
ICANN Transcription

New gTLD Subsequent Procedures Working Group

Tuesday, 26 May 2020 at 2000 UTC

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JULIE BISLAND:

Good morning, good afternoon, and good evening. Welcome to the New gTLD Subsequent Procedures Working Group call on Tuesday, the 26th of May, 2020. In the interest of time, there will be no roll call. Attendance will be taken by the Zoom Room. And if you're only on the audio bridge, could you please let yourself be known now?

All right. Hearing no names, I would like to remind all participants to please state your name before speaking for transcription purposes and please keep your phones and microphones on mute when not speaking to avoid background noise. As a reminder, those who take part in ICANN Multistakeholder Process are to comply with the expected standards of behavior. With this, I will turn it back over to Jeff Neuman. You can begin, Jeff.

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

JEFF NEUMAN:

Thank you, Julie. Welcome, everyone, to the call. I don't know if you guys had some issues getting into the call but I had to manually type in the password as opposed to copy and paste it—was having some issues with that. So, I don't know if that was just me or if that was everyone. So, there may be some people joining a couple minutes late if they figure that out. Okay. Donna's saying, "Me too." For some reason, copying and pasting the password didn't really work. And so, not sure why that is. Anne's saying she always has to type in the password.

Okay. So, today's agenda. We're going to definitely finish up predictability. I know I said that last time but this time I mean it. We'll spend the first 40 minutes or so on that and then go to the "can't live with" comments on packages one through three. With that said, let me then see if there are any updates to any statements of interest. Okay. Not seeing anyone or anything in the chat. Actually, let me scroll down a little. Okay. Nope.

All right. So, a couple things on the predictability to hopefully wrap those discussions up. We're going to go over, again, the categories of different issues so that we can once again talk that through.

And then, I did just send around, maybe a little more than an hour or so ago, a chart I did on just comparing the outlined provisions of this SPIRT team versus an IRT because it seemed like from the discussions and from the follow-up emails that it was assumed that there was a lot more differences or that we were picking and choosing. But when you can see it front of you in a chart form,

you'll see that that's not the case and you'll see exactly why we couldn't take all of the IRT provisions because they just didn't really or couldn't apply to a standing type of committee.

So, before we do that, let's then look at the types of issues. For this exercise, we've created five categories of types of issues that could come up as a result to changes to the program or new things added. We're hoping—again, just to set a basis—we're hoping that not many changes have to be introduced. But just like any kind of system or service, things always do end up coming up, especially because we cannot predict what types of applications and things that we'll get in, nor can we predict with certainty any kind of changes in the world around us.

So, these, again, hopefully, are going to just be in the case that changes have to be introduced into the program. And when we discuss these, I want to separate the issues of things that definitely fall within these categories, from the issue of what happens if we don't agree or this group doesn't agree on the classification?

I want to nail down the ramifications if something is definitely classified as one type of issue and then, after we've done that, focus on, "What if there's a disagreement?" Because I think what happens is we get too caught up in the fact of, "Well, so-and-so's making the final call but what if we don't agree with it?" I want to put that to one side for the beginning part of this discussion because I want to make sure that we have the five categories right and then the ramifications of issues in those categories right.

So, the first type of issue, which we've called "a" is the purely operational minor change. These are things that ... Sorry I do want to say one more thing. Please also keep in mind what happened in the last round, in 2012. The reason for this whole thing is that changes ... And I think Donna may have explained it, probably the best, on the last call, where it was ... During the last round, changes were introduced into the program. The way that changes were introduced were on a very ad hoc basis. There was no set procedures to do it. It was basically made up as they went along.

And this is not a criticism to say that everything they did was wrong or that the results may not have been right. It was everything was new and each issue that came up had a different process. Some, the Board got involved with. Some the Board didn't get involved with. Some was purely decided on by ICANN staff without any consultation and some had different types of consultation. Some may have been just a public comment period and some may have been ...

We remember, in the case of some of the added rights protection mechanisms, there were a number of consultations but there was not a policy development process.

Similarly, for the changing of the Trademark Clearinghouse, I don't think many people remember this but it was initially proposed by ICANN Staff that we were to have a decentralized Trademark Clearinghouse. And then, some of us ... I was heavily involved in this, along with, at the time, someone from AusRegistry named Chris Wright. The two of us really led the charge as to why it shouldn't be a decentralized Trademark Clearinghouse system

and ultimately got adopted, the current system that we have now. An again, that was a different way that it was done than any other process was decided. Everything was pretty much ad hoc.

So, we're introducing this to try to introduce a framework so that at least the process it goes through is predictable. It may not always lead to the outcome that all of us like but at least it's a predictable process that you know how the issue's going to be handled and not some kind of ad hoc basis.

Okay. So, the first type is a purely operational minor change that's to ICANN Org's internal systems. This happened several times during the process. ICANN changed its customer support, I think, during the last time. It went from one system to a new ticketing system. That was its backend systems. Didn't have any material impact on the users. And so, this was something that was purely operational. And for these types of things, this is purely within the ICANN jurisdiction.

And so, for these types of minor changes, those are ones that ICANN can make and we're not imposing any kind of consultation on them with the community because, again, these are ICANN's internal kinds of changes and they're a minor impact.

If we go to the second type of changes, which is the non-minor ... The reason it's non-minor is because it has a material impact, either on applicants or community members. But they're still operational issues. They're still issues like changes to the workflow on how to handle change requests. They do have an impact. They could have a substantial impact on applicants and

also those that maybe wanted to file public comments. But they're not policy issues. They're still operational.

And because they're operational, they are still within ICANN's jurisdiction to handle but we impose on them more of consultation process, where they have to communicate to all the impacted or foreseeably impacted parties prior to deployment to give people notice of the change. Again, its operational changes. And I want everyone to, again, just put the issue aside of what if we disagree. And I want, for this part of the exercise, for everyone to assume that we all agree that it is purely an operational change but it does have a material impact on applicants or users in the system.

Okay. The third type. The third type are either new processes or significant changes to the processes, which have one of the effects that's listed below. So, if we can scroll down a little bit here ... So, if there are new processes that are likely to have a material impact on applicants or community members, or there are changes to ICANN's existing policies but the impact could result in a suspension or delay of a future round or delay of processing applications by more than 30 days, or that they target specific application types, for these, we do recommend—if you scroll down, sorry, a little bit more in the process—that these ... Whoops. Sorry. Scroll up a little more. Stop. There.

Okay. The framework would be used, meaning the SPIRT team would be used, to conduct an assessment and also to make a recommendation of whether there are potentially policy issues in making these types of changes. Now, if they're policy issues, it gets kicked off back to the GNSO Council. But if there are no

policy issues, then it's with the SPIRT team and they will make recommendations on those types of issues.

