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**ICANN Transcription**

**New gTLD Subsequent Procedures PDP Working Group**

**Monday, 03 June 2019 at 2000 UTC**

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JULIE BISLAND:

Good morning, good afternoon, good evening, everyone, and welcome to the new gTLD subsequent procedures working group call on Monday, June 3rd 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, please let yourself be known now.

Okay, hearing no names, I would like to remind all participants to please state your name before speaking for transcription purposes and please keep your phones and microphones on mute when not

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speaking to avoid background noise. With this, I'll turn it back over to Jeff Neuman. You can begin, Jeff.

JEFF NEUMAN:

Thank you, Julie. Alright, welcome, everyone, and good to see we've got about a little over 20 participants. That's good. Just like the other calls, we're going to get into the next part of the agenda. And if anyone's got their phone that's not on mute, if you could put it on mute when not speaking, that would be great.

But let me ask, before we get into the heart of the agenda, if anyone has any amendments to their statement of interest. Okay, not hearing any, again, if we could mute the lines there. I see a phone with a 613 number, maybe we could put that on mute, that would be great.

Okay, so the two topics planned for today are to continue with the registry services provider preapproval program, and then getting into a conversation on the global public interest, which will be a narrowly defined subject, although the term "global public interest" is quite broad and could lead us down many paths that I am hoping we don't necessarily take, because with respect to new gTLDs, there's only certain things that we've actually looked at or should be looking at.

Before I go on, let me just ask that – someone has joined with a phone number ending in 998. If that person could identify themselves, that would be great. Okay, well, they've put themselves on mute, so that's good.

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Okay, so we'll try to find out. Oh, there was Olga. Or no, maybe not. Anyway, so if we go right now to view the – actually, I think the only option at this point is to view Julie's screen. Is that right? There we go. Okay, Steve's screen is coming up.

This is where we left off on the registry services preapproval program, formally called [pre- or] accreditation of service providers. We're now calling it preapproval program, and so just we discussed that on the last call.

So we left off on really just going – if you scroll down on that page, we talked about the high-level agreements, and we had left off finishing – scroll down a little bit more there – talking about on the outstanding items.

The first outstanding item, I think, we resolved, which is just using the term “preapproval.” So I think we're [inaudible]. Mute, please. Okay, I think we resolved that. Good. So we are now on the general considerations for the program. Sorry, did anyone have their hand raised? Did I miss anything? No? Okay.

So the first item for consideration came from the GAC, and it was a comment that they had made that said that the preapproval program should consider security threats and use tools such as DAAR to identify potential security risks for application.

I've put my own question in there simply because I understand the comment to mean essentially that if there's any security threats, we probably should not preapprove that application, but the connection between DAAR was a little confusing to me, because DAAR looks at current activity that's already going on within a

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particular string, and not the likelihood of security threats for the future. So it didn't make sense to me to use DAAR, but I don't know if there's anyone on this call that might have any insight into that, or is that just a general comment really just to make sure that any RSP, registry service provider that's preapproved, security should continue to be a criteria as it is currently for all applications for new TLDs.

Jim is saying in the chat, "Wonder if it relates to future applications by current operator." It's possible, but that, as Donna says, is a registry operator issue rather than an RSP issue. In some instances, the registry service provider may be the same, but that's not always the case, or in a lot of cases, it's not always the same.

So I think unless there's some additional insight – Kavouss has his hand raised. Kavouss, please.

KAVOUSS ARASTEH:

[inaudible] problem with this text from GAC, but I'm not aware who have drafted that and how it came to you. We have [always this] problem. Text coming from GAC, to you, to board and so on and so forth, when they ask questions no one's going to answer. So I think the author of this, whoever it might be – I don't want to guess, I know who is that, but should attend the call and reply to the questions. Once again, the question is valid, but the inquiry that you have made or question you have made, I am not in a position to reply to that. So you may ask that whether anyone else in the call from the GAC, apart from me, [according to the] list of participants, who else is there and whether that person is aware of

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that. Usually, Jorge is attending, and I don't know who else. So, could you kindly, or secretariat tell me kindly, who else from the GAC attending and whether they would be in a position to reply to your legitimate question? While we don't disagree with the concept proposal, but we want to have clarification. Thank you.

JEFF NEUMAN: Thanks, Kavouss. I don't believe I see anyone from the GAC on this list that's here, so I think your proposal –

CHERYL LANGDON-ORR: We've got Canada. Canada is here for example. But if we're going to ask a clarifying question, then that can go to the GAC secretariat, and GAC can deal with it in a proper manner. This question, as I understood it, Jeff, was for us to discuss, and then if we are in agreement, we can make it a clarifying question. And Jim has certainly suggested that it might be a valid clarifying question. I'm assuming Kavouss would support that.

So if it is a clarifying question, then ask staff, reach out to the staff that support GAC, and we ask that question, and they'll deal with it formally. I think that's, from my perspective at least, the smart way forward. But yes, you do have other people from the GAC world here. And Kavouss, I'm hopeful that Julie or someone from staff can work with you to help you get the participants pod up so you can see who is in the room as well. Thank you.

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JEFF NEUMAN:

Thanks, Cheryl. I think that's helpful, and I do agree with you and with Jim on let's get a clarifying question on there to see if there were some things specifically in mind with DAAR that triggered the comment.

The registrars on the next comment had made a statement which they made similarly to – in the technical evaluation section, which is much later in the comments or in the topics, which is essentially that they should take into consideration interoperability with ICANN-accredited registrars, and there should be additional standardization of certain operational requirements.

