

ICANN Transcription
New gTLD Subsequent Procedures Working Group
Tuesday 09, April 2019 at 0300 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-09apr19-en.mp3>

Adobe Connect Recording: <https://participate.icann.org/p7rof23reld/?proto=true>
Attendance is on the wiki page: <https://community.icann.org/x/aRVIBg>

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

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

Michelle DeSmyter: Welcome everyone. Good morning, good afternoon, good evening. Welcome to the New gTLD Subsequent Procedures Working Group call on the 9th of April, 2019.

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 today would you please let yourself be known now?

Great. Thank you. Hearing no names, as a reminder if you would please state your name before speaking for transcription purposes and please keep your phones and microphones on mute when not speaking to avoid any background noise.

With this, I'll hand the meeting back over to Jeff Neuman. Please begin.

Jeff Neuman: Thanks, Michelle. As Michelle said, this is our weekly call, Subsequent Procedures. And I'm noticing our attendance is a little bit down, but that's kind of the norm when we meet at this time. But thank you all for attending.

So, the agenda is on the right-hand side. Hopefully you all can see that and hopefully you all can hear me. We're going to start today the review

of summary documents with the hope that we can get to some, I'll say, agreement on positions. Obviously, this is not – we're not taking any consensus call right now, but it would be great if we could at least on this call agree to certain things so that when we do get to taking consensus we have a (inaudible).

Cheryl Langdon-Orr: Hi, this is Cheryl, on the record. It seems that we've lost Jeff's audio. So, let me step in until we sort Jeff back out again. Cheryl Langdon-Orr, for the transcript record.

And I believe Jeff had called – and if not, I'm going to repeat it – a call for any change to statements of interest. If you'll be so kind as to put any update, just mention that you made an update in the chat so we don't lose our valuable time today.

And I'm assuming everyone can hear me. If someone can type "yes," then that would be good.

I can see Jeff's microphone operating, but I'm certainly not hearing him. So, we'll wait for Michelle to let us know that all is well there.

Yes? I think we can hear (inaudible) now.

Jeff Neuman: Okay. Thanks. Yes. So, something very strange happened – and I know we're going to be using Zoom starting next week – but there was a complete disconnect of the phone line. And can you guys hear me now?

Michelle DeSmyter: Jeff, this is Michelle. Yes. It happened on my end, as well, and we quickly resolved it. I'm not sure what happened either. We can hear you loud and clear.

Jeff Neuman: Okay. Cheryl, I'm going to redo the statement of interest because I think all the people – a bunch of people on the computer line lost the connection. So, there was a whole weird thing. Yes. So, I think we'll just kind of start over with the statements of interest. And so, let me – I know, Cheryl, you did the call for statements of interest from some people, but now that we're reconnected let me try that again. So, do we have any statements of interest or amendments to statements of interest?

Okay. Not seeing any, then why don't we get into the – I'm sorry. I should ask, are there any changes to the agenda or any other business at this point in time?

Okay. I'll leave a couple of minutes at the end of the call just to cover that.

Okay. So, there's a document link that Steve hopefully will bring up that is the summary of a couple of the topics. These again – just to reiterate because I'm not sure what was heard and what wasn't – these are the same topics that we covered in Kobe but in a little bit different way. So,

the goal again is to get to some generally agreed principles, not focusing so much on the wording of the principles at this point, but hopefully in such a way that when we do eventually take a consensus call on these items we'll have a pretty good understanding of where people are.

And also, just to reiterate from the last call, there may be some things labeled here as a new idea. At this point, we're going to discuss all of the ideas. So, let's not focus on whether something is called a new idea, or not. We're going to talk about all of them as we get through the subjects. So, hopefully we can get through in less than the 90 minutes that we are allotted for this call.

So, I am going to go to the document, the Google doc that's linked there by Steve. So, Cheryl, if I miss anyone in the queue, if you could just let me know, or Steve or anybody else that's following the queue.

You'll also see in this document that Steve sent around at the end of last week that I put some notes in here for just for discussion items. They're not meant to capture any new positions or anything like that, but just hopefully to stimulate some conversation in an attempt to try to get to final recommendations or final drafts or draft final recommendations, I think is the appropriate term.

So, the first section that we're going to look at is the section dealing with Applicant Guidebook, and this covers – you'll see each of the items 2.4.1, .4.2, and 4.3, that's from, I believe – Steve, correct me if I'm wrong – that numbering is from the Initial Report numbering, if I'm remembering correctly. So, at this point we don't need to pay attention to the actual number that it is, because it may end up being a completely different number. We don't know yet. But this section deals with the Applicant Guidebook.

Each of the sections – 2.4.1 and so on – what we're trying to do is to cite first the background documentation where we talked about or where we received information about this topic; followed by the policy goal – so, this is at a high level what are we trying to accomplish in this section; a summary of the public comments; and then some themes and new concepts that we should be talking about on this call.

Okay. So, the first one again deals with the Applicant Guidebook. And if you go to Page – actually, these pages aren't numbered. So, maybe we can add some page numbers at the bottom of this, Steve. But it would be the second page, 2.4.1. The background documentation deals with – we got information from Community Comment #2, which was way back in 2017, and also the Initial Report Section 2.4.1 that contains all the background on the Applicant Guidebook section.

What we've kind of extrapolated out of that as being the policy goals – again, this is for discussion; so, please let us know if you agree or

disagree with the way we've kind of organized this – but the policy goals are that some form of the Applicant Guidebook should be utilized for future new gTLD procedures. We're using a general term "procedures" for now even though it may be "round" or whatever it is; we're just using a generic term "procedures." "However, usability, clarity and practicality must be priorities when drafting future versions." So, that's very much at a high level.

Vivek, please? You have your hand up.