So, let's go back to the chat here. Okay. So, still discussion of representation on the PDP. We'll get to that in a minute. At this point, when we were trying to ... Let's assume that we're all happy with all of that. We'll get to the composition and disputes in a second.

Okay. The fourth and fifth types of issues, which essentially, the only difference between the fourth—between d and e—are that the first one are potentially changes to existing policy and the fifth one, or e, are potentially new policies added. The reason I say “potential” or “possible” is that we are not sure if they have policy issues in them.

And therefore, the role of the SPIRT team is not to determine the outcome of any policies, which I think was a little bit of confusion in some of the emails, but to determine what those policy issues are—or, I should say, help determine what those policy issues are—because, again, the SPIRT team is not the final word on anything. And so, the SPIRT team will make a recommendation saying, “This is what ICANN is trying to do. And if they were to do that, there would be these policy issues that the GNSO needs to consider.” And it may have some non-policy issues as well, which potentially could be handled in a different manner.

So, I'm going to stop there because I think ... I know Paul's got his hand up. But again, I just want to emphasize. They're not conducting the policy development process. They're not

substituting for the GNSO. They are just helping to parse out what those policy issues might be. Paul, go ahead.

PAUL MCGRADY:

Thanks. So, I guess this is where I conceptually start to lose track of this because they are stepping into what has always been a GNSO Council role, usually with the help of a staff paper, to determine what the policy issues are. That's what the Council does. It determines what policy issues it wants addressed and then it sends it to a PDP.

So, this is a change in terms of how the Council has functioned. Can we at least acknowledge that? And then, we can determine whether or not that's what we want or whether we want to say, "If there are policy issues here, the Council should figure out how to extract them from the question and the Council develops the policy the way it would, and the SPIRT can go on with implementation things." Thanks.

JEFF NEUMAN:

Yeah. Thanks, Paul. So, in part, I think you're right, in the sense that it would be a little bit of a change. But in part, I think it's more of an advisory role. The way I look at it is a little bit like the way that RDAP works right now. So, if you're in the ... There's a group of registries and registrars ... And I think it's open, actually ... There's a group of registries and registrars, and I think there may be some others on there, that are working on the implementation of RDAP and develop the profiles for RDAP.

When we're working through those technical operational issues, we occasionally run across an issue that may be policy. And for those, what we do is we stop. We acknowledge that they're policy issues. And then, also, we're fortunate enough to have an EPDP going on at the same time so they happen to be policy issues that the EPDP's already working on. So, when we're implementing or deciding on those profile issues, we are clear as to what issues or what things we can work out without policy being decided and what issues we need to wait for policy in order to implement that portion of RDAP.

Similarly, like this, you can have an overall issue arise, which has both policy impacts as well as operational impacts. And I'm not sure giving it directly to the GNSO will help us for efficiency sake because the GNSO will probably just establish a committee anyway to help them determine what the policy issues are. But if the GNSO has a standing committee of experts to help the GNSO understand what is actually being asked for and what those are, again, it's a tool for the GNSO, to help it move more efficiently and faster—so, to parse out those issues of policy from issues that may not involve policy at all.

Hope that helps. I hope I didn't just muddy it up a little bit more but kind of was going through my thinking. Kathy and then I'll read some of the comments.

KATHY KLEIMAN:

Thanks, Jeff. As you pointed out at the beginning of the discussion, the scope of this is enormous. It's not just what we're working on in SubPro. It's also all the issues that the RPMs—All

Rights Protection Mechanism Working Group—is working on. And I'm sure everybody knows I'm a co-chair. And I just wanted to preface—and then I've got some specific ideas—that everything we do has policy and operational impacts. That's the nature of our work.

So here, the fact that we're repeating this again, and again, and again, Jeff, with people who have been active members of the RPM for four years, like me and Paul McGrady, indicates that there's still an ambiguity and still a legitimate concern that needs to be clarified.

With the wording as it is, what we're doing is we're establishing the SPIRT as the first and foremost of all advisors. It's not nearly as narrow as the RDAP. What we're talking about is changes, say, to the Trademark Clearinghouse. That certainly could be considered operational. That may be proposed but may have enormous policy impacts that the SPIRT may or may not see.

So, what's happening in the flowchart—which I truly appreciate it, as well as the words—but particularly the flowchart makes clear that everything involving new gTLDs is now supposed to go through the SPIRT, a group very likely to see ... Remember, we talked about hammers and nails months or even years ago. SPIRT could very likely see everything as an operational nail and its hammer.

But the idea that have to go out and really, really check the policy, and that SPIRT is not the first and foremost of all groups to evaluate this ... Once we get to d and e, and I think we've got to add some very express language and change the flowchart here

to make very clear that the GSNO Council runs the show on this.
Thanks.

JEFF NEUMAN:

Okay. So, let me ... I'll come back to Kathy in a second because I'll ask a question. I guess I'm wondering what the alternatives are. And remember, the GNSO has a very specific mandate in the bylaws. It is only responsible for substantive policies concerning generic top-level domains plus some of the other things that are specifically in the bylaws for the empowered community. But other than that, these things are ... If they are truly operational and only elements of things have policy impacts then the GNSO Council doesn't have any authority if it doesn't involve policy.

So, what we're doing here, though, is to help provide not a first and foremost. I'm not sure why it's being classified as that, since, at any point in time, the GNSO Council or GNSO community can take it away from the SPIRT team—at any point in time because it ultimately has the authority over the SPIRT team. So, I'm not sure why that's such a big concern.

But second, it's going to help with the issues that may not be within the GNSO purview, which are those operational issues. And again, there were many more of those types of issues in the last round than there were in dealing with something like RPMs. And of course, something like RPMs, in the future, I'm sure the GNSO Council will do a much better job than the last time in taking the issue within its own jurisdiction.

And so, I know we keep bringing up the extremes but was also have to think of the day-to-day issues that come up. Donna and then I'll go back to reading some of the chat.

DONNA AUSTIN:

Thanks, Jeff. I'm wondering whether it makes sense ... I'll just put this forward as a suggestion, maybe to overcome Kathy and Paul's concerns. Would it make sense if the first run was actually through the Council? And if the Council decided it's not a policy issue, then the SPIRT, then, can make whatever assessment decision it wants to in the clear knowledge that this is an operational implementation issue. It's not a policy issue.

JEFF NEUMAN:

The problem on that, Donna, and the reason why we did not opt for that in our past discussions, is the Council takes at minimum 60 days, if not more, on any kind of issue. Even to get it on an agenda at a Council meeting, plus then discussing it and if there's going to motion tied to it.

