
**ICANN
Transcription**

GNSO New gTLD Subsequent Procedures Working Group

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JULIE HEDLUND:

Good morning, good afternoon, good evening, everyone. Welcome to the New gTLD Subsequent Procedures Working Group call on Monday, the 13th of May, 2019. 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 at this time, would you please let yourself be known now? I do have Kavouss noted. Anyone else?

Okay. Hearing no other 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 any background noise.

With this, I will turn it over to Jeff Neuman. Please begin, Jeff.

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JEFF NEUMAN:

Thank you, Julie. Welcome, everyone. I see that we are hearing some things in the background, so if everyone could please mute, that would be great. The agenda is up on the screen right now. Remember that ... well, actually, there is only one document up on the screen. So that's great.

We will spend our time today talking about applications assessed in rounds and hopefully also get to talk about different TLD types. Before we do that, let me ask to see if anyone's got any updates to their statements of interest.

Okay. I'm not seeing anyone with a hand raised. Thank you, Steve, for putting the link in for the Google Doc. Just before we get to that subject, I did also want to just give an update. We are establishing or put in for the request to establish the separate smaller mailing list to talk about the predictability model. There have been a couple of posts already in the last week and some even today on that subject. I'm going to ask that, once that mailing list is set up, we can move that discussion over there, and then ultimately we will bring the discussion back or any results back to the full group. But I don't think we need to necessarily clog everyone's e-mails up with all of our back-and-forths on this subject. We may do the same with other subjects as the need arises, so I do want to start getting in the habit of doing more work on e-mail and in between meetings as opposed to just the time that we spend during the meetings themselves.

Are there any questions on that, or anything else that anyone has for Any Other Business?

I will add under Any Other Business maybe just a two-minute update on this topic at the GDD Summit (the Global Domains Division Summit) that was last week in Bangkok. I was there and there were a couple others from this group that were there as well, so I can just give just a short update on what was discussed.

With that said, we can go to the Google document or put it up on the screen. I'm actually looking on the Zoom screen, but maybe I'm thinking I might ... it's big enough. I'll use the Zoom screen. Or maybe not. The picture – there we go. That's good. Whoever's controlling it, leave it like that. It's good.

Just to give a little bit of background, this is a topic on not just the next introduction of new gTLDs but was also intended or is intended to look forward towards subsequent application windows even after this next application window opens. I'm using very vague terms for a reason, because this whole section talks about rounds or other types of introductions.

I think, in looking through the comments – we went over those comments a number of months ago – that we got back from all of the groups, it seemed like there was general support – I should say, actually, unanimous agreement, I think – that, no matter what we do on an ongoing basis, the very next introduction of the application window should be in the form or must be in the form of a round. This is for the same reasons that we talked about on a number of occasions, that, because there's been a significant length of time since the last round, since 2012 – so, so far it's been seven years, and by the time we launch it could be up to ten years or something like that – there is certainly

pent-up demand. There's also a feeling that we would need to do a round as opposed to any kind of first-come-first-serve process, which was an option. We'll go through the comments and the future after that based on what we receive. But it certainly seemed like there was definite agreement that the next introduction should be in the form of a round.

Also, there seemed to be general agreement that, whatever we do going forward, we should not have indefinite periods in between application windows. So, unlike the time in between the 2012 round and the next one, nobody knows exactly when the next application window will be because we did not set out specific rules or criteria as to what should govern when the next introduction should be. But it seemed like there was general support that whatever we do after this first round should be predictable and should not be an indefinite period of time.

In the policy goals, it also states that, when it becomes operationally feasible, application procedures should occur on a regular and recurring basis. So, again, that talks about the indefinite periods of time in between and making sure that this is not just a one round and then you drop it. This way it alleviates pressure from those that may not be ready to apply in this very next round. It leaves some certainty in their minds that there will be another application window and some idea of when that application round will be, either by a certain time or by certain criteria.

So those are the general policy goals. Again, I've been very vague in terms of what the time period should be between rounds or whether it

indeed should be rounds because, after those sets of agreement we have some issues or some diversity in opinions that we need to talk through.

But before we get into those, are there any questions or disagreements with the comments that have been made so far or the policy goals as they're stated in this document or as I may have discussed?

Kathy Kleiman has her hand up. Sorry. Okay, Kathy. Yes?

KATHY KLEIMAN: Thanks, Jeff. Can you hear me?

JEFF NEUMAN: Yes.

KATHY KLEIMAN: As one of the overall policy goals – I don't know how we add it but I think we should – what the rounds provide for the non-contracted parties, the non-applicants – here I'm taking from the Non-Commercial Stakeholder Group comments – is the predictable periods for participation: when the comments will be taking place, when the objections should be taking place. I think we should add that as part of our policy goals: this predictable opportunity for input from the larger community. It's definitely something we're writing into every other part of our policy and our procedures, so I'd like to see it in the overall policy, if we might: this idea for these very predictable periods of input coming in from the outside community. Thanks.

JEFF NEUMAN:

Thanks, Kathy. I do think the notion that you've expressed certainly came from a number of different groups, so I certainly think that's important. But I'm going to hold off on it just for a couple minutes, simply because we're going to talk about what to do afterwards. Maybe it will be a policy that we will support of only doing rounds. It seems like there's some leaning in that direction anyway. But we're not quite there yet. I'm trying to take it a little bit piecemeal. Certainly, the rationale that you've explained was a rationale of a number of groups that do not want to ever get to a first-come-first-serve or any other process because having rounds would be predictable from a monitoring standpoint, from a comment standpoint, objections, and everything else. So we're not quite there yet. I think we might end up there, but certainly that is the rationale for why a number of groups were advocating that.

Before we get to that notion, though, I do want to talk with specifically the next round. I think we're going to call it a round because it seems like there's agreement on that notion. Let me go to Christopher, then Anne, then Maxim. So Christopher, please.

Christopher, I can't hear you. I don't know if you've got coverage or if there's an issue.

JULIE HEDLUND:

Christopher, it seems that your audio dropped – oh, no, it didn't. Hold on one moment. Okay. Go ahead, Christopher.

JEFF NEUMAN: Okay. I'm still not hearing Christopher, so—

CHRISTOPHER WILKINSON: Okay, thank you.