So during the GDD summit in Bangkok a few weeks ago, I wanted to get some clarification from the registrars on this comment to see if there was some more explanation of first whether it just referred to this program or whether it was a general comment, and what I got back from the registrars from the drafters of the comment as well as those in present was that it really was intended for general technical evaluation, no matter when it's done, whether part of preapproval and/or part of the regular application period. And it was the hopes that certain functions could be standardized amongst open top-level domains, things, very minute details in a number of cases – I shouldn't say minute because that makes it seem small, but very specific details with respect to certain functions like billing, maintenance notices, other types of very specialized technical features that are not standardized currently. They were hoping that a group that's set up right now that discusses some of these interoperability issues could be discussed by what's called a registrations operations group within the contracted parties house to just start the

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conversations there to the extent that anything ends up – any recommendations, they would obviously put that out for comment and go through a process, but this really was not intended just for the RSP preapproval program, but was a general comment towards the evaluation process.

So, long of the short is that there's nothing specifically from this comment that would apply to the preapproval program that we would need to discuss at the moment. Any questions on that? Okay, there's still some discussion about DAAR, so I think it's being answered on the chat, which is great. So I'll move on unless someone wants to ask a question.

Okay, then the next comment we got was from the Noncommercial Stakeholder Group. This was an idea that states that the preapproval program should be clear and transparent, NCSG supports cataloging receipts of – I think what they meant is complaints or – not receipts, but basically complaints or SLA violations or compliance actions against RSPs, any investigations and responses taken to those complaints, and a process for rejecting approved RSPs.

So if someone has been preapproved, it was an idea of consequences that may justify removing an RSP from the preapproval list.

I don't know, does anyone have thoughts on this new idea? Currently right now, there's no kind of cataloging of actions or complaints against RPSs. In fact, there is not even a cataloging of complaints against registry operators to my knowledge, unless

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that results in a compliance action which ultimately results in a breach.

So this is something that doesn't really apply at this point. Well, Jim says there may be cataloging [at] ICANN but they're not being made public. Fair enough. Right, sure, there's cataloging from the person who files it, there's, I'm sure, cataloging by the registry for which it's filed against. But yeah, there's no public cataloging of it.

So I think this is kind of a broader subject. Also, generally, compliance actions are – and the comment I put in there is that compliance actions are against a registry operator. They're not against RSPs, at least up until this point.

Paul says, "Would a public complaint log be helpful? Not all complaints have a basis." Paul, I think that's certainly true. Does anyone want to discuss this issue further? So again, this is a new idea presented by the Noncommercial Stakeholder Group, but is there an appetite within this group to discuss this comment further?

DONNA AUSTIN: Jeff, I have my hand up.

KATHY KLEIMAN: And so does Kathy.

JEFF NEUMAN: Oh, good. Yes, sorry, I didn't scroll up. Donna and then Kathy. Thank you.



DONNA AUSTIN: Thanks, Jeff. One of my reservations with this is that RSPs are third-party providers to the registry operator. They don't have a contract with ICANN, so I don't see how you could have a public ally cataloged list that's being suggested by the NCSG.

If there's an RSP that is a new entrant and they don't meet the standards that are identified within the preapproval process and they don't go any further, I guess there is a possibility that they could [inaudible] for business even though they haven't met the requirements of the preapproval process, so a registry operator could submit an application with somebody listed as an RSP, but if they haven't been approved through the preapproval process, they are still going to have to go through the application process proper anyway.

So I'm not sure that there's any value in what's being suggested here. Thanks.

JEFF NEUMAN: Okay. Thanks, Donna. Kathy, please.

KATHY KLEIMAN: Hi, everybody. So this seems to be kind of the most natural thing in the world, that if we're going to have an RSP preapproval process, we have to have the flipside, which is to let people know if something is no longer approved or likely to no longer be approved.

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What we're talking about here is a set – and correct me if I'm wrong, Jeff – of advantages that you get for being on the RSP preapproval list, including we're going to reduce evaluation and testing. These are really companies holding themselves out, including to the community and to the global south, as being reliable backends. And if that's not the case, we should know.

So once we put them on the list, it doesn't mean that they're there forever. There has to be a process for taking them off, and for knowing that something's being taken off.

So let's say you have an RSP – let's talk about how does one deapprove an RSP, especially, let's say the RSP is serving a lot of registries. And then how do you let the community know? let's say it's just a few weeks before applications are due in the new round. How would the community know – especially those who are in the process of contracting with an RSP – that for whatever reason, ICANN has determined that they no longer meet the requirements of the approval process?

Thanks, Jeff. I think we have to kind of answer the question, because it's not enough just to be approved. Thanks.

JEFF NEUMAN:

Okay. Thanks, Kathy. I want to take your comment and divide it into two discrete issues, although maybe it's more than that. But the first issue is on the public cataloging of complaints. I'm going to put that one to the side right now, because I think the second issue is, once you're on a preapproved list, is there a way to get off, or is there a way to be removed from that list for whatever

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activities? We can go into that later. And if so, how is that communicated?

I think if we can remove the first part of the question, which is the public cataloging of complaints, and really make it just about – which I don't hear that there's a huge amount of support to go into, but then focus on that second question of, should there be – and this is an outstanding question a little bit later on anyway – a mechanism for the removal of a preapproved registry? And then what is the impact of that?

The first thing I would just note – and I see Paul in the queue – is that, of course, if someone does something to violate their SLAs, then as Donna said, because there are registry operators that are under contract, or will be presumably under contract [inaudible]

Please mute the phone there. If there are registrar RSPs [and preapproved] that are serving registries, chances are there's going to be compliance actions anyway, and we're talking about something very different than being on the preapproved list, although it could be related.

So the question really then is, if someone's on the preapproved list, but for whatever reason does something to become removed, then how are they removed from the list, and how is that communicated?

So let me go to Paul, please.

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PAUL MCGRADY: I guess my concern is that if we're going to talk about a mechanism to get somebody off the preapproved list, that we draw a little box around that first. And specifically, I have a lot of concern about the idea of someone coming off the preapproved list and that working some sort of cancellation of their ability to function within the ICANN environment, essentially opening up a backend provider to central attack to [undo contracts] which could have effects not only in relationship to whichever registry whomever is complaining is worried about, but for other registries that rely on that backend provider.

