or four people around the table making their often previously known opinions and voices heard but rather focusing on breakout sessions, trying to have some multiple places around the room where smaller groups of people can interact and hopefully capture some thinking and some opportunity for the way forward.

Can I ask staff, are we dialing back to Jeff? Oh, look, I've just seen him arrive. Jeff, are you back on audio? Yes, I see in your chat that one way of balancing the public participation and interaction, which is really what we're aiming for, and indeed what the GNSO Council has asked us to do, all of us in all of the PDP work that we're doing in the Panama meeting we certainly could look at the questions in the annexes and once we had our leadership team meeting and finalized this, there are a couple of not unique but ways of capturing ongoing input over a several day event that some of us have seen work so we'll do our very best to make sure that we come up with a system that is as balanced and as iterative as possible.

Jeff is noting from the chat, Jim's concern about having a closed generic discussion while we have an interim report with lots of questions to the community. If we (unintelligible) try to advance any of the unsettled issues at the same time that they have out for community input, we risk looking like we're not really interested in the community input even though we are.

Yes, Jim, I understand that concern. I can hear Jeff starting to come in so I'll head over to you in a moment. What we can try and do is make sure that the role of the community interaction and participation at Panama is clearly identified as what its purpose is to be and what its standing will be in relationship to all of the questions that we're asking in the interim report, not merely limited to the most contentious of the issues such as closed generics.

Jeff, are you able to try speaking again because we were hearing an awful lot of very odd sounds. Jeff, can you do an audio check please? I'll go on mute. Okay, I'm not hearing anything from Jeff. Staff, can (unintelligible) please? Oh, there we go Jeff, (unintelligible).

Jeff Neuman: Hello, can you guys hear me? Or am I frozen? There we go. Sorry, my mic will not turn off or on, it's going really slow. So if you can hear me I'm going to try to…

Cheryl Langdon-Orr: Okay.

Jeff Neuman: …mute it when other people talk but it's not working so you can hear me, cool. Yes, great. Okay, if for whatever reason I drop just let me know or have someone else take over here. So just reading into the chat, I've seen a lot of people comment on how we should use the first session potentially so we will have the full leadership team make that call so we'll discuss it with them. I'll apologize for the issues I've had.

But then the next steps after that will be to put the report out for public comment starting the 3rd for a 60-day public comment period so it'll end I guess around September 5 because that weekend at least for the Americans is the Labor Day so that Monday, so we will end it on a Wednesday. And we will send out separate notes to the GDD staff and to the Board and to the GAC to hopefully provide comment on this report.

So there are some more comments in the chat about face to face session and I will get from Cheryl and others what I missed in the couple minutes my computer decided to reboot itself yet again. So are there any other comments on the next steps? Seeing more chat, I agree with Vonda and Jim, explain for the public the issues around the questions you are focusing on, do this in the first session. Okay…

((Crosstalk))

Cheryl Langdon-Orr: If I can jump in there? Jeff, just Cheryl here. If I could jump in here? We need to appreciate that our participation from the wider community isn't going to be necessarily that everyone is going to turn up at the beginning of the first session and they are going to stick through all of the sessions. So we will need to make sure that we have clarity in our purpose briefly reviewed at the outset of each of our sessions. You know, the whole of the ICANN meeting is not going to be conducted in the GNSO room. I know that's shocking to some

of us, but you know, other parts of the community do have meetings and people will to and fro.

So we're trying to run sessions as viable to work with that type of dare I say, more casually put, as well as allow for active and vibrant participation and of course some of you will be there from the beginning to the end and that's great too. Thanks.

Jeff Neuman: Thanks, Cheryl. Anybody else have any comments? Any questions? Okay, summarize, we will have all the revisions out to you on the sections by tomorrow. We will post the full version of the document on the Wiki for you all to see it beginning to end on Wednesday and please as soon as possible comment on the revisions, but again, we're not looking to get into a substantive discussion on those revisions other than, you know, whether you think something was missing from there or incorrectly stated. Steve, please.

Steve Chan: Thanks, Jeff. This is Steve from staff. And I just wanted to speak quickly to the point about delivering the final and consolidated initial report by Wednesday. Just from a mechanical perspective, it might be difficult to actually compile everything together because you know, as a leadership team and staff we're working in Google Docs and the product that we're going to deliver to the working group is going to be in a Word doc.

And just the reality of trying to get everything formatted properly and things put into the report in a consistent manner, we may not be able to get everything into a consolidated document by them. But the various parts will in essence be complete by then and you just may have to look in two places. Thanks.

Jeff Neuman: Thanks, Steve. We will look for those revisions as soon as possible and are there any last questions? Jim has a question. Jim, please.

Jim Prendergast: Yes, thanks Jeff. It's Jim. And this may have transpired while you were rebooting, but it seems to me just from the chat I think there's a fairly strong desire within the members of the group to have some sort of stage setting exercise during the first session whether it be a, you know, an explanation of the process that we're going through now on how this is slightly different and sort of a looking-forward and how do we get to the finish line but also walk through I guess a final review of the document since people have rightly, you know, noted that there's just not going to be enough time for people to actually get through this thing either prior to or definitely not during the actual ICANN meeting.

So is that something the leadership is going to take on board as feedback from the group and incorporate or is that still up for discussion? Thanks.

Jeff Neuman: All feedback from the group is up for discussion, so yes, we will take that back with the leadership team to discuss. And again, just when I reviewed the revisions, because I went through a bunch of the sections on my own for the ones that have already been looked at by the work track, I spent – it didn't take me very long to look at the revisions and I looked at them – I didn't read – I don't think everyone has to completely reread the entire initial report before it goes out. I think reading the revisions to see what changes were made is really what we're looking for so – because that's what we're – we're just trying to make sure that the revisions contain what was discussed and accurately reflects that.

So not saying shouldn't reread the entire initial report but what we're looking for feedback on now are the changes from the first – from the last version that everybody saw. I don't know if that helps, it doesn't help, but hopefully it does.

Okay, any – Jim, is that an old hand or a new hand?

Jim Prendergast: Old one, sorry.

Jeff Neuman: That's okay. All right, so I think we can – if there are any last – we'll do a last call for any questions or comments? Okay, thank you, everyone, and I apologize for my computer dropping out twice, got to figure that one out. But I think we can end the recording.

Cheryl Langdon-Orr: Thanks, everybody. Thanks for your attention and safe travels as we get you to Panama. Bye for now.

                                    END