JEFF NEUMAN: Oh, wait. Christopher, I think I just heard you. Are you there?

CHRISTOPHER WILKINSON: Jeff, on this question, I agree that we should proceed with rounds. May I just recall that some of us, and certainly myself, have argued strongly that the next round should be managed in phases, and the phases should be specific to particular groups or types of applicants? This applies especially to applicants for geographical names, probably for applicants for brands, in that order, and probably for applicants for community domains. I would not support the next round being an all comers' round in which the staff and the evaluation process would have to address themselves to multiple applicants from quite heterogeneous groups/categories of applications. That I think would be too easy to game and too difficult to evaluate objectively. Thank you. And thank you staff, for finding the way to unmute me because I can't. I can't find a button to unmute anywhere on any of these [inaudible].

JEFF NEUMAN: Okay. Thanks, Christopher, and thank you, ICANN staff, for helping. Christopher, on your comment on phases within a round, that certainly is going to come up as a subject in just a minute anyway. I think you

introduced it, but let me just check with the other people with their hands up to just first talk about the notion of starting with a round. Then we'll get back to that new idea, which several had brought up during the comments.

Let me go to Anne and then Maxim.

ANNE AIKMAN-SCALESE:

Hi, Jeff. Thanks. I wanted to focus on the policy goals as drafted in the document, specifically a couple questions I want to bring up about the last policy goal. It says, when it becomes operationally feasible, application procedures should occur on a regular and recurring basis.

So, two questions about that that I think may need a little clarification. One is exactly what we mean by regular and recurring because of all the comments that were received with respect to first-come-first-serve. I realize that this was probably drafted to avoid the first-come-first-serve language, but I don't know that regular and recurring is specific enough to describe what we are trying to say.

The second question is very much tied in with that, which is the question of review teams. You would note that ICANN itself in 2.2.3D asks for the PDP to clarify, when it's talking about these policy goals in relation to rounds, how those fit in with competition, consumer trust, and consumer choice review that is required by the bylaws. The last policy goal that's listed here makes a reference to items that are operationally feasible but no reference to the required reviews. So I think that that last policy goal has to be clarified on those two points.

JEFF NEUMAN: Thanks, Anne. Everyone's wanting to get to the next question or the next step, but I think that's a good—

ANNE AIKMAN-SCALESE: No, it's not really that. I'm sorry. Jeff. I have to interrupt. It's not that. It's that how this policy goal is stated is, to my mind, inaccurate because it talks about operational feasibility with no reference to the CCTRT review, and it talks about regular and recurring basis. It's stated as the overall policy goal, so it has to be clarified as being subject to something other than operational feasibility.

JEFF NEUMAN: Okay. Right. Let me go to your first part first and then the second part. "Regular and recurring basis" was drafted intentionally vague because one of the items that we're trying to get to in the next several questions is, what does that mean? Does that mean a specific time period? Does that mean "governed by specific criteria" has to be met before you start the next one? So there's a bunch of questions that could narrow down that policy goal and clarify what we mean. That's something we're getting to with the next couple of questions.

On the CCT Review Team, that's also a question that we need to talk about as a group as to whether that review has to stop everything else from going on or whether that review can be done in conjunction with, let's say, a subsequent round. We still have to talk about that. Honestly, it could go either way, depending on what we feel.

Let's go to those next questions now, and then we'll see if we have to refine those policy goals. By drafting these policy goals, we kept it vague for now, just because we don't have answers to those other parts yet. Once we do, we can then modify.

ANNE AIKMAN-SCALESE: Yeah, that makes sense. Thank a lot, Jeff. That one just is in question. I do think that it may well end up needing modification. Thanks very much.

JEFF NEUMAN: Yeah. Thanks, Anne. Okay. Let me go to Maxim.

MAXIM ALZOBA: I have a few items. First, when we refer to non-contracted parties, we have to be careful because applicants, if they're not affiliated with registries or registrars, are not contracted parties because the last time there was nothing but the formal contract allowing to send money to prevent violation of anti-laundering laws around the world. Basically, it wasn't the contracted granting you something for the return of money. Just a formal contract saying it's okay to send money in exchange for this signature.

The second item is about public comments. Actually, comments made by ICANN staff are not public comments. ICANN doesn't represent the public. It's not public. It's staff or management or the Board. That's it. So just for clarity.

The third item. If reviews are to stop policy work, it would be a violation of the purposes of the organization because, for the GNSO, policy is the important thing. Reviews are an ongoing process. If they stop something, we would do almost nothing because, at any moment of time, we have a couple of reviews going on. Thanks.

JEFF NEUMAN:

Thanks, Maxim. That's an important point and also just highlights the question that I put in. You can decide to do rounds in parallel with reviews. When the review is completed, you could then decide that that implementation of that review then gets put in at the start of the very next round that happens after the implementation is completed. Or you can decide, like we do now, that everything is on hold pending the completion of the review. That's a question we are going to discuss now as part of this. I'm definitely interested as to how others feel in this group. Maxim was quite, I think, clear in saying that he thinks it could be done in parallel, that it does not necessarily need to put a stop to everything while the review is ongoing.

Do we have other views on that question? I know it's a little bit out of order, but I think, since this subject has been brought up and mentioned by a couple of people already, let me throw that question out. So, yes, the bylaws do dictate certain types of reviews. Whether that's the CCT Review Team, the ATRT – whatever reviews are ongoing – the question is, does that review have to stop the processing of the commencement of another application window? How does everyone feel about that?

I see Anne's hand is up. I don't know if that's an old one or new one, but I'm definitely interested to hear people's thoughts.

ANNE AIKMAN-SCALESE: Hi, Jeff. It's Anne. Just very quickly, what we have right now is that CCT Review results were turned in while this policy work was being done. It seems like they could run concurrently, but the issue is, when do you incorporate those recommendations if they're adopted by the Board? So it's a question of how you do that in tandem, how you get those recommendations included in whatever is the next round. Do you say that, when the Board adopts those recommendations, they automatically apply to the next round? Or do you initiate another policy process? How do you move on that? What's the logistical coordination? Thank you.