So Jeff, I mirror your language that we need to understand what's the point of the unapproval process, what's the impact, how far do people intend to take such a thing. Maybe instead of an approval or disapproval, there's some other mechanism, three stars, five stars, I don't know.

But the idea if central attack which could affect dozens of registries that are otherwise unrelated or uninvolved in whatever the kerfuffle is, that to me seems pretty scary. Thanks.

JEFF NEUMAN: Thanks, Paul. Let me get Kavouss, and then I'll propose a potential way forward. So Kavouss, please.

KAVOUSS ARASTEH: Yes, Jeff. I have two options to deal with all of these questions or comments. First option, when the question either is not clear or we don't know how to implement that, that means the implementation

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way or guide on how to implement that is not given, we ask clarification of the author of the question. This is option one.

Option two, should we not like to take that path, a group – that means we – indicate that our understanding of the question is this, and based on that, we comment and conclude on that. [inaudible] part of the question cannot be implemented is not valid, [inaudible] not implementable, and the other part could be done provided that we dropped public catalog and so on and so forth.

So, these are the two options, Jeff, for all the questions now and in future, because if we want to spend time that there is no one from the author of the question to describe what they mean by that, we spend time to give our interpretation. So, can you kindly [opt to call one] of the options the first option as I mentioned, to say that we need clarification and we park the question? The second option, we give our understanding of the question, and the way that could be implemented, and then we comment on that.

Could you kindly consider this, any of these approaches? Thank you.

JEFF NEUMAN:

Okay. Thanks, Kavouss. Without getting too much into that, I think with the GAC comment, that was one that we're seeking clarification. I think with this one, we understand the comment, so it's not a question of interpretation. It's separating out two concepts that are derived from the comment, the first one being on a preapproval removal – did not mean to make that rhyme –

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and the second one is on a public cataloging of actions against RSPs.

I'm putting that first one aside for the moment to focus on the second one. And I think Donna has sort of posted, I think that was kind of where I was sort of going with this, is that the only thing that preapproval gets an applicant or even the RSP is that they don't have to be reviewed during the application period.

So if a preapproval is removed or someone no longer is preapproved, the only real impact would be that they would need to be evaluated during the application process. It would not extend – or should not extend – into the compliance or anything like that, because as Donna said, if there's some sort of violation of a registry services provider and it causes an existing registry provider to breach its SLAs or to breach the agreement in some sort of way, there are consequences for that.

So I think what we're really talking about here is if someone is removed from the preapproval list, the only impact would be – or a few impacts. One is they're not included on the list, and number two is that it would not be an automatic approval if an applicant applies using them as the backend, it would result in the backend having to be approved with the application.

Those are the real impacts of it. Anything else, I think, is beyond the scope of this program.

So I think Donna and I are kind of saying the same thing. Donna, let me know if I am misstating that in some way. Greg and then Kathy.

GREG SHATAN:

Thanks. Jeff, that was a very helpful intervention by you, and really kind of went to a lot of what I was thinking about, which is that I think we're thinking about far too much in terms of this program. This is not something where all of a sudden, these are going to be kind of constantly monitored, and basically become some sort of quasi contracted party with ICANN.

The preapproval is limited, basically meant to avoid the wasting of time in the application process, and the idea that there's going to be some sort of compliance and that there would be some sort of consequences if you fell off the preapproval list, I think, as you said, once the application's already gone through, at some point, the fact that you've been un-preapproved would be irrelevant, and irrelevant to your continuing offer of services to your customers. It would seem to me that it would not be that powerful. This is not about an approval to be like an approved vendor, and that if you fall off the list, you can no longer be an RSP. It's really just to skip a step in the application process, because you've already been through that step often enough, or whatever the threshold would be, that there's no point in doing it again. At most, there might be some sort of checkup to make sure the companies aren't somehow completely falling apart in things that would be picked up in the approval process. But I think the idea that this is going to become some sort of consumers' reports, or even worse, some sort of commission for the governance of RSPs, I think, is taking the whole idea way beyond where the idea, I think, should go. Thanks.

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JEFF NEUMAN:

Thanks, Greg. I think that sounds like – and Donna just posted, she agrees that it's really just the purpose of this is not – and it goes back to something Kathy said, and then I'll let Kathy weigh in. Kathy said the benefit that we're giving is for the RSP, but actually, the benefit we're giving is really for the applicants themselves so that the applicants, A, don't have to be at risk when they put their application in, and B, they don't have to pay for the technical evaluation of a backend operator that's already paid for its own evaluation, essentially.

So that's really the main justifications if we go back to the beginning as to why we were establishing this. So I think Greg and Donna, your comments are in line with that. I'll go to Kathy, and then I see a question from Justine.

KATHY KLEIMAN:

Okay. The RSP is, as you've just said, Jeff, an applicant seal of approval. Not an applicant seal, a backend seal of approval. It's coming in from ICANN, there'll be a list. People will know, it'll be promoted, it will be marketed.

So presumably, an RSP can be representing a thousand, or thousands of industry operators. So if an RSP becomes unapproved – and I'd still love to know what that process is, if Donna could shed light on that, or anyone else. If an RSP is unapproved for one registry operator, that should wave a flag for the other registry operators.

Now, of course, it should be in the registry operator contracts, but if we have young registry operators, the kind of diversity that we



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want, they may be relying on this preapproval list. So what do we do as a minimum if we're taking an RSP of the preapproval list? You should notify all the registry operators that have used that RSP and relied on that, and there should be – and of course, the marketing, the registry can no longer market that it is preapproved.

