
ICANN Transcription

New gTLD Subsequent Procedures Working Group

Tuesday, 16 June 2020 at 0300 UTC

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JULIE BISLAND: Good morning, good afternoon, good evening. Welcome to the new gTLD Subsequent Procedures working group call on Tuesday the 16th of June 2020.

In the interest of time, there'll be no roll call. Attendance will be taken by the Zoom room. 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 multi-stakeholder process are to comply with the expected standards of behavior. With this, I will turn it over to Jeff Neuman. You can begin, Jeff.

JEFF NEUMAN: Thank you very much, Julie. Welcome everyone. We have an okay turnout for this time. I know it's one of those calls that's very

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late for the people in the East Coast of the US and very early for those in Europe. So thank you for joining us.

Today, we are going to continue on with the “cannot live with” comments on package four, although there's one item that we missed on package three that we had gotten just a little bit late, but I think once we go over it, you'll hopefully see that it's okay.

Then we'll go, as I said, into package four, and then we'll go on to reviewing the category one draft framework that was sent around a few days ago. So we can just have a discussion on that.

I honestly don't think we'll get to auctions, unless there's some sort of miracle. But we'll probably end the call after we talk about the category one verified TLDs. And just remember before we get started too that comments to package five are supposed to be in by 23:59 UTC on Tuesday so please do get your “cannot live with” comments in on package five so that we can discuss those on Thursday.

Next week, as you all know, is ICANN week. We have one official session on the schedule which is at—I think 00:30 UTC time on Monday I believe. I'm sorry, it's on Tuesday, I think. And then we have our normal working group meeting time on that Thursday. So you should have calendar invites for the Thursday call. We probably should have them for I think both calls, but certainly for the one on Thursday.

I should mention that on that call, on the first meeting during ICANN week, the plan is to really do a deep dive into the predictability model and mechanisms of last resort, specifically the

auction discussions. So the first session, as I said, is on the ICANN calendar, so we're likely to get lots of attendance from non-working group members, which is okay. And then on the Thursday call will just be for the working group.

Also note there are three GAC sessions during ICANN week next week that will be discussing the subsequent procedures PDP. Cheryl and I have been invited to those sessions, but how much participation we have is, as you know, strictly up to the GAC and what it wants to discuss in its agenda. So those are all on the ICANN schedule, so hopefully you'll be able to attend those meetings as well.

Thank you, Cheryl, for posting the meeting link and the time for the official SubPro session at ICANN next week. Okay, with those administrative—well, let me ask, are there any questions to those items? And also, I probably should ask if there are any updates to any statements of interest.

Jim's got a question there, "Do we know what we'll be discussing during the ICANN meeting sessions?" Yeah, Jim, we're going to talk about mechanisms of last resort, auctions, essentially, and the predictability model. Those are the two topics that will split the time during the official session to see if we can get some input from not just working group members but if anyone else that's attending wants to provide input as well. And then we'll pick up on those two topics on the Thursday meeting.

Thanks, Heather. Great, so let's get on with the first—we're going to start with the one comment at the end of package three. Is this the one here? I think it's actually not this comment, I think it was

on—yeah, so I thought it was the comment that was in C, or maybe I'm mistaken. But anyway, we can go over—because I thought it was in the IDN. Oh, this is it. Okay, never mind.

Okay, so this one is just implementation guidance. Anne has suggested that we put this more into the normal implementation guidance language, which is we normally say that ICANN should do these things. So I think this makes sense, to restructure basically the sentence to instead of saying ICANN may want to do these things, we probably should word it as we have worded all of the others. I don't think this is controversial. I think this is a good comment and a good change. Does anybody have any issues with accepting this comment?

Okay, not seeing any issue there, so we'll accept that one. And then we'll go to the one I thought we were going to go to, which is the universal acceptance. No, IDN, sorry. Okay, so this is where we left off during conversation last time, and this was the issue discussing variants and—I shouldn't use the term "applications" but basically our recommendation that variants of existing IDN TLDs and variants of new IDN TLDs should be allowed and must go to the same registry operator and the same backend registry services provider.

The discussion we had the last time or started having the last time was a more detailed discussion not on this principle but on how an applicant or an existing IDN TLD registry goes about getting that variant. So we pointed to a document that was put out in January of 2019, or maybe even [2018.] I'm trying to remember now. I think it was 2019, that suggested that they be separate applications as

opposed to just being given the variant version when they ask for it.

So I think where we ended up during that call was that because it's so late in the process and because there's already work, or in theory there's supposed to be work that gets underway at the GNSO council level where this is one of the issues they will be discussing, that Justine has made a proposal that we address—and this is the alternate language you see below which talks about activation and application. I think we decided on the call last time to not accept the alternate language that's there in red because of the fact that this was going to be an issue, the how IDN registries get this was going to be an issue in a separate process that will likely be conducted by the GNSO through whatever process they elect to go through, whether that's an EPDP, a PDP or whatever.

So I think—and I just want to verify—that we're all good in keeping the original language and not accepting the alternate language. And then we'll go to some discussion on the rationale which has a pointer to the work that's going on. Justine, go ahead.

JUSTINE CHEW:

Thanks, Jeff. From the perspective of the At-Large IDN working group, I believe—I think I understand what they're saying is that they too disagree with the document that's produced by ICANN Org in terms of it saying that there should be a separate application for IDN variants to existing gTLDs. We're not going to obviously have a long discussion on that and it is what it is, and I accept that you've already mentioned that the actual process is going through a possible PDP depending on what GNSO council

wants to do with it. So I think we're good with the existing language with a bit of tweaks.