JEFF NEUMAN: I could turn that question around and say, what do you think?

ANNE AIKMAN-SCALESE: What I think? I think we're probably talking about launching an ongoing policy development process that results from reviews. That may be what's intended by the bylaws now. Whether what that means is we're going to launch another PDP based on the review and keep application windows while that's happening, I'm not absolutely persuaded that that's wise, depending upon what the results of the review are. If there's serious issues in the review, maybe that should stop around ...

JEFF NEUMAN:

Thanks, Anne. Maybe, just to play a little devil's advocate, that should be a specific recommendation of the CCT Review Team if it's that major. They should then make a recommendation that future rounds stop until this issue is solved. So the question then is, what's the default? Is the default you wait until the CCT Review is done and they may or may not have results and they may or may not require a policy process, depending on what they recommend? I guess that would go against the policy goal of not having indefinite periods of review. So that's what we're trying to balance here.

Let me go to the queue and then I'll go back to the chat because there's some good comments in the chat as well. I have Jamie and then we'll go to the chat.

JAMIE BAXTER:

Thanks, Jeff. I think I would actually agree with what was just said about having the opportunity to put things on hold if there were major issues. I think that actually sounds reasonable.

But what I wanted to comment on was actually looking at this from the applicant's perspective. For example, if you're putting together an application and you're ready to submit it to the next round and then, out of nowhere, there's a new policy adapted that could throw you for a loop, it seems like there needs to be, if that's the way it's going to happen, then built in a communication period to make sure that applicants actually understand some of those policy changes.

So it gets complex and complicated if it's just ongoing, whereas, I think – and I don't see myself on either side of the fence here; I just want

people to think about that – right now, there’s a stop. Everybody is going to wait and see what the policy changes are, and then applications are going to be accepted. But in the other scenario, it’s just a rolling application process and you’ve completed it and about to submit and then new policies are adopted because you haven’t necessarily been part of what we are doing right now. How is that going to be perceived by potential applicants in the future? So just something to think about, I think. Thanks.

JEFF NEUMAN:

Thanks, Jamie. Presumably, when we talk about rounds and application windows in a future subject, we’ll talk about communication periods and what needs to be in it and how long they need to be. If someone was planning on applying, I think, in a subsequent round, perhaps you can say any changes must be implemented prior to the start of a communications period so that there is notice to anyone that wants to bid. That’s another thing we could say to make sure that no one is disadvantaged.

Let me go back to the chat as people are thinking about these questions. There was some discussion on the different types of reviews and [they’re in] the bylaws. Let’s see. Maxim says, “ICANN” – oh, this is what he said when he raised his hand. “Reviews are required by the bylaws.” Donna says ... okay. Sorry. There’s just more back and forth about the reviews. Maarten says, “I agree with Maxim. The reviews can take place in parallel. These should be considered as opportunities for continual improvement.” Beth agrees with that as well. Maarten says,

“It really depends on what the output recommendations are from each review.”

So, again, depending on how the group turns on this issue, you could say, if the CCT wants to stop something for whatever reason, it needs to specifically recommend that and it needs to go to the community. But the default would be these regular intervals. We’ll talk a little bit more about what those regular intervals would be.

Let’s see. Phil Buckingham agree. Justine: “Ideally, CCT reviews should be incorporated automatically and done in parallel.” Susan says, “But a CCT would not develop new policy, would it?” Right. It [would] make recommendations. “Then there needs to be a PDP.” That is true. Cheryl says, “That’s correct.” Maarten says, “Policy material changes during the application process should be minimized to maintain predictability.” Yeah, Maarten, that would be dealt with through the change process, which we’ve had a number of discussions on, and the predictability model. So that relates to that. I don’t think anyone has talked about stopping or changes in a round that’s already ongoing. Donna says, “This becomes a timing issue. I would say that one work effort should not toll another unnecessarily. The CCT Review Team took 12 months longer than anticipated.” I think it was more than that, but yes. “Similarly for this effort, the question for me is, who decides if one effort would toll another effort?” There’s some conversation about Work Track 5. Then Anne says, “Some recommendations go to the PDP but others go straight to the Board. So it’s the Board that adopts the CCT Review Team.” And then there’s always, as Anne says, a possibility of a temp spec, although that’s only been done once, and that was pretty extreme.

Maxim, please?

MAXIM ALZOBA: Actually, the work needs “if the Board accepts it.” If it doesn’t, then nothing proceeds the next round. Thanks.

JEFF NEUMAN: Okay. Thanks, Maxim. It seems to make sense because our principle is not having indefinite periods in between application windows – oh, I’m sorry. Let me go to Kathy. Sorry. Kathy’s hand is up. I’ll go to Kathy.

KATHY KLEIMAN: Jeff, go ahead and summarize, please, because I’m going to actually move back to something we were talking about earlier. Thanks.

JEFF NEUMAN: Okay. Thanks, Kathy. So I’m not hearing anyone really strenuously arguing about the fact that, yes, we all acknowledge that there are reviews that have to be done. And of course, there may or may not be results out of that review, and nobody knows how long those reviews actually will take and what the outcomes of those reviews would be, some which may need to go through another PDP, some of which, in theory, the Board could do on its own. I’m not hearing a strenuous call for stopping windows simply because there’s a review. However, there should always be an option for a review team to make a recommendation that things be told and they demonstrate that there’s a serious enough problem that needs to be solved prior to the start of

another subsequent application window. So I think that's the summary, but Kathy, please go ahead.

KATHY KLEIMAN:

Great. Thanks, Jeff. I'm seeing a few – I don't think they're major but I think they're important – policy goals for this section which would seem to belong under the policy goals and after the three bullets already there. I wanted to check with you and with others.

One is to reflect the reviews and their results. The other is adequate time periods for comments and objections. As you mentioned, it wasn't just non-commercial that was commenting on this. And of course, this was something in our original rules. So any objection to expansion of the policy goals to ensure, again, review and comments and objections, that participation from non-applicants, from the community. I'll pause there, and then I have another question.

