ICANN
Transcription
GNSO New gTLD Subsequent Procedures Working Group
Monday, 29 July 2019 at 20:00 UTC
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JULIE BISLAND: Good morning, good afternoon, good evening all. Welcome to the New gTLD Subsequent Procedures Working Group call on Monday, the 29th of July 2019.

In the interest of time, there will be no roll call. Attendance will be taken by the Zoom room. I want to remind all 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. With this, I will turn it back over to Cheryl Langdon-Orr. You can begin, Cheryl.

CHERYL LANGDON-ORR: Thank you very much, Julie. If there's any problem with my audio, just type at me and I will be keeping an eye on the chat and see if I need to change volume, etc. Numbers are slightly improving as I'm watching the participants' numbers going up, so not everybody is taking vacation. We do have a couple of apologies for today and one of those of course is the co-Chair serving with me, Jeff, who is taking a vacation this week. So you've got to put up with me, people. Pity about that, but it is what it is.

So, I'm going to ask now on the usual administrivia listing. Is there anybody who has an update to their Statement of Interest? I'm trying to remember to scroll up to see if hands are going on up the top. I'm not seeing anybody's hands. Let us assume not, and remember of course you can always type in to chat but to remind you that we are running under a system of continuous disclosure for Statements of Interest. And of course, if you do have an update to Statement of Interest and you have difficulty updating the public record thereof, staff is always available to assist you. They're very good at it.

Okay. So let's now move on to our main event on today's agenda, which is where we will be continuing on as per our work plan with our review of our summary documentation. Thank you for bringing that up. We are, according to the agenda, going to be continuing with applicant support which will be officially where we were is on page 18, but I just wanted to draw your attention to the marked-up text which was as a result of our last meeting's deliberations and discussions and you will now note that the policy goal in the marked-up text includes the first bullet point which says, "Increase…" Well, I can't read and follow tracking at the same time. "Increase the number of total applicants to the Applicant Support Program" in square brackets is one option. There's a second

option, "The number of applicants to the Applicant Support Program who are ultimately granted assistance through the program." And there's a third square bracket option, "Potential applicants to the Applicant Support Program who expressed interest in applying."

I would request that if you have a preference for one or other of those square bracket options, we need to decide on one. I won't give you my preference although I do have one, I'll express that later. But if we could draw your attention to that and ask that you either directly in the document under comments make your preference known or to the e-mail list, and we might take an action item from today's call to show copy of those square bracket choices in a short e-mail to the list. I'll ask people to weigh in between this meeting and the next as to what is their preference. We do note they are examples to encourage proposals for [appropriate] goals. I'm wanting them to start making them even more concrete. Those square brackets are perfectly reasonable. Let's now take it to the list. It does reflect the various conversations that we've had so far and if anyone could wordsmith something better, they're more than welcome to throw it into the mix as well, but I'd like to see this taken towards completion mode of texting or drafting, I should say, between now and the next meeting on the list.

Great. Now, we can scroll down to page 18 and where we will be beginning. Okay. And I believe we were up to the outstanding items, I think Jeff brought the end there.

Sorry, Jim has made a comment in chat. He indicates he thinks middle goal is a challenge. We can only lead people to the program. That's very true, Jim. We can't set policy that increases the number of successful

assistance recipients. That is a good observation and I won't deny one that isn't keeping with my personal thinking. So, you might now know which is my preference in terms of square bracket language. But yes, important words to make. Thanks for that, Jim, and please feel free to continue that discussion and any other in chat as we go through today's call.

Okay. I'm not seeing anybody's hand up on that but your comments are welcome. Let's move along.

Outstanding items, this is now where we're looking at any of the new ideas, concerns, or divergence. There's an awful lot of green text here and we will possibly want to look in particular at some of the mark-up language that was offered between last meeting and this one, which I think is the part that is under some of the lower bullets. Okay. I'm going to not assume that you've all read forward, but just take some of the highlights out of each of these bullet points so we might get the conversation started.

Yes, understood, Emily. It's shoveling around but I think that SARP was a comment input from Justine, if earlier reading of the document is correct? I could be wrong. Yeah, correct, it is new. I thought I was crazy for a minute then. So I will be drawing people's attention to [inaudible].

I also just wanted to check if Justine is on the call. I don't think I saw her earlier. There she is. Excellent. So, she can speak to it should we need to. Fantastic. And welcome, Christopher. Okay. Alright. Enough prattling.

Let's now look here. I think we did look at the policy goal, did we not? Correct me if I'm wrong, but we did actually read that to the record. If not, I'll do it anyway. New Ideas, comments, or suggestion from ICANN.org was to ensure that the program is designed, implemented, and operated to meet its intended purpose, and that the PDP should define the goals and key success factors for the program.

Yes, thank you for that is my reaction. I'll take any comments but I think that's just an overarching suggestion that we would hopefully be pinging up on intelligent and sensible drafting anyway. But if anybody wants to disagree with that as a suggestion, please feel free to do so. We can always discuss it.

So now let's look at some of the more interesting concepts, which may or may not be carriage. Thank you to whoever is typing, but absolutely little less aggression on your keyboard would help or muting would be another excellent alternative. The idea of our discussion today is to look at these things that were presented and proposed and to see whether or not there is sufficient support or otherwise to take them further, to consider making any sort of recommendation or not.

Okay, we had not gone over the comment from ICANN.org. Okay. Yup. Sorry, I just find that absolutely, as Christopher said, motherhood and apple pie. I'm not going to disagree with it. I would think that it's a perfectly good piece of overall intent of what we're doing. But I'll encourage conversation in chat. Probably I'll do something that might be a little bit more contagious. This is the ability to transfer a standard application – remember we are talking about Applicant Support Program. This is something we have discussed in part in the past, and

that's the ability to transfer to a standard application if the applicant does not receive or meet the Applicant Support Program criteria.