I did want to just clarify a couple of things on the highlighted portion of text, which is not the red one but the original black one. There was a suggestion made to me that it should be IDN gTLDs identified as IDN variants, so where we insert the term IDN is important to us. We think it should be as IDN variants of already existing or applied for TLDs, and then the rest of it is fine. We just want to put—

JEFF NEUMAN: Sorry, Justine, just to clarify, are you saying that you want the word "IDN" in that second line taken out, or no, it's appropriate? Sorry.

JUSTINE CHEW: It should be moved to the first line. So we're talking about IDN variants for existing TLDs.

JEFF NEUMAN: Okay, so you would propose "IDN gTLDs identified as IDN variants."

JUSTINE CHEW: IDN variants, yes, of already existing applied for TLDs. And whether it should be gTLDs or TLDs, I'm not too sure at this point in time because I'm looking at this text for the first time today. So

yes, the second IDN where it appears on the second line shouldn't be there .

JEFF NEUMAN: Yeah, so Steve, I think you're in control of the draft, right? Yeah, you don't need that "IDN" that you've got highlighted right there.

JUSTINE CHEW: Correct, because we're talking about IDN variants of existing TLDs, not existing IDN TLDs. It's a double—doesn't quite make sense. Yes, will be allowed only if they have the same—okay, so we're fine with it because it mentions the fact that there should be bundling. So In that respect, the language here seems okay, but we accept that we're not going to talk about the how and the who, although the who is actually answered in the fact that we say that provided they have the same registry operator and backend registry service provider. So I hope that makes sense.

JEFF NEUMAN: Yeah. Thanks, Justine. So we do cover the who. And just I want to draw your attention—you've probably seen this, but everybody else, to the footnote there at the end which specifically says that the working group did not discuss the process by which an existing registry operator could apply for or be given an IDN variant for its existing gTLDs, nor has it discussed the process by which an applicant applying for new IDN gTLD could seek and obtain any allocatable IDN variant.

So we do acknowledge what we just were talking about, which is that we're not specifically looking at the process on how to get it. But then if you go to the rationale for this particular one, we do mention here, yes, in this green—well, it's green for me anyway—we do talk about towards the end of it, “the working group notes the GNSO council initiated an IDN scoping team which delivered its final report to the council February of 2020. At the time of this writing, the GNSO council is contemplating if and when they initiate a policy development process specifically focused on IDNS and in particular IDN variants.

So we take note of that in this draft. Yeah, so I think that addresses hopefully the concerns. Heather's looking forward to another PDP. Anne, go ahead, please.

ANNE AIKMAN-SCALESE: Yeah. First question, Jeff, is—I know I must be super confused about what these things really are, but I didn't understand the need for deleting in the second line the reference to an IDN TLD, because I had understood that IDN variants—that that policy was a policy that's to be developed in relation to applied for or existing IDN TLDs. So I'm pretty confused at this point.

JEFF NEUMAN: Yeah, so I think it's just a grammatical thing. Justine can clarify. But essentially, you can't have an IDN variant of a non-IDN TLD.

ANNE AIKMAN-SCALESE: Right.

JEFF NEUMAN: So taking out the IDN there, it's almost like—I think the way Justine viewed it was sort of the double negative, that it's kind of odd to say an IDN variant of an IDN TLD, because an IDN variant can only be with respect to an IDN TLD.

ANNE AIKMAN-SCALESE: I think that the [last call, someone said] the community doesn't necessarily know that though, because we've had people—including me at first, and Christopher and perhaps others—being a little confused about what the term “IDN variant” means. And I have to admit I was not at all aware of that implementation document or any of that. And I think that it clears up for people who aren't familiar with this that we're really only talking about IDN gTLDs to begin with. But I don't know why it would be a double negative at all. But maybe Justine could explain a bit.

JEFF NEUMAN: Yeah, so Rubens is correcting me, which I think is also—sorry, you can have, as Rubens puts in the chat, an IDN variant of a non-IDN TLD, like Quebec. So therefore, to state that, limiting it to only IDN gTLDs is not appropriate, because that would exempt Quebec and Québec, one with the accent marker and one without, if you had IDN gTLDs in that second line.

ANNE AIKMAN-SCALESE: Okay. So then does that actually have any implications at all for variant—for translations or none whatsoever for translation.

JEFF NEUMAN: No, translations is not covered by variants. Those are by definition not considered variants.

ANNE AIKMAN-SCALESE: I guess that'll be really clear to the IRT. I don't know if it's going to be really clear to applicants. But yeah, I don't know if there's any way to make it clear. But second comment, I think that when we say this policy across variant IDN gTLD bundling must be captured in relevant registry agreements, that notwithstanding the footnote, we have to kind of say subject to a process that GNSO council will be addressing, because when we say this must happen and it must be put in a registry agreement, but we haven't said how, it risks putting in a registry agreement a statement that has no "how" to it. So I want to suggest that we add the following at the end: "Pursuant to a process to be determined at the GNSO council level."

JEFF NEUMAN: So the process by which one would get it is certainly one that is being looked at by the GNSO council. But a provision in the registry agreement that says that if you have a variant, you must keep the same backend operator or you must have the same backend service provider that does the TLD and the variant, I don't think that needs to go through another GNSO process. In other words, writing that provision in the actual agreement. Obviously, any new agreement is going to go out for public comment anyway, but I don't think you need a GNSO process

because we're basically setting forth what policy the Implementation Review Team will make sure that this is implemented in the registry agreements. Justine, do you want to jump in?

JUSTINE CHEW:

Sure. Just wanted to say that I support what Rubens has explained, so that's the reason for why the IDN shouldn't appear in the second sentence before gTLDs, because we can have IDN variants of non-IDN gTLDs.