JEFF NEUMAN:

Okay. Thanks, Kathy. Let's go to the reviews first. Adding a policy goal saying that reviews ... I'm trying to think of what exactly [we] want to say. Obviously the fact that ongoing rounds should not stop any required reviews from taking place. However those reviews can proceed in parallel with the introduction of subsequent application windows, provided that the results of implementation of any reviews would kick in – sorry for the slang – when the next subsequent round begins after the implementation has been agreed upon. Is that the principle you're saying?

KATHY KLEIMAN: I'll defer to the people who are commenting on it, but it definitely is a placeholder for the wording. It sounds good to me. Thanks.

JEFF NEUMAN: Okay. Thanks. Let me read the comment from Anne. "We may have an accountability issue here. Continued reviews are part of the reassurances given in the IANA transition, so I'm not sure what positions may be taken by various constituency stakeholders on whether or not subsequent rounds should proceed and not be held up by CCT [Review Team] reviews. It seems like a good question to put out for public comment. No way can PDP policy results and reviews not take place. Bylaws override that." Maxim puts in the part of the bylaws that refer to it, and Susan says, "There's not been any suggestions that the reviews not take place." I agree. So no one is saying the reviews shouldn't take place. What people are saying is that reviews should occur in parallel with the launch of application windows as the reviews are called for in the bylaws, provided that the results of any applicable review are ... shoot. I forgot what I said. But basically are put into the next subsequent application window that launches after implementation has been agreed upon. Sorry. That's not the most best precise wording, but I think that's the concept.

Anne's comment is that I did say that, as a policy, the rounds shouldn't stop reviews. Anne was pointing out that we don't have the authority to do that. Yeah, I think that is true. I probably worded it better the second time around.

I don't know – I see Kathy's and Maxim's hands are up, but I can't ... are those new hands?

KATHY KLEIMAN: It is a new hand.

JEFF NEUMAN: Okay. Kathy, please?

KATHY KLEIMAN: Great. An additional bullet point now, after the specific review, should be for the policy goal of comments and critiques because, of course, we have a variety of comment participation that takes place after an application, as well as objection periods. That's an important part of our policy goal: to get the public input on applications. As you said, a number of groups commented on the importance of this, so I think we need another bullet point, just saying that this our policy goal as well: to facilitate this public commenting critique.

Also, I wanted to ask you a question. It's interesting. Let me jump back ... I don't have it in front of me. Let's stop there for a second and then I'm going to refer back to the subsequent – first, can we have that additional bullet point, Jeff? Just to hold that place as an important policy goal, which is public input on the applications.

JEFF NEUMAN:

Okay. Thanks, Kathy. I'm going to answer that with a question. I think I know where this is going. I think we may be able to add that bullet point, but let me ask a question first, and that's on bringing in the notion of first-come-first-serve. There were a couple registries that said that first-come-first-serve would be okay, but not all the registries. I think there was no other real support for the notion of first-come-first-serve, at least for the foreseeable future.

I want to make sure that this group is in line with that before we go about adding that bullet point, Kathy. I think it'll be easier once we talk about that. So let me ask about the notion of first-come-first-serve. Most of the groups were vehemently against it. I think there were some registries, again, that were for it. I don't remember – okay. The IPC wants a reserve on that. So let me ask for the people that have hands up. Let me go to Maxim and then back to Kathy and anyone that has an idea about first-come-first-serve.

MAXIM ALZOBA:

Actually, I was trying to talk about [CTT RT]. If we read the bylaws, there are no words that say you don't do anything until it's over. The only item is saying if the Board adopts. If the Board doesn't adopt, nothing prevents the next round. Thanks.

JEFF NEUMAN:

Thanks, Maxim. I think that's a good point, and probably one we should include. Then we have Kathy, then Donna.

KATHY KLEIMAN: Thanks, Jeff. I wanted to note something from the initial report. We seem to have an open question on this in 2.2.3. But, in the initial report – I can post this in the chat if people want it – in 2.2.1.C.1, in a shaded box holding it out, it says, “The working group recommends no changes to the existing policy calling for subsequent applications rounds introduced in an ongoing, orderly, timely, and predictable manner.” So the initial report sets out the concept of rounds. I think the bullet points that we’re talking about, including the new bullet point we’re talking about, support that and provide additional policy rationale for it from the perspective of all the stakeholders. Thanks.

JEFF NEUMAN: Thanks, Kathy. That’s where ultimately I think we’re going to go back to, and that was what the initial report said. We put the notion out for public comment. As some people are putting in the chat here, Jim agrees with what we were saying. Cheryl has noted the objection from the ALAC to first-come-first-serve. Christopher Wilkinson, I think, also objects. Justine put in, I think, more specific language there.

I’m not hearing – oh, sorry. Donna, you’re in the queue. Sorry, Donna.

DONNA AUSTIN: Thanks, Jeff. Can you hear me okay?

JEFF NEUMAN: Yes.

DONNA AUSTIN: Okay, great. Donna Austin from Neustar. Given that Neustar was one of the entities that supported the notion of a first-come-first-serve, I just wanted to note that, if the preference is for rounds on an ongoing basis, we're not opposed to that. I do actually think that first-come-first-serve will be the way forward, but I appreciate that that is not until some time into the long, [dark], distant future. So I just wanted to note that, from a Neustar perspective, we're okay with rounds at this point. Thanks, Jeff.

JEFF NEUMAN: Great. Thank you, Donna. Certainly, we will note that. Of course, if we did have consensus on this issue, there's still the opportunity for anyone to put in minority statements or other kinds of statements as well.

I see Kristine in the queue.

KRISTINE DORRAINE: Thanks, Jeff. Just to piggyback a little bit on what Donna said, I think, for the registries that I talked to, including Amazon, one of the things that we think about when we think about first-come-first-serve versus rounds is ... I think the concern is that rounds in this last iteration has been such a long window, such a long time, so the fear is that, if we just say "rounds," it's going to be one round and then it'll be another 10 or 12 years. If you look at what the bullet point says about registries – first-come-first-serve or regular windows – I think the point is whether it's truly first-come-first-served or quarterly or twice-yearly windows, where it's rolling and there's different applications and different statuses at different times but you don't finish out an entire process before you start the next one. So I think that that's where some of the

registries at least came down on that. So, I think for us, the biggest concern is just making sure that it's not ten years between rounds.