We all know this was not a possibility last time. We all know the reason it was not a possibility last time was the concern about gaming the system. I know we have Donna on the call and I am very aware that even last week that Donna was raising the continued concerns of her community about the risk of gaming of the system. But there was, however, new idea proposed out of ALAC and Registries Stakeholder Group that if transfer is permitted, the applicant must be given a reasonable amount of time to pay the additional fee.

It wasn't you raising concerns about gaming, Donna? I do apologize. I've always assumed that you would. My apologies that you are misrepresented. I retract it all. But perhaps everyone else who has concerns about gaming should bring it up. It was observed – if I may just remind you all – in the report regarding the Applicant Support Program and its outstanding lack of success by just any known measurable, that perhaps things had gone so far in protecting the system from gaming that it had become something that they're just too difficult or too hard or unachievable by the potential individuals that may wish to have had some opportunity for applicant support.

Welcome, Maxim. It's fine. We're just getting started. Okay. Opening a queue on reactions or responses to the new idea that is if a transfer is permitted, non-criteria meeting Applicant Support Program person that reasonable time be given for them to pay an additional fee. And yes, we know things like a reasonable time would have to be defined. Queue is

open. Concerns with it, support for it, leave it alone is also an option. Over to you people.

I'll take silence as … Oh, thank you, Christopher. Go ahead please.

CHRISTOPHER WILKINSON: Thank you, Chair. Just a quick comment on gaming. I know that gaming is possible and likely, but in this area of applicant support, first of all, there is something in the 2012 proceedings which may or may not be carried over with anybody anywhere can apply for applicant support. I think that's an invitation to gaming.

Secondly, I've seen text that suggest that the ICANN Org, i.e. the staff administering the proceedings, should not have the substantive view about what is or is not a good thing. I'm not comfortable with these situations and these concepts. In the past sometimes quite distant, I've been in charge of reviewing applications for funds and I must say there was some gaming but it's very transparent when it's there. The bottom line or at least the last but one bottom line is that the staff receiving these applications look at them and make sure in their best judgment that the applications are in good faith. We cannot go forward on the basis of just hoping that somebody somewhere will tweak that an application is gamed but because of those standing in the – and as far as I can see in the ICANN staff, inadvertently following the transition the ICANN staff's role has been somewhat circumscribed.

CHERYL LANGDON-ORR: Okay, Christopher.

CHRISTOPHER WILKINSON: But they cannot be allowed to say, "Wait, but there's something wrong about that application." Thank you.

CHERYL LANGDON-ORR: Okay. Thanks, Christopher. We note you concerns about subjectivity. And if I can paraphrase what you've shared with us in your experience, it is often a case that one couldn't know when gaming is going on but it's relatively obvious. If anything is not particularly obvious, it's a relatively small percentage, and that hopefully can be picked up and dealt with by appropriate due diligence, care, and caution in the program.

But we have also got out of chat and I'm delighted to have you here, Christa, seeing this was very much the work done in things that you were leading and it was a while back that we did have a fulsome discussion and everybody thought at least back then that this was an important thing to allow. It's certainly is in general, I believe, that the principle support is well evidenced at this stage that we would be likely to be writing a recommendation which does support the opportunity for a non-criteria meeting applicant to transfer to a mainstream or standard application. The question, however, in front of us is regarding the opportunity for them to have a reasonable amount of time to pay for it. The question is, of course, what is reasonable and how is that likely to be assessed.

And, Christa, I'm going to ask if you wish to speak to it, but you have indicated in chat that, to your memory, you can't get to an exact

amount of time and reasonable was used to perhaps allow sufficient guidance to implementation that to allow the change which seems having principle support. Robin is agreeing with Christa's memory here.

Team, have I done you justice on what your beliefs are on this? If you are all now relatively comfortable with allowing making a recommendation to be developed regarding non-criteria meeting applicants to be able to – this is not mandatory – but have the opportunity to be switched to a standard process, treated fairly and equitably in every other way but with the possibility of being given a 'reasonable amount of time' to pay the additional fee, noting that this may mean they need to seek grant opportunities of a funding etc., etc. So, that's the conversation we're having now.

Justine notes in chat that ICANN Org's point over gaming is noted but the potential incidence of gaming should be handled differently and not be the main cause of dampening the number of potential applicants through an Applicant Support Program. Yes, Justine, I'd say you've got the general feel that we have seen in the group.

So with that, does anyone believe we need to define what 'reasonable amount of time' is further? One way forward that strikes me is to annotate that phrase, 'reasonable amount of time' noting that the duration will need to be explored and fixed during implementation planning, so that it is well-advertised, known by all applicants, and predictable or something along those lines. Can I ask for any reaction to that embellishment that I just proposed? I have Donna. I figured I'd get Donna with that one, followed by Jamie. Donna, over to you.

DONNA AUSTIN: Thanks, Cheryl. Donna Austin from Neustar. This is actually about something else but I'll address your question now. I think what's important here is whether we think – so the application fee is supposed to be paid by the time the application period ends, is my understanding. I think in my mind you'd have to factor that in, whether they still need to meet that deadline requirement.

But the other question I had – and maybe we've discussed this and I've forgotten it – but the intent is that when the applicant can transfer the application into mainstream, that the string stays the same. Is that part of the deal as well?

CHERYL LANGDON-ORR: Can I just ask, on my audio at least, we had some packet drop as you were saying, transfer stays the same. Is that what you said because it might be my Internet that's unstable here in Australia.