Insofar as the footnote, I honestly don't remember whether this working group discussed the who and how, so I'm not going to comment on that. But insofar as that comment about who and how is limited to just this particular working group and not extend beyond that, because there have been discussions outside of this working group as to the who and how. That would be fine with me.

In terms of Anne's comment about putting in that—I tend to agree with Jeff, I think the footnote to me would suffice, really, what's in the footnote. Thanks.

JEFF NEUMAN:

Thanks, Justine. And I'm sorry, Anne, I think this is pretty self-explanatory for an IRT. But there's some other comments in there. Heather says, "Just so I'm absolutely clear, how is your example, a Latin script TLD can be a variant of an ascii TLD like Quebec and Québec, distinguished from a translation?"

Yeah, so I think the answer there is that sometimes a variant can be a translation but not all translations are variants. I think it's sort of—so anyone that's got for example an accent—there's very few variants in ascii. The accent mark over the E is one of the common ones. So it is possible that a variant can also be a translation, but not all translations are variants.

Anyone else—Heather, you want to jump in?

HEATHER FORREST: Yeah, Jeff, I appreciate that. Just for the purposes of the recommendation here, because we're specifically calling out the variant as opposed to the translation, how do we know based on—and I completely appreciate what you've just said, Jeff—how do we give the IRT a little bit more information here so that this doesn't arise? In other words, where are the boundaries of variant and such that we know that we're safely there and not translation? Thanks.

JEFF NEUMAN: Yeah. Sure. Good question, Heather. And if you look, Steve's kind of beat me to the punch there. If we look at recommendation with rationale number two, those are all in the root zone label generation rules, which most of us policy wonks didn't pay too much attention to. But those definitions of variants and what's a variant of what in which scripts are in those label generation rules, and there's a whole bunch of scripts that have label generation rules now. So hopefully, the IRT has those skilled invariants and

will draw on their knowledge and expertise to help write the specific provisions with respect to this. Kathy, go ahead.

KATHY KLEIMAN: Yeah. Hi Jeff. First, I wanted to double check that we're thinking of keeping the first recommendation XX rationale for and deleting the one that appears—at least on my screen—in red. Is that right? And then I have a follow-up.

JEFF NEUMAN: Yes, that's correct.

KATHY KLEIMAN: So my thought is—and I think I'm echoing what other people are saying—if we're confused as to translation and variant, I think others might be confused as well. And of course, we want this document to be readable and accessible. It is my understanding—and I just wanted to check it—that translations are not considered variants. In this case, I'm just quoting you. So that a .pharmacy in Hindi for Indian pharmaceutical companies or Indian pharmaceutical association would be allowed under the rules that we are creating, just as .org which is obviously owned by the Public Interest Registry in English and ascii was registered by CONAC in Chinese for basically the equivalent of .org because CONAC runs organizations under the Chinese government.

Is my understanding right? And if so, could we put some examples in so that this is at least clear to the public? Thanks.

JEFF NEUMAN: Yeah, so here's the hard thing. I don't believe there is a clear way to—I don't believe that we can write an “IDN Variants for Dummies” paragraph or paragraphs in here to make it clear for everyone in the world. The whole concept of variants is a very complex niche which is why people who are familiar with linguistics have to be hired and specific work had to be done by people who specialize in that. I understand that not anyone who picks this up is going to understand what this means, but I think for this purpose, I don't think everyone needs to understand. I think the people that this is geared towards will understand it in a way that they'll be able to implement it. I just think it would take pages to write an IDN variants for dummies kind of thing in here. But if anyone that knows IDNs but thinks differently, please do weigh in. Kathy, go ahead, and then Cheryl.

KATHY KLEIMAN: Yeah. I think we should definitely write in that translations are not considered variants. And maybe mention the example of .org in round one. We kind of provide some guidance here. This really should be accessible to a more general group. I'd love to know what Cheryl's going to say.

JEFF NEUMAN: Go ahead, Cheryl.

CHERYL LANGDON-ORR: You may not want to know what I'm going to say after I've said it, Kathy. I shall see how we go. It is an art. It is a very specific and very specialized area. It is in fact, I think, one of those "If you're going to do it, you either have the expertise or source the expertise to get it right" classification of potential applicant.

I would encourage, if we're going to have the recommendation complemented in any way, shape or form by examples, that we try and do those in the footnote and keep the actual recommendations as simple and lean as possible, as accurate as possible, and hope that the detailing of and explanations of what is some very confusing words—we can't do anything about it because they're all terms of art—is picked up in footnotes. And I know we might have some meatier footnotes because of that.

So we feel the pain. We understand the concerns. But we're not going to get it right by bulking up the recommendations with more words. I think we need to keep it as simple as possible, as accurate as possible. Use the appropriate terminology for those in the business that work in this area and also ensure that the appropriate skillsets, knowledge and expertise is either on implementation review teams or accessed by implementation review team activity that results from this. That's what I'm going to say. Not sure it helped, Kathy.

JEFF NEUMAN: Thanks, Cheryl. So here's what I recommend that we will look into whether there's an official definition of what a variant is. I don't know if the ICANN glossary or somewhere else has an official definition of what a variant is. First time we use the word "variant"

in a second, we'll put a footnote to the definition, and an illustrative example as to what it is and perhaps what it's not. So, let us do some research in that.

So I think that's what I would propose that we do so that we can move on. But Kathy and then Anne.

KATHY KLEIMAN: I think Anne's first. Thanks, Jeff.