JEFF NEUMAN:

Thanks, Kristine. I think that's important. That's why we also have that bullet point in there about regular and recurring basis and that it's not an undefined period of time. So, taken as a whole, if you added the policy goal of doing these in rounds because of the rationale that Kathy was explained, that a lot of the groups had put in their rationale of having predictable periods of time, not just for applicants but for the community to react to applications, we're recommending all of these as a package. If you unwind one, you're going to unwind the others. So it's just as important as a policy goal to make sure it's regular and recurring as it is to just do rounds. So I think, if we word it in that way, they should be taken together.

Going back to Kathy and the wording that you had suggested, I think the policy goal as stated is that we recommend rounds because it allows for predictable periods not just for applicants but for the community to react to applications. And write that in there. That's why I wanted to do the first-come-first-serve discussion before coming back to the goal.

It sounds like that's okay from Kathy's standpoint, and then I see Anne's got: "Regarding the policy goal, it's not just subject to being operationally feasible. It should be subject to any immediate further policy development."

Okay. Let me go to Christopher in the queue, and then we'll come back to – oh, sorry. Kristine, are you back in the queue as well? Sorry. I didn't

... Nope. Okay, we'll go to Christopher, and then let's spend a second talking about Anne's provision in there.

Christopher, please?

CHRISTOPHER WILKINSON: Thank you. Can you hear me okay this time?

JEFF NEUMAN: Yes.

CHRISTOPHER WILKINSON: Okay. Just to note on [on passon]. The object of the exercise is to improve the options to users worldwide. I'm a little bit concerned that we are getting categorical policy options put forward by incumbent registries. Incumbent registries have already got their gTLDs. Good luck to them. I hope they do well, but the implication in the discussion that the incumbent registries want to take advantage of the next round to register even more new gTLDs, almost inevitably at the expense of genuine new applicants from different sectors, from different parts of the world, and for different purposes bothers me. We're in this to enlarge the domain name system to areas and objectives and purposes which are not presently served. I think the incumbent registries could ... as an expression once made years ago, a period of silence would be welcomed. Please explain how other registries could join this club and not how incumbent registries could get even more of it. Thank you.

JEFF NEUMAN: Okay. Thanks, Christopher. I'm not sure I draw that connection. I think there's a number of people that have made comments here that are not affiliated with any incumbent registries that support the idea of rounds. In fact, predictable rounds to me would support the notion of getting more new entrants in because we're affording the world predictable periods of when they could apply and when others could respond. So I'm not quite sure I see that point.

CHRISTOPHER WILKINSON: Okay, Jeff. If it goes that way, good. Let's see how we can make it go that way. Thank you.

JEFF NEUMAN: Okay. Thanks, Christopher. Looking at the chat, Justine put in the comment from the ALAC, which certainly didn't want first-come-first-serve in this immediate round. As far as first-come-first-serve later on, it was just concerned about assessment and contentions. Kristine points out that you can't really have contentious [sets] without windows. Anne says, "If the Board determines more policy work is required, or if the GNSO so determines, based on CCT Review Team results, then there has to be a mechanism for a pause." I think what we're saying, Anne, is the default is that it goes forward. There's always a mechanism for a pause if the GNSO and the Board and the community gets together and says, "No, stop." We've been operating for the last 7 to 10 years on the default being your stop until someone says to go. This is changing the default from you keep going in these regular interviews until someone

tells you you need to stop. So I think that's what we're talking about here.

Phil Buckingham posts something about when a round is completed. We're not quite there yet. I want to get these initial policy goals and discussions underway before we get to some of those other questions about when is that regular interval and how do we measure that interval. So I think that that is coming up. In fact, why don't we have that conversation?

Steve, can you scroll down? Keep going. Okay. Question C1 basically says that there's really two ways that we can do these regular intervals. Either you can do an interval based on time, like saying you're going to start this round on X date and then you'll start the next subsequent round on X plus two years date. So you can set a specific time. Or you can set criteria around when you would start the next round. That could be when – as we say in that highlighted language, the example we gave, which was just for discussion purposes. It was not a recommendation, but for illustrative purposes, you could say something like the next round will occur either on this date certain – January 1, 2023 – or nine months following the date in which 50% of the application from the last round have completed initial evaluation.

The notion of predictability and regular intervals had support from most of the commenters. Some of the commenters said that they would prefer specific dates or periods of time. Others thought that it would be better from some criteria-based because you don't know what the number of applications are going to be, so just drawing the date, like a year from then or two years, may be difficult, not knowing how many

applications you're going to get. The EFF Public Interest Community says that there should be years so that there could be full and fair public review. There were some suggestions that maybe you could treat brands differently from NTIA. ICANN org's concern was, if you had a milestone, we need to be very specific as to how to measure that milestone. So, if we all support milestones, then we can take that comment into consideration and figure out how to be more specific.

With that said, I see in the chat there's some discussion on who have the authority to say stop. Okay, that's to the previous question. Maxim says, "I would replace 2023 with a particular year." That was just an illustration. That's not meant as a recommendation. Just to clarify. Anne is saying, "We're essentially saying that the GNSO has to launch a PDP or an EPDP to study the question and develop policy as to whether upcoming rounds should stop or not." That's still on the time period. So there's discussion on the authority of putting stop.

Let me go to the question, though of the intervals and whether people have thoughts on that. I'd like to just go away from the question of who's got the authority because I think that's speculation right now. I think that might require some research, so I want to get to talk about this question.

Maxim, you have your hand up.

MAXIM ALZOBA:

It's about that example of 2023. The reason I would recommend the replacement with the wording "a year" or "the year" is that, if we leave

the particular number there, it might be used for some reason in the implementation. So we might suffer from that. Thanks.

JEFF NEUMAN:

Thanks. I see what you're saying. I think it was a particular date certain. Maybe we could put those words in instead of January 1st, 2023. It was supposed to get the vagueness out of it. But it's always the problem when you use an illustrative example. The wording alone explaining the concept may not have been clear.

Let me go to Kathy.