DONNA AUSTIN: Thanks, Cheryl. The question I was asking is if there is an ability for the applicant to transfer into the mainstream application process, does the string stay the same?

CHERYL LANGDON-ORR: I'm not going to respond. I do actually have a personal opinion and I can't imagine why the string wouldn't stay the same but –

DONNA AUSTIN: I wasn't sure whether we discussed that before but I would think that any transfer would have to be the string must stay the same.

CHERYL LANGDON-ORR: That's my major reaction but let's open that to the floor before we go to Jamie. Has anybody got a comment on Donna's question? You heard my very personally knee jerk reaction. Christa doesn't remember and if she doesn't remember, my guess that it didn't happen. Katrin is agreeing with you, Donna, so it seems to me that current thinking would be it would stay the same. Back to you, Donna, before we go to Jamie.

DONNA AUSTIN: If we can just add that in as a qualifier. I don't know but I think we've got agreement on it, but I just wanted to flag it. Thanks, Cheryl.

CHERYL LANGDON-ORR: Okay. Well, let's pop it in a square bracket language at this stage. There's a few of us on the call and we're not getting much in way of rejection. But it's a new piece text that we will then have to look at. Okay. Did you get through everything you wanted to raise, Donna?

DONNA AUSTIN: Yes, thanks, Cheryl.

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CHERYL LANGDON-ORR: Okay. Groovy. I didn't want to cut you off because my Internet is [inaudible]. Jamie, over to you.

JAMIE BAXTER: Thanks, Cheryl. Jamie Baxter for the record. There's something that comes to mind when we talk about reasonable amount of time and I think one factor would be whether or not that string is actually in contention or not. I would think that a different reasonable amount of time if you're holding up other applicants than if you're the only applicant for that particular string. So maybe that's something to consider in the discussion of reasonable amount of time.

The other thing that I wanted to raise is just sort of around the issue of gaming here is that there's also a little bit of gaming that would happen if an applicant – and I think this supports the broader discussion of why an applicant that is denied applicant support be able to move into the standard track, and that is because once you expose your idea and then your not allowed to proceed because you didn't get applicant support if you couldn't afford to, if you're needing the time to raise the funds in another round then you're immediately calling for competition. So, I think that's another aspect of gaming that should be looked at which supports I think the group's larger support for allowing the applicant to transition into a standard application. Thanks.

CHERYL LANGDON-ORR: Thanks very much, Jamie. There are a couple of very important points which I believe are captured in the notes and so can be considered when we come to further in the drafting.

Donna notes in chat that she'd realized there's another form of gaming in moving to the mainstream application. If there was an ability that you change the string – and I think we've got that covered by noting at this stage at least, no objection to it being the same string but concerns if it was not the same string.

Steve is noting – did you want to speak to this, Steve, rather than let me read it out? Oh, I'm just going to read it out. No, go for it Steve. Give me a break and I'm going to have sip of my coffee.

STEVE CHAN: Sure. I don't mind. Thanks, Cheryl. This is Steve from staff. So if the mechanism to allow an applicant support who does not meet the criteria to switch to, I guess, the standard application fee, so the question I was asking the working group is whether or not that is intended to mean that the threat of possible gaming, whether or not that is to be accepted or if the working group wants to consider alternative ways to try to mitigate gaming? And then so, just I certainly don't mean to influence the conversations but one of the things that is in discussion for this working group within the objections is extending the quick look mechanism. So, maybe it's not exactly that same mechanism but that's just one thing you consider is potential other ways to try to mitigate the risk, just have some form of quick look at the application for applicant support. Thanks.

CHERYL LANGDON-ORR: Thank you for that, Steve, and so we need to probably note there are a couple of interdependencies with what we're doing here. If the quick

look was to be recommended then that would be an opportunity for us to link to this section. I'm not sure how you're going to notate that but have the go. It would be a pity to lose the opportunity later drafting. That's all.

Christopher is noting that of course there would be some concerns in particular that he is having a likely issue with them, that is, if the applicant support related to some form of geo approval, which may not be transferrable. It may very well be transferrable, for example, should we the geo name be one that was subject to the matter of non-objection or support from the government. They may not frankly give a damn whether or not the applicant is under a support program or not. They would be concerned the usage of names. So, yes, it may not be transferable but indeed it may be transferable.

Donna noted there's something that she raised in the last call that she's reiterating that the timing of the evaluation of applicant support, this is the timing of application process is important here. And yes, it is in fact this is one of the high-level principles that we do not wish to – I probably didn't use the best term there – the important implementation principles that we should not lose reference to. Excellent, Donna. Well noted indeed.

Okay. So, Alexander, over to you.

ALEXANDER SCHUBERT: Yeah. Hi. Alexander Schubert. You can hear me?

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CHERYL LANGDON-ORR: Yes, we can.

ALEXANDER SCHUBERT: Okay, great. So, this is another potential gaming situation. As you know in the last round, a lot of money was made by withdrawing the application to let another application go forward, so gamers could apply for strings where they hope to find contention. Then before they are forced to switch – and of course they claim to be an entity that qualifies for support, but of course they don't qualify. Then they approach the contention and ask for a fee or whatever to step back from the entire process and they will find they have money without spending any money. If not, they can still pay the application fee and move on. To mitigate that, if we look at the point of time where you have to pay the application fee to go into the mainstream, that would actually have to be before the big reveal. So maybe there is a possibility that the notion whether you are applicable to receive the support that this kind of check one of the very first things in the program, and those who try to get a support but do not qualify will have to decide immediately whether they want to pay or not.

CHERYL LANGDON-ORR: Alexander, thank you. Can I just ask you to clarify the last part again for me, just so I'm sure we've captured it correctly?