We've got to go through some kind of process to take them down if we're going to put that up and people are going to rely on the existence of this RSP and this preapproval process. It's basic – We're not creating a Consumer Reports, but there's got to be kind of a clear way. If we're going to create it, we have to have a clear way to take them off. Thanks, Jeff.

JEFF NEUMAN: Thanks, Kathy. I see Greg and Kathy's hands still up. I'm going to assume those are old. I'm going to go to Donna, and then Greg, if you're back in the queue, just let me know.

DONNA AUSTIN: Thanks, Jeff. So Kathy, as it currently stands, I don't think there is such a concept of an unapproved RSP. It's not something that I've heard of. What we have seen in recent times is that there's some movement within the market as it relates to RSPs. But while we had some discussion last week about statistics that ICANN were providing and the possibility of EBERO breaches, when we talk about RSPs, and whether they've become unapproved or not, that pretty much becomes a business proposition, I think a commercial business proposition.

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So I don't know that there is such a concept at the moment, and I don't know how you would actually – as we said, this preapproval program, all it is is that it's a, “Yes, you've answered a number of technical questions and gone through some kind of evaluation to see that what you've had in response to the technical questions, you can actually fulfill that with some kind of virtual exam,” but I don't even know – Jeff's right, it's not a certification or anything, it just means that you've undertaken this test and you qualify to [inaudible] business, I suppose, in a new gTLD program. But I don't know that it's any kind of certification that somebody could be deaccredited or something like that. Sorry, I got a little bit convoluted there at the end, Jeff.

JEFF NEUMAN:

Thanks, Donna. The only thing I would add, because Kathy said in her comment just now, it's a certification. Kathy, it's not a certification. It's just saying that the registry has passed the test at a point in time earlier than when the application period is so that if someone puts them down as the backend operator, they don't have to then go through yet another technical evaluation.

It's no different than if today – or let's put ourselves back in 2012. In 2012, if a registry services provider, through the registry operator – because it would be part of that application – passed the evaluation, nothing would happen later on to that application for the string if the registry services provider breached another agreement or did something that, had the evaluators known that bit of information, may not have passed the evaluation.

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There is no process to deal with that, except through the pre-delegation testing, going into the root, and of course, after the fact, through a compliance process.

So what we're saying here is that the only thing this preapproval program is, the only thing, is that it is saying, "Check, yes, you've passed the test prior to the application period starting, and therefore if somebody picks you, we don't have to do a technical evaluation." That's it. Nothing more, nothing less.

So I think we really need to just kind of think of it in those terms, and then you can think of the consequences that would naturally flow from that if someone's taken off the list. If someone's taken off the list it doesn't affect the applications that have already gone through. All it affects are future applications which want to use that operator. Thanks. Let me go to Greg, Jamie, Kathy.

GREG SHATAN:

Thanks. I think there are some issues here, for instance how long does a pre-evaluation – I'm going to call it a pre-evaluation rather than a preapproval just because preapproval seems to excite people too much – does it last for a year? Does it last for 100 applications?

And again, I think as you said, Jeff, this is just with regard to kind of reusing that evaluation so that you don't have to go through the evaluation process again seems to me it should not be perpetual, because too much can change over that period of time, perpetuity, that is, but that it should last for some period of time, and maybe there should be some sort of a checkup process just to make sure

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that essentially you're not assuming too much by not going through the technical evaluation process. But I think the idea that this is going to be some sort of seal of approval or creates a certification, it's just a matter of not having to go through kind of the inspection every time in a way that was clearly redundant, essentially, make work, because maybe there needs to be some sort of change, either some sort of a self-supporting change requirement that if there's some massive change in how you do business, then you need to say so. That might void the evaluation, but basically, assuming it's business as usual, it should last for a period of time and then get reevaluated and last again for a period of time just so you don't have to reinvent the wheel every time. Thanks.

JEFF NEUMAN:

Yeah. Thanks, Greg. I see Jamie, Kathy, and then there are some points in the chat, so I will cover those. But let me go to Jamie, then Kathy.

JAMIE BAXTER:

Just a point of clarification, because I hear one of the benefits being spoken about for the applicant is that they can avoid the cost of going through the evaluation. Is there a protection in place for the applicant that avoids them having to pay for that evaluation should the RSP come into problem going into their evaluation? I just want to make sure I understand that so that if you align, if you're marketed by a backend as somebody who's already pre-approved, which to the applicant says, "Okay, now I don't have to pay for an evaluation," and then later there becomes a problem,

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how is the applicant protected or how does that play out? If you could just kind of explain that, I'd appreciate it. Thanks.

JEFF NEUMAN: Thanks, I've written down that question. Let me go to Kathy, and then I'll go to the chat ones, and then give some thoughts of what we say in the initial report and potential paths forward. Kathy, please.

KATHY KLEIMAN: Okay. Actually, Jeff, I'm going to go ahead and read some of the questions in here. and also, I did want to say preapproval program is what's been approved. It appears to be the term that we're using. So I think we have to use it.

That said, Greg raised some really good issues, as did Jamie. So I'll repeat them. What is the protection for the applicant? And of course this is going to be marketed. But let me read.

So Jim said, "If a preapproved RSP starts to display performance issues that lead to EBERO-triggering events that we spent a lot of time talking about in the last call, should they still be considered preapproved? That's a really good question. And Anne's question was, does RSP preapproval apply regardless of the services to be provided in connection with a particular application, or is the ability to meet the needs related to proposed new services part of the evaluation even if the RSP is preapproved.

So going back to the protection for the applicant, it seems a simple question. If we're going to create a preapproval list, how do

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you take an RSP off the list? How do you provide notice to those who – because they're going to be taken off the list because of some technical or operational problem, right? How do you provide notice to all of the applicants, presumably now registry operators who are using them, and some kind of notice to the public or how quickly do you get them off the list so that other people don't rely on them for upcoming applications, or know that if they do rely on them, the costs are going to be different.