Here's the thing. Implementation review teams get issues all the time in implementing policies. And the ones the Council hears about are ones where there may be a dispute with existing policy or where there are policy impacts or disagreements. The Council doesn't hear about the thousand other things that the IRTs are working on resolving.

And so, it's kind of similar here. So, if ICANN's working with the SPIRT team and they're figuring out a way to implement something, you're introducing a mechanism where the SPIRT

team can say, “Wait a minute. This does look like more of that issue. We need to escalate to the GNSO.” And it just, to me, it’s very inefficient if every—while it’s implementing things and while it’s discussing issues, it has to first go to the GNSO to first decide whether it should give advice to the GNSO. It just seems a little circular and it could take a very long time for, like I said 99% of the issues, which could be handled very quickly.

So, I guess if the alternative ... So, I guess my question to Kathy and others was what’s the alternative? And if referring everything to the GNSO Council is the alternative, I’m not sure this group adds anything. But I want to read some of the ... Kathy, go with your comment and then I will get back to that chat.

KATHY KLEIMAN:

Sure. Thanks, Jeff. I think you made the argument for d and e going through Council first because once you’re looking ... I’ll summarize because we don’t have it all on the screen. D is possible policy-level changes—changes that may have a policy implication. E is possible policy-level new proposals. Both of those, 60 days ... I understand something’s going to be delayed but there’s a policy implication or they identified clearly. That should go up. That’s the GNSO’s purview.

60 days, when you’re looking at the cost-benefit—the possible ramifications that we’re stirring into policy ... And that’s identified. That’s flagged. The SPIRT has done its job. It’s put it in that bucket. Send it up to the GNSO Council to get the inputs of the GNSO, as far and as wide as the GNSO may want, talking to SOs and ACs included.

Multistakeholder models are not that efficient. But I think most of what you're concerned about falls in categories a, b, and c—the operational. And in that case, the predictability framework helps a lot. Thanks.

JEFF NEUMAN:

Thanks, Kathy. Yeah. Okay. Let me go through the chat because I said I would do that and I want to do that. So, there's a bunch of discussion on the composition. So, we'll come back to that. Let's see. Paul says, "SPIRT will not nearly—oh, still on representativeness. I want to—"So that the Council—" this is from Paul's comment— "that the Council may accidentally do implementation or the SPIRT accidentally does policy."

And then Paul says ... Sorry. It's hard to follow these because most of it's on composition. Then Paul says, "Transparency and predictability is the bedrock of multi-stakeholders and not efficiency, although efficiency is good where we can get it."

So, Paul, I agree with that. I think the problem here is that you have a multistakeholder ... You have ICANN is also running an operation. And so, for development of policies, where there are in fact policy issues, that's where not having efficiency is much more tolerable than when things are mostly—or not even mostly but just have operational components, too. And I think introducing a long period of time for which the GNSO Council may just refer back to the SPIRT team for the operational stuff can mean a huge, substantial delay in things that may need to happen.

So, again, I'll go with the example of pre-delegation testing, where ICANN finally gets a vendor to do the pre-delegation testing. And rather than follow the testing procedures that were conceived of prior to having this particular vendor, the pre-delegation testing is changed wholesale by ICANN, without consultation and without doing anything.

So, that is something that would go to the SPIRT team. SPIRT team would look at the issues. And maybe there is a policy issue in there and maybe the SPIRT team identifies that and forwards it to the GNSO Council. But to always go to the GNSO Council for those types of changes, it will just never get done. And it will never be a predictable process for that.

Justine says, "Donna, my question points to the possibility that things get sent to SPIRT without going through the GNSO Council." So, remember, the SPIRT team will have a GNSO Council liaison. And the GNSO Council liaison should always keep the GNSO Council updated as to what's going on. And the GNSO Council could take it at any point in time.

Okay. Sorry. So, there's a whole bunch of chat. I'm not following. So, Paul, maybe you can help address whatever—the discussions going on in the chat. Thanks. Paul, go ahead.

PAUL MCGRADY:

Thanks. Hi, Jeff. So, I guess the important part in my one chat that you read ... I'm not sure it got read, which is what's the greater danger? Is the greater danger that the Council accidentally do something that is implementation or is the greater danger that the

SPIRT accidentally do something that is policy? And I think that from ... Sticking with the whole multistakeholder model, no matter how efficient and frustrating it might be, that there's a greater danger in having the SPIRT do something that actually is policy.

And in terms of the efficiency argument itself, you say it will be less efficient for it to first go to Council and have the Council pick out the policy and send the rest down to the SPIRT. On the other hand, it looks like, for at least one of the three paths, it goes through Council anyways. For the other two paths, we're being told that ultimately the SPIRT can only give advice and it's going to go back to the Council ultimately. And so, either way the Council here is in the middle.

And so, I don't know how sending something to the SPIRT and the SPIRT says, "Gee whiz. This is policy," and then it goes to the Council, and then the Council parses out the policy from the implementation and then sends it back down to the SPIRT, and then deals with the policy is somehow more efficient than the Council looking at it in the first place.

So, I don't think that either model sounds terribly efficient to me. It's just that one model preserves the Council's role as the outfit who does policy for generic top-level domain names and the other process may not. And since this is a new creature, we don't have any way to know whether or not any of the safeguards, really, will work.

On the last call, I proposed that any one member of the SPIRT could decide that what has been given to them sounds more like policy than not and could then send it back up to Council. That

was quickly brushed past. That's one safeguard that would, I think, calm a lot of concerns. The other safeguard is the one that Donna threw out for discussion, which is what if it goes to Council first? I think that would also work.

But I do think that there are lingering concerns that the SPIRT—their role is going to grow. And we are acknowledging that we're bypassing the normal Council process for these things. And so, if we're going to tell Council they have to do work differently or not do some things they've historically done, then we do need to deal with the lingering concern at the SPIRT's role will grow too big. Thanks.

JEFF NEUMAN:

Thanks, Paul. So, I guess where I see the potential efficiency is that if the SPIRT team could come up with a way of resolving the issue without implicating or changing any policy. In other words, there's something introduced. An issue is introduced into the program and the SPIRT, once it got it, said, "Look. If we just implement it in this way, we're not going to be changing or creating any new policies." And that could very well happen. But then, if you're sending it to the GNSO, GNSO's going to take up the policy issue, whereas the SPIRT could have resolved it without changing any policies. And I think that's where you get to very bureaucratic kind of way.