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

ANNE AIKMAN-SCALESE: I definitely agree that accessibility is an issue, and I appreciate your idea of trying to figure out how to say that to make it clear, because there are going to be applicants that are brand new to our system that don't really understand that this doesn't forbid translations. So we really have to specify to the IRT that that needs to be made clear and this is not an insider thing.

The second question that I have about it, did we in the footnote make any reference to ICANN's implementation from the 2019 document? Is the 2019 document linked there? Because I think what we're saying is we have no comment on that. Or what are we saying about that document? I appreciate that scroll down to the—and we're not saying anything about that document at all, we're not commenting on that document. Is that where we are?

JEFF NEUMAN: Other than the document exists and that's pretty much all we're—they have a quote, I think, in there above that, in that paragraph, but yeah, we're not commenting in terms of whether we agree, disagree, we're just noting its existence and a couple things of what it says. But not any kind of value judgment.

ANNE AIKMAN-SCALESE: Okay, thanks.

JEFF NEUMAN: Kathy.

KATHY KLEIMAN: Yeah. Jeff, first question, is there any reference to translations in any of this material? The compare and contrast at whatever level we can do it of variants and translations. And then I'll make my request.

JEFF NEUMAN: So there are no mentions in our recommendations of translations except with the category one potentially depending on how we come out in that, because there was a proposal made by .pharmacy for example that translations have similar restrictions. But other than that, there's nothing in our work that talks about translations being confusing or anything like that. It's just no.

KATHY KLEIMAN: Okay, so we're not making a recommendation that translations would also be owned by the same registry and the same backend.

JEFF NEUMAN: Correct.

KATHY KLEIMAN: Okay. I think we should clarify that, because what we're seeing here, I'm afraid—and you've heard it from others—is really going to raise the cost for small businesses and new applicants, the very groups we're trying to attract. We're giving pretty clouded advice. And we're in the business. Every one of us on the call is in the business. So I think we can be clearer and I think we have to be clearer. Thanks.

JEFF NEUMAN: Thanks, Kathy. Remember, this is not the ultimate document that applicants will read. We are going to have an applicant guidebook and other associated documentation that are geared specific towards applicants. So again, whether this document that we put out is understandable by every single potential applicant from third-world or first-world, whatever world, countries, we don't have to make these documents readable by everyone that wants to apply. We just need to provide enough information and clarity for IRTs to implement this.

So I understand the comments. I think let's move on to the next one. Like I said, the proposal is to see where we can—the first time the word "variant" is mentioned, if we can provide official

definition, and then maybe an illustrative example of what it is and what it's not. We'll see if we can do that.

Okay, let's move on. I think we are past IDN, so let's go to—you'll see some of the footnotes in red where we just spelled things out a little bit. Okay, this is in the registry services evaluation section, and Rubens has just proposed adding the word "base" before registry agreement in the section, which is talking about things that are included in exhibit A and it says that list will include those that are included in the base registry agreement and the fast track RSEP process and standard authorization language, which there's a footnote to.

So I think this is a good add. I think this is not something that is controversial. But I see that Anne's hand might still be up from an IDN thing. Before we get to that, Anne, let me just see if anyone's got any issues with this change and then I'll come back to you.

Okay, let's accept this change and Anne, please go ahead.

ANNE AIKMAN-SCALESE: Thanks. Sorry, but I had a comment on a different section of the IDN thing. We'll have to scroll back up. And I think you'll probably recall that in the last call, we kind of reserved based on the fact that we weren't familiar with and hadn't read that document from ICANN that was done with public comment, but you go back up to rationale 4 and IDN, there's language that says that the IDN variant must be delegated. So if you could go back up to that.

Yeah, it's right there. And after I've read that document, which probably maybe other people in some other Work Track had read

previously, but we were talking about reserving in relation to having read that document in the last call, this says variant TLDs must be delegated to and operated by the same registry operator.

From what I understand from reading that document, there isn't a must on the delegation because there's an evaluation that goes on from ICANN's standpoint as to string similarity, as to objection processes and as to security and stability that there's something about failure modes, and the term "must be delegated to" in the case that there can't be any conditions on the delegation, so it would be like IDN variant TLDs, if delegated, must be delegated to ...

JEFF NEUMAN:

Yeah, so I had proposed to take out the notion of owned and/or delegation. So to cross out to basically say IDN variant TLDs must be operated by the same registry operator so we get out of this whole owned versus delegated issue. But then to address your concern, let me see, the working group believes that IDN variant TLDs must be operated by the same registry operator.

ANNE AIKMAN-SCALESE: If delegated, I guess.

JEFF NEUMAN:

[inaudible] if delegated. To the extent that—yeah. Okay. "If delegated" is fine. So I understand the point, that it's not just an automatic ...

ANNE AIKMAN-SCALESE: Thank you.

JEFF NEUMAN:

Okay, so we accepted this one, so now we're in the name collision section. The first "cannot live with" or recommended change in here is from Anne who suggests that we—I don't believe this is a replacement, this is additional text. Anne would like to add "The working group acknowledges that the name collision analysis project work in relation to board resolutions—and then you list the specific resolutions—is ongoing and that the board advised the working group and public comment on the SubPro initial report to work together with the NCAP on the topic of name collisions," and then there's a sentence in there about me and other members actively participating.

So this to me seems like it would be language that would go on the rationale as opposed to the implementation guidance. And I don't think it's necessary to mention me personally, but just to say some members of the working group are participating. But yeah, I would think this is more for a rationale.

Okay, so Paul says, "I'm a little concerned that as a matter of principle I don't know how we can gather consensus around a provision that many don't understand. Is there anyone on this call that feels like they really have a strong handle on IDN variants that could take a try at a paragraph or two on explanations, examples?"