Vivek Goyal: Jeff, I just wanted to check. When you said "some form of Applicant Guidebook," is this different to the format in which the Guidebook will be? What does "some form" mean exactly here?

Jeff Neuman: Yes. So, Vivek, it's a good question. So, it does mean that a format like the Applicant Guidebook that was used the last time in 2012. Now, we're going to be talking about as we go through these next couple of sections specific aspects of an Applicant Guidebook that we would recommend being changed or enhanced. But yes, it just – it literally means at the high level that an Applicant Guidebook should be the format used for future new gTLD processes.

Vivek Goyal: Will it focus on just changes to (inaudible)?

Jeff Neuman: Yes, I think that seems like – I think that's okay. Steve or anybody else, do you think that – I don't think that changes the (inaudible) meaning. So, I think we can make that change.

Okay. So, we'll just change that part. Steve, I don't know if you heard that. I know you were putting in page numbers. We're just going to change that first bullet point to just say, "An Applicant Guidebook should be utilized for future new gTLD procedures."

Okay. So, obviously, we're not going to see changes that Steve makes in this Adobe Connect version, but if you're in the Google doc version you'll see those changes.

So, does anybody have any other questions or changes or thoughts on what we're actually trying to accomplish? And this is important, because when we go through the next couple of sections we always want to come back to these two high-level policy goals and does the changes that we're talking about achieve – really, in this one, it's the second bullet point – does it enhance usability, clarity, and practicality?

Okay. I'm not seeing any comments. So, it sounds pretty good from a high level. So, the first, 2.4.1.c.1 – I'm sorry. Donna, yes?

Donna Austin: Thanks, Jeff. Donna Austin, from Neustar. So, I know you don't want to get too much into the language, but I do have a problem with "must be"

priorities when drafting future versions. So, I think usability, clarity, and practicality "should be" priorities when drafting future versions. If we make it a "must," it's very difficult to do all of those things, to achieve all those goals. So, I think a "should" might be a little bit more practical there. And I also think we can get rid of the "however." Thanks.

Jeff Neuman:

Okay. Thanks, Donna. Yes, that's actually an important word change. So, while I said we don't want to get into wording, I definitely agree that where we have a "must" and rather it should be a "should" or where we have a "should" and people think it should be a "must," that is one of the wording things that I think we should talk about or must talk about. So, I think that makes sense. You have some support in the chat, and I don't see any objections to that. So, we will make note of that. And I see Steve has already made the changes in the document. So, that looks good.

Donna, did you have another point? Because your hand is still up.

Okay. So, getting into 2.4.c.1 – sorry – 2.4.1.c.1, this really is just a restatement of what we agreed at the high level. So, just going into really the new ideas and concepts for deliberation, so the Business Constituency had a new idea in the comment document that stated that they thought the Guidebook should be "less English-dependent since language plus the complexity of subject matter can make understanding challenging." From their comment, there is another section that was dealing with different actual languages, like whether it should be in the U.N. languages or what languages it should be in. This comment from the BC really is referring to how even in the English version it wasn't – there was a lot of legal jargon that was used and it was pretty complex to understand. And so, for a non-native English speaker it was extremely difficult to understand.

So, the couple of notes I put below that I thought we may want to discuss as addressing the BC comment would be why don't we recommend something like, "the use of legal jargon or legalese should be avoided." The second one we could say is how about also – and this actually could be utilized in a number of parts after this section, too – but how about we recommend that a companion guide should be created to go along with the Applicant Guidebook. I put in here kind of the terminology like "Applications for Dummies" or something like that. It wouldn't be the controlling version – the main Guidebook would be the controlling version – but something, a companion guide or something, to make things a little bit easier, where possible.

Looking at the chat – oops. Let me go back here because I see "I agree with Jim," but I didn't see what Jim had said. So, let me go back and find that. Jim, I'm not seeing your comments. I don't know why. Jim, please?

Jim Prendergast:

(inaudible)

- Jeff Neuman: Jim, you're coming across – at least on my computer – as kind of like Darth Vader. Is that me?
- Jim Prendergast: (inaudible)
- Cheryl Langdon-Orr: Jeff, it's Cheryl here. Look, Jim was suggesting about – we've certainly got an echo from me. But anyway, should we be using track changes and redline? We were to- and fro-ing about all of that. Anybody who's in the document will see that all of the changes that are being made today are, in fact, being tracked and in redline. So, it's happening. It's a non-issue. We're all in rampant agreement with each other. Everyone can look at every version and every move we've made and shall make. If you're not on the call, they can make comments, too. So, it's all good in the world. So, let's move on.
- Jeff Neuman: Okay. Thanks, Cheryl. Sorry about that. For whatever reason I was hearing Jim in a weird tone. Hopefully you guys can still hear me. If not, I will join by phone. But Jim, your hand is still up. Is there something else to add? Or is that again – okay. Good.
- So, the other points that are on here, Rubens says, "Besides legal jargon, the Guidebook also has some accounting jargon, as well."
- Okay. So, the basic recommendation is that care should be taken, essentially, to avoid the use of legal, accounting, or other professional type of jargon, to make it more understandable and usable. Okay. I'm not seeing any disagreements with that. I'm seeing people typing. So, I think that's – Donna, please?
- Donna Austin: Thanks, Jeff. Donna Austin, from Neustar. So, I'm a little bit concerned about getting so prescriptive, and I'm not sure at this point what the recommendations would end up – I'm struggling for the word – what the power of the recommendation would be. Suggestions would be good for one way that you could ensure that the AGB was more usable for clarity, but I'm concerned about making recommendations that legalese should be avoided or financial terms should be avoided, because it may actually be necessary in some cases. So, I'm just a little bit concerned about being too prescriptive here in what should and shouldn't be done. Thanks.
- Jeff Neuman: Okay. Thanks, Donna. And we're not trying to be prescriptive here, and the terminology I was using is "should," meaning more implementation guidance. And we could always say "where possible" so that – again, I'm trying to incorporate the BC comment and make it actual language, rather than – I'm just trying to boil their comment down to actual language that we can use. So, I understand with being prescriptive or not being prescriptive, but I do think we need to give sort of recognition of the comment, to address the comment, and try to find some practical implementation of that.