ALEXANDER SCHUBERT: I'm playing devil's advocate. Let's say I think that we might be really cool string and there might be another applicant. So, I'm applying for [dot

weed] and write a fantastic application that I'm – whatever. I qualify for support because this is for a good cause, my [dot weed] application. And then I see that there's another entity that applied as well for that [dot weed] and I'm offering them that I step back for $100,000 and those other entity might decide, "Okay, I give you $100,000 then you step back." There's only one other applicant and she doesn't pay me, I might say, "Okay, I'm paying the application fee to be in the race because this is a good string."

In order to not have the situation, we should pause the entity that claims that they qualify for applicant support has to – essentially those would have to be checked immediately after those applications are submitted. Maybe they should even have an earlier application deadline so that they have to apply whatever, two months earlier, and their status was checked immediately, cannot take so long. I mean it should be possible to check that within a few days. And if they seem to not qualify then a solution has to found before the big reveal, before all of the strings are revealed.

CHERYL LANGDON-ORR: Okay. Thank you for that. That's great. I have that clear because in fact what you're suggesting and I recognize you're playing devil's advocate here, although now you've exposed the potential of the game, everybody will be aware or alert to it, so thank you for that. Then it goes to Donna's point about timing of Applicant Support Program versus the application processing as well, so it is linking with Donna's point, in my view at least, so correct me if I'm wrong.

I see your hand, Christa, but I just want to note Phil's comment in chat that he agreed with Alexander and suggested we abolish all refunds for withdrawing application might we one way forward of that. Okay. I'm not even going to react to that, but yeah, that would be perhaps something that would affect that type of gaming issue. Christa, over to you.

CHRISTA TAYLOR: Sorry, I was on mute. It's Christa for the record. Way back when we were discussing this, we discussed quite at length on being quite reasonable for the applicant support and that the amount of time to ensure that they had the time and resources to go and try to raise the funds was something we discussed at length on a number of occasions. So, we want to really be supportive of all the applicant support applicants, so to speak, and I don't think what we're discussing so far seems to be leaning towards what we discussed a couple of years ago and again and again is that these people will probably be in need of sufficient time to be able to raise the funding and then trying to, I guess, speed it up in some way I don't think is what the intent was way back when. And I'm not sure what happened to this but at one point we were discussing a potential penalty for changing tracks as well. So I'm not sure if that helps with the gaming part of it but just a little tweak on memory if that helps. Thanks.

CHERYL LANGDON-ORR: Thanks very much for that, Christa. Can you just expand on your little tweak comment at the end when you mentioned some sort of penalty

for the changing tracks? This was discussed as an ultimately [inaudible] that if my memory serves, look at a different point in time compared to ordinary application processing in that discussion. But can I get you to expand on that please?

CHRISTA TAYLOR: Yes. I believe it was around like if you applied for – if you're trying to game the system and you're moving from one lane, so to speak, to the other lane, maybe you're a geo or you're a brand or you're maybe applicant support, and you're switching into a regular standard process then there would be a different uptake or penalty for changing lane, so to speak.

CHERYL LANGDON-ORR: Okay. So, that's something we definitely need to drill down on before making any open recommendation.

Okay. Christa, is you hand still up? Okay. Alright. Are there any more comments on this? Christopher Wilkinson notes, in his opinion he rather expects or expected that most applicant support applications would be for Internationalized Domain Names or geographic names. The other assumption at the time of the JAS work was of course community interest groups and community use names. It might be more commonly seen in this bundle of Applicant Support Program likelihood as well.

Katrin notes in the chat, she's not too sure but we are able to anticipate all potential Applicant Support Program gaming scenarios which will lead to over complication of the application process. Indeed, and that

would be exactly where we were in terms of likely criticism of the previous program and its abysmal outcomes.

Justine asks if, Christa, could you pop a little bit of language regarding your last comment into chat, that would be good.

Steve – other than general agreements on other things, Steve is making the following comment that if he's not mistaken – and he rarely is – the tangible benefit from the 2012 version of the Applicant Support Program was that it was riveted to a reduced fee amount. It had no bearing on the type of application or string type. That is true but we did have expectations that some were likely or more likely than others. And of course, we are not trying to totally rebuild the Applicant Support Program. In fact, there was great work done in the design of it, just not in the actual implementation and execution of it, and there can always be some improvements, such as we are discussing now the ability to switch to the mainstream processing.

Maxim brings a point about the geos have support of governments and they don't usually support organizations, which cannot ensure the process is solid without additional support. And he also noted that there may indeed be support for some IDN communities. That conversation is continued by Katrin.

Steve was just making a qualifier that his comment was in the context of switching from the applicant support to another, to mainstream application.

Ladies and gentlemen, I think we've done this conversation noting now that Alexander's clarified in text in chat a little more on what he was

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saying earlier for the record. So, what I'm going to suggest we now do is that we then again ask for any particular preference for a whiteboard, is discussed on our list between now and our next meeting. We'll however note that at this stage – correct me if I'm wrong – there appears to be in principle support for the ability for a Applicant Support Program application that fails to meet the criteria for applicant support which is preferably established as early as possible in the processing system, that they are able to switch their string to a mainstream application process and that there are variations on implementation and further concerns that need to be discussed in any recommendation regarding this.

Someone can put that in some semblance of the English language. We'll pop it out to the list and invite further discussion on it for a settlement in the near future. But it looks like we have at least a high level or in principle support for making the change. But I desire to make sure that the change is supportive and facilitating the Applicant Support Program, isn't having a chilling effect on the Applicant Support Program, but is also being fair and allowing for as much due diligence as possible to minimize risk of obvious gaming opportunities.