But basically, RSP – let's think about it – could in the future represent thousands of applicants and registry and then future registry operators. So it seems if we're going to create something that does give them a stamp of approval, we have to provide some kind of communication when they no longer are deserving of it. Thanks.

JEFF NEUMAN:

Okay. Thanks, Kathy. So let's go through these one at a time. First, on Greg's question or comment that there should be a term that this should be good for. I think that's a great question, I think that's something we should talk about. That is one of the outstanding issues. So I'd love to hear thoughts as to whether it's an end time thing or it's a round thing. That would be great to resolve.

The notion of what are they approved for, in the initial report, it said that the registry services provider would be preapproved for the main registry services, which includes the critical services, and each of the things that the evaluation was for. If there are new registry services that are being proposed, then obviously there

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would have to be some evaluation at some later point during the application process if a registry wants to propose something new. So it's not preapproving for everything, it's just preapproving for the basic core functions of the registry. That was what's in the initial report.

In terms of the applicant, again, this is up for group discussion. One of the solutions could be that if the applicant picked a registry services provider that was subsequently taken off the list but prior to their application being reviewed, then we could set a rule that says that the applicant could have a period of time in which to pick another preapproved operator, and/or could then have the backend operator resubmit an action for approval at that point in time with the application. It could be a choice of things to do.

Jim's question on the EBERO goes to the notion of what does it take to get someone off the list, and that's, again, a topic that we should be coming to some conclusion on, but we have not yet.

So those are kind of the thoughts I have. Let me scroll down in the chat because I'm still up at the top here. Let's see, we have – okay, read the comments. The registry operator would have to do some due diligence. Again, but I think we could solve that protection for the applicant by saying if for whatever reason, they were removed from the list, perhaps offering the applicant an opportunity to change out providers within a period of time might help.

Sarah says, "Jeff, are you suggesting that RSPs who are preapproved are prohibited from pricing their own services?" No, I don't think I said that. If I did, I didn't mean to. But I'd be curious as

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to why that was a question or what I said that made you think of that. it was not intended.

Let's see. Okay, Jamie agrees with the proposed protection to the applicant. Did I miss anything from the list? Donna, please.

DONNA AUSTIN:

Thanks, Jeff. I'm a little bit concerned about this concept of removing someone from preapproval, because I'm not sure what process that would have to go through. And I think it comes back to what Greg might have been saying about the timing.

So I think, does it make sense that the preapproval holds until the completion of the application and the evaluation process? And then from then on, the registry operator is responsible for meeting technical requirements.

But I think we need to put a timeline or a timing around this preapproval, and it only holds until the application and evaluation process is complete, because I don't see how you can take away a preapproval once TLDs are delegated. I really don't know how that works.

So I think if we can put a time frame around it or at least identify the point where the preapproval is no longer an issue, that might be helpful. Because I really don't see how you remove preapproval, because I just see this process as a yes or no thing.

And if we go back to Greg's earlier intervention and think about what the purpose of this approval was supposed to be, then I think that's important to the conversation too. Thanks.



JEFF NEUMAN:

Thanks, Donna. Those were the two options. There might be more than two, but the two options I think we should think about are your intervention, which is, are you on there for a period of time or for the round, let's say, and that's it, everything else is taken care of at a later point in time? Or should there be a process for removing someone from the list?

I don't think we've come up with any definitive answer to that question, or certainly nothing that the whole group has agreed upon. So let me go to Jim and see if I could sum up some of this.

JIM PREDNERGAST:

Yeah. Thanks, Jeff. Just following on Donna's previous intervention, I guess the question that stands out in my mind is, yeah, I can see the preapproval lasting for a round, but this group has talked for a long time about possibly moving to a steady state period where you apply for a TLD similar to how you apply for registrar accreditation.

So we do need to be thinking about if you're on that list, how do you actually take somebody off because of some failures that do occur? ICANN, I don't think, wants to be in a position of saying somebody is preapproved when they know full well that that there are either compliance issues or there are performance issues.

So there needs to be some sort of mechanism that addresses that going forward. Thanks.

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JEFF NEUMAN:

Thanks, Jim. So let me see if I could summarize where I think we are, and then please weigh in if I'm not stating this correctly. So we seem to have agreement within the group that there should be a preapproval process, and that it should be called a preapproval process as opposed to any kind of accreditation or certification, or anything like that.

We seem to have agreement that if an applicant applies for a string and they agree to use a preapproved registry services provider, let's assume right now that the RSP is still on the list at the time the application is evaluated, that the applicant then would not have to have a technical evaluation for the core registry services for which their RSP has been preapproved. We seem to have agreement that if the registry proposes any services that are beyond what has been preapproved, that there will have to be a technical, security, etc., evaluation of those additional services.

We seem to have an agreement that if a registry service provider – we don't quite yet have agreement that there should be a way to remove someone from the preapproval list, but it sounds like there's agreement that a registry services provider should only be preapproved for a fixed period of time, and then should have some process to either be re-preapproved, or some sort of check-in, I think, as Greg said.

There seems to be some sort of support that if a registry services provider is removed from the preapproval list because there is a removal process, that an applicant shouldn't be punished for that removal and that the applicant should be afforded an opportunity to pick another preapproved RSP or to propose its own.

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So it seems like we have agreement on a number of things. Now, what we still need to talk about is how long should that period of time be that they should be preapproved for. We should be discussing then what, if anything, should be triggering event to remove them from the preapproved list. And I think those are the two main ones from this discussion, but let me go to Martin and Jim.

MARTIN SUTTON.

Thanks, Jeff. Just thinking about whether or not an RSP is on a preapproved list or not, I think the process would be very similar in terms of those where there were subsequent failures determined. And I'm thinking this from the registry operators point of view. If they if they've chosen somebody that's on a preapproved list, there'll be monitoring anyway for any prior delegated registry operators that use the same RSP. So if anything suddenly starts to stand out as a problem, they will be very cautious then to think about changing.

