
ICANN Transcription

GNSO New gTLD Subsequent Procedures PDP Working Group

Thursday, 19 November 2020 at 15:00 UTC

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ANDREA GLANDON: Good morning, good afternoon, and good evening. Welcome to the New gTLD Subsequent Procedures PDP meeting, being held on Thursday, the 19th of November, at 15:00 UTC.

In the interest of time, there will be no roll call. Attendance will be taken by the Zoom room. If you're only on the audio bridge, could you please let yourselves be known now?

Thank you. Hearing no names, I would like to remind all participants to please state your name before speaking for transcription purposes and to please keep your phones and microphones on mute when not speaking to avoid any background noise. As a reminder, those who take part in ICANN multi-

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stakeholder process are to comply with the expected standards of behavior.

With this, I will turn it over to our Co-Chair, Jeff Neuman. Please begin.

JEFF NEUMAN:

Thank you very much, Andrea. Welcome, everyone. Feel free to use your camera if you want when you speak. It's always good to start seeing people. So, if you want to speak or you just want to show yourself on camera, that would be appreciated, but of course, you don't have to. So welcome, everyone.

Before we get into today's agenda, let me just ask to see if there's any updates to any statements of interest.

Okay. I am not seeing any, so that's good.

Before we get started on this agenda, on which we'll talk about RSP pre-evaluation, applicant reviews, and registry system testing, I just want to also mention that I sent an e-mail out yesterday, just talking about our call for Monday. Although I know that Becky is on the call today, specifically on Monday's call we're going to spend the agenda talking about a number of items that are related to the Board comments, especially where the Board commented on its bylaws or fiduciary duties or things like that.

I sent around a copy of the topics yesterday, which include, of course, things like public interest commitments, registry voluntary commitments, and making changes to the applications based on making commitments to resolve disputes or objections. We'll

spend a little bit of time on closed generics and also the Board's views on auctions/private resolution of contention sets and the added transparency requirements. For that one, as you probably are aware, we have a small group that's been meeting and talking every so often on trying to come up with some sort of proposal that addresses all the comments that we received. So, for that topic, we're going to ask Donna, Jim, and Paul to present some of the questions that have come up during those calls. So it's going to be a good call on Monday, so please do attend. I believe it's at 20:00 UTC, if I'm correct. So just make sure you attend, and if you have any questions, let us know.

All right. Just checking to see if there's any questions.

All right. Thanks, Andrea, for the confirmation.

So, on the topics today, again, we're going to start with the RSP—oh, sorry. Is there someone in the queue? Sounds like someone's mic might be open. Flip, you may have—there we go. Thanks. Okay. So let's start with Topic 6: RSP pre-approval. Hopefully, either Julie, Emily, or Steve could drop the link in the chat. I know it helps me because it's small up on the screen. I guess it depends on the size of the screen that you have. Okay, I'm going to click on that link, too. All right. Thanks, Emily. So this is Topic 6. Why don't we get to it? So this is again on the RSP pre-evaluation program. I know I still slip up sometimes and call it pre-approval, which is really the wrong word for it. You'll see some people use it in their comments, but I think it's really important that we stick with the term "pre-evaluation" because I think it makes some of the concepts a little bit more understandable. Plus it doesn't have some of the connotations that the word "approval" does. We'll get

into why that's important when we look through some of these comments.

As you'll see, there is a wide diversity of support for these recommendations as written. Especially, you have the registries, the Business Constituency, and ccNSO. You have INTA, Article 19, and the NCSG. So the notion for the program does have a lot of support.

Now, where the questions or comments came up were generally in just a couple of areas. The first area which was repeated is in Line 10 with Tom Barrett, but it's repeated by multiple groups, I think, like the IPC or at least Flip's law firm and a bunch of others. This relates to the question of, when an applicant is applying for a string, can they just say that they will use a pre-evaluated RSP, or do they actually have to name which pre-evaluated RSP they use?

I went through the text again. I think it's fairly clear in the text, but apparently, from the comments that we got, it wasn't clear enough. The GoDaddy registry believes that applicants should in fact have to state which RSP they're using, not just the fact that they are using an evaluated RSP.