And also, think about the impact on applicants. If something needs to get solved ... If there's an issue that needs to get solved before they can continue processing applications, or processing objections, or processing whatever, do we really want to introduce

everything to the GNSO Council who then will just kick it out to the SPIRT team or may not kick it out to the SPIRT team?

That's another thing we're trying to weigh here. What we don't want to do is have a predictable process but it adds a year on, or whatever it adds on, to the process for introducing these changes, especially where something needs to be implemented.

So, I guess, Paul, I don't share your concern on the danger—what's the bigger danger—the GNSO doing implementation or the SPIRT team doing policy? Because at any moment in time, the GNSO can remove the issue from the SPIRT team if it thinks that the SPIRT team is getting into that realm, whereas the way around, it's not like the SPIRT team can take an issue away from the GNSO Council if it thinks that, "Look. This is purely implementation."

So, let me go to Anne and then Kathy.

ANNE AIKMAN-SCALESE: Yeah, Jeff. Thanks. I want to, first of all, address the question you asked. What's the fallback if there's no SPIRT team? The fallback, if there's SPIRT team, is we fall back to the GNSO Council annexes, with respect to input, guidance, and EPDP or PDP. I agree with you that that's a slower process, not a nimble process.

And I think, more importantly, we put out something we called an initial report that said, when we got the feedback, "Yes. Please give us a standing IRT." So, here we are trying to craft something that's more nimble but that doesn't take away GNSO Council power to make the final determination. And I just want to go back

to the fact that I believe that the SPIRT team is a basket sorting team—that it's like an IRT in that it can't decide any issues but it can make recommendations about which bucket the issues fall into.

Again, I reject the notion that staff can decide alone, when an issue arises, whether it fits in a or b. I think that the SPIRT is intended as a standing IRT, as a screening process, and that it's intended to act more quickly than GNSO Council but only to make a recommendation to GNSO Council with some analysis of the issues and say, "Hey. GNSO Council, we think maybe you want to use your input process for this issue," or, "your guidance process," or, "We think it's only implementation." It's a sorting function and it just needs to be properly represented. Thanks.

JEFF NEUMAN:

Yeah. Thanks, Anne. I think that does make a lot of sense. I think if you were to say, when you asked the question, "What would it be without it?" Without the SPIRT team, it would be no different than the last time. It would still be up to the GNSO, though—would have to jump in because the staff would just implement whatever they're going to implement. And it would be up to the GNSO to recognize that there is an issue, or a potential issue.

And what we're introducing here is that recognition function, where you have a SPIRT team that ICANN is strongly encouraged to consult with before any change is made. And then, you have the SPIRT team—as you said, that triage, sorting function to help the GNSO understand what issues are involved. And so, that, I think, is a good way to think about it.

And as far as who makes the final call, we'll talk about that in a second. Let me go to Kathy and Donna.

KATHY KLEIMAN:

Thanks, Jeff. And I appreciate your explanations. I'm still a little dismayed we're not seeing any changes to language here. And we've spent so many hours on this. I think we should be seeing changes to language at this point.

I came on to respond to Donna's question, where she says, "My question points to the possibility that things get sent to SPIRT without going through the GNSO Council. So, are you saying that in such event, SPIRT has to ask the GNSO Council what it should do? No. If it's coming from ICANN Org or somehow directly—through ICANN Org or the Board somehow, and it gets to SPIRT, and SPIRT finds policy implications, of course it should escalate to the Council.

What really bothers me is what Jeff calls the "swim lane" of the chart, where they add GNSO Council. And what our words seem to be doing is setting up some kind of pure policy litmus test. So, unless it's pure policy ... And I posit we do nothing that's pure policy. Unless it's pure policy, it's the GNSO Council that has to go to SPIRT first. And that's where I'm saying that I'm concerned about a mini-GNSO or a super-GNSO, that SPIRT has to have the first and probably the last word on whether it can implement it without policy implications. But it's already identified as having—again d and e, possible implications.

So, I don't think we should have a pure policy litmus test. I think the GNSO should be able to develop ideas that could have enormous policy implications, including RPMs, in its own way, with the SPIRT as one input. But what we're doing here funnels everything through the SPIRT first and foremost and I think that's a problem. Thanks.

JEFF NEUMAN:

Thanks, Kathy. I don't read the chart that way. It would be helpful to maybe pull up the chart while Donna's going. And then we can return—we can look at that. But Donna, go ahead and then we'll come back to the chart.

DONNA AUSTIN:

Thanks, Jeff. I seem to think that we have a number of different views about what this SPIRT is supposed to do and that's getting in the way. Well, not even ... Yeah. It is what it's supposed to do. And that's hindering our conversation because we all have solutions to what we think the SPIRT is.

And to your point, and I think a broader point, the SPIRT has to be more than just a sorting function because staff has to have ... If the SPIRT says, "This is definitely an operational issue," then surely staff has to have a back-and-forth with SPIRT to see whether the solution that they've come up with acceptable or not. Or is it only that staff would bring an issue to the SPIRT to say, "We've got a problem here. We're not really sure whether it's policy or whether it's operational. Can you make that decision for us?"

But I still think, based on what happened in 2012, there was often a back-and-forth between ICANN and certainly members of the NTAG, who push back pretty hard at times on some of the ways that things were changing. And that led to a little bit of give on staff side or none at all.

But if the SPIRT doesn't have the ability ... Just say the issue is operational. If the spirit doesn't have the ability to work with staff and try to come up with an acceptable solution, then what's the benefit of having the spirit there? I don't see it. It has to be more than a sorting function.

JEFF NEUMAN:

Yeah. Thanks, Donna. Yeah. I think for the operational issues, you're absolutely right. It's more than the sorting function. The sorting function was really coming into play if there were some policy aspects and some operational aspects. So, it would say, "Okay. These two elements my involve policy and therefore should go to the GNSO. But these seven other elements are operational and that we can work on with ICANN staff." So, it's more than the sorting. But for policy issues, it's only sorting. Does that make sense? Because it sorts and then hands the policy issues back.

DONNA AUSTIN:

Jeff, I have a question on that. What if the SPIRT says, "We believe that this is a policy issue but if you did it another way, then you would overcome that issue?" Is that a conversation that the SPIRT and staff could have?

JEFF NEUMAN:

Yeah. Thanks, Donna. That is exactly what I posed as why things can go to the SPIRT team prior to the Council. So, yes. That is something that absolutely could be the role of the SPIRT team. That is something I was envisioning. And others that may come, we're envisioning that, too.

So, exactly what you said. If something needs to happen and ICANN comes to the SPIRT team and says, "We want this to happen," SPIRT team could absolutely say, "Look. If you do it that way, it's policy. You have to go to the GNSO because you're changing things. But if you do it this way," like you said, "it wouldn't impact any existing or wouldn't be a new policy. Wouldn't impact the existing. And therefore, we think that you can do it that way."