Mr. Wilkinson. Okay. You have your hand raised. Christopher? Thanks.

Christopher Wilkinson: Hi. Good morning. I hoping I'm not Darth Vader-sounding. Look, this is a simple issue of ICANN in the community and in the staff have a multilingual composition. Its final drafts should be read by people who do not have English as their first language who can highlight to the editors any problems of understanding. For starters, avoid new acronyms that are not widely known. And I basically agree with Donna that you can't avoid formal legal concepts or even accounting concepts altogether, but it's quite possible and feasible for the staff to organize readings of the drafts to highlight any problems that we haven't noticed. Thank you.

Jeff Neuman: Okay. Thanks, Christopher. And I'm going to ask everyone for a little bit of understanding. It takes me a couple of seconds to get off mute and I have to get off mute when – I have to go on mute when other people are talking. Otherwise, we get an echo. So, it will be a second or so.

I put a comment into the chat about there's a term used of "plain language text." I'm happy to use that if that's a readily understood concept that's got a definition somewhere. I think it's okay and certainly can do that. Anne, please?

Anne Aikman-Scalese: Thanks, Jeff. It's Anne Aikman-Scalese. Are we pretty much getting rid of this language that says "less English-dependent"? Because I'm just not sure what that means. I understand what "plain language" means, "plain language text" means. I think that Donna and others are right when they say we may not be able to avoid legal concepts, especially in things like objection processes. But I just want to make sure we're not going to use this phrase "less English-dependent." I'm not sure how you make that – unless you want to – could translate into when we translate into the U.N. languages, or something like that? I'm just not sure. Thank you.

Jeff Neuman: Thanks, Anne. And that's the whole reason why I put these discussion items down here. So, "less English-dependent," as Justine said, it's a BC comment that they made. It's not text that we're going to use.

Anne Aikman-Scalese: Okay.

Jeff Neuman: So, it's an attempt to take their comment and make it into language. Thank you, Michael, for posting that link. So, I think that's fine if we want to say in "plain language" or "plain language text." I think that covers the concept that the BC was trying to get in there.

Cheryl Langdon-Orr: Jeff, Cheryl here. Just very briefly, the reason in contracts with the telco world here in Australia we ended up using that term of ours for consumer contracting, etc., in their federal laws was because of course it's been allowed in for multilingual use, etc., etc. It sort of kept us away from all the

rabbit holes and yet was readily understood with what the objectives were. Thanks.

Jeff Neuman:

Great. Thanks, Cheryl. So, I think we're kind of all in agreement here. So, I think we can – I'm not seeing anyone objecting to that. So, I think that's a good term to use.

So, if we jump then to the 2.4.1.c.2, again this was – it comes from the Initial Report. We had said in our Initial Report in order to enhance accessibility for ease of understanding, especially for non-native English speakers – actually, let me go back to the Word – I was trying to use the – sorry, guys. I was trying to use the Adobe Connect version, but I think it's easier to use the Google doc. So, the first recommendation was to be less focused on historical context and, to the extent that it's included, concentrate this content in appendices, if possible. The ALAC had – it got mostly support – the ALAC had a level of a little bit of a concern. It didn't want us to lose the historical context.

And so, my comment there just to get discussion going is I think – I don't think that the ALAC comment is – it's not the opposite, it doesn't disagree. It looks like it just wants to make sure that the historical context was readily available. So, my comment was I think we can do both: I think we can have an Applicant Guidebook that's free of historical context, but in the kind of companion guide or elsewhere – whatever we want to call it – we can obviously keep the historical content in there. So, I think that – again, I don't think those contexts are opposites of each other. I think both can be achieved.

Okay. So, Anne's got a question: "Is the Applicant going to be available in other languages?" So, Anne, we'll get to that concept a little later, but the 2012 Applicant Guidebook was published in the U.N. languages. So, unless we recommend something different, that would be the same, that that would be planned.

Okay. Justine says, "I put a reply in the Google doc." So, Justine says, "Sure. I can't see why something like a companion guide won't work, subject to my first comment on the need to notify that terms and conditions in the Guidebook are not displaced." Right. So, the Guidebook will be the controlling version, and any companion guide would really just be there for context and historical iteration.

Kathy says, "The ALAC's comment is important. Historical context will help newcomers better understand issues." Right.

So, again, what we're saying here is that we'll have a Guidebook and – the recommendation is that we should have a Guidebook and a, for lack of better term at this point, a companion document that would have the historical context.

Jim says, "The translations came significantly later than the English version. So, narrowing that gap is important." Kathy agrees. And I think that will be enhanced by the recommendation of using "plain language."

Okay. So, we've got some support for the companion guide. All right. Good.

So, moving on then to – the next recommendation says that it should be "less about policy, with a stronger focus on the application process." This is c.2.2, in the middle of that page. So, the ALAC again has a similar concern to the historical context, in that they think that the link between the application process and policy is important to maintain. I think this one, too – my personal view is that we can do both of these. Again, we could – they're not opposites of each other. We could have an Applicant Guidebook and a separate companion document that would have the link between the policies that come from this Working Group and others in the community in that companion guide, but that doesn't necessarily mean it has to be in the Guidebook itself.