Therefore, let us move on to the next. We have an exciting idea which I believe came from ALAC. Here we do have – oops. Don't roll too far. Back, back, thank you. Can we go back to the bottom of page 18? Thank you. That's it. Leave it there. Okay. Absolutely perfect.

I just wanted to draw you attention to the new text on the second bullet point, the new idea that from ALAC there is modification of text which of course has to do with gaming, and we have Justine on the call. So, Justine, this additional text regarding the SARP and I would encourage

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you to define what SARP is because I know that not everyone on the call perhaps does. If you would care to speak to that please, that would be very helpful at this stage.

JUSTINE CHEW: Sure. Thanks, Cheryl. This is Justine for the record. First, the SARP, that's the Support Applicant Review Panel – I think that's what SARP stands for. Basically, that's the committee that reviews all the ASP applications. Yes, the reason why I added that text in green is because it did come up in the ALAC comment and I noted also the next point for the Registries Stakeholder Group consequences for gaming. That's why I added the text in green because as I said, it did come up in the next comment that basically ALAC said that the obsession – if I may use the word – over prevention of gaming, we thought that led to the ASP program for the last round being effectively useless, rendering that useless, and therefore we need to relook at this obsession and perhaps pay more attention to the consequences of penalizing willful gaming instead. Thank you.

CHERYL LANGDON-ORR: Thank you very much for that, Justine. Hopefully those of us on this call which are deeply concerned with the willful gaming risks can see the opportunity in the clarified text to have the Applicant Support Review Panel have a well-advertised, well-known, and highly predictable evaluation methodology which would then by necessity under this modification of the proposal include a component for determining incidences of willful gaming and indeed go further where penalty which

goes back to what Christa was referring to earlier, penalties could be – I was going to say "action" but that's not the word. So, [inaudible] to discuss that or could we just take that [inaudible] take it as already in the text. Fantastic.

Alexander has just added an example about a geo name use a target city not needing support letter and then you ask for support. Then if you only get the one application, pay the application fee, and then so on with free gTLD testing.

Look, there's always going to be things that are blatantly obvious and some of them are going to be blatantly obvious in hindsight, and the other sort of loopholes which if they are in fact exploited, I would think a modification of methodology should only allow happening once. We are trying to reach a balance here on encouraging expansion of the namespace where required and necessary for all the right reasons, but to also allow for innovation. One person might think of as gaming another person might argue with their good business model innovation but I'm only saying that partly [inaudible]. But perhaps we should have a repository of 101 great gaming ideas and anything that happens to look like that sort of methodology would be then busted by well-known advertising. I don't know. I'm just saying. There may be other ways of dealing with willful gaming by making it very obvious what the risks are. It may take some of the cleverness away from people actually doing it if they know it's already likely to be exposed.

Alright, next slide on page 18 was the suggestion by the Registries Stakeholder Group: setting up a system to prevent gaming because of

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the risks of accountability and increasing costs. And this comes back to the penalties.

"Parties found to be gaming, should 1) have the application rejected without any refund." I would definitely suggest that as a penalty and to be put under a penalty clause or selection of clauses regarding penalties.

"2) Withdraw all applications affiliated with named individuals who are party to the Applicant Support Program gaming application." Again, another clearly articulated penalty.

"3) And should ban all named individuals who are party to that application from applying in any round for at least a reasonable period of time, up to and including forever," which again is an example of a penalty. And some of those penalties were, as Christa said, discussed in earlier conversations.

Donna notes in her chat that without making any vote preferences for any or all of the above penalties, these are a set of examples of penalties which could indeed be providing they are well-known, well-advertised, and highly predictable used as discouragement from willful gaming.

Now let's roll down to the top of page 19 and look at – if no one has anything else to say about those other points – eligibility. Okay, Donna – just before we move on to eligibility – did note that she thinks that all of the previous discussion depends on the support being provided through the program. I think, Donna, we should make clear. And, Christa, correct me if I'm wrong, or please feel free to put your hand up and speak to it.

It was the intention of the more recent deliberations on Applicant Support Program that we do indeed encourage more than just the financial aid. This was discussed in reasonable depth and extensively by the original joint Applicant Support Working Group about the timing on or managing to get that well organized, well done, implemented or executed was either too short or impossible at the time of when it was needed to be done by the 2012 round and that there was intention to try and offer additional non purely financial support but things like language skills services, business plan writing, obviously technical support and advice, and various other similar support being offered.

Okay, alright. So moving on to eligibility and noting that we have spent reasonable amount of time, looking like we haven't moved very far through the document, but gaming and these issues were in the Applicant Support Program. We're of deep concern to people in the last round and we do need to give them justifiable depth of deliberation this time around if we're going to make any recommendations to change.

Eligibility. ALAC has a concern that the criteria for eligibility does need to be more realistic. I believe that that has been well and truly reflected in the general discussions that were run to the groups that Christa was managing earlier on in our process and I also think that the proposals and recommendations in general can be shown I think to try and do exactly that to be more realistic. Here are some further details however.

"Populations and regions served. The Business Constituency and Registries Stakeholder Group talks about middle applicant and related eligibility …"

Somebody needs to mute or stop screwing up paper.

"Related eligibility criteria should be defined more clearly and the potential implications on program costs and implementation should be examined. Registries Stakeholder Group was concerned that the focus should remain on underserved and underdeveloped regions. And the Registries Stakeholder Group also believed that the International Domain Names should be eligible…" I had to make sure I was reading that correctly. "…if they meet other requirements, but should not receive a different category of support."

I would note that International Domain Names in general are something that other groups have also said should be prioritized in general. So what I think maybe I will do is extend the logic there to say Internationalized Domain Names and their applications that do in fact or would be benefitted by an Application Support Program would also be a high priority or focus on.