But, on the other comments that we have in from Flip and from IPC and from Tom Barrett and from the registrars, I think, down below with the new information, their view is that we should stick with the notion of just having to say that you will use a pre-evaluated RSP and then you will, before contracting or at the time of contracting, of course have to, at that point, name your RSP. I'm talking about ICANN contracting. So that's the point at which

you would have to—or the latest point at which you'd have to—name your pre-evaluated RSP.

Again, I think, in the text of the recommendations, we were fairly clear that you would just have to state that you're using a pre-evaluated RSP but not to name it. The GoDaddy registry [had] the only comment that we got that wants you to name the specific one.

So I didn't know if we wanted to talk about this or if anyone's got any concerns.

I see Donna is in the queue, so, Donna, go ahead.

DONNA AUSTIN:

Thanks, Jeff. Thanks, Jeff. Donna Austin from the GoDaddy registry. There's a couple of reasons why we think this should happen. One of them that was probably a late thought, but one way of thinking about whether an applicant is bona fide or submitting applications in order to run the gTLDs ... I think, if you have an applicant that has put in 20 TLDs and they haven't identified their backend yet, then maybe that's a little bit suspicious. I can understand that maybe, if they end up in contention, they're only going to end up with 15 of those. But it could be one of the factors that we draw on or that ICANN can draw on about whether the applications are bona fide or not.

The other issue is, when ICANN comes to consider or evaluate applications and the testing that's involved with backends—because I think there's a question in here somewhere about capacity of the RSP to manage X number of TLDs—I think it's

important that it's understood how many applications that the RSP is going to supporting. So that's really the only way to draw it out.

So that's the primary reasons why think it would be worthwhile calling that out at the time that the application is submitted.

The other thing you might get into, well, we understand that there wasn't the breadth of RSPs that came out of 2012. It was actually a much smaller pool than we thought. But you might get into a situation where, if the applicant hasn't sorted out who their RSP is before they submit the application, maybe that's going to be a harder task after the fact.

So they're the reasons why we think there's value in actually identifying who your RSP is at the time you submit your application. Thanks, Jeff.

JEFF NEUMAN:

Thanks, Donna. For everyone's reference, we'll get into, in, I think, the next topic, what Donna was mentioning about the scalability of the registry testing and the technical evaluation. So that's where Donna is referencing, how does ICANN evaluate a registry service provider if they don't know how many registries that that service provider is actually going to provide backend services to? So that's what Donna is referencing.

Now, is there anyone that wants to speak from the IPC, the BC, or others that supported not having to disclose until the contracting phase?

We have lots of quiet people today.

Anne is stating that what Donna says makes sense in a personal view.

All right. It's really quiet, so it's hard for Cheryl and I to know if there's momentum to support a change or to keep it the way it is with so few people giving their thoughts.

Okay.

CHERYL LANGDON-ORR: Jeff, we have a reasonable number of people on the call, but not a huge number. I don't want to operate on deafening silence. Can we pop this out to the list for confirmation?

JEFF NEUMAN: Yeah, absolutely. We'll do that. I just wanted to just wait and give a second to see if there's anyone on this call that wanted to speak to it. But yes.

Okay. The second overall issue that—oh, okay. Flip is in the queue, and then Donna. Donna, is it okay if I go to Flip first and then come to you?

DONNA AUSTIN: Yeah.

JEFF NEUMAN: Okay, thanks. Flip and then Donna.

FLIP PETILLION: Thanks, Jeff. I'm going to be very short. I find these very interesting observations. I think what's important is that the name that is indicated by an applicant is, I think, and will remain, I think, confidential. So I think it would be good if ... We may consider taking into account the observations made by Donna, subject to or conditioned to the confidentiality of the application. Otherwise, you could actually come into a situation where the market gets information that actually nobody wanted to spread around. Just an idea. Thank you.

JEFF NEUMAN: Okay. Let me ask the next kind of sort of obvious question. If an applicant wanted to—then I'll turn it over to Donna because I think both questions Donna may want to address ... So the second point is, how would we handle ... If an applicant wanted to change its backend provider prior to contracting, would that have to go through a whole application change request, or would this be something that an applicant can just change at the time of the contracting?

Let me go to Donna, and then if anyone else wants to address that, please get in the queue. If not, then we can move on. Donna, go ahead.