Similarly, if they're not on a preapproved list, they'll still be monitoring for anybody else that's going prior to them through the delegation process, and if things fail, they'll be quick to respond and think about changing to an alternative.

So I do think that we're trying to build in too many complications on what this should be, which is a simple matter of, at a point in time, this registry service provider has passed, has qualified against a set criteria or set standard of questions that have been evaluated, and if we determine a period that it'll last for, it stands for this period of time.

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But there will still be that due diligence required, that monitoring by the registry operator to make sure that that is continuing. And if things do fail, is the problem that the evaluation wasn't appropriate enough and needs to be amended, or is it something different that's occurred in the process that wouldn't have been picked up through the evaluation process to begin with?

Either way, something could be worked back into the future evaluation process. So I think there's going to be some learning mechanisms in there. We can build in some process and periods that it'd last for. Let's try not to overcomplicate it. Thanks.

JEFF NEUMAN: Thanks, Martin. Jim.

JIM PRENDERGAST: Thanks, Jeff. I would add probably one more I think there's agreement on, and that was we had a discussion about this last week on the call and then we moved it to the list about the need for more information from ICANN specifically related to the EBERO-triggering incidents, the data that I referenced and others have talked about in the past. It was only current through some point in 2017, so there's a two-year gap since then. So I think Steve and others had suggested that it'd be good to – and myself suggest – try and get a refresh on that data from ICANN.

And then Donna [did raise] also on the e-mail chat that during the GDD summit, Christine Willett had referenced that there were some significant issues that she had raised about folks not being able to pass or having issues with the pre-delegation testing,

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which I think caught a lot of us by surprise. So just getting a little more clarity and information from Christine around the extent of those issues and what they were related to, I think, might be helpful as part of these ongoing discussions. Thanks.

JEFF NEUMAN:

Yeah. Thanks, Jim, and thanks for bringing that up. I think, yes, we need to see if we can get a refresh on that data, and I think that that data, along with Christine's comments and others, I think are very relevant to the whole notion of what's in the technical evaluation regardless of whether it's done on pre-application period or done during the application period. I think that the notion of the same where we talked about last week which [we seemed agreement to] is that the evaluation of [inaudible] during the pre-approval period should be the same evaluation that is done during the regular approval period. So I think that that's a general discussion that's equally applicable to both of those time periods. So yes, thanks for the reminder on the action item. We'll make sure we'll follow up on it this week to see if we can get some more data on that.

Donna, please.

DONNA AUSTIN:

Thanks, Jeff. I'm starting to get really concerned that we're actually going back down the path of accreditation, which is something that we took pains to avoid when we first started talking about this.

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This might be pedantic, and I think Martin picked up on this, Greg as well. This was supposed to provide some efficiencies to the evaluation process. I don't think it was ever intended that there would be a published list of preapproved RSPs. It was simply that if somebody was looking to be an RSP, they could undertake the requisite – respond to the technical questions, do the evaluation, and if they meet the criteria, that is likely to come back in the application itself.

So I'm concerned that if we're talking about this and the removing approval, then we're talking about accreditation again. And if that's the case, then I have serious concerns about where this conversation is headed. Thanks, Jeff.

JEFF NEUMAN:

Okay. Thanks, Donna. I think I was with you for most of your comment, up until the end about lists. I think it was always intended to have ICANN publish a list of those that had passed the preapproval, because otherwise, how would applicants know whether someone was preapproved or not. But everything else you said about it's never meant to be accreditation, I think that's 100% in line with what was said in the initial report.

The only difference, I think, was the concept of it being known to applicants whether an entity was preapproved or not. So I don't know if you want to jump in with another comment on that. Is it really the list that was the problem, or more everything else tied around it?

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DONNA AUSTIN:

Thanks, Jeff. I'm just getting – I don't think I had a problem with the list until we started talking about how to take people off the list, because the intention of the list now, if we're talking about how to take people off it, is that it has some kind of greater value than was originally intended.

So I really do have concerns that we are going down the path of providing – we're going back to the accreditation discussion, which we spent a lot of time being careful about our language and sensitive to what that means.

RSPs do not have a contractual relationship with ICANN, so ICANN really is limited in what it can do in respect to any sanctions on that part. So I'm just very nervous that we're getting back into accreditation discussion.

JEFF NEUMAN:

Okay. Thanks, Donna. I think if it were one round and all we said is we're going to do one round and you're preapproved for that round and then that's it, and everything, you pack your bag and go home and that's it, that would be one thing.

I think the fact that when you throw in a steady state of having multiple rounds, especially being at a – then the question is, do you need to be preapproved before each round, or can we make it a time period regardless of when the rounds occur? In which case then entities may be no longer on the list. I won't even say removed, but no longer on the list. If you say you're preapproved, like Greg says in his comments, you're preapproved because the technical evaluation passed X months ago.

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Although I would ask people to really think about the time period, because ICANN took how many years to do the technical evaluations the last time? So we need to balance that out.

But at the end of the day, because the proposal is what we've been discussing [out of rounds] is a steady state, we need to have ways of either making everyone do it all over again prior to the start of each round, or having a fixed time period in which they need to then have another opportunity to start a list completely over again, or whatever it is.

So that's something that we need to have a process for. But I don't think we're getting into the realm of making it an accreditation, simply because we have to take into consideration multiple rounds as opposed to just one. Let me go to Jim, Jamie, and then Martin, I see, has commented on the chat. Jamie, are you there?

JAMIE BAXTER:

Yeah. Sorry, I was waiting for Jim. I agree with Donna, and it's important to reiterate that this discussion started because of looking for efficiencies and cost savings. But as the conversation evolves, it turns, from my perspective anyway, into a marketing opportunity for those who are on the list, and your concerns, I think, resonate, Jeff, that if this is done once, it makes sense. But just like graduating from medical school, you don't just graduate once and then you can practice without having to take some refresher courses along the way as medicine changes.