We're going to look at whether there's a definition and put in some examples, if we can, in there. So hopefully, that will address it. Back to this, Anne, is it okay if we move this to the rationale for this one? So I think that that's a better solution here. So let's put that language in the rationale, except you don't need to mention me, but we can say that there are some participants, some working group members that are participants in the NCAP group. We don't even need to say the weekly conference calls or anything. But just to say that there's a name collision analysis project group, which I think we mentioned in the rationale anyway, and that some members are working in that group.

So Justine says, "And please use the correct name for entities referenced." Justine, is there a specific one that you're concerned about?

JUSTINE CHEW:

Thanks Jeff. Work together with the NCAP. Well, the NCAP is the name of the project, so we can't work together with the project. We have to work together with an entity that's handling the project. So that's what I meant. So, insofar as it should be NCAP DG or NCAP, or NCAP Admin Group or whatever, then just please use the right references. Thank you.

JEFF NEUMAN:

Yeah. Good call, Justine. So I think the discussion group is where is more appropriate, because that's the only place that we can participate. The admin group is populated by OCTO and SSAC members. Okay, so thank you, Justine, thank you, Anne. Let's go

to the next one. So this one is—actually, sorry, scroll up for a sec because it's proposed alternate text to this.

So this is a comment from Jim. What we say in the original language—before the addition from Anne—ICANN should develop a mechanism or test to determine the name collision risk for any given string. The working group suggests putting them into categories, high risk, aggravated risk, etc.

Jim has suggested alternate text for those lines, which states that the SSAC or NCAP should develop name collision risk criteria and the test to provide information to an applicant for any given string after the application window closes so that the applicant can determine if they should move forward with evaluation.

So a couple differences here. The first one is that instead of saying ICANN, Jim has proposed the SSAC or NCAP, and the other difference here is it's a more concise way to say what we have said here. I don't think there's much difference in substance from what we had, but it is a more concise way to say it. Jim, is there anything you want to add? And then I will read what Rubens has.

JIM PRENDERGAST:

Okay, great. So yeah, I went back and actually listened to the April 30th session that we had with Jim Galvin as sort of prep for going through this section, and that's sort of what is informing a couple of my comments.

During that session, I was struck by something that Anne said. I'm trying to reflect it here, and she had mentioned that we're sort of

setting ourselves up for almost a collision or a divergence from what Jim told us NCAP is going to do as far as providing criteria as opposed to lists. So that's where I was trying to go with this particular comment, to get us more in line with what [we were told] is going to happen.

To Rubens' comment, we can't make policy for other groups. We're not. We're not telling them that they must, we're telling them that they should. So it's our recommendation to those groups that they develop the collision risk criteria. In fact, Jim told us that's what they are going to do and they're going to provide that to the board and the board will then use that criteria to determine whether or not a certain string should move forward or not. That's sort of the background of where I come from on that one. Thanks.

JEFF NEUMAN:

Yeah. Thanks, Jim. You are correct that Jim stated that. I don't want to throw out the concept of developing a list completely, because I do think that there are certain strings that they will see that shouldn't be applied for at all. So I don't think we should throw out the concept of—because it does say “if possible to create that list.” But I agree with you on the notion that most likely, to the extent that NCAP or SSAC does further work on this, that there'll be more of a focus on criteria than purely on lists. I think Rubens says here that—and I think Rubens is right in this comment that we shouldn't really specify the who. We say ICANN, and I think that covers anyone that ICANN wants to delegate that work to. We can't necessarily—I don't think we should call out two groups as being the authority on that subject. I think we should probably leave it more general, if that makes sense. Kathy says if Jim

Galvin said the SSAC would not delegate, what can and cannot be delegated, that's key.

Jim was speaking during that call on his own behalf. And yes, he's the co-chair, but he was not speaking on behalf of the SSAC or even formally on behalf of the NCAP group. So I think it's obviously important to listen to Jim and to take what he said seriously, but we can't attribute Jim's comments to being official comments of the SSAC or the NCAP group.

So our original language talks about developing a test to determine the name collision risk for any given string. Jim's language changes that, and I think is a better way of saying it anyway, which is to determine criteria. But I don't want to throw out the whole concept of creating lists, because I do think there'll be some names that will be evident that shouldn't be applied for. So if there's a way to capture both of those, I think we should try to do that.

Let me go to Kathy and then to Jim.

KATHY KLEIMAN:

Thanks. I'm not an expert in this area, Jeff, but if the original text is talking about ICANN developing a mechanism—and then we're going to talk about a criteria—and that's being interpreted as ICANN Org, and really, it could be ICANN Org or SSAC, NCAP or other groups within the multi-stakeholder model that are developing some of these criteria. Shouldn't we be mentioning both of them? Thanks.

JEFF NEUMAN: We use ICANN here as not—when we mean ICANN Org, we usually say ICANN Org, [or at least] try to be consistent. When we say ICANN, it's generally the community as adopted by the community developed [inaudible] as adopted by the board. But if we want to say—so that's why we kept it sort of general like that. Yeah, we could say the ICANN community, which is fine. So we weren't specifically trying to say ICANN Org itself.

Jim, go ahead and then I'll catch up on the chat.

JIM PRENDERGAST: So on this concept of lists, I think it's important that we recall a discussion that focused—and for the life of me I cannot remember if it was during our discussion or one of the NCAP discussions, but if you publish a list, people will game it. What we didn't know in 2012, the data that we were getting was, for the most part, nonmanipulated. However, going forward, if you do create a list—and the criteria is out there, I think there is a challenge that opponents or fellow applicants for the same string may try and sabotage other applicants by manipulating some of the data that is collected to show problems with it. So this focus on lists, I think, is still a problem. I think we've got to focus on the criteria as opposed to the lists. Thanks.