Okay. So, Anne says that, "Translations should come out at the same time as the English version." And I'm assuming, Anne, that's a comment on the final Applicant Guidebook. I'm not sure with the draft that that will always be the same. Okay. So, I think that's another concept to put into here, that translations of the Applicant Guidebook should be released at or around the same time as the English version.

Okay. Moving on to the next concept, 2.4.1.c.2.3. It says that, "The Applicant Guidebook should be focused on serving as a practical user guide that applicants can utilize in applying for TLDs; for instance, step-by-step instructions possibly the type of the application" – sorry – "possibly by type of application, with a 'choose-your-own-adventure' methodology."

The BC had added a new idea, stating that it should be an "interactive process to help potential applicants understand which path to choose before applying." My note here is that, like, we have not yet concluded that there will be different "paths" for applications. We may conclude that, but that's not a given. And we also – but we may have different categories, like geographic, brand, community, etc.

The question I have for the group is, is this implementation guidance, meaning it's nice to have? Or is this something the group feels like we have to have this? And then, the question I also put in there – even though we're not going over the next recommendations, there is kind of a link there – and if we satisfy the next recommendation, c.2.4, would that resolve the issue from the BC?

So, I see Anne's hand is up. So, Anne, please?

Anne Aikman-Scalese: Yes. Thanks, Jeff. It's Anne Aikman-Scalese, for the transcript. And I think one thing that in terms of responding to your question for the group could help clarify some things, I don't think the BC said actually which "path" to choose. I think they said in the public comment application "type." But I also think that we did not capture what INTA said in this regard. Because in the INTA comment, if I'm reading this correctly, they said that we needed to create specific instructions for both brand applications and community applications. And it looks like we may not have captured that part of the INTA comment, suggesting – it's another new idea, if you will, asking for specific instructions on types of applications and INTA says brands and communities.

So, I think that I would answer that question that it would be a question of priorities in terms of the costs. I know that later we're going to get into a question about priorities in relation to systems, but this question about having different application paths for different types of applications could be an issue of priorities in terms of cost. Thank you.

Jeff Neuman: Yes. Thanks, Anne. And that's an important concept that we will come back to on a number of occasions. So, this is kind of an "if feasible." So, I do think that we should – I think that the IPC/INTA comment is closely related to the BC comment. And so, it's really that should we have, although INTA just, as you stated, talked about communities, brands, and generics being the three, there also could be geographical, whatever other categories we have. This could be something for the companion guide or whatever we want to call that document.

But again, it's one of those that I'd love to hear from others in terms of a priority where this would fall. Or whether the next recommendation, which talks about an improved table of contents which has links to different sections and is more interactive and that kind of approach, does that go a good way in resolving or in addressing? I know it doesn't go all the way, but does that go a good way into addressing the BC/IPC comment – sorry, BC/INTA comment?

So, going to the chat while I wait to see if anyone has thoughts, something to add, there is – let's see. Christopher says that "a formal process should be (inaudible) to all. Translations are available."

Justine says that the BC new idea is a "nice-to-have, but suspect that 4.1.c.2.5 would be more practical and easy to implement."

Okay. Vivek, please?

Vivek Goyal: Yes. Hi, Jeff. I think going through all the discussions here and from the BC comments, the idea is that the type of application the person or the company decides to do should be selected and then the (inaudible) process specifically for the type of application should be (inaudible) for that applicant, to make it easy for them to do it. That is the central idea.

Now, you can do it by having different sections of the Guidebook to say if you are applying for geography, then you do "this"; if you're applying for community, do "this"; and/or add the same thing in the online. When you start applying, you pick your application type and that tells you what will it cost you if the costs are different, what will your priority be, what are the special things that you have to provide, and all that. So, that should be made clear for the applicant right at the start, instead of having to go down halfway through the application and then realize this is something I have to do because I selected this application type.

Jeff Neuman: Yes. Thanks, Vivek. I think that's important. And so, one of the things that we have to think about at this point or even push it a little bit, in going through all of the materials at this point I'm not sure that for each of these types of applications is necessarily that different for most of the aspects of the new gTLD program. And so, whether to create completely different interactive guides depending on the application or whether there is a clearly discernible way or labeling in the Guidebook that is clear that if you are this type of application you need to do this or don't need to do this I think is a high-level concept.

Steve, please?

Steve Chan: Thanks, Jeff. This is Steve Chan, from staff. And I just wanted to react to the comment that Anne put in the chat, asking us to make a change to capture the INTA comment as a new idea. Before we did that, I just wanted to pose a question, I guess, or I guess maybe direct folks on the call to look at what the recommendation says for c.2.3, where it talks about creating different step-by-step instructions possibly by type, which I think seems to be inclusive of things like brands and generics. So, I guess I'm just trying to say that the way that's phrased now seems to be inclusive of any subset. So, I guess before we wanted to make that change, we just wanted to see if the folks on the call agreed with capturing that as a new concept, I guess. Thanks.

Jeff Neuman: Thanks, Steve. I think all we need to do is just say "BC/INTA," because – I agree, but let's ask Anne – but I think I agree with the point that it is covered in that comment, just kind of labeled "BC/INTA." At the end of the day, this is not the document that – this document is only for discussion purposes. We're going to take this document and for new ideas that we incorporate or for whatever we want to incorporate, it's not going to be attributed to a particular group or individual, right? If the group, if this Working Group adopts a new idea or existing idea or whatever, it's just a Working Group recommendation.

Let me see if there's any other comments. Okay. Donna says, "not really sure what an 'interactive process' means, but it probably does make sense to have a checklist for each category so applicants can ensure that they have completed or provided all the necessary information." Justine agrees.

And then we cite a couple of sections down, which is 2.4.1.c.2.5, which is "the online version could have sections that apply specifically to the type of application."