Now, remembering as well that the SARP, the Application Support Review Panel will have a defined budget to work with so it may be that some prioritization may need to come into play because they would only have a particular sized cake to carve up, and if one was swamped with applications for application support, the financial and in kind support would have to be appropriately divided out to such applicants who meet the criteria, and it may be that some form of prioritization needs to also be clearly defined and discussed. So, noting here that Internationalized Domain Names appears to get a [inaudible].

EN

The other thing I think that is worthy of reminding everyone of, just to see if we shake some more conversation out from some of you, is that the pitting of criteria purely to underserved and underdeveloped regions tends to then make a group of economic assumptions based on third party criteria and measurements. In other words, they are under, for example, UN guidelines and other types of guidelines, very specific criteria to what an underserved or an underdeveloped region is. And a point was made during the Joint Application Support Program and the development that the JAS Working Group put into its program guidelines, that would not help a underserved sector in an already developed region. So I just wanted to remind you all of that concern that you can in fact have underprivileged or underserved sectors in highly economically developed regions. Many of those disadvantaged communities under a variety of criteria that do not meet the terms in general linked to the economic may be economic.

With that, let's see if there's anybody who wishes to speak further on this in support or otherwise. Christopher, over to you.

CHRISTOPHER WILKINSON: Thank you, Chair. Look, in reacting to the most recent discussion, we're discussing the application support regime specifically for the application support phase of the initial next round. That's a very limited target, and I think that's justified and it should be justified also for the initial window for communities for brands, for geographicals, and for generics. Let's not be too ambitious. And specifically in relation to what we've just been discussing, let's limit the first application of a serious

application support system to underserved and underdeveloped regions.

I'm actually supporting what Cheryl has just said about the fact that there are meritorious and eligible communities or entities in highly developed regions who don't have the resources to apply. But since they've had to wait a long time, I don't mind asking them to wait for another six months until the next window for application support is opened. But let's try and focus on a few basic rules and practices that would apply to the most – obviously I was going to say "needy," it's not quite the right nuance – eligible and the most useful of applicants. It's not the end of the world if some people have to wait. For instance, I would say that people who benefitted vastly from the last round could wait quite a long time for their interest to be met by the next window. Thank you.

CHERYL LANGDON-ORR: Thanks, Christopher. Maxim?

MAXIM ALZOBA: Maxim Alzoba for the record. Just to remind everyone that the next window might happen 10 years up to the previous one. The current round is not finished. This PDP might hopefully finish its work by the end of this year. It's going to be eight years, so it's not six months. I think saying, "Wait until the next time," is something embarrassing. Thanks.

EN

CHERYL LANGDON-ORR: Thank you, Maxim. Anybody who wish to weigh in? If not, we do have the general intention for … Christopher, very briefly.

CHRISTOPHER WILKINSON: Maxim, I have absolutely no brief for the delays that have occurred in the first round. I want to have a system where the flow corresponds to the ability of the evaluation and approval system to deal with the stock of … Don't present the previous round as some sort of benchmark. That was a catastrophe. Thank you.

CHERYL LANGDON-ORR: Okay, thanks. Let's indeed all keep looking forward. And remember that our overarching [inaudible] of predictability of course have to be tempered with efficiency and effectiveness as well. That said, however, it appears to me that we still have some more discussion to go on as to whether or not there may be types of TLDs which may or may not get additional prioritization within an Applicant Support Program. That is something that we should also ask the list to discuss. We should remind everybody that the high-level principles that came out of the discussion of the work track that dealt with this that Christa referred to earlier was very much running on a intention to make the Applicant Support Program more accessible, not more restrictive, and more available, not less available for needful applicants who meet the criteria. And remind you all that the Joint Applicant Support Working Group had extensive criteria developed and agreed to by the community at the time.

With that said, let's move on … Paul? You just don't want me to move on, Paul. But that's okay. I'll stop just for you.

PAUL MCGRADY: Thank you. Can you hear me?

CHERYL LANGDON-ORR: We can.

PAUL MCGRADY: Great. I just hit an opportunity to pass to agree with Christopher because he and I usually don't agree. But in this case, I have to be on board with the idea that applicant support doesn't mean applicant priority, and that opening up an earlier application window or giving priority to these over other applications gives me great pause.

Secondly, if we're going to hang this on the idea of an underserved region then we really need to think about what that means. Is it that there are [inaudible] or are we saying something else? Because as far as I know, no open gTLD is unregisterable in any particular region, so it's not so much from an IDN standpoint that these places would be underserved. So if you're underserved for some other reason, we need to drill down into that and figure out whether or not that's something that ICANN can really fix. And if so, great, let's figure out what that criteria is and bake some of that stuff in. If it's not and we mean to be fixing something else that really would be hard for ICANN to fix, that still may be worth doing, but maybe underserved region isn't the descriptor we want to use. Thank you.

CHERYL LANGDON-ORR: Thanks very much for that, Paul. An almost perfect segue to our next new idea or concern resonating around middle applicants. This is the one that we're going to come to next which is the matter of ICANN.org raising specifically the suggestion out of our work track works that suggest Applicant Support Program should continue to be open to applicants regardless of their location so long as they meet the other criteria. However, preliminary recommendation also made, which is 2.5.4.c.2 suggests that geographic outreach should target not only the Global South but also the "middle applicant" and defines "middle applicant" as "struggling regions that are further along in their development compared to underserved or underdeveloped regions," which the Joint Applicant Support Working Group I think decided when more terms of art than wishy-washy terminology.

If location is no longer a criteria for qualifying to the Applicant Support Program, then it is unclear – according the ICANN.org – how preliminary recommendation 2.5.4.c.2 aligns with the preliminary recommendation 2.5.4.c.1.