JEFF NEUMAN: Yeah. Thanks, Jim. I think there's a concern of either lists or criteria being gamed. I know the NCAP certainly giving a lot of thought to that. But look, I think in either case, with the exception of mentioning the SSAC or NCAP in the first lines, I do think the

way you phrased it is much more concise and is probably better. But I want to double check to make sure that the group doesn't have an issue with the rest of that sentence that you have.

So basically, substituting the language we have with the more concise language that you have, substituting NCAP or SSAC, substituting the ICANN community. Does anyone have an issue if we do that? Like I said, I think Jim's language is much more concise and easier to understand. What it would mean would be the concept of the high, medium and low, putting things into categories might go away, but I think, again, to Jim's point, it's probably unrealistic to ask the NCAP or even the ICANN community to come up with a high, medium or low lists. So I do think at the end of the day, based on the input that Jim Galvin gave us and our Jim, Jim P's comment, I do think that this is a better way to state our concept.

Paul's asking what happens if they don't develop the criteria, is the round postponed? Well, this is implementation guidance, so it's "should," we're not saying that they must. Not going to address what will happen if they don't, because I don't think we can foresee what would or wouldn't happen if the NCAP is or is not done with its work or whatnot. I think there's divergent views within the community as to what should happen. But I don't think we should get in the middle of that debate right now. Anne, go ahead.

ANNE AIKMAN-SCALESE: Just a really quick question. Two questions. One is about, do we have in here the bit about developing a "do not apply" list? Because I recall that work in Work Track 4 that we're trying to

prevent a situation where people apply for names that they shouldn't apply for, and it turns out—

JEFF NEUMAN: Yeah. Sorry to interrupt, Anne, but if you scroll below that, although we are getting rid of the concept of developing a high, medium or low category, we do say in the next implementation guidance that to the extent possible, ICANN should identify high-risk strings in advance and that would constitute sort of a do-not-apply list. So yes, that's still in there, but the whole concept of medium and low and different categories, that would be taken out with Jim's language.

ANNE AIKMAN-SCALESE: Okay. Thank you. And then the second question—this is something I've put in the chat trying to, again, emphasize the collaboration that the board asked for, and I wonder if we could be saying in implementation guidance that the IRT should consider the recommendations of the SSAC to the ICANN board and the outcome of the NCAP work if available so as not to lose the reference that Jim had made and so as not to lose the reference that the board made when they asked us to collaborate.

JEFF NEUMAN: So when we were talking about that with the group, the group was concerned that saying something like that would indicate that this group was aligned on the notion of any future round would be dependent on the work of the NCAP and SSAC completing, when that is not something that commenters agreed on. Yes, there were

some groups that did feel that way, but there were some groups that felt that the process should go on.

So I don't mind in a rationale section to describe the collaboration efforts, but I don't think it's appropriate given the way the comments came in to have any dependencies in the implementation guidance itself to the work of other groups. I think that would go against some of the comments that we got. So I'm just reading the chat, sorry.

"This is policy, we either decide it now or we don't. Just remember the name collision framework deviated from SSAC advice." Look, I think with respect to name collision, there's work that's ongoing. And I will say that there's divergence within the community, or disagreement within the community as to the impact of the NCAP's work, or the dependency. And I think we can mention it in the rationale, but again, I don't think in the implementation guidance itself is the right way to reference it.

If we can go to the comment—I don't remember if this is Jim's comment or Anne's comment. Okay, this is Anne. So Anne would like to add—no, this is alternate, sorry. Anne is proposing to take the last two sentences that start with—it's only two sentences, I think. Okay, Anne would like to put in, "In the interest of predictability, ICANN should also seek to develop criteria for identifying aggravated risk strings in advance of the next application window opening."

Thanks, Steve, for highlighting that. So this is substitute. So we add the words "in the interest of predictability," then the sentence is the same up until where we say—we just use the words "in

advance” and we would use the words “in advance of the next application window opening and to publish such criteria in the applicant guidebook.”

So I think putting it in advance of the next application window opening would be consistent with what the group has discussed and agreed. So that’s fine. But the last part of that, “And to publish such criteria in the applicant guidebook” is a deviation from what we have.

I think when the group was discussing it, it was concerned that to the extent that there may not be criteria that are developed by the NCAP or that is developed by the NCAP. So to specify that it must be in the applicant guidebook or it must be published in the applicant guidebook is, again, creating that dependency, almost saying that the applicant guidebook couldn’t be published without the criteria, plus it also means that this criteria would have to be developed and finalized four to six months in advance of when the round opens up because that’s when we specify the applicant guidebook is to be published.

I think the first part of that is okay, putting “advance of the next application window opening,” but I think the second part, publishing it in the applicant guidebook represents a change. So I want to hear other thoughts on that. More specifically, Anne, why do you feel like this needs to be in the applicant guidebook as opposed to published prior to the application window opening.

ANNE AIKMAN-SCALESE: I think, Jeff, I again was trying to get at the whole issue of the cost of preparing an application which essentially could end up on a “do not apply.” I see what you're saying, that, hey, these criteria may not be developed until after the AGB is published. But then if you have a situation where somebody applies for a name that ultimately ICANN says, “Well, that’s a do not apply and you’ve already applied,” you’ve spent a lot of effort, time and money to do so. That was, I think, the reason that that concern was raised.

JEFF NEUMAN: But that’s why we have that it must be prior to the window opening, which I think is fine. But saying that it must be in the guidebook, I think, is a little bit limiting.