KATHY KLEIMAN:

Sorry. Coming off mute. Thanks, Jeff. Just by way of changing the wording of the example that we're looking at in terms of metrics, what about if we said something like, "Subsequent introduction of new gTLDs after this round will occur on such-and-such a date, or nine months following the date in which X percent of the applicants from last round have been delegated"? As we've talked about now, and as the comments about extensively, after the applications come in, that's when a lot of other groups' work really starts, including the community's involvement in comments and objections. So to have, say, 75% of the gTLDs delegated means that a lot of that work is done, a lot of the work of the community is done, as well as the applicants, as well as the operational, and, of course, financial evaluations. So just wanted to throw out that the term "delegated" could help us a lot here.

I also wanted to see if we can put in, referencing back to something Christopher said that's also in the Non-Commercial Stakeholder Group comments, this idea between rounds of letting the global south and other groups that a round is opening. It's very important, kind of the marketing and education aspects. That's something I would think for ICANN largely to do, that letting people know of the next round, especially those who don't participate as actively, the regions that don't participate as actively. I think we should include that as something that we're working on as a goal. Thanks.

JEFF NEUMAN:

Thanks, Kathy. I'm going to take other people's comments on your proposal, except, on the last one. There's a whole separate subject talking about communication periods. I'm going to put that in a separate place or defer that subject until we talk about the communication period because, once we solidify this, that will help us with that discussion. But I don't think that discussion of the communication period belongs in this section. But that is up for discussion.

Let me go to others to comment on the criteria being "delegation" as opposed to "initial evaluation." Donna, please?

DONNA AUSTIN:

Thanks, Jeff. Donna Austin from Neustar. I think, if you have a date certain with a qualifier for 50% of whatever have to be through delegation, the problem there is that you take away from predictability because, as we saw from the 2012 round, there are things that can

impact many things through delegation. “Initial evaluation” is a little bit – I think you’re going to get into less problems. But I’m really concerned that, if you take out “initial evaluation” in favor of “delegation,” the predictability element of the process will go away.

The other thing as well is, if you have predictable dates for the next three rounds, say, then that may help with that pent-up demand issue because people may decide, “Well, I don’t need to get my application ready by the first date, but I’ll certainly be ready for the second date.” The only difference is it might change which string that you’re applying for. That’s the only [inaudible] that I can think through in my mind. That’s the only difference that there would be.

So, if you have three dates for the next application windows, that gives you predictability. If you say, “This is when we’re going to open the next round, but the date for the second round may change because we may not have the requisite 50% through to delegation,” I think that takes away from the predictability aspect. So I wouldn’t be in favor of going down that path. Thanks.

JEFF NEUMAN:

Thanks, Donna. I put a question into that as well. “Delegation” seems ... It took a lot of years for a certain percentage of TLDs to be delegated, but I’m not sure ... Kathy, when you were talking about the work from the community, most of the work was done upfront and then during those proceedings. But, as Donna is saying, you starting the round means starting a communication period and then new applications. I’m assuming – well, I shouldn’t assume, but the initial report made a

recommendation that you would not start processing applications until ... or you would finish processing applications in one round before you start processing the next round. So I'm not sure, again, that overlap would be that burdensome to the rest of the community, but I want to hear why from others.

We got Maxim, Christopher, then Jim.

MAXIM ALZOBA:

Actually, I think it's more about processing and more about the delegation because delegation happens way after the execution of the contract because you have too many moving parts in reality because some things you can start only after you have the signed contract in your hands. So I think it's better to describe, if we even talk about the person, first of all, we should avoid the trap of saying that particular person of the applications in case too many applications fail because they were badly written, for example – something we might not reach the set threshold [with].

The second thing is about some reasonable person who's good to go for evaluation, for example – applications or something. I wouldn't recommend to talk about delegation because it might be a year after everything is fine. Thanks.

JEFF NEUMAN:

Thanks, Maxim. It was suggested also. Someone has said, "Well, maybe signed agreements." I think that's problematic, too, because I think it's not under the control of one party of ICANN. So people could decide not

to sign agreements. People could specifically delay contention set resolutions for a long period of time, at least according to this last round. So, for predictability, we need to find some objective criteria, especially because that's one of our goals: predictability and regular intervals. I can ask the question. Are there predictable questions that we could latch onto?

Christopher and Jim.

CHRISTOPHER WILKINSON: Hi. Thank you, Jeff. You can hear me this time?

You're hearing me?

JEFF NEUMAN: Yes. Sorry. Yes.

CHRISTOPHER WILKINSON: Okay, good. I have a certain experience in this area, but I won't bore you with that. In my view, you can legislate for the opening of the windows for applications, and you can legislate for the closing of the window for applications. You cannot, in all reasonableness, legislate for the closure of the windows applications for reasons which Maxim and Donna have already indicated.

It will be inevitable that you will have a fairly complex pipeline of last windows applications, current windows applications, next windows

applications. You can close the windows, but you can't close the process which leads to contracts and delegation and launching of the domains.

Now, there may be – and apparently in 2012, there certainly were – cases where it took years to try and resolve the issues. Now, at some juncture, you will need some rules and precedents and best practice to close down open applications which have never been resolved, but I think that's a separate issue. It's housekeeping. It's not part of predictability. Predictability is about what is likely to lead to success. Something that doesn't lead to success after ten years was never going to be predictable and won't be predictable in the future if you allow it to happen. Thank you.

JEFF NEUMAN:

Okay. Thanks, Christopher. You're right. We do need to think about predictability because that's one of our policies. Justine says she agrees that delegation is problematic and asks a question about the appeal mechanisms, how that would impact. I think it's a good question we need to save, depending on what we agree upon here. Jamie agrees with Donna that anything beyond initial evaluation is going to lower predictability. Maxim is pointing out that, even though that ICANN is ready to sign a registry agreement, the other part is not forced to sign it that day and there could be good reasons why they're not. Some applicants were not in a hurry to proceed to delegation,[Katrine] is saying, even though they wanted the faster passing initial evaluation. Maarten says, "If we can't apply a fixed-period start date, I would expect the percentage passed initial evaluation to be reasonable way

forward, given earlier discussions. There could specific and major reasons to halt the process.”

Jim, you’re next in the queue, please.