DONNA AUSTIN: Thanks, Jeff. Flip's idea is an interesting one, but, Jeff, I can see where you've gone as well—that, if you wanted to change your RSP after the fact, that may create some complications. But I do see some benefit in confidentiality regarding the RSP. So it

wouldn't always be the case that, if you have an arrangement with a third party, you're going to change after the fact. So maybe, Jeff, what you're suggesting is just a small percentage of applications that that might happen with.

The other thing I was going to say about the point on the bona fide is that it can still be a factor consideration if applicants decide to identify their RSP voluntarily. So, if have a factor about bona fide related to identifying your RSP in the applications, then that would suggest that you are serious about operating the TLD. So, even if this is a voluntary "identify your RSP," that would still be helpful in the bona fide part. Thanks, Jeff. Not sure that's clear, but hopefully you get what I'm trying to get to.

FLIP PETILLION: RSP ...

JEFF NEUMAN: Sorry. Flip, did you want to get back in the queue then?

FLIP PETILLION: No, sorry. Thank you, Jeff.

JEFF NEUMAN: Oh, okay. Let me go to Martin then.

MARTIN SUTTON: Thanks, Jeff. I think it's good points raised from Donna. Personally, I think it would be appropriate for the application process to have included the RSP in it as well.

So, to your point, though, with regards to the changeover, if you did subsequently want to change RSP before contracting was completed, I think that that would be a change request process. I think it depends on what the changeover is. So, if it's to another pre-evaluated RSP, I think we can assume that that would be fine to proceed. But it would need to be noted. I think, if it is not a pre-evaluated RSP, then that could be more substantive in terms of process. So that would need to be built in as well. Thanks.

JEFF NEUMAN: Thanks. I think, yeah, if it wasn't one that was pre-evaluated, then it would have to be one that was evaluated at some point. That could be that it was evaluated during the application process. So, in that sense, it will have been pre-evaluated, if that makes any sense. Maybe not part of the official program, but it will still have been pre-evaluated.

Paul, go ahead.

PAUL MCGRADY: Thanks. Paul McGrady here, speaking only for myself, not for the IPC. I don't want to in any way take away from the IPC's comment, but I do want to riff just a smidge off of what Donna said just now about how identifying the backend provider in advance does show the bona fide intention to run it. Signing these contracts, making them contingent contracts, and then giving the

TLD string is not effortless. I had to negotiate against a guy named Jeff Neuman in the last round for most all my contracts. It was a total pain in the behind. But also the backend providers explained especially to dot-brand applications what all this really entails in terms of the technology side, and the dot-brand applicants will go into with a better understanding of what it means to have that bona fide intention to run it.

So, again, I'm not trying to dismantle what the IPC said because I do see some elegance in having your RFP after you have your string in hand. I get that, and I think it's actually, from a business process standpoint, more how corporations work. But Donna just pushed a button that really gives us something to think about. Thanks.

JEFF NEUMAN:

Thanks, Paul. I remember those days well at several ICANN meetings and several hotel bars. So all good points. Just to put a fine point on it, if you do name an RSP, then presumably, in order to name the RSP, you will have had to have some arrangement with the RSP, and that does indicate your seriousness in applying or at least in wanting to ultimately run the TLD.

Let me go to Flip, and then we can close out this area. Flip, go ahead.

FLIP PETILLION:

Thank you, Jeff. Just to make clear, I'm speaking on my own behalf, not as a member of IPC or as liaison. When we consider these observations about capacity, we should also compare it to

the situations that can exist now. Everybody can change now [or] after the TLD has been delegated. So the question of capacity actually can come up already now. When we examine that comment, we should think of that. Thank you.

JEFF NEUMAN:

Thanks, Flip. We'll get into the capacity issue in some more detail a little bit later in this call when we get into the testing section. So, for now, we'll take that comment and then we'll address it again a little bit later.

So it sounds like there's some support from some people on having to name the RSP but it potentially could be confidential. So, like Cheryl said, we'll send it to the list to see if there's any more thoughts on it.

Jim just put in some thoughts here about, "Wouldn't put too much weight into having an agreement within RSP as an intent to operate. When you operate an agreement for one or two strings, maybe, but when it's 10, 20, 50, or 200, it's a one-time deal." Okay. Thanks, Jim.