ANNE AIKMAN-SCALESE: Well, but you prepare your application during the time between the AGB being published and the window opening, and that’s when you do all the work. So u will have committed all your resources at the time of the window opening. You will have already done all the work. Right?

JEFF NEUMAN: Yeah, I think there also may be some work—again, the more things we specify must be in the applicant guidebook and offer no kind of discretion, the more we are going to kick this process out by a huge amount. And I just think—one of the things I got from when ICANN came in to the one session—I'm trying to remember whether it was in Kobe or Montréal or wherever it was, when we actually met, and ICANN staff said, “Look, we need some flexibility

in terms of ..." "Don't be too prescriptive" is what they asked. To the extent that you have to be prescriptive, do so, but to the extent that you can give some flexibility, they were asking very kindly for that flexibility.

And I understand why [it] would be ideal to have this in the guidebook, we're being a bit to prescriptive, I think. Because at the end of the day, my guess is that the "do not apply" ones are going to be known well in advance. It's really the criteria which, as Rubens says, if you think IDN variants is tough, think about collision criteria, which would be almost impossible for applicants to apply unless they have very skilled expertise.

Kathy, go ahead.

KATHY KLEIMAN:

So, Jeff, is there a compromise here where we say that ICANN, to the extent possible, ICANN should seek to identify high-risk strings in advance of opening the application submission period, and to the extent possible, put them in the applicant guidebook.

Harkening back to things we said earlier in the call, we're trying to attract small and new businesses and organizations to apply for gTLDs. So there's a tension. We don't want to bind ICANN's hands too much, but also, we want to give as much information and make it as clear as possible to groups that might not know there are supplemental lists and later published lists. So, can we modify this a little bit to encourage ICANN to come up with these high risk lists and "do not apply" lists as soon as possible so that

they can go in the applicant guidebooks? Before the rounds are announced and published and marketed.

JEFF NEUMAN: So let me ask the group. This is supposed to be the kind of “die in a ditch for” changes. Let me ask others to weigh in. Is this something that we think is of critical importance that we need to put language in. Jim.

JIM PRENDERGAST: I'm going to give you a firm non-answer. Sorry, Jeff. But the answer is I don't know. And I think that's going to be the answer to a lot of questions we're going to ask here, and the reason I say that is, yeah, having a list up front would be wonderful, but I'm coming back to the narrative that we heard, most likely on an NCAP call where they talked about how when you've got a list, it can be gamed and bad things can happen from that. So you've got to balance those against each other.

This may be one of those situations where we phone a friend and maybe reach out to the NCAP discussion group, and just get a quick piece of feedback from them on what they think is possible. Thanks.

JEFF NEUMAN: Well, also remember this is going out for public comment. So we're going to be reaching out. I think, gain, because of the reason, Jim, that you mentioned, I kind of want to leave this more

broad with more flexibility. Paul's saying "I don't like the 'die in a ditch' concept ahead of a consensus call."

I know you don't like it, Paul, but we've got to get to a point where this draft is in fact a draft final as opposed to keep revisiting issues. So that's the best analogy I could use. Anne, go ahead.

ANNE AIKMAN-SCALESE: I think that one of the problems that I had with the language as drafted is that it says that, "Should also seek to identify aggravated risk strings in advance which would be expected to require a specific name collision mitigation framework."

I like the fact that we're talking about "should seek to," because that makes it, as you say, it's more flexible and allows for dovetailing, which I've always been an advocate for dovetailing, but when we say "Would be expected to require a specific name collision mitigation framework," that telescopes a result in relation to aggravated risk strings because we don't know for sure that that will be the element that's required in relation to aggravated risk strings. So we're telescoping a result there that isn't necessarily the outcome.

JEFF NEUMAN: Yeah. So moving on to your next—so with that first sentence, I think "in advance of the next application window" is good. Then in your second sentence, you have "develop criteria for determining when an applicant for a collision string may be offered the opportunity to propose ..."

So what we say is ICANN should also seek to identify aggregated risk strings in advance, which would be expected to require a specific name collision framework. You have added in there that they should put in their application a name collision mitigation framework which is subject to public comment.

Again, I think that gets us more on the prescriptive, being too prescriptive, because we don't know if NCAP or SSAC or whoever is not only going to provide criteria but is going to dictate what the collision framework will be. And therefore, applicants won't have to come up with their own proposed collision mitigation framework because it may be provided to them.

So I think that's being a little bit too detailed in our implementation guidance. So, if it's all the same, from my perspective, Anne, I would not want to put in here that it's our implementation guidance that someone should have to propose a specific name collision framework.

It may very well be that that's where the NCAP comes out, but it also may very well be that the NCAP says this is how you must mitigate and therefore an applicant wouldn't have to propose a specific collision mitigation framework.

So I would suggest that we not put that in there, because it's almost predetermining an outcome. Certainly if the NCAP comes out and says that it could be different, I think at that point, that's when the IRT would then go back and perhaps seek to get clarification on this. Anne, go ahead.

ANNE AIKMAN-SCALESE: Jeff, I think in the way that you said it when you said predetermining an outcome, because the language is drafted, it should be “seek to identify aggravated risk strings in advance,” and whether the applicant will be permitted to propose a name collision mitigation framework, because you're talking about an aggravated string here. So the predetermined outcome that's implied by this language is that every aggravated string is going to be permitted to propose a specific collision mitigation framework. And that's a predetermined outcome, so it ought to be kind of whether ...

JEFF NEUMAN: Yeah, I see that. So we would say ICANN should seek to identify aggravated risk strings in advance and whether such strings would be expected to require ...