JIM PRENDERGAST:

Great. Thanks, Jeff. A couple points. One, I know there’s been some concern raised in the chat about [whether] there’s still TLDs that haven’t been delegated from a previous round. That’s accurate, but we’re not saying that all TLDs need to be delegated in order for the round to be considered closed. It’s a percentage of them. So there’s always going to be an allowance for this that are the corner cases that linger on forever and ever and ever.

I do think, though, that, if we are trying to assess when a round is closed or is considerably closed, you do have to look at delegation because that is the completion of the application process. The initial evaluation is just one step. There’s several other steps beyond that until you’re actually a registry operator. I think that is the true measure of when around would be closed or when it would not.

I would just point out – I’ve pointed it out in the past, but I think it’s worth noting – that an extreme definition of ICANN uses of when a round is closed is they still believe that the 2012 round is ongoing. That’s the justification that they use for dispersing any of the excess applications fees that they’ve taken.

So, just in summary, I think a true measurement of how completed a round is is if you measure delegations and not measure applications that have passed through evaluation. Thanks.

JEFF NEUMAN:

Thanks, Jim. But just a question. We're not trying to define when a round is closed at this point. We're trying to define when it might be okay to start the communication period and the launch of the next application window. Does that change anything in your mind? We're not saying closed because that's more of an issue with respect to – sorry. That could be an issue with when to start the application window, but it could also be just for the monetary aspect. So just to clarify your comments, are you also talking about delegation should be used as to when to open up the next round?

JIM PENDERGAST:

One thing is certain. I need more caffeine – we can agree on that – because I missed that nuance. I'd have to think about it. I'll come back on the list or come back in the chat and answer it.

JEFF NEUMAN:

Sorry. Thanks, Jim. It took me a second to get off of mute. It was not working. Maxim pointed out that there is an icon for "I Need Coffee."

I may not have worded that well. I was just saying that the question here is when we can open up the next application window, which may or may not be related to when the previous round is closed. So it is possible, for example – I'm not making the recommendation; I'm just

saying – you could have multiple rounds “open” at the same time and not have a closed round for this purpose. There are options. So I just was asking for clarification.

Jim and Christopher have their hands up. I don’t know if that’s left over.

JIM PENDERGAST: It’s a new hand from me.

JEFF NEUMAN: Jim, please.

JIM PENDERGAST: So let me just play this out a little bit. Essentially what we would do is – let’s run with the 75% of the applications have been evaluated. Then we announce that the next round is going to take place at a certain date and we’re nine months following. But the previous round won’t have closed, and you could still have issues that are coming out of that round that could impact the newly announced round. Is that correct? Or am I overthinking that?

JEFF NEUMAN: Well, if you were to do that – Steve’s got this hand up – you’d have to set rules, such as you can’t apply for a string that’s already been applied for in the previous round, so you can’t create new contention sets. I mean, you’d have to have some rules around that, but, yes, that is a possibility. Again, I’m not advocating for that. I’m just saying that it is

possible to start the next round. You just would say you can't apply for anything that is the same, and there would be the string similarity and other tests for anything that was previously applied for, whether or not it's been processed.

JIM PENDERGAST:

I guess the one thing I'm trying to calculate in my head is, are there problems with a premature announcement of the next of the next round? For example, do you tell everybody, "Hey, get ready to come apply," and then you got to put the brakes on them for whatever reason, something I can't think of right now? Are there are problems with that, that premature announcement that leads people to file applications that are then placed on hold while something from the previous round is settled? That's the one thing I'm working through my head, and I don't know if others have answers or thoughts on it. Thanks.

JEFF NEUMAN:

Okay. Thanks, Jim. That does help. I can't think of anything off the top of my head, but there may be things I'm not thinking – well, Maxim put name collisions here. Well, we don't know how that issue is going to be handled. There's studies and things ongoing.

Steve, please. Sorry.

STEVE CHAN:

Thanks, Jeff. I'm not sure if Christopher had his hand up first, but ...

CHRISTOPHER WILKINSON: I defer to Steve.

STEVE CHAN: Thanks, Christopher. This is Steve Chan from staff. I was just hopefully going to be able to provide, I don't know, a different angle or different perspective to look at the issue. I guess, from the staff perspective, when we look at this, if you say 50%, recognizing it was an example, of applications that clear initial evaluation or 50% that cleared delegation, either of those can be construed as being somewhat arbitrary in selection. So another way you could potentially issue is in terms of limiting factors. What are the limiting factors in being able to initiate the subsequent round, if you're looking at regular procedures? So what would allow those limiting factors to be cleared, essentially? So I think some of the things that were identified is that the operational readiness of ICANN org could be one of those limiting factors. Or the specific reviews or any subsequent policy development could also be a limiting factor, or readiness of the committee or the folks that are observers to the program. So, in other words, try and identify what those limiting factors are and then try to identify what would allow clearance of those in order to initiate the next round, maybe to hopefully avoid selecting what could be an arbitrary selection of 50% of whatever. Thanks.

CHRISTOPHER WILKINSON: Yeah. Thank you, Steve.

JEFF NEUMAN: Thanks, Steve.

CHRISTOPHER WILKINSON: Very quickly, Jeff, since Steve has said most of it, first of all, the size and frequency of windows depends very much on the resources in terms of staff and budget, that the staff are authorized to address these evaluations. We've heard very little about that. I've raised the question once or twice. Now, I understand that it's tricky for the staff to commit in one direction for another, but we should all accept that the evaluation process is resource-intensive.

Secondly, as I've already said, inevitably, after two or three years of this, the pipeline will be complex. That is unavoidable.

Thirdly, my original proposal, which I think Jeff has deferred to later discussion, insofar as the windows are explicitly distinct of the feedback – I think it was Jim who was mentioning between last year's windows and next year's windows – the feedback could be kept under control. But above all, it's a question of resources. Thank you, Steve.

JEFF NEUMAN: Okay. Thanks. I'm going to do something rare and disagree with my ICANN policy cohort. Or maybe it's not disagree, but I'm not sure how that helps for predictability. Maybe I just didn't understand the proposal. I don't understand how, if we just left it to say when ICANN feels like it's ready, then we can do the next round. How does that help [that] the rest of the world know that? I think it may be arbitrary to set a number, like 50% or 75% or whatever it is. It's true. That might be arbitrary, but at least it's measurable and it's objective in terms of you know when it's been hit.