Okay. The second issue that came up in a few of the comments was this notion of appeals. In the draft final report, this is one of the evaluation decisions that we said is not eligible for ... I think, actually, the right term is a "challenge." If you do not agree with an evaluation, it's not really called an appeal. It's called a challenge. I know we'll use those terms interchangeably, but when you look at the chart, there's a difference between challenges and appeals.

So this is one of those areas, however, that's not subject to challenge. There were a few comments from ... I think the IPC was one of them, and Flip, I think, was another one that said that the disagree with the decision that an RSP that does not succeed in a pre-evaluation in their view could be substantially harmed by that and, therefore, it could be likely that potential applicants for strings wouldn't trust or choose that RSP if it didn't succeed in a pre-evaluation or wasn't pre-evaluated at all. But the rationale for why we didn't put it in there is in the leadership notes column, where the evaluation process is one where evaluators can ask clarifying questions. So there's ample opportunities to try and get the RSP pre-evaluated or successfully pre-evaluated.

The remedy for winning—I should have put “challenge” here but said “appeal” ... If you succeed in a challenge, the only thing that you're going to get from it is a reevaluation, which is what happens during the normal evaluation period because, really, the only difference between the pre-evaluation and the evaluation is an aspect of time and not what is actually evaluated.

There was a concern from the working group that allotting extra time for a challenge could delay the commencement of the actual round of applications.

So that's why the working group did what it did. It did discuss this issue, but since there were several comments that raised the challenge issue, I thought I would put it out and see if there's other comments on that.

Flip, your hand is up. I don't know if that's an old hand. I know you were supportive of the notion of being able to challenge.

Any thoughts from other members of the working group?

One way or the other? I'll give a couple seconds for anyone to jump in if they want.

All right. I'm not hearing a chorus of support, so we'll move on to the third issue. The third issue is reflected in ... I think there was a third issue. Let me just try to find it here. Actually, if we scroll down to the new comments, new information ... Okay. So ICANN Org's comments here ... I just want to make sure ... Actually, this may also come up with the testing that we got to either next or the one after next, but ICANN Org wanted us to confirm if it is our understanding that any testing that happened during the pre-evaluation would not replace PDT, which tests the technical and operational infrastructure of each gTLD as a prerequisite for delegation? Well, we may be silent on it but I believe it was not the intention of the group to replace PDT. Sorry—Pre-Delegation Testing.

Does anyone have any different recollection?

Donna, go ahead.

DONNA AUSTIN:

I thought it was of the intent to replace PDT because PDT was conducted ... If you're a backend that had 300 TLDs, then you had to go through PDT 300 times. So I thought part of the reason why we had created this pre-evaluation is that you were not only replacing the technical part of the application but you were also replacing the need for PDT. So that was my understanding.

So, if it is the case that I've got it wrong, and PDT is required, then that changes my thinking on the pre-evaluation. Also, that requirement to identify who your RSP is is part of the application process.

JEFF NEUMAN:

I think it was ... Yeah, probably “replace” is the wrong word. I think it was meant to do some or a lot of the testing that the PDT did. I think, as part of PDT, though, there is a component of that that's required. I think that's information that needs to be provided to IANA at the time of delegation. So I think things like language tables and—what were some of the other elements?—the ability to do EPP commands and stuff like that were ... When we get to actually talking about testing in the next subject, I think that is something that we were contemplating would not have to occur again pre-delegation. But there may be a couple of items of what is in pre-delegation testing now that do have to be done at that time.

So I think we may need to delve into this one a little bit more and call out the components that it would substitute or replace and, of course, the ones that it wouldn't because I believe there is a requirement from ICANN to certify things to IANA, even though it's related organizations—that certain of the testing was done within a certain period of time prior to the delegation. So I think it's somewhere in the middle, Donna, if that makes sense.

DONNA AUSTIN: I think you're right, Jeff. We just need to understand what component of PDT would be required.

I think there's also a question in there of, if you are an RSP that's supporting 300 TLDs, do you have to do this PDT 300 times? Or can you do it 20 times or something? Is there a middle ground somewhere on this? Thanks.

JEFF NEUMAN: That's a great question. I'm going to create two action items from that. The first one is to specify in a little bit more detail which of the elements are required at or around the time of delegation. And the second one is, which of the items did we intend, like IDN tables and things like that, that really only needed to be evaluated one time, and that could be during the pre-evaluation process and does not have to be repeated at PDT? So I think that's the action items. Again, we have a testing section that's up ... I can't remember if it's next or the one after next, but it's today, a little bit later on.