Christa, please feel free to correct me if I'm wrong that these preliminary recommendations were not being presented as mutually exclusive or both required. They were recommendations being made for community input and this is just one piece of the community that we've got.

Yes, indeed, Donna. Underserved and underdeveloped are terms that are well and truly defined not only by the UN but by some other benchmarks and the Joint Applicant Support Working Group did go into those in great detail. That's my earlier reminders in this call.

I'm personally not overly concerned about this apparent issue with a conflict here. You may indeed as a working group decide to support one or other or modify the subordinate if you can define subordinate here. I suggest that two is the subordinate and one quite clearly. But you may choose to modify these preliminary recommendations of course. But is anyone else overly concerned that we are not able to deal with the apparent issue between the two preliminary recommendations – c.1 and c.2 under the 2.5.4 series – by clarifying text? If so, we should develop such clarifying text if we were to make a new recommendation that was to meet this concern. It will also be perfectly possible as well.

Your thoughts, ladies and gentlemen? Or have I not only exhausted my own voice and thinking but yours as well?

Robin you said, "Does Flint, Michigan count as an underserved region?" I'm sorry. I am assuming that is a part of an American community which is established as disadvantaged in some way economically or some other way. Because if so then it would not count as an 'underserved region' but it would be arguably one of these middle applications, in other words, an appropriately criteria applicant in all but economically development labeled by a third party criteria. I hope that answers your question, Robin, assuming my assumptions are correct on what Flint, Michigan means.

Mary, over to you. Some intelligence and clear thinking please.

MARY WONG: Oh my God, Cheryl. Hi, everybody. Thank you, Cheryl. This is Mary Wong from staff. Just to say that I'm on this call to observe this discussion and

I raised my hand because of where the group seems to be in your discussion right now, given the highlighted text on the screen and what, Cheryl, you and others have said, I just wanted to also respond to Donna's question in the chat. And hopefully what I have to say, if not particularly brilliant, will be somewhat helpful as you continue your deliberations.

Internally, in the org, we started to look at what "underserved" and "underrepresented" might mean for a variety of reasons from travel funding to capacity development. Not treading on the work of this group but we have been moving away from the term "Global South" for a whole host of reasons that I don't need to get into right now, but like I said, we're starting to think about what underserved and underrepresented in the ICANN context might mean for a variety of programs. In this context, I wanted to make two additional observations. One, to Donna's point, there are various definitions out there including within agencies of the United Nations about underserved. They tend to be very specific, for example, to medical treatment or health issues. So there is a question as to which definitions might be most helpful in the ICANN context. In other words, there doesn't seem to be a single universal definition out there that we can simply borrow and use.

Secondly, it seems to us that it might be helpful to have a consistent usage, possibly even definitions across the org and the community. Both with respect to policies like the ones you are developing in this group and also to capacity development and funding programs we might do.

So, I'm on this call because it seems like a good point in time for me to just let you know what we're thinking and hopefully your work to the extent that it leads to definitions of these terms specifically will help us see the consistency that we might want across the community and the org for all kinds of programs. Thank you, Cheryl.

CHERYL LANGDON-ORR: Thank you, Mary. As I suspected, intelligent and well thought out, as well as brilliant, but articulate in timely as well. The planning deities did well to get you on today's call because that information is very useful to us, which means we can perhaps put in square bracket text that may include something along our subject to standardize definitions and nomenclature being developed for use within the organization for such.

I've got both Christopher and Trang's hand up. Christopher, if you don't mind, I'm going to go for Trang first and then come back to you because you have a couple of parts of the [inaudible], so bravo. Trang, over to you.

TRANG NGUYEN: Thank you, Cheryl. Can you hear me okay?

CHERYL LANGDON-ORR: Yes, we can.

TRANG NGUYEN:	Terrific. Thank you. Thank you, Cheryl. And thank you, Christopher, for letting me go first because my point is an add-on to what Mary had just said. Mary raised a point of being consistent between the org and community's definition of underserved regions or underserved communities. The point that I wanted to bring is related to that, which is from an evaluation perspective, if the EPDP Working Group would want to strive for a more objective type of evaluation then it would be helpful to have a very narrow and defined definition of what is meant, just as a point of reference, in the 2012 round the lists that were used by SARP panel, the Applicant Support Evaluation Panel, was the UN's list of least developed countries, as well as landlocked developing countries, as well as well as small island developing states. Those were the lists that were used to determine whether or not an applicant for the Applicant Support Program met the geographic and additional criteria of whether the operation of the TLDs be based upon a developing economy.
	Again, from an evaluation perspective, if it is intended that the evaluation is objective that the criteria be based on existing lists or something that the evaluators can draw from. I'll put on the chat the reference to the lists that were used in the 2012 round. Thank you.
CHERYL LANGDON-ORR:	Thanks, Trang. Thanks to the add-on. Of course, as Mary did note, there is great variability in what is on any of these third party lists and the usage of the lists. Regardless of what criteria is finally established, having some harmonization and predictability in what's going to be used is going to be the essential thing here.

We also note that the terminology "Global South" is something that has been very clearly defined certainly in various documentations. But if it is not going to be the preferred terminology used by ICANN.org, it is an important thing that we are aware of it because we do not want to have our policy recommendations requiring immediate overhaul review or more fearfully, from my perspective, rejection because of our choice of changing or about to be changed or out-of-date terminologies. I would remind the staff that I believe there is an inquiry within the geo regions work track to look at the definition of Global South, and so what Mary has just shared with us is important information to get back to that group as well. Thank you. And over to you, Christopher.

CHRISTOPHER WILKINSON: Thank you, Chair. Thank you, Madam Wong. Thank you, Madam Trang. I'm very glad to understand that ICANN Org – you guys – are looking into this seriously and in detail. It's important.