So, I do think that the suggestions or the recommendations in c.2.4 and c.2.5 really do address the BC/INTA comments. But I guess my question is, is that enough? Obviously, the BC – I'm not sure they're represented on this call – but I think if we implement those two recommendations that that should address the BC/INTA comments. But Anne, please?

Anne Aikman-Scalese: Sure. Thanks, Jeff. It's Anne. Just a note to clarify that the BC's public comment does not say "path to choose." And Justine was asking about that in the chat. So, if we're going to go down this direction of lumping the two together, the BC's comment says "type of application," and so does the INTA comment say "type of application." So, we should redline that so that it talks about the type of application to choose.

Jeff Neuman: Okay. Thanks, Anne. Vivek is from the BC. Vivek, do you think that if we change the wording to be – oh, shoot. I'm looking at the wrong section there. Sorry. That instead of where we have "path" or it says "path," if we just say "type of application," because I think that's – I think that was meant anyway, but maybe with, Vivek, do you agree with that?

Vivek Goyal: I think, Jeff, that should be okay, because I think that's what it was meant to be. That was the idea behind it.

Jeff Neuman: Thanks. Steve, your hand is up.

Steve Chan: Thanks, Jeff. This is Steve. Sorry. I think Jeff already made this point, but I guess just as a reminder that these summary statements, for brevity they are of course summaries of what was stated by the actual commenters. So, if you do want the whole context, you would definitely want to go look at the full comment. But just I guess to reiterate Jeff's point, the language in the summary statements here for the new ideas or concerns or whatever the case may be, this is – the Working Group is not beholden to use this as policy language, for instance, I guess. So, I guess I just want to draw that distinction, that these are summary statements. And it's certainly worthwhile to try to make sure the summaries are as clear as possible but – I don't know – I guess maybe I would want to caution against trying to wordsmith the summary statements, unless they are conceptually incorrect. Thanks.

Jeff Neuman: Yes. Thanks, Steve. I think, going forward, I think that's right. But I think if the BC and the IPC in this one, because we couldn't really interpret what "path" meant, but it seems like Vivek on behalf of the BC (inaudible) and Anne as a member of INTA, I think it would make it more clear in this particular example. So, yes, we shouldn't necessarily get into

wordsmithing, but I think since we weren't sure what "path" meant anyway, it's more for clarity.

Donna, please?

Donna Austin: Thanks, Jeff. Donna Austin, from Neustar. I'm just struggling a little bit at the moment to understand how it's a new idea from c.2.3. So, to me, there doesn't seem to be much difference between what the BC and the INTA are suggesting and what the actual recommendation was. And I think what I'm struggling with here is I don't know what is meant by "create an interactive process to help potential applicants understand what type of application to choose before applying." I think if you have a user guide for applicants that has the step-by-step instructions by the type of application with a choose-your-own adventure methodology – I'm not very sure what that is – I don't see how that's differs at all from what this new idea is supposed to be proposing.

Jeff Neuman: Thanks, Donna. And I think that was the basis for my question as to whether the next two items – c.2.4 and c.2.5 – at least in my mind was interactive in a sense. And so, my question for Vivek and the BC is, was there something else that they had in mind? Because Donna, like you, I kind of – well, I agree with the way you put it, Donna. So, I guess the question really for Vivek and the BC is really whether they have something else in mind as far as interactivity.

So, Anne states that the specific BC comment is, "There should be a clear process for an applicant to determine the application type based on the string they are applying for. The word 'path' does not appear in the summary of the BC comment reviewed by the sub-group."

Okay. (inaudible) doesn't really (inaudible) the question of what really interactivity is meant. So, Vivek, please?

Vivek Goyal: (inaudible)

Jeff Neuman: I can hear you now.

Vivek Goyal: Hi. Can you hear me?

Jeff Neuman: Now I can't hear you, Vivek. It looks like you've muted yourself.

Vivek Goyal: Let me try this again. (inaudible). I think the idea is that once an applicant chooses which type of application that they want to apply for, they should be provided questions as well as information about that type of application as they proceed through their application (inaudible).

Jeff Neuman: I was stuck on mute. Sorry, Vivek. So, if I understand, the BC was thinking that in the application itself, if you answered what type of application are you, then it would go – and you said geographical, let's

say, it would then take you to a specific geographic application type template? Is my interpreting that (inaudible)?

Okay. So, it is a little bit different. It's – yes, as Justine said, it's like saying, "I want to apply for whatever type of gTLD, and tell me which parts I need to respond to." Okay. I understand that.

So, what does the group think about that? Is that something that's like a "nice-to-have," "must-have"? Anne, please?

Anne Aikman-Scalese: Yes. Thanks, Jeff. It's Anne again. Just to clarify, the BC comment is not "I know what kind of application I want to apply for and so tell me how to do that." It's the opposite. It's "I'm not sure what type of application I may need to apply for based on the string that I have." And it says for cases which are not clear, there should be a process where they can get a definitive answer before starting the application process. And again, obviously, I am not a representative of the BC; I am just reading their comment.

But I honestly think that what you said, I don't know, five or 10 minutes ago is correct, Jeff, that if we just put "BC/INTA" and change the "path" language to which "type of application" to choose, then we could move on. And it just would be simpler and we could revisit it later. Thank you.

Jeff Neuman: Thanks, Anne. Great. I think that sounds like we can move forward, at least with that.

I'll jump then to c.2.7. I know we're skipping c.2.6, but I think we kind of covered it with the above. I think we have enough to kind of write some recommendations or draft final recommendations based on this whole conversation. So, I'm jumping to 2.7 because it's different in concept to the previous ones. So, 2.7 talks about agreement, "any agreements, terms of use for systems access, including those required to be click-through, should be finalized in advance and included in the Guidebook with the goal of minimizing obstacles and/or legal burdens on applicants."