And of course, again, GNSO Council has a liaison to that group. The GNSO Council can always pull the issue if it disagrees with the spirit. In fact, the GNSO Council will see the recommendation of the SPIRT team and have the option to do something with it. So, yes. There are checks and balances built in here.

Okay. So, the chart's here and I want to look at what Kathy was ... And then I'll come to you, Anne. So, Kathy was saying that the GNSO Council is first and foremost. So, that could be because we shorthanded things in those. But let's take a look at that.

So, if the Council gets wind of an issue, if it believes it doesn't require a referral to the SPIRT, then it just resolves the issue through its own processes so it never gets to the next step. If it

wants to refer something to the SPIRT—and it's got sole control over whether it refers something to the SPIRT—then the SPIRT team receives it, they consider it, then they make a recommendation. So, if you—sorry—scroll back down. And then, the GNSO Council, again, gets the recommendation. So, I'm not seeing, Kathy, your concern about being the first and foremost. I'm not sure. So, that bottom section—

KATHY KLEIMAN: Happy to show you, Jeff.

JEFF NEUMAN: Yeah. Go ahead. Yeah. Please. And then let's go down—

KATHY KLEIMAN: So, look at the brackets that say “note,” just to the right of the nice boxes and spheres. So, second dash, “Issues identified as type c, d, and e—” so, d and e being policy—“would, generally speaking, be expected to be referred to the SPIRT. However, the GNSO may elect to refrain from forwarding an issue to the spirit. And a non-exhaustive list includes ...” and then there are two things.

So [if that needs] sent to the SPIRT, I think we need to clarify—not to the exclusion of anything else, not first and foremost, not for initial input. But if it's d and e—if it's policy—the GNSO Council directs what happens. And here, what's happening is this chart or our expectations are directing things. And that's where, I think, we're arguing who's on top.

JEFF NEUMAN:

Yeah. So, I think if you look at c, d, and e—especially d and e—d and e are possible policy. That means that looking at the issue, we need to analyze more to see if there are policy impacts. That means there's some uncertainty as to whether making that change involves policy. If it was completely certain that it was absolutely policy then that's not something the GNSO Council needs to forward to the SPIRT team. The reason we have the title being "possible" means like what it says. It's possible but we need someone to look at it, to help us, to figure out if it definitely involves a policy change.

And it's not a question about pure policy versus not. It's a question where you want some advice from experts in the field to help advise you as to what, if any, of those elements are policy elements. I think what's happening is there's a confusion where what we're saying is, "If something is known ..." Like RPMs. If someone wants to introduce a new RPM, I think now, the community ... Putting aside what happened in 2012, now the community knows that that is a policy change and that's not something that would get sent to the SPIRT team. And I think that's where the concern is.

We're talking about things where it's just something that's recommended and it needs someone to do an analysis as to whether there are policy impacts. That's why we say there's "possible" because we don't know. If it turns out, as the result of the work of the SPIRT team they come back and say, "You know what? No. There are definitely policy issues. Here's what they are," the GNSO Council then has, at least, that advice. GNSO

Council can still do what it wants with it. It could still take it and say, "You know what, SPIRT, we don't need your advice to know that this is policy so we'll handle it."

So, I think that's where there's some of the confusion. When we say "possible," we're saying that we don't know at the outset that it involves policy issues. But we need some assistance in helping us. That's what's meant by "possible."

KATHY KLEIMAN: But you do know at the outset that it involves policy issues because it's been sorted.

JEFF NEUMAN: No. We don't.

KATHY KLEIMAN: It's d and e.

JEFF NEUMAN: Okay. You're assuming ... Now I understand where you're coming from. You're assuming that someone has, or that a group or whoever, knows that there are definitely policy issues. I think it might be a title issue, as opposed to a conceptual. Maybe the word "possible policy changes" isn't the best title of it.

KATHY KLEIMAN: I think that's exactly what you mean. Right? Because that's the next after operational. C is operational—new processes, or significant changes to operational. That's enormous in and of itself. But d is possible policy-level changes. And so, sending that to the SPIRT first and foremost ... And of course, here we may be talking about ... Some of the examples in the first right were brands—the introduction of brands, the questions over closed generics. Those are what you're not routing through SPIRT first as well.

Especially that last, what you call the “swim lane—” I like that term—for the GNSO Council, you're forcing the GNSO Council to go through the SPIRT. And if that's not the case, let's change this text significantly. Thanks.

JEFF NEUMAN: Thanks, Kathy. But it does say here, “The GNSO Council may elect to refrain from forwarding the issue to the SPIRT team.” So, it's not first and foremost and it's not a requirement.

KATHY KLEIMAN: [That might be] the expectation, though.

JEFF NEUMAN: Okay. Let's go to Anne.

ANNE AIKMAN-SCALESE: Thanks, Jeff. I'm going to agree with Donna and you that the SPIRT has more than just a sorting function. But I would say that

second function is what you said it as, which was recommendation. And so, to be super specific ... Kathy brought up brands. She brought up closed generics.

When the SPIRT team, if it's properly representative, is considering that issue, they might analyze it and say, "Dear GNSO Council, we've looked at x issue. We'd like to recommend to you that this really only fits in EPDP. That's our recommendation," or, "We actually think on thus and such an issue, GNSO guidance would work," or, "We actually think there's just GNSO input needed on this because it's an implementation issue but we want your input." The SPIRT doesn't decide anything. It only makes recommendations.

I note, again, Justine's comment in chat, which is a big concern of mine as well. "What is the check and balance preventing, for example, Org from framing an issue as operational and not send it to SPIRT at all?" Well, the point there is, again, the SPIRT, if it's supposed to expedite work to address issues that arise after applications come in—and that's the point of a standing IRT—then it needs to work with staff, as Donna mentioned, to categorize those issues and make recommendations, and recommendations only, to GNSO Council. GNSO Council can stop the SPIRT from doing that at any time. If one Councilor raises an issue under one of those annexes, it's booted up to Council right away. But it's a recommending body.

It's a sorting body. It should not be up to staff to decide the bucket that it falls in. It's not up to SPIRT to finally decide the bucket that it falls in. It's just an expediting, sorting process and recommendation process.

Now, I do have to add one thing. It bothers me if somebody says, “Well, what if the SPIRT says this is a policy issue but if you handled it differently, you could make it an implementation issue?” That would be dangerous, from my standpoint. Again, it should be written up, with regular reports coming out of the SPIRT to the GNSO Council, making recommendations, trying to expedite the analysis that the Council has to do, and giving Council the final call on it.