There's Alan in the queue and then Marin. So, Alan, go ahead.

ALAN GREENBERG: Thank you very much. Clearly, I don't have a stake in this one. It strikes me that what we're saying is that the RSP replaces aspects of the pre-delegation testing. I'm not sure we can be more specific in that. I think there's a judgement call involved. It's not only, is the backend now serving 300 registries? It could also be that the backend isn't serving any, and we did the RSP four years ago. I mean, delegation can come a long time after the application

period, and there's the question of, does this backend really exist at this point? Do they have the capabilities, even though they planned to four years ago? So it strikes me that there's a judgement call involved here.

To the extent that there can be a level of confidence that we don't have to redo testing, that should be the case, but I don't think that we can put definitive things in writing right now because there might be such a large range of situations that come up when we're actually looking and contracting and [are] about to delegate.

So, while we want everything to be clear and definite and well-specified, I think this is one of those that there's going to be have judgement calls involved. Thank you.

JEFF NEUMAN:

Thanks, Alan. I think, when we go through the specific elements, which is an action item for leadership to take back, maybe some of it will be a little bit self-evident, like language tables are language tables, and it doesn't matter whether it's four years ago or yesterday. If you have the right language table and you use that, that's what you need to do. But there could be other elements that, Alan, are very much a judgment call.

Martin, go ahead.

MARTIN SUTTON:

Thanks, Jeff. I would concur. I think the core purpose of the pre-evaluation was to remove the duplication in the evaluation process—the document part especially.

The testing itself—I'm sure that there are critical elements that need to be done. Others perhaps do not need to be repeated.

So therefore I was just going to mention something similar to Alan, which is perhaps we can be a bit more general in terms of the instructions from the working group and that that feeds into the implementation review team to be more specific on. So I just want to put that in there now so that we don't spend far too much time going into detail. Rather we could actually frame it more generally in terms of trying to move any unnecessary or un-[valuable] duplication for the delegation testing part. Thanks.

JEFF NEUMAN:

Thanks, Martin. It's a great point. We could set the principle and then have it implemented by the IRT. That's absolutely an option. I think, if there are others, like Donna, that are a little bit uncomfortable with the way it's ... Well, it will depend ... We obviously want full consensus or consensus on these recommendations. So, if it makes some feel comfortable to put a little bit of detail around it, then we'll do that, but if everyone is comfortable with a higher level, that's fine, too.

So Donna is pretty equivocal on what she said—that, if PDT is required, the RSP will need to be known at the time of submitting the application in order to complete the evaluation process.

So what we said, Donna, is that the RSP needs to be known at the time of contracting, and contracting is before PDT. Rubens confirmed that. So PDT is after you sign the contract. That's one

of the reasons why we said that it had to be known at the time of contracting.

Okay. I think—sorry. Then ICANN Org ... Oh, I know what it is. Okay. Sorry. The third main issue that came up in a couple comments was this notion of revoking pre-evaluation. Now, we did spend a lot of time talking about this. That's why we used the term "evaluation" as opposed to "approval/pre-approval." That's one of the reasons why we should be careful in using the term "pre-evaluation" as opposed to "pre-approval."

Just like what happened in 2012, an applicant was reviewed and, if the backend provider had passed initial evaluation, it didn't matter whether the TLD was delegated a year later, four years later, etc. There was never a concept of revoking the successful evaluation. It just didn't happen. So it's that same concept that we have moved to the pre-evaluation because, remember, the main thing about this is that the only thing that's different between the pre-evaluation and being evaluated at the time of the application is the time at which you were evaluated. So there is no concept of a revocation because, once you pass the evaluation, you've passed the evaluation. It's a one-time event. After that, the way to hold the registry accountable is through its service levels. Of course, there is some element of testing that happens at the time of delegation. So you can also be aware of that. So the question from Org on revocation just doesn't apply here.

Alan, your hand is up. Is that for this topic?

ALAN GREENBERG: Sorry. That's an old hand.

JEFF NEUMAN: Okay. Rubens is saying, "But if new evaluation criteria appears that could lead to an update of pre-evaluation" ... Rubens, can you explain that? Remember, we're talking about a pre-evaluation before each round. So I don't know if there'd be new evaluation criteria that would emerge in the middle of the round.