And I forgot to put one question in here. So, before I forget again, one of the questions that I know was brought up by a couple of people I talked to – and I can't remember if this was during the meeting or this was after the meeting someone brought it up – but the question is, do we really mean that they need to be in the Guidebook itself? Or does it mean it needs to be published at the same time as the Guidebook? I thought it was – the concept was the latter, that as long as we publish it, it didn't need to necessarily be in the Guidebook itself because we were trying to minimize the complexity of the Guidebook; that it was really just meant to be published before the application window opens. But I just want to make sure that that understanding – what everyone thinks about that understanding. Does it really need to be "in the Guidebook" first? Anybody have thoughts on that?

So, Kathy, I'm not sure – so, Kathy says, "A midpoint might be to put it out for public comment." I think all of this goes out to public comment. So, I don't think that's – that's not the question. It's where the placement is.

So, Anne, I'm talking about the – so, there are some agreements, terms of use, like the portal terms and conditions or the predelegation testing terms and conditions (inaudible), if that's a separate portal. I'm not talking about in this case the actual Application Terms and Conditions or the Registry Agreement; I'm talking about these other ancillary ones. Hopefully that helps.

Justine says, "Not in the Applicant Guidebook, but a prelude to the Guidebook to establish the type of application first." Okay. So, I'm just trying to – "prelude to the Applicant Guidebook." I don't think it's – this question here, c.2.7, it's not dealing with type of application; it's dealing with the different terms and conditions that are – ah. Steve is saying it's the last comment. Never mind. I will cut off the conversation.

So, does anyone –? Okay. I'm not seeing any objection. So, I'd like to, if the group thinks it's okay, to change in the Applicant Guidebook to state that "any agreements, terms of use for systems access, including those required to be click-through, should be finalized in advance and published with the Applicant Guidebook," as opposed to necessarily "in." It could – I just don't want to set a requirement that it needs to be in the Guidebook.

Michael Flemming is typing. Some people are typing. I'm assuming that's not a controversial change. Michael says, "Another question to ask is if we have this required to be in the Guidebook, would that prevent updates to be made to the click-through agreements later on?" I think that let's take the concept of changes out of this, just because that's a completely different concept. The reason to not include it in the Guidebook is not because of preventing changes or making changes easier; it's just a matter of where to put it.

So, Justine says, "Yes, to answer. I don't know which application..." Oh, sorry. This is still on the last one.

Kathy asks, "What happens when ICANN has to change the terms of use?" Kathy, that's the – again, let's not talk about changes, because that's not part of this section. We can address that when we talk about changes itself. This is, rather, just placement and where to put it.

Donna, please?

Donna Austin:

Thanks, Jeff. Donna Austin, from Neustar. I'm just trying to understand what you're suggesting here. Are you suggesting something that is different from what was supported by everybody in c.2.7, in that the terms

wouldn't be included in the Applicant Guidebook, but they would be published at the same time as the Applicant Guidebook?

Jeff Neuman: Yes, that is what I'm saying. And the reason is we have all these previous sections talking about making the Guidebook more user friendly, taking out – making it more plain text. So, we can talk about differentiation, like, yes, the Application Terms and Conditions, that's one thing. But really, do you need the portal terms of use? Because it's provided by salesforce and you have to pass through certain terms of the use of that software. Do you really need that in the Guidebook itself? Yes, applicants should know about it in advance, but do you really need to put all of that into the physical Guidebook? That's what I'm saying.

Michael says it needs to be referenced in the Guidebook. So, Michael – and I'll get back to you, Donna; sorry – Michael, why does it need to be referenced in the Guidebook? And then, Donna, please?

Donna Austin: Thanks, Jeff. So, some of this is challenging in my mind because I think there needs to be one complete document with all the relevant information. And in the last – in 2012, that was the Applicant Guidebook. What we might be ending up with as we go through this is you will still have kind of the complete document, and then you might have separate parts to that. You've suggested a compendium. Now you're suggesting that terms and agreements for you to access might be a separate document, as well.

So, I'm just – I just wonder whether – it seems that when we reviewed the comments that there was support for including this in the Applicant Guidebook. So, I don't know why at this early stage we would actually think about changing that. Maybe we could come back to it later when we understand how many documents it is we think will result from the recommendations that we've put forward. But I'm just struggling a little bit with how this is all going to fit together, and I'm concerned that if we have six or seven documents that that will actually go against providing clarity and being user friendly. So, I guess that's my concern at this point.

Jeff Neuman: Yes. Thanks, Donna. So, we had gotten comments from ICANN staff and others that if you put everything into the – now, they weren't all in the Guidebook in 2012, right? And the problem that people had was that it wasn't known in advance, not that it wasn't physically in the Guidebook itself – right? – but that it just wasn't provided. And I think that if we're going to require everything to be in the Guidebook itself that we will never have a completed Guidebook, that it will only be able to be completed once every software vendor and once every – we're trying to reduce the complexity of the Guidebook as opposed to increasing the complexity. And this recommendation, if followed literally, would increase the complexity of the Guidebook.

So, let's put a pin in that right now and maybe push that discussion out to email, because there are some other items in this particular section that I think we need to address to make things more clear.

So, one of the notes I put in here, we should try to be as specific as possible as to which agreements we're talking about so that they're clear. Because all we say is including those agreements that (inaudible) be click-through. I think we want to be more specific and say, obviously, the Registry Agreement, the Applicant Terms of Use, and any portal or application system terms and conditions that would be required to be agreed to, I think is what we're talking about in this recommendation.