To previous call, I think it was [Buckingham] who made a proposal which I supported. It would be very helpful for the work of this group if ICANN Org could table a proposal. You don't need to commit to it. It can be a strawman – or a straw woman, I suppose nowadays – but make a proposal, please, how we could proceed. Don't assume that there should be a permanent arrangement, as I said in my previous intervention. We're really talking about how to get this off the ground in the applicant support phase of the next round and it will be an initial phase.

If I may say so, don't be coy. After all, the director of GDD – I think it's called – Cyrus, was hardly coy when he went to the Board and told the Board what he thought the PDP was going to come up with. Now, actually, I disagreed with him on certain points, but I don't disagree with the principle.

The staff – at your level and the top-level – really have to be open and helpful in telling us what is possible and what is reasonable in relation to the information and the resources that you've got. Please do it. Thank you.

CHERYL LANGDON-ORR: Thank you, Christopher. I'm sure staff feel well rallied by your cold arms there or call to action. Trang?

TRANG NGUYEN: Thank you. Just a respond to what Christopher just said and to set the record straight, what Cyrus has sent out and what he has presented was not actually what we think the PDP Working Group recommendation should be but rather what we presented were operational planning assumptions that were based on the current discussions of the PDP Working Group which we stated could be changed or modified depending on the outcome of the PDP Working Group. So I just wanted to state for the record that org is not trying to dictate the outcome of PDP discussions, but rather what we presented were operational assumptions. Thank you.

EN

CHERYL LANGDON-ORR: Thank you, Trang. I suspected that might be why your hand went up. Yes, indeed, I think it should be obvious in the title that I would compliment the efforts made by you and others, obviously Cyrus but not limited to him in the presentations, but were able to be squeezed into agendas in the last ICANN face-to-face meeting. Obviously, you've got more ongoing work to do there and I know you've got more presentations you're making to do from parts of ICANN, but it is sets of assumptions for all that, for working and planning.

Okay, let us move on to the next new idea, which is one form the ALAC which states that ALAC favors supporting applications, looking at underserved – however we define it – populations regardless of their application. The same thing, only different to the last conversation in some ways. It is the community proposed to be served by the application – in other words, to be served by the string – rather than the location of the applicant that perhaps matters. Although the applicant must clearly, I would suggest, demonstrate how they serve such an underserved region or community. And I'm just going to embellish the ALAC idea as it is captured here and say that this new idea is not reducing the requirement for such an applicant to still meet all other criteria. So this is not either/or. It is a specific embellishment, if you will, on the possibility of an applicant which is not honed in a declarable underserved region but will be serving an underserved region or community and that still meets all of the other criteria could still qualify. So it would be a modification or an exception to the economically developed status rule.

That is the proposal from ALAC. Open the queue on. Justine, you may feel free to speak on it if you wish. And if I mangled it, feel free to let me

know I've mangled it. Failing anybody wanting to jump in on that, we will leave that open to consideration and possible rejection or adoption, depending on where we go with other preliminary recommendations becoming recommendations as such.

The final new idea – and I'm aware of time so I wanted to at least get to the final new idea – which is from the Business Constituency is the application criteria should take into account intended benefits to the community/region, irrespective of the region. And there I say it looks to me like there are some crossover between the intent of that idea from Business Constituency and the idea from the At-Large Advisory Committee. So I think the fact that we have two parts of ICANN, not traditionally known for stepping ahead [inaudible] or marching to the beat in the same drum who are saying pretty much the same thing here, so when we consider these new ideas as adjunct or otherwise to follow recommendations which may or may not be made out of preliminary recommendations, you're having principle support for. Oh dear, I'm exhausted. I'll [inaudible] that sentence. Then we need to think on that further.

Ladies and gentlemen, we have just a few minutes left on the call. I would very much suggest that this is an ideal point to stop and start up at our next call looking at the methods for selecting Applicant Support Program recipients if there are more applicants than others. This will, I admit, have us loop back to the question of prioritization, noting that when we've spoken about prioritization in today's call, we have in fact been talking about prioritization of within the Applicant Support Program. So in the case of certain amount of funds or support

resourcing available, how does one distribute it if the needs exceed the resources?

But also that what we won't be talking about in the next part is the question of prioritization against other applicants because I believe – again correct me if I'm wrong – what we have heard relatively clearly in the past and in today's call is that there should not be prioritization merely because you are an ASP-supported applicant. There may be prioritization due to some of the recommendations such as a type of gTLD may or may not be recommended to have priority over others. That brings us back to things like brand rounds, geo rounds, etc. or prioritization within rounds for any or all of the above.

Okay, Justine is asking, just because she doesn't want me to finish ahead of time, could we please have an action item to ask ICANN Org to share their thinking on underserved or underdeveloped regions. In moving away from Global South, I'm sure Mary will keep us updated because Mary was kind enough to jump in and give us the heads up but that can be just an ongoing watching brief on that action item, but we will definitely watch this space and watch the timing of that.

I will now ask the staff. I believe we had Any Other Business for today's call. Mary has taken that action item to [heart], and as noted that it's working early stages right now. But I will just ask staff to remind us when our second call for this week is going to be. And I'm assuming that you are going to be burdened with me as the Chair yet again because I think Jeff is on a complete holiday for the whole week. That will be Thursday, 1 August at – oh dear me, great for me but bad for the rest of you all – time of 0300 UTC for 90 minutes. You all have your marching

orders. Please don't forget to pursue, discuss, debate, and hopefully even to come sort of suggestions for final or the final drafting text on the list between now and then.

With that, bye for now. We can stop the recording on the dot of 90 minutes.

[END OF TRANSCRIPTION]