"Sorry. Not in a position to speak today." Does the fact that it's pre-evaluation prior to—okay. Nothing in the middle. Okay, gotcha.

So we do make it clear that an RSP needs to be pre-evaluated or evaluated before or during each round. Okay, great.

Let's go on to the second topic, which is applicant reviews. This is where testing, I think, may come in. Or, actually, that may be—no, that's a separate topic. Never mind. That will be the next topic.

So these are applicant reviews. There were, again with this one, a pretty wide diversity of those groups supporting the recommendations as written—everyone from the registries to individual registries to NCSG, ccNSO, the Business Constituency, and INTA, etc.

There are a bunch of comments here on the same topic we were just talking about, so I'm going to skip those, namely when to name as RSP.

But then there was a comment from ... I think the GoDaddy registry had some additional things here. Okay, so this is where Donna's comment that she spoke about a little bit earlier fits in. One of the evaluation criteria which would either occur during pre-evaluation for those RSPs that are part of that program, or during the regular evaluation for those RSPs that didn't go through the pre-evaluation is the issue of ability to scale or the number of TLDs or second-level domains that the RSP is supporting and ... Sorry. Can you, Emily, scroll over just to the leadership column there? Okay.

So the comment there is that, in the application, whether it's during the RSP pre-evaluation or the regular evaluation, the RSP is going to be asked a series of questions, just like it was the last time, on its ability to scale. So, in theory, the RSP should be stating its current capacity as well as any planned-for future capacity. And the third element is the scalability of what would happen if, relatively quickly, the number of transactions—either EPP transactions or DNS transactions—increase substantially. So that is one of the evaluation criteria.

So, when I look at the GoDaddy registry comment, at least on this one, I'm not sure, putting Donna's other points aside on the bona fide intent and all the other stuff, this in itself supports the notion of having to name your RSP. So I think, when an RSP is being evaluated, it indicates its capacity to scale and how it would go about doing it. So that is all ICANN generally can evaluate. There's no way that ICANN can test scalability because, in order to do so, you'd have to basically have a live system, and you'd have to basically do everything you can do bring it down because

it's at that point you would know the actual true capacity. So, generally, when registries are tested, the "testing" on scalability is all in documentation, not in actual system testing, if that makes any sense. I can speak from experience on that one.

I think Donna's other—thanks, Paul—points from the GoDaddy registry on why naming your RSP during the evaluation process may be a good idea ... So not to take anything away from those arguments.

Then there were some comments on the self-certification. In a couple of the areas, especially with respect to some of the financial criteria, we do recommend—if you go the ... This might be repeated in the ICANN Org comment, I think. Yeah, lots of comments in the ICANN Org comment. In one of the areas, it talks about the idea of self-certification, and ICANN Org is not a huge fan of the self-certification. It says, "ICANN Org notes that the value of self-certification is unclear. If a registry operator or its affiliates is not currently in default, this does not ensure that it will be able to withstand missing revenue, goals exceeding expenses, funding shortfalls, or the inability to manage multiple TLDs in the case of registries that are dependent on the sale of registrations."

So, while all of that is true, I'm not sure what expertise ... The self-certification also has a requirement that they also have at least documentation supporting it. So it's not just you check the box and you're done. It's that you're certifying it and then you submit some sort of proof by a third-party independent auditing firm, etc. I think that's what we have in the recommendations.

Not hearing any comments on that one, so let's go back a little bit. Sorry. Can we scroll up to the—yeah. I think ... All right. So the registrars ... This is again, I think, just the same comment as the RSP one that we talked about earlier. The registries ... This is the same point. ALAC was ...okay. So the ALAC comment is one that says that perhaps we should have some sort of differential treatment for applicants that apply for applicant support in the financial evaluation.

The comment here is that, when this goes for financial evaluation, one of the things that the evaluator is going to consider is the amount of applicant support that it qualifies for from ICANN. So, in that way, it is being treated the same as every other application. It's just that the evaluator is considering the application in light of the applicant support it received. So perhaps this is just a clarification we need to add. So I think, if nobody objects, this is a good clarification point we can make.