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So I don't know what the solution is, but it's part of the reason why I raise my voice for those who need the protection from this, because it could be used as a marketing tool to attract or to keep others out of the market in way that we may not even realize yet. So having to maintain or to reevaluate or whatever it is certainly seems like a much fair method going forward. But let's not fool ourselves and not think that this is in fact a marketing tool for RPSs going forward. Thanks.

JEFF NEUMAN:

Yeah. Thanks, Jamie. No doubt, it can be used as a marketing tool, but it could also be used as a tool for new entrants to get into the market and to let applicants know that they have passed the preapproval, which is something applicants didn't necessarily know prior to the 2012 round. I mean, they made assumptions that existing ones would likely be approved going forward, but none of them ever knew for certain that their chosen backend RSP would have been approved.

So let me go to a couple questions from the chat. Steady state, Anne, is not defined as first come first serve. Steady state is just that, it's a state in which there are applications, either in Windows or in some process, by which there are not periods of indeterminate gaps in-between. It's a steady state where the program runs on its own, and it doesn't need – except for when the GNSO and others want to intervene to change things [through] whatever processes they have now. But it's not a start, stop, wait ten years, start, stop. It's a steady state, whatever that is, in the future. But that's not necessarily first come first serve. It can be, but that's not what the group has decided.

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Okay. I think we've actually covered a lot of the aspects. We'll obviously have to do some more work on this, but I think we're probably closer to agreement than we are not. There's a couple fundamental things we need to work through. And as Martin says in his comment, there are, certainly in the 2012 round, entities that passed evaluation years before the TLDs were delegated for a whole host of reasons, and that registry was not reevaluated, although it did have to go through a pre-delegation testing.

So that's something that we need to think about for all not just those for preapproval, but for all of them as to the timing of when pre-delegation testing is done. Okay. Kathy, you're asking some of the same questions that I think we have started to answer. What do we do with applicants who lose their RSP? I've made a suggestion out there. We'll see if people agree with that or not.

Anne asks, "When did the full working group achieve consensus on steady state?" I think, Anne, I was saying that we haven't. I was just saying that it's not necessarily first come first serve. I hope that point is clear. I did not say that we achieved consensus on any kind of what that steady state would be.

Okay, going to the other considerations. Let's go down. I think the big issue that would need to be figured out now is really if we did this preapproval program, how long should it be, and how far in advance does it need to be done, completed, etc.

And for this one, we're all over the map, really. Some comments said three, four months, other comments said six months, and other comments said a year. So anything we select, we need to

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recognize, whether it's any of those numbers, is at some point, semi-arbitrary.

So I think what we need to do is we need to set down the principles, perhaps without setting a particular time. So I think the concerns that we have are, I would think, is that any process that we do should give enough time for potential applicants to use the results of a preapproval program in their decision making of if and when to apply for a string. Does that sound like a good first principle that we can get agreement on? Thoughts? No? I'm assuming it sounds like a pretty logical one.

Okay, I'm going to assume that because it's so logical – Donna, “Restate.” So the principle here is that without going into a particular length of time, the principle should be that the results of a preapproval program should be able to be used by potential applicants in making their decision of if and when to apply for a new gTLD application string. Unfortunately, Anne, I can't write and talk at the same time, so hopefully, someone could write that down.

Another principle, the period of preapproval status – from Anne – should not be overly long. Anne, are you referring to how long a preapproval lasts? I'm talking about the time in which the results of a preapproval process are and when the application period would start.

Cheryl says my initial statement was clearer than the restatement. That's why we have transcripts, hopefully. Or we may not even have transcripts of this. I don't think we do.

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The principle essentially is that applicants should be able to be aware of the results of a preapproval program and they should have sufficient time to make the important application decisions of how and when or if to apply for a new gTLD string. Whether that's three months, six months, four months, a year, the or the reason we're putting a time frame in there is to give applicants notice of who's on the list.

So, again, all of this discussion can go on on e-mail, I'm just looking for feedback. So we have Donna, Greg, and Trang. Donna.

DONNA AUSTIN:

Thanks, Jeff. I don't think that proposal is consistent with the RySG comment. The establishment of the program should not be a prerequisite in the next application window. Certainly, we support the preapproval program, but setting that up shouldn't get in the way of kicking off the program itself and the next round itself.

So I think what you're suggesting is inconsistent with that.

JEFF NEUMAN:

Okay. Thanks, Donna. It very well could be inconsistent. Doesn't necessarily have to be inconsistent, because you can always say that for the first round, it's not a condition, but for subsequent ones, it would be.

But I totally understand, and absolutely, it's something that should be discussed. So Greg, and then Trang.

GREG SHATAN:

Thanks. I think we heard three different restatements of what was intended to be the first principle. I don't think you they were consistent with each other. I think the issue of publicity, if you will, of being pre evaluated is probably being valued too much. It would seem to me that an applicant or an RSP could promote itself as having passed 150 evaluations in the first round, or having passed 20 evaluations already this round, and have the same result.

And indeed, one could say that this levels the playing field because a new entrant can come in and get pre evaluated, and even if they did no work in the first round, but if they passed the evaluation, then they would be on an even playing field, at least with regard to evaluation, not necessarily with regard to the other things that buyers of these services will be concerned about. But at least with regard to having the pre evaluation status.

So rather than this being a bar to new entrance, I think it's actually something that assists with a new entry and actually may help find more competition for incumbents. That of course assumes that a new entrant can come in and actually pass the evaluation, but of course, we're assuming that regardless of whether we have pre-evaluation or not. Thanks.