And then, addressing the INTA comment which talks about there's a concern with click-through because it's non-negotiable and the suggestion that applicants should be able to indicate that they want to – if they want to negotiate. So, here's my questions to the group. Do we really as a group – I shouldn't say "do we really" – do we want all of the agreements, no matter what they are, to really be negotiable? In other words, is it appropriate for things like the use – and again, assuming that all of these agreements are agreed to by the community in advance; in other words, the community believes that these are the right – this is the right Registry Agreement, this is the right Application Terms and Conditions, this is the right software portal – do we really want to increase the complexity of the process by saying everything should be negotiable? So, let me throw that out there.

Donna, please?

Donna Austin:

Thanks, Jeff. It's Donna Austin, from Neustar. I think at another level I don't believe that everything should be negotiable, because that's going to take away from predictability and have some challenges with our overall goals at the beginning. So, I think my gut reaction is, no, we don't want everything to be negotiable. But again, it depends on the number of agreements and the types of agreements and terms and things that we're talking about. That may – some of those things may make more sense to be negotiable than not, but I think at another level it makes sense to keep everything consistent at this point. (inaudible)

Jeff Neuman:

Okay. Thanks, Donna. And that's why I'm asking the question, right? Because – and Michael says in his comments, "I think click-through agreement as we've said is referring to software. I don't think the INTA was addressing these types of agreements, the Registry Agreement and Terms of Use for the Applicant Guidebook." Michael, that's what I'm trying to draw out. So, you believe that INTA was really addressing those and not, like, the software portal terms of use or the predelegation terms of use, if that's even a thing, moving forward.

Kathy, yes, we're talking about every legal type agreement at this point, and that's why I'm trying to get clarity as to which ones we really mean when we move forward.

"Should we ask..." – sorry. Anne is saying, "Should we ask INTA to clarify?" Anne, at this point I don't think we need to ask INTA to clarify; I think we as a Working Group need to take the INTA comment and we need to discuss what we think as a Working Group. So, whether it means just the terms of use – sorry, the Application Terms of Use and the Registry Agreement or whether it means all the agreements, I think we as a Working Group just need to decide kind of as what Donna was saying: which ones do we believe as a group should be subject to negotiation and which ones shouldn't?

So, again there's some reference here to going back as to what INTA meant. I think, sure, we can find out what INTA meant, but again I'm asking the Working Group how do you all feel. Do we have thoughts? Do we agree with Donna that certain things should be non-negotiable.

Okay. Justine says, "I don't understand why system terms of use would be negotiable." Okay.

Anne says, "Systems access should likely be non-negotiable." Okay. That sounds good.

All right. Now let me ask, I think if it's like the 2012 round, are we as a Working Group still in agreement that registry operators should be able to at least ask to negotiate certain terms in the Registry Agreement itself? And I'll get to you, Christopher, in a second.

Kathy, this question is actually broader. This question talks about any agreements, including those that would be click-through. So, this agreement – this question deals with all agreements. So, if it was like 2012, you could ask to negotiate the Registry Agreement. Now, whether you got it or not is a whole different story, but you could ask. You could not ask for any other type of agreement or terms of use to be negotiated. And Kathy, yes, we are talking about the Registry Agreement here. This question does encompass all agreements.

Donna, please? Sorry. Christopher, I'm sorry. I missed you, Christopher. Sorry. Christopher, then Donna.

Christopher Wilkinson: Yes. Christopher Wilkinson, for the record. Jeff, I think what needs to be said has been said. We're spending lots of time on the INTA. I don't think they're going to be applicants in their own right, anyway. And you can't have the detailed and elaborate process of reaching consensus and then turn around and say, "Oh, but by the way, you can negotiate changes if it doesn't suit you." I think we've spent enough time on this. So,

I don't believe that INTA realized the implication of what they were saying. Thank you.

Jeff Neuman: Thanks, Christopher. Donna, and then Kathy.

Donna Austin: Thanks, Jeff. Donna Austin. So, I guess I'm a little bit where Michael is. I don't know where this says all agreements. And I think also, to Kathy's point, I don't know that we are talking about the Registry Agreement. So, I guess what I want to – I want to be really specific here about what agreements we're talking about, because I can't make an all-encompassing – I can't give you a "yes" or "no" answer if I don't understand what "all agreements" means. Because I would have thought the Registry Agreement was outside of this conversation. But if you're saying it's inside the conversation, then I would say that, yes, it should be negotiable. But I'm sorry. I'm really struggling with being able to give you a "yes" or "no" answer on this.

Jeff Neuman: Yes. Thanks, Donna. I'm not asking for a yes/no to encompass all agreements. I'm trying to get us to be very specific as to – in order to address the INTA comment, is to which agreements – INTA is saying that they're concerned that click-through agreements are non-negotiable. They're kind of – INTA was referring to all agreements should be negotiable. I'm trying to get this Working Group – and we started to get there. So, we started to get to the point of where people in this group believe that systems terms of use, whether it's the application system, the portal that used for predelegation testing, and others should not be negotiable. That's what people are saying on the list. So, if we're happy just focusing on those, I'm happy to focus on those, too.

So, my question is, what do – how do we feel about the – and now I'll just limit it – how do we feel about the systems terms of use and conditions being non-negotiable?

Kathy, please?

Kathy Kleiman: ...coming off mute. This is Kathy. Can you hear me, Jeff?

Jeff Neuman: Yes. (inaudible)

Kathy Kleiman: Okay. (inaudible) So, since there has been this confusion, I think it would be useful just to add more detail to the question and explain what system access means – the portals, the general entry – just so that it's not later interpreted as registry agreements, because that's a whole different thing. Again, this says "any agreements or terms of use for system access." So, perhaps we should put a dash in and say what types of systems we're talking about, the way you just did. Thanks, Jeff.