All right. Let's look at some of the other ICANN Org comments then. Our recommendations—I think it was recommendations as opposed to implementation [guidance]; yeah it was recommendations—stated that we should do away with the point scoring in the sense of that you should either pass the criteria or fail the criteria. It didn't seem to us to have any value to give someone a better-than-passing score. You either pass or you don't pass.

ICANN weighed in on this one and said it's not clear why this is made a recommendation as opposed to an implementation detail. I guess maybe they're not saying that they don't support our pass/fail scale but it's more a terminology issue that this is how

something is done as opposed to what is done, which is one of the principles that we used in differentiating implementation guidance from recommendations.

Rubens is saying, “ICANN Org also suggested ditching scores in its own assessment.” Right. Yes, that’s true.

Does anyone have an issue with moving this to implementation guidance? Now, remember, the only difference between recommendations and implementation guidance is that recommendations are something that we say must be implemented. Implementation guidance is something that we say should be implemented. And the “should” is very highly suggestive—that it should—unless there’s some other way of implementing the principles in a way that may not involve doing it exactly the way in which we suggest.

Donna is comfortable with it being implementation guidance. Does anyone object to that? I think it’s fine.

Okay. No objection. Good.

All right. The next thing brought up by ICANN Org is about CQs. This is really just a clarification for us that we need to make. What we say is that clarification questions must be published unless the clarifications relate to areas that are parts of the confidential portions of the application.

However, what ICANN is pointing out here is, what happens if there’s a question on a non-confidential portion of the application, but the registry submits confidential information with it that it doesn’t want disclosed?

I think the answer to that is pretty much as their comment is. It's sort of done on our case-by-case basis—that the default is always publishing information, and it's up to the applicant or the responder to the clarifying question to indicate whether it's providing confidential information or not.

Rubens has a comment there. Is that to a later one? “This comment on CQ is not surprising, but the difference between their instance and the community one is well-established.” Okay.

There is a question on the business models. We state that ICANN should not evaluate proposed business models, but ICANN is saying that seems to be inconsistent with Implementation Guidance 27[.]17, which states the evaluation should determine whether an applicant would be able to withstand missing revenue goals, exceeding expectations, funding shortfalls, or the inability to manage multiple TLDs, etc.

I actually don't read it that way. My personal take is that you don't have to look at a business model to actually have the applicant in a question respond to how it would deal with business failure. That's essentially what they're trying to get at. In fact, you don't need to know that what they expect to make or what they hope to make to ask the general question, what are your recovery plans if your revenue doesn't come to whatever your own expectations are? So I don't necessarily see the inconsistency there. Phil Buckingham agrees. Thanks. And Rubens as well. Okay, great.

With the COI—the Continuing Operations Instrument—it goes into effect only if it's a failure of one of the five critical registry functions. It's not triggered for a financial failure. So I think we

need to define “default” a little bit more clearly and probably in connection with the five critical functions.

Donna states, “On clarifying questions, ICANN should only have the discretion to redact information they consider confidential. I think the intent of publishing the CQs was transparency and potentially giving other applicants a heads up.” Yeah.

All right. I think that there’s some other comments here, but I think those are the main ones that leadership pulled out. So I think we talked about the number of TLDs and self-certification.

Sorry, did someone want to get in the queue?

There is a point in here that, “Where third-party certifications are required, does the PDP working group have a recommendation on what types of entities would be qualified to do those certifications? Would ICANN Org be expected to develop an approved list and criteria?”

I think the answer to that question is I don’t know if they need an approved list of entities, but they should have the criteria by which they would accept a third-party certification. So I’m not sure they actually need to list specific entities.

Does anyone have any additional thoughts on that? Rubens, I know you were involved in that work track that talked about this.

All right. Well, we can ... Yeah. Okay. We established that national law would base whether certification is binding. Okay. All right. Should we go on to the next topic then?

Yeah, actually, Cheryl is right. Does anybody else want to discuss any of the other input that we may have not covered? Thanks, Cheryl.

Okay. Let's go on to the last topic for today then, which you'll be happy to note there's not a huge amount of comments on. But there is, in general, a lot of support. I think there was, if we go to the ICANN Org comments, really good clarifications I think we need to make. So you might just want to look at that. I'm not sure we need to discuss it, but if you have any issues, like with 39.1— ICANN's clarification ... ICANN also asks us to consider metrics for the tests, so ICANN Org can maintain registry system testing efficiency, according to PDP working group guidelines. I think that is a perfect issue for an IRT to look at that stuff.