JEFF NEUMAN:

Yeah, thanks, Greg. I had always been thinking of the program as the latter, to be helpful for new entrants to enter the market, not as something that we would want to use to hinder that at all. 'm just reading Kathy's restatement. That's not my restatement, that's not

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the principle. I'm trying to do this on the fly. It's "Applicants should know of who's on the preapproval list prior to the time in which they file the application." It's not about changes of results and it's not about changing RSPs. It's just applicants should be given some period of time to be made aware of the results of a preapproval program prior to them filing applications in an ideal situation.

Steve is trying to capture it, so let me read from that. "Results of a preapproval program should be able to be used by potential applicants with an adequate amount of time to determine if they want, they wish to apply for a gTLD ..." It should say after that, "With a particular preapproved provider" or something like that. But yeah, that essentially captures it. Thank you, Steve.

Reading Paul's comment, "Any preapproval program needs to be less hassle than it's worth, or else no one will bother and just rely on being able to tell folks that they were successful in the 2012 round."

Thanks, Paul. I agree that if we make it more of a burden, then we have not succeeded in certainly some of our high-level principles. And Paul says we need to keep it simple. Yes. So we're trying to. Trang and then Kathy, please.

TRANG NGUYEN:

Thank you, Jeff. I just wanted to remind the PDP working group that in the 2012 round, there were several applicants that submitted changes to their RSP throughout the evaluation process, but also during contracting time as well. So to the extent

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that the PDP working group does not want to place any limitations or rules against applicants being able to change the RSPs during the application evaluation as well as contracting process, it may make sense for the list of the preapproved RSPS be available for the entire round. But just wanted to flag that for consideration.

The other question that I also have is as it relates to pre-delegation testing. It sounds like the conversation thus far is about the RSP preapproval program is limited to the technical evaluation aspect only, and I wonder if that's intentional or if there are any intentions on extending the RSP preapproval to also include pre-delegation testing. Thank you.

JEFF NEUMAN:

Thank, Trang. So I'm going to reserve that latter question for when we talk about the technical evaluation in general, because I think that question applies both to a preapproval process as well as to the regular approval process and what the approval process entails.

So I don't think, according to our high-level principle way or policy way above is that – the goal is to not treat the registries that get evaluated in the preapproval process differently than those that get approved during the regular process and vice versa. So we'll punt that question, if we could.

Let me go to Kathy, and then I'll go to Donna, and there's a couple comments in chat.

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KATHY KLEIMAN:

Thanks, Jeff. Really good discussion. I appreciate it. And lots of good questions coming up in the chat. Not mine, but I just want to refer you to them.

So I think you've defined what applicants will see as they go into the round. And yes, absolutely. I agree with you on your statement that a period of time – the longer the better, six months or more – should be around for applicants to know who's on the preapproved RSP list.

But similarly Jamie brought it up, and we do need to move on it, I think, and include it in our agreement that if an RSP for whatever reason is no longer approved, if they encounter technical problems, which is what they're there for, they're there to provide technical services, if they encounter technical problems and ICANN does not keep them on the preapproved list, that the applicant should have an opportunity and the ability and the time to change RSPs if they choose. I don't hear too much disagreement on that. Thanks, Jeff. But it's a critical protection for the applicants.

JEFF NEUMAN:

Yeah. Thanks, Kathy. And at this point – and I've just put it in the chat too – because there's no agreement on three, four, six, a year, I want us to nail down a principle, and then once we're all agreed on the principle, we can then figure out a way to determine what the time frame would be. But without agreeing on a principle, it's just all kind of shots in the dark of time periods, which is what happened with the comments that we got back. It was just all over the place, which I completely understand why that is.



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So going back then to the comments, and I know we're getting close to time here. Greg says, "Wouldn't every RSP become preapproved after their first evaluation?" And Greg, yeah, sort of, I've put in there, because of the notion of then you get into real difficult questions of, well, who bears the burden of paying for the first evaluation? Which application is it attached to? Is it just luck of the draw?

Again, if you just wait until all the applications are submitted [to approve once,] then you're not helping the principle that we established, which is that applicants should be aware when they pick an RSP or when they elect to apply using an RSP that that RSP has passed their testing. So that's why I kind of said "sort of" to your question.

Let's see. Anne says we can ask for public comment on the time or duration. Anne, we did, and that's why we got comments all over the place. Three, four, six, a year. It's all in there. So that's why I'm trying to nail down the principles and then maybe have someone other than making a wild guess, perhaps people can make more educated guesses applying the principles to figure out what that time frame would be.

Then as Trang said, yes, registry operators could change RSPs at any time. I don't think we're proposing changing that at all. Okay. Anne says, "Then we have to say that the periods that appear in the public comment when we establish the principle." Let's establish the principle, and then we can come back to the times. Yes, time periods.

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Okay, I think still some more comments. Comment from Sarah, "I'm not sure ICANN wants to get in the middle of registry operators and agreements they have with independent subcontractors vis a vis the RSP preapproval process." I think that could come out as a principle as well.

Okay, I think in terms of this subject, before we get to the end, Steve, scroll down, because I believe that most of the other questions all relate to topics that we've all talked about, except for the number of TLDs. I think that is one area we have not yet approached. So we need to get some discussion going on that, whether the number of TLDs needs to be considered or some other factor needs to be considered in terms of the preapproval process.

But I think other than that, Steve, just scroll down a little bit more. We covered the periodic reassessment, and I think we've covered some of the other ones. So we'll go through that, and cover those last ones on the next call. But we do need to get into the next several subjects.

So be prepared next time to get through some more subjects than this time, and also for some good chat online. Are there any other questions before we go until next week?

Okay, some good comments still on there on the notion of revocation. Alright, thank you, everyone. And talk to you all next week.

JULIE BISLAND: Thanks, Jeff. Thank you, everyone.

**[END OF TRANSCRIPTION]**