ANNE AIKMAN-SCALESE: Yes.

JEFF NEUMAN: Yeah, I think that's right. Steve, did you catch that? Yeah, there we go. And then the next part of Anne's comment, each applied for string should be screened for name collision risk in advance. So that part, I think that part doesn't belong now that we changed the previous paragraph to the criteria as opposed to high, aggravated or low risk.

ANNE AIKMAN-SCALESE: I think you're right.

JEFF NEUMAN:

Okay. So then if we move on, Jim is I think taking our language if we go up—so we say at the end of that, “However, all applied for strings should be subject to DNS stability evaluation to determine whether they represent these risks.” Jim is putting this in a separate implementation guidance. I think that’s the only change, but I think if we’ve gotten rid of the notion of high, aggravated or low, I think at the end, Jim, we can put that in a separate implementation guidance but then say, “To the extent possible, all applied for strings should be subject to DNS stability evaluation to determine whether ...” And then make the end of that sentence “Whether they represent a name collision risk.

So you would cross out our last sentence. I think Jim is saying that it should be a separate implementation guidance as well. But that’s fine. Oh, wait, sorry, Justine is saying it's not a separate IG. Was that from ...? All right, we’ll figure out where that belongs, but I think that language is fine to substitute for the language that we have above. Okay, Jim is okay with making it a separate one. So if we make it a separate one, I think it is a little bit different concept than the previous one, so I think it actually is clearer to have it separate.

Okay, remember, these documents are going to be available after the call. We’re trying to address the “die in a ditch” comments. That’s our goal here. Can we scroll down? The reason we’re drafting on the fly is to try and close out these issues, at least with those that had the comments. And then of course, anyone and

everyone should go back after the call and read it so it makes sense to them.

So this is added language in the section on the—this is added by Anne, or maybe Jim, but in either case I think it's good to add. It's in the rationale section, and it provides more context for quotes that we have above. So rather than read this, all it is is extending the language that we're putting in there to provide more context of what the author of that study mentioned. So I don't think there's any substantive changes in there for that part. Again, I'm not looking at the next paragraph, but just the highlighted paragraph right now.

Anne's saying "It's the exact quote." So I don't see any issue with putting that in. The next part says the working group has been advised by the co-chairs of the NCAP that some studies two and three may be useful. I'm not sure this commentary belongs in there, because again, they were not acting in any formal capacity. So I think we leave that out. Obviously, comments can be filed and the NCAP could respond and say that, but I think at this point, we shouldn't make direct references to what the co-chairs told us during that call. Because again, they were not acting in their official capacity. And the same thing goes with that footnote below.

So I would propose not having that in there. Well, Justine does make reference to study one final report. So I think it's fine, the language you had before that Anne has suggested is fine, and we do make reference to the NCAP report. It's this added sentence here which is the "being advised by the co-chairs." I think this

paragraph is not—and actually, yeah, the footnote itself other than the citation, I don't think is appropriate either.

I know we're getting close to the end of the call, but I want to make sure we cover all the name collision stuff. Can we scroll down a little bit? Okay, so that's the end. All right. I know that for those that may not be familiar with IDNs or variants and name collision stuff, this may seem very esoteric and niche, and perhaps dare I say boring to some of you, although I actually like it. But I appreciate everyone for hanging in there.

I do want to address Anne's comment. If you go back up to the footnote, 77 I think it was, we should have the citation of—actually, no, we would delete that whole footnote, because what work they will or will not be doing and all that other stuff I think is just, at this point, conjecture. So yeah, we will be deleting that 77.

Board resolution, Anne asks, "But we still link the board resolution." So the board resolution is linked in a couple different places, I believe. If it's not, we'll go in there and make sure that we do still have that reference. Justine's saying, "the way alternate text is being presented is confusing."

Justine, what can we do better? How can we present it better or a less confusing way? I'm asking now in advance of getting the comments from package five. Is there a way that you think might be less confusing?

JUSTINE CHEW:

Hi. No, just insofar as whether the alternate proposed text is supposed to replace a sentence or part of a paragraph in the

original text, that's the bit that's confusing, because it's not showcased that way, it's just added on to the existing paragraph. Do you know what I'm saying? So it's very hard for us to follow whether it's supposed to replace certain text or whether it's actually in addition to the existing text. That's all I have to say. Thanks.

JEFF NEUMAN:

Thanks, Justine. I think it is a little confusing. Emily has put in whether it replaces and what it replaces in the comment. But perhaps putting it somewhere with the text itself may stand out a little bit better. So we'll take that back. It's a good comment. We're always trying to figure out ways to do this better. So to the extent that we can do it better for package five, we'll see if we can do that. Thanks, Justine.

CHERYL LANGDON-ORR: Maybe side by side. We'll have to look at it.

JEFF NEUMAN:

Yeah, so we'll see what we can do for package five, although just recognize that package five is going to be a quick turnaround because the comments are just coming in today. So we're going to try to turn it around pretty quickly, but we'll see what we can do.

All right. Thanks everyone for hanging in there. I know this is not easy stuff for any of us, and I know this is in the weeds. But I appreciate you all hanging in there. And I think the next couple subjects, while not necessarily less difficult to solve, I don't think

are quite as complex in terms of technical details to understand. But that doesn't make them any easier to solve.

The next call is Thursday, June 18th at 20:00 UTC for 90 minutes. And please remember that everyone still has until 23:59 UTC to get their comments in for package five. Thank you, everyone, and I think if no one has anything additional to add, we can end the call. Thanks, everyone.

CHERYL LANGDON-ORR: Thanks, Jeff. Bye for now.

[END OF TRANSCRIPTION]