There is a ... This comes up and came up in connection with the IDN topic , where we used the term "pre-vetted." If you recall, we accepted ICANN's comment in that section that said that we should change that term. I forgot exactly what it was to, but it was basically ICANN's reference guidelines or reference tables that they will publish. I think that's the term they may have used. But, in either case, this is reflected in the IDN section. I think that's it.

There were some comments in here that registry system testing should cover DNSSEC. Now, I can't remember if registry system testing already does cover that.

Does anyone ... It's been a while since I've actually been part of a registry test. I think it does test readiness for DNSSEC, I know, at least with documentation. I don't know if it tests key rollover or something like that. But anybody have any information on that?

Nope. I'm looking down the list here. Oh, thanks, Rubens. Rubens says it covers DNS signature of the zone but does not cover acceptance of DNS signatures from registrars because it doesn't test EPP at all. Yeah, I think, with respect to EPP, Rubens, the only thing it "tests" was, are you able to accept the right formatting of requests? But you're right. At this point, it doesn't test any real capabilities—an EPP.

Okay. Any other questions or comments on this section?

All right. So that was the last topic for today, but there's one item I want to just quickly cover in Any Other Business. If there's anyone else that has anything, please weigh in. You can start looking for, I believe, later day, if not tomorrow, that we're going to send around redlines to the documents from the subjects that we've talked about already. Those redlines will also have a spreadsheet associated with where we point out where those changes are and the topic number and the page numbers of the edits that we've made. So please do look at those because there's not going to be a can't-live-with kind of thing that we did the last time with the official sheets and all. This is really to just review the changes that we've made, to give an eyeball over it, to make sure they reflect we've discussed and what we think we've agreed to. So please do review them as it goes out.

The first one, I think, that I wanted to send out, which I'm hoping will be ready for later today, is the changes that we've made to the community priority evaluation section or community section. What's important there is not only the redlines but we'll also have ... I'll send the question along with the e-mail, which was from the last call, which we addressed at the very end, where the ALAC

had a comment that they wanted to have more transparency around the selection of the CPE evaluator. So we'll put that comment not in the draft but in the e-mail to get people to weigh in on whether that should become a recommendation or implementation guidance. So just please look out for that.

Also, we're going to look for any comments on drafts that we send out within a three-working-day turnaround. So it's going to be very quick because we are getting towards the end of our process, which is great.

Any questions at this point?

Thank you for the comments, Paul and Annebeth.

Donna says, "An idea on PDT. Perhaps it is done on a timeline basis that provides that an RSP is only required to do testing no more than once every three months or some sort of timeline like that." That's also another idea.

Rubens is saying, "Per string test." Right. We'll seek more clarity on this as part of our action items. There are certain parts of the testing that has to be done with every string at or around the time of delegation. Those are requirements for certifications from ICANN to IANA. So that's not something that will ever be able to be covered during the pre-evaluation process. But there are plenty other areas of the testing that can be done once without the need of redoing it. So we're going to try to get that clarity.

Any other questions or comments?

Okay. Not seeing—

CHERYL LANGDON-ORR: Jeff, it's Cheryl here.

JEFF NEUMAN: Go ahead, Cheryl.

CHERYL LANGDON-ORR: Thanks. Just on Donna's request to have some clarity on PDT and what it encompasses, Rubens is not able to speak now, but I was just going to ask if he could satisfy some of that need because we did cover a lot of this in the work track that looked at all of this. Perhaps something could go to the list rather than trying to come back to it.

JEFF NEUMAN: Yeah, definitely to the list. So, Rubens, if you could give us a head start on that, that would be great.

Okay. Don't forget, the next call is on Monday at 20:00 UTC. Let me say that again. Monday, 20:00 UTC. Becky and Avri will both be on. We/leadership have briefed Becky and Avri on the types of questions that the working group has been dealing with and has been asking. So we'll definitely bring those up on Monday.

Also, for Paul, Donna, and Jim, we've provided your questions to Avri and Becky in advance as well so that they can prepare those answers as well.

Is there any other last questions or comments?

All right. Thanks, everyone. I'll talk to you all on Monday. Have a great weekend.

[END OF TRANSCRIPTION]