Jeff Neuman: Okay. Yes, which is why I said we need to be specific on which agreements we're talking about. So, yes. So, right now my question is,

does the group believe that any systems that need to be accessed to enter your application or for predelegation testing or whatever software is used, do we agree that once the community determines the appropriate – what these agreements should like, that they should be non-negotiable? So, I'm trying to limit the question.

Michael is saying yes.

Kathy, I'm not sure if your hand is up still or whether to just go on to Jim. Jim, please?

Jim Prendergast: Great. Thanks, Jeff. So, you just phrased it differently than I think you had been, and I want to make sure we're clear on this. You said, should these agreements be open to negotiation once the community has already had a chance to set them? And I think that's a very important distinction. Because I think the example that jumps out at me is something you are extremely familiar with, and that was when ICANN developed the new naming services portal for Contracted Parties to interact with Compliance, with their Engagement Managers, etc. It was a terms of access that were put forth by ICANN that were just not acceptable and onerous on Contracted Parties exactly.

So, in a situation like that, I think what you're trying to figure out from the group is when it comes time to submitting your application, if applicants see serious red flags in the terms and conditions that ICANN has laid out without any community involvement or participation, should the community have a chance to sit down with ICANN and try and make those terms and conditions better? And I think that's the question that you're asking, if that's what INTA is driving towards. I think the answer is definitely yes.

Jeff Neuman: Yes. Thanks, Jim. Thanks for bringing up such painful memories for me. So, yes. Well, INTA is actually – I think the point INTA is making is that registries should be able to negotiate any agreements, even after they're finalized. But I agree with you. The way I put the question is assuming that any agreements regardless of what they are will be seen by community and agreed to by the community whether or not – sorry, will be seen by the community and, therefore, "agreed to" by the community. This question deals with should they be negotiated after that. And so, yes, that's the question I'm asking now. So, make the assumption that we will have all seen the agreements, have all approved the agreements before that process starts. Now, the question is, should individual registries be able to negotiate the agreement?

And it looks like – I'm trying to be clear, but Donna says, "I don't think that's what Jeff was talking about, Jim." And Donna is confused.

All right. I'm going to take one step back here. Sorry for confusing everyone. As one of the premises or a fundamental recommendation that

we have is all agreements should be known prior to applying for a TLD. That's no matter whether it's the Registry Agreement, Portal Terms and Conditions, the Application Terms and Conditions – everything should be known and approved by the community prior to an applicant filing their application.

Now what INTA is saying is that even after that happens, registries should be able to ask to negotiate the agreements. What I'm hearing from the group is that certain agreements, like the systems terms of use, should not be negotiated, which would go against what INTA has asked for. Hopefully that's more clear.

Donna, please?

Donna Austin: Thanks, Jeff. So, when you were describing this, you just said the registry operators should be able to negotiate. Do you mean the registry operator? Or do you mean the applicant?

Jeff Neuman: Applicant. Sorry. That's correct. It would be the applicant. Well, actually, let me – sorry. Let me take that back. There will be or there could be predelegation testing agreements or portals for that. So, I guess it could be in theory (inaudible).

Sorry. (inaudible) that might have confused people. All right. I'm going to recommend that we take this offline. I will write it much more clearly, hopefully, so that – I think this was probably my fault in trying to explain. So, I will try to write it out hopefully in a better way. And part of it is because it's pretty late at night for me.

So, the other item is if you go to the last page on this section – it's Page 4 of this document – what we need to talk about is a priority, is how to prioritize these recommendations, and something we'll do later on is – and when I say "later on," when we write up these final recommendations – one thing that ICANN Org had asked us to do is to be very clear as to where what we're recommending is different than the way it was implemented in 2012.

And Jim is saying, "Let's make sure someone from INTA sees it." So, absolutely. Anne, please?

Anne Aikman-Scalèse: Yes. Thanks, Jeff. It's Anne, for the transcript. And in terms of establishing priorities, when I looked back at the goals for this section, one thing that kind of concerns me is that we haven't specifically mentioned increasing access toward those who are not already within the system and don't already understand the system; in other words, new applicants. I really – I don't know if I'm just making this up, but it seems to me that one of those goals, policy goals for the Applicant Guidebook should be to specifically to increase accessibility for new applicants to the system and from underserved regions. This is very much an insider

system, and we need to open it up is what I'm trying to say. And if we're going to prioritize, I feel like there's a goal that's missing. Thank you.

Jeff Neuman: Okay. So, going back – thanks, Anne – so, going back to those goals, we have in there, back to Page 2, usability, clarity and practicality priorities when drafting future versions. We could put in there "usability for all applicants, including new applicants." I think when we talk about prioritization, that may help us with some of the recommendations for plain text and things like that.

So, let's – we're kind of running up against the time. So, we'll continue this on email. But Anne, do you want to add in kind of the last word?

Anne Aikman-Scalase: Thank you, Jeff. Again (inaudible) I do know that that comment has some support in the chat from other members. So, it would be good if you guys could work on that goal a little bit, as far as new applicants and people that don't know our system, the accessibility thing. Thank you.

Jeff Neuman: Okay. Thanks. Yes, we'll work on that on email, as well.

Thanks, everyone, for working with me – with us on this exercise. I think future summaries should go a lot quicker, but I think (inaudible) in this way. That's why we spent a lot of time on it. It may have seemed painful, but I think it was really, really important.

So, I'll do a pause. Anyone have any last – any other business?

Okay. Not seeing anyone or anything, thank you, everyone. It won't be as painful moving forward, hopefully. And thank you for not revealing the score of the game during this, because I'm going – the (inaudible) and I'm going to watch that now. Thank you, everyone.

Cheryl Langdon-Orr: Bye, everyone. Bye for now.

Michelle DeSmyter: Thank you. Meeting has been adjourned.