JEFF NEUMAN:

Thanks, Anne. On that last point, any of its recommendations, like what’s in the draft, would go to the Council. And the Council could then ... The Council does that that check, right? So, if the SPIRT team were to say ... I’ll give a real obnoxious example that would probably never come through. But let’s say they hired a PDT provider and this PDT provider could only test whether someone was ... I’m trying to think of a bizarre example. Because of its own systems, it could only test up to an SLA of 99.0% and it could never test whether someone could be compliant up to 99.9%.

And therefore, the way it wants to handle it is to say, “We want to lower the SLA.” And let’s say that that’s a policy change. The SPIRT team could say, “Look. If you do testing in this way, you could keep the SLA at the same percentage. Just implement it a different way than what this testing provider wants to do and we’re not making a change to the program.” So, that’s what it would ... It’s something like that, although that’s a really unlikely example. But again, as you said—

ANNE AIKMAN-SCALESE: Just real quickly, the SPIRT can make a recommendation like that but it cannot make a final call on that. But what we're really talking about here, if this is going to operate in accordance with a public comment on it and in accordance with the notion that SPIRT does not make final determinations and neither does staff, that's not the way this thing is written up.

I agree with Kathy and, I guess, others. There's a lot of comment from Justine in the chat that this hasn't been written up as only a recommending body. And it hasn't been written up ... It's been written up as if you can clearly determine beforehand whether an issue is policy or implementation. But that's the exact problem we're trying to address, based on experience from the last round, is that that comes into question. And the GNSO Council has the final say on that, not staff and not SPIRT. So, don't pretend that you can get something in a bucket and get it right from the very beginning.

JEFF NEUMAN: Okay. Thanks, Anne. I guess final say is a different ... It'll be interesting because if ICANN wants to do a purely operational, internal thing that's not going to have that impact, at the end of the day ... GNSO Council can assert some sort of right but at the end of the day, if it doesn't fall within the GNSO purview, technically ICANN staff does have the final say. But of course, GNSO could always us an accountability mechanism, I guess. But I'm not sure we need to ...

So, it sounds like a lot of us are on the same page with a bunch of the different things. I think the next step is for us to go back and

revise some language to see if we can reflect that's been discussed. I don't think it requires a huge redrafting of a lot of these things. I think we just need to make ... I think part of the issue was the chart tried to summarize things and not use too many words because you can't put that many words on a chart. I think we have enough to go back on, on the concepts. And I think we're sort of on the same page. But we'll do some rewriting of this section.

The other thing I want to draw your attention, before we go to the packages, is the ... And Anne, this is mostly for you because I think this came out of your email. Is there a way you guys can pull up the comparison chart? So, Anne, I did this for you because you kept making comments of, "Why can't you just adopt the IRT full, as it is?" And what you'll see here is we basically did. So, other than changing IRT to SPIRT, there were certain elements we just couldn't put in the new one because it wasn't feasible.

So, if you look at, for example, column b under SPIRT, row six, it talks about where does the lag between the PDP's adoption or consensus policy recommendation ... The IRT ... Staff shall recruit IRT members, blah, blah, blah. This is a standing committee so there would be no lag between the adoption of the contentious policy so that didn't apply. So, that didn't apply. Scroll down. Can you scroll down a little bit?

This next one, where it says ... I'll just go to another random one. You kept saying, "Well, why are you just mandating including one participant?" We just copied the language from the IRT. So, there's nothing different in there except we added the PDP

Implementation Review Team, which is not available in a normal IRT provision. Okay?

But you asked a question on this provision, whether that provision is a direct copy from the IRT. We added length of terms, which is not ... See part d—because that's not in a normal IRT because there is no length of term because it's not a standing committee. We added a statement on participation, e, because that's not in a normal IRT. We say the working group guidelines apply for 6.14. We say that here. So, as far as the IRT role, because a SPIRT team is not convened to assist staff in developing implementation details for policy, we just rewrote that as to what the role is.

So, when you look through this, Anne, I hope you'll find that we're not just picking and choosing randomly what is and is not from the IRT principles. It's all in there, where it can be in there. So, yes. This this has now been sent to the group. And yeah. This chart is just comparing the outline of what we have in the document with that's in the IRT principles. So, if after you review this, Anne, you think there's still issues, then let us know.

All right. I want to switch gears here and go to the packages. There's not a huge amount of comments. So, this is from the first three packages that we sent out. And this document, which you have a link to in the email, shows where there were "can't live with" comments. So, there's text that's put in.

The first one that came was—added a footnote with the text, "Usage to inform evaluation panels is addressed more specifically in section ..." So, it talks of the role of application comment. And Justine's comment was Justine would like to add the rationale

saying, “Proposed change does not impact rationale but instead adds necessary clarity by addressing omission of a dependency to the role of application comment section.” So, this is meant to address Justine’s comment. Justine, does this address your comment?

JUSTINE CHEW:

Hi. Thanks, Jeff. I’m trying to remember what I wrote, actually. But I think what I meant was that we need to add a footnote saying that there’s some dependency with the role of application comment section. That’s what I meant.

JEFF NEUMAN:

Yeah. Thanks, Justine. So, that’s what we did. We said, “Usage to inform evaluation panels is addressed more section xx, role of the application comment.” And then, I want to go to Paul’s question on process. Go ahead, Paul.

PAUL MCGRADY:

Thanks. So, Jeff, just to lay the ground rules again on doing this, this “can’t live with” means that we’re looking at the language for the draft recommendations, not that we’re doing some sort of pre-emptive consensus call. In other words, if we don’t raise objections to the language now on a substantial ground, we’re not waiving the right to do that later, especially if something comes in in the public comment that supports our position. Is that right? We’re just looking at whether or not we can live with the way that these things are phrased. Correct?

JEFF NEUMAN: Yes, Paul. Thanks. And so, once we look at the proposed “can’t live with,” and then confirm that the change we’ve made reflects what the comment was, then we ask the group, “Okay. Does anyone object to including this in there?” Some of these are just clarifications and really are more smaller things. There are much more major things where I’ll stop. And it’s going to be more of the group needs to affirmatively approve it before it goes in there.

Things like a footnote that’s just explanatory or a clarification, I think can work on a non-objection for now. But yes. After the public comment, if it turns out we get a comment that changes things dramatically, then yes. You’re not waiving your right to anything.

PAUL MCGRADY: I’m sorry. Maybe I can ask it again in a different way because you didn’t quite get me there. This is not the consensus call, right?

JEFF NEUMAN: Yes. Correct.