So I'm going to ask Steve if he could respond to that.

STEVE CHAN: Thanks, Jeff. To be clear, I'm not proposing anything. Just to try to answer your question, I guess what would be important to know in that circumstance is when does ICANN org think that they'd be in an appropriate position to actually accept applications again. So, rather than imposing a number on them, it's getting a sense of what is operationally feasible for them to actually be able to conclude a portion of the existing and then to be able to initiate the subsequent round, inclusive of communications and advanced warning and all that. So I guess maybe it's outreach to ICANN org to better understand what it means to them and what factors they see as preventing them from initiating a next round. So I don't know if that helps. Thanks.

JEFF NEUMAN: Thanks, Steve. But are you saying ask them now or ask them after the round begins? Sorry, I'm just trying to understand.

STEVE CHAN: Thanks, Jeff. I agree it is a lot for us to have a back and forth on this kind of meeting, but I guess I'll indulge a little bit. If I was to try to put myself in GDD's perspective, I would think that they would want to have a sense of certainty on what this PDP is going to recommend. Then they'll have a better sense of what it takes to implement not only this round but only a sense of what it would take for subsequent rounds. So, if the operating throughput is whatever, and whatever resources are

needed for evaluation versus contracting, they'll have a better sense of being able to parse between those different things and know when they could actually allocate resources to dedicate towards the initial part of the process, if that makes sense. So it's being able to pull resources from, say, contracting over to initial evaluation to start the next round. Thanks.

JEFF NEUMAN:

Okay. Thanks, Steve. One thing we could do is, if we have just illustrations, if we're all agreed on the principle of regular intervals and we're all agreed that it should be criteria based or time-based and provide some of the considerations, we could kick that through an implementation review team, at which time I would think ICANN would know better some of the factors. But I'm not sure it would help predictability if we said, "And ICANN staff, you can decide that and the factors after we start the next round." I think that would cut against the predictability principle.

Well, let me go to Maxim and Kathy.

MAXIM ALZOPA:

Actually, I think that the participation in the particular round is based on the fact that the applicants paid all the fees, and fees are recovered [basis]. It means that those fees are enough to [hire] persons, to do something, etc., etc., because, if we're saying now that there are some limiting factors by number of staff or something else, it means that the calculations of the application fees are incorrect; i.e., [I hope we are not saying] this. As I understand, the current configuration of GDD is to

perform the particular tasks. I'm not sure that, somewhere in the budget, it says that now we will not have a round if we don't see ... For example, in the budget sometimes, we might see, hopefully, something saying, "Preparations for the next round." But to say that there are no persons to process applications when the money is available because it should be paid by the applicants, I don't think it's right. There's a lot of consultancy companies which would be eager to help ICANN. Thanks.

JEFF NEUMAN:

Thank, Maxim. Kathy's in the queue. So, Kathy, please, and then I'll end the queue after Kathy because I do have that Any Other Business for a couple minutes. So let me end with Kathy, please.

KATHY KLEIMAN:

Great. Thanks, Jeff. I wanted to circle back to what Steve captured, which I think is a really important concept: readiness. And I'll expand it: readiness of ICANN org, as he said, readiness of the GAC, readiness of the community. Rather than imposing an absolute time for restarting, I think what we're really trying to get here is a balance of predictability for applicants versus fairness and readiness for everyone else. So I think we've had a really important discussion today, which I appreciate.

I wanted to throw out that Maxim gave us an additional measure that may be useful. We've talked about initial evaluation. We talked about delegation. But he threw out a third one, which is execution of contract, the percentage of applicants who have executed their contracts. That may be another measure as well, getting to the concept that Jim was talking about, which is the completion of the process, before starting

another round, which gets to the concept that Steve gave of us of readiness of all the groups who are going to be involved in the next round, to be ready for that process and that round to start. Thanks.

JEFF NEUMAN:

Okay. Thanks, Kathy. We'll pass around the notes from this and restructure this document in the same way that we did for the predictability into what we think we have agreement on and what still needs to be answered. I think this is a pretty good discussion. We need to work through some of these things on e-mail, so we'll figure out how to make some progress on that.

Just a quick two minutes on the GDD Summit. And there were others there, so if I miss anything or overstate them, let me know. There was one session that I was asked to lead at the GDD Summit based on an update as to where we were as a PDP, so I went through some of the timelines and the things that were presented in Kobe. So there's nothing new there. There are some slides that I believe are on the GDD site now. I'll defer to Steve to see if they're on there. I thought it would be useful to spend some times, at least with the contracted parties, of specific items like testing requirements and technical requirements and an RSP pre-approval program. We're going to be talking about all those issues, too, but I think it would be a good opportunity to get some specific comments from the contracted parties. To the extent that there is any feedback from that session, we will include those in our working group discussion so you'll have the benefit of those. Or I believe the session is recorded, so anyone can listen to it. I don't know if they're being transcribed. I'm not sure what the policies are on transcribing

those things, but certainly I believe it was recorded. So Steve may be able to, or Julie or Emily, to tell you where that's at. In fact, I see I think Steve going there now. So that's what happened at the GDD Summit.

I don't know. Does anyone else who was there want to report anything else from the summit?

Jim has put in the ... I think that's the link, Steve. I think Jim put in in there – the link to the session. So I think it was actually – please don't hit play. I don't need to see myself on a microphone. I think it was pretty productive. I think we got some of the registries and some other participants that don't usually participate thinking about the next round and some issues and RSP pre-approval and stuff like that. So I think it was a good session.

So there you go. You have the links to those. Are there any questions?

Comments? Anyone that was there?

Okay. Well, just looking down the chat, thank you, everyone, for attending. Please do continue to comment on e-mail I'll try to get some things out shortly. We really need to make some progress and get through some of these issues. I know we're spending a lot of time on these, but at the end of the day, I think some of these overarching issues, once we come up with recommendations, are going to help us when we get to the more narrow issues that we have to get to in the future.

The next SubPro call is at o-300 hundred, May 21st, 2019. Thanks, everyone.

[END OF TRANSCRIPTION]