PAUL MCGRADY: This is us trying to get through the language to get something out there to public for its comment. Just because those of us who don’t like something aren’t trying to pick it apart and relitigate the issue again at this phase right now doesn’t mean we’re on board, right? This is just us trying to get a report together. Is that right?

JEFF NEUMAN:

This is not the consensus call. That is correct. You should have already put comments in on something you can't live with, if you can't live with it. So, it would be a surprise to us for you to then, after the public comment period, say, "I never agreed with this one recommendation anyway." If you hadn't stated you can't live with it, it would be very awkward for you all of a sudden to not be able to live with it later on if it hasn't changed. Does that make sense?

PAUL MCGRADY:

It does. And I'm getting a different answer from Cheryl. And if this really is our last chance to say we can't live with something, then I guess we needed to know that when these were sent out because I was under the belief that we're looking at these to make sure that we're in agreement on how the language should read, not to look at these that there was agreement among the working group that ultimately these are the outcomes that we want because you don't get everything that you want in a working group. And so, that's very different than the consensus call.

So, I'm glad I raised the issue because now I'm more worried about it than I was before. I thought you were just going to say, "Yeah, Paul. We're working on language here. Don't worry. This isn't the consensus call and that comes later in the process," because I think it does come later in the process.

If the purpose of this "can't live with" exercise is to make us feel awkward later by saying, as I've said all along for the last x number of years, "This is a stupid idea and I'm not for it," then I

think we need to step back and call it what it is and say, “We’re having our consensus call now by way of failure to object means you’re stuck with it.” I don’t think that’s how this was supposed to work but if that’s what we’re going to do, then we need to take a step back and make sure everybody knows that so we can go through, and go back to constituencies and whoever else, and figure out whether or not we can get consensus around these. Thanks.

JEFF NEUMAN:

Yeah. So, Paul, this is definitely not the consensus call. I don’t mean to imply that it is. But this is draft final report. So, at the end of the day, when we do the consensus call, it’s still going to be, “Can you live with this?” It’s not going to be, “Did you get everything you want?” and because you didn’t get what you wanted you’re not going to vote in favor of a recommendation.

The hope is that we get a document, ultimately, at the very, very end, after public comment period, that everybody goes, “Yes. I can live with this.” And therefore, yes, by consensus, we’ll vote it, even if you don’t like one element of it or you never agreed with it. Otherwise, what’s the purpose of a multistakeholder model? So, I hope what I’m saying is that you don’t just hold on till the very end and say, “I never agreed with that. It’s stupid. And therefore, I’m going to vote against it at the very end.”

What we’re trying to do is get a document out there that has consensus behind it, even if they didn’t get everything they wanted. So, I’m a little confused by what you’re saying.

PAUL MCGRADY:

I guess I'm ... You're saying you want a document out there that has consensus behind it but this isn't the consensus call. So, what I don't want this to be is a masked consensus call and then we get on the other side of it and we say, "You know what? As expected, people in our constituency or somebody that we respect in the community put in a comment. They agreed with my historic position that this was a bad idea. I still think it's a bad idea and I'm not going to vote for this recommendation," and then have the co-chair say, "But aha! You said you could live with it by failing to say you couldn't."

So, if it is truly—this is the surprise consensus call then we need to step back and come clean about what it is and say, "If you don't object now, then you're going to be awkward later." Then, let's step back and let's start at the top and give people time to do the consensus call.

I personally think it's a bad idea to do a consensus call before the consensus call's called for. I also think it's a bad idea to try to do a consensus call before all the recommendations are done because we can't see how they work together, which is very often how things go. But if we are going to do something that's kind of binding, then I would have preferred to know that up front. And I think we need to be given time to go back to square one and look at the report that way.

If, on the other hand, what the purpose of the exercise is, is to say, "Okay. I said what I had to say. So far, I haven't won the day. But there is public comment. There is a consensus call later. I can

keep trying. And does this language reflect the outcome, so far, from the working group?" Then, that's fine. I can certainly do that and say, "Yeah. This reflects the outcome from the working group." It doesn't mean I necessarily agree with it but it reflects the outcome from the working group. That's fine. That's easy. Let's keep going. But if this is essentially our last chance, then I think we need to know that. We need to be right out front with that. Thanks.

JEFF NEUMAN:

Yeah. Thanks, Paul. I hear what you're saying and I'll say it again. This is not the consensus call. But I want to read some of the comments from the chat. Donna says, "I thought this was just short of the finish line. Certainly, those that have been participating in this process should be pretty comfortable with the recommendations." Justine says, "Donna, so did I." And Cheryl says, "We would hope so."

So, I understand your point, Paul. And we obviously have to listen to the feedback that comes in. But if the feedback is just more of the same—of things that ... What we expect from the feedback, or what we hope, is that it's not just a rehashing of the same old arguments, which it may be. You can't control what people do and do not say. And if it is just rehashing the old arguments, the intended response is, "Hey. We know that. We've analyzed it. Thank you for your concern but it still leads us to this conclusion."

If it's new information, that's important for us and we need to consider that in light of the recommendations. But again, if it's the same-old, same-old stuff that people have been arguing, I would

hope that this working group would stick by the recommendations we currently have, whether they're happy or not happy with it, unless there's new information supplied. If we've exhausted the conversation, and everyone's had their say, and everyone's comfortable now, then that's what we should try to stick with.

So, it's not the consensus call but it's also ... We shouldn't be surprised as a group if someone were to come out of the blue and say—if you working group members come out of the blue and say, "I don't agree with this." We know what you don't agree with already, and that's been documented, and we'll continue to document it. So, I guess it's sort of like we're hoping this is final, even though it's not a consensus call. We hope that every step we take is a step closer to final.

Let me go to Christopher and then Anne. Christopher, go ahead.

CHRISTOPHER WILKINSON: Good afternoon. Jeff, I apologize for joining the call late. I spent half an hour—as Julie knows, half an hour trying to climb through Zoom's new security systems and the passwords that don't work. That's not my point. And I also will try not to split hairs.

But in terms of what one could or could not live with in this area, I think on the list, I've made it perfectly clear that I could not live with a result which gives the GNSO, which is but one SO/AC, authority to decide or overrule the recommendations of the SPIRT, which is to be constituted on the basis of all SO/ACs. This is very important. You have all heard, on several occasions, my reservations about this procedure from the point of view of

competition policy. And I think here, we're walking into a hole which I think we could very reasonably avoid. Thank you.

But just footnote to that. If I have made a clear point on the list, that is a "cannot live with." I do not expect to have to redraft "cannot live with" and put it in somewhere else, in a wiki or a chat. Is that understood?

JEFF NEUMAN: So, yeah. Christopher, we know the elements that you cannot live with. I think what we're saying ... And we know what elements Paul has indicated that he can't live with. But what we're saying is that if you haven't yet identified it on the list ... And hopefully, in this "can't live with" document, it would come to us as a surprise for later on, you to indicate that it's something you can't live with if you'd never really commented on it before. But I take your comment, Christopher.

CHRISTOPHER WILKINSON: I have commented on it before. Thank you.

JEFF NEUMAN: Yes. Okay. Anne, go ahead.

ANNE AIKMAN-SCALESE: Thanks, Jeff. I think Paul makes a good point, in terms of asking about the procedure relative to consulting with our constituencies, etc. because I think I've been looking at this as, "Here's what I can't live with in terms of what the public will see and need to

comment on.” So, for example, I don’t think that any minority views that have been discussed at length should be in any way minimized or hidden.

I think working group guidelines say that, as leaders, you should encourage the expression of these dissenting views, I’ll call them, rather than minority statements. But the point being that when this goes out for public comment, you want the issues that have been raised in discussion to be visible and available for public comment.

And as to the point of checking for where the constituency—for example, the IPC that Paul belongs to and I belong to—where they stand on this, I do view that as something that happens later, when the report comes out and before the consensus call. So, if I’ve got that wrong, we would need to know that now.

JEFF NEUMAN:

Yeah. So, our job as leaders is to get a consensus of the working group members. If the members choose to express their consensus ... God, I hate using the word “vote” but I can’t think of another word right now. If members choose to use their consensus vote the way their constituency tells them to, that’s their option. But in general, as leaders, it’s our job to seek the consensus of the working group members. So, it doesn’t, to us ... If the IPC, let’s say, disagrees, that’s an issue between the IPC and its members. And it’s the responsibility of the members to bring that to the working group if they want.

ANNE AIKMAN-SCALESE: Right, Jeff. But the question is the timing of that.

JEFF NEUMAN: But the consensus determination ... Right. So, you, Anne, could be in support of something even if the IPC's not. We're seeking a consensus determination from the members, at the end of the day.

ANNE AIKMAN-SCALESE: And you're seeking that now?

JEFF NEUMAN: No. We're not seeking that now. There's no consensus call now. We're going over the comments that people made on the "can't live with." That's it. That's all we're doing. This is not a consensus call. All I said was we'd be ... If you haven't raised it as a "can't live with," we'd be very surprised if, after the process is over, you now say you can't live with it. That would be a surprise. But I'm not saying anything other than that.

So, if we scroll down a little bit more ... I want to get a couple of these covered because there's not a huge amount, at least for package one. Justine proposed ... This is implementation guidance. We had it worded as "must." Oh, no. Sorry. We had it as "should" and Justine would like to see that as "must," which would take it out of the realm of implementation guidance but put it into the recommendation form.

So, this is a substantive change that we would need the group to come back and, as a whole, agree to do that before we actually did it because this is fairly substantive. So, unless we get a good feeling from the group that they want to change the “must,” it will stay as “should.”

The rationale that Justine has there is “insufficient awareness of the program prior to the last round is well acknowledged. This implementation guidance ought to prescribe, not merely suggest, a minimum time period for the next round’s communication period.” And number two, “Prior working group discussion on the distinction between the terms ‘must’ and ‘should,’ either ought to be used, applies.”

So, Anne, Paul. Anne, go ahead.

ANNE AIKMAN-SCALESE: Yeah. Just quickly, Jeff. I think I also made a comment about the use of these words in a different package. I have to say, it isn’t particularly clear. If somebody could please remind us all what it means—the difference between “must,” “should,” and “will—” because those are the three verbs that we’ve used throughout. I’m not sure what we consider the implementation difference to be between, for example, “must” and “will.” And what’s the implication of “should?” Is it “if you can do it,” or, “We strongly recommend it?” What do these words mean in our working group protocol?

JEFF NEUMAN: Yeah. It’s good that you asked that question. And I’ve asked staff to help write a section. So, you should see that shortly about that,

so that we have it as the preamble to this whole draft final report that comes out. “Must” and “will” are things that must happen. They are our recommendations and we believe that they have to be implemented. For the “should ...” Sorry. And “shall.” Not will. Sorry. “Shall.”

The use of the word “should” is something we strongly recommend—or strongly recommend that it be implemented unless it’s not feasible to do so. And then, in such case, to stick as close as you can to the implementation guidance to achieve the purpose set forth in that implementation guidance. So, even though it’s should, it’s stronger than optional.

ANNE AIKMAN-SCALESE: Okay. Well, I don’t think we can have input on Justine’s suggestion until we see what the words really mean. I probably agree with her that “must,” or “will,” or “shall ...” “The communications period shall begin at least six months prior to the application submission period” seems to make sense to me. But gain, without knowing the force and impact as finally drafted, it would be difficult for me to say.

JEFF NEUMAN: Yep. Fair enough. I think that makes sense. And we’ll get that document. Paul, go ahead.

PAUL MCGRADY: Thanks. So, now that we’ve gone from clear, that we were working on language, to murky, that we might be precluded later, I think I

have to say that it should remain “should” because “must” would mean that that ICANN staff could simply not implement the communications period, which gives them the power to hold up the next round. And the only recourse would be somebody who feels harmed could, I guess, file and accountability something-or-other that would take two or three years. Instead, if it’s “should,” we can just say, “Well, they should have done it but they didn’t. So, let’s move on and let’s have the next round.”

So, now that everybody’s uncomfortable ... At least I’m uncomfortable that I don’t have another chance to be concerned about this, I guess I have to raise it now. So, I would prefer “should.” Thank you.

JEFF NEUMAN:

Yeah. Thanks, Paul. So, I just want to remind everyone, since the language has been “should” all along, that’s what it is unless consensus of the group wants to change it to the “must,” which was what Justine has recommended.

So, I know we’re up against time. We’re going to continue on the packages one through three on the next call. I can’t guarantee we’ll have the write-up of the “must” versus “shall” by the next call but we will try. The next call is Thursday—so, it’s in two days—20:00 UTC for 90 minutes. We’ll continue on this and then go to the category one ... I forgot what we called it, now. The verification, validated TLDs—that GAC advice on that.

Donna’s put in a link to the IETF definitions, which are helpful. So, we’re using things like that. We’ve used the “must” versus “should”

in other ICANN documents, too. So, we'll combine those and get that out shortly.

All right. Thanks, everyone. We'll talk on Thursday, 20:00 UTC.

JULIE BISLAND: Thank you, Jeff. Thanks, everyone. This meeting is adjourned. Have a good rest of your day.

[END OF TRANSCRIPTION]