**ICANN
Transcription
GNSO New gTLD Subsequent Procedures Working Group
Tuesday, 11 June 2019 at 03:00 UTC**
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JULIE BISLAND: Good morning, good afternoon, and good evening, all. Welcome to the New gTLD Subsequent Procedures Working Group call, on Tuesday, the 11th of June, 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, could you please let yourself be known now?

Hearing no names, I would like 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.

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JEFF NEUMAN:
Thank you, Julie. Welcome, everyone. Let's look at the agenda, which is up on the screen right now. I've switched the order of one item, if you read the e-mail over the weekend. We're going to start with a discussion on the work plan and the schedule post-ICANN 65. Then we'll get into the substance of this, which is continuing on with the pre-approval process, finishing that up, and getting to the discussion on the global public interest, which I know is another complicated and lengthy subject, and then Any Other Business.

Let me first ask for any items that anyone wants to discuss on our Any Other Business. I'll just see if anyone has anything.

Okay. Let me just ask then as well – actually, oops. Let me scroll up because I can't – there we go. Then let me see if anyone's got any changes to their statements of interest. Any updates?

Not seeing any. Great. If you read the agenda coming in the e-mail Steve sent out and then a follow-up, there was a link, which is not on this version. Hopefully someone can post the link in here to the workplan. The link to the workplan has been in the wiki and hasn't changed. It's been there and hopefully have been reading it from time to time.

What you'll notice – thank you for scrolling down – is that we are today, on June 10th, looking at most of the time spent on global public interest and applicant freedom of expression after we finish up some leftover items on the [improvement] process. Then we have one more call next

week. That's prior to the meeting in Marrakech. That's the week of the 24th through 27th.

After ICANN, you will notice some interesting changes here. The changes are all in redline for. A couple things. Number one is that we are going to move to twice a week after the ICANN meeting. Yes, I know it's during the summer for the northern hemisphere and the winter for the southern hemisphere. I know that lots of people take vacations, but we do have to get through this material. As you can see from the workplan that we'll talk about in a second, we've already extended out the schedule. We think going to twice a week will help us not have to extend it much further. We've certainly been taking a little bit longer talking about some of these subjects than we anticipated. Not wanting to cut off these discussions, we thought it would be best to add two calls to each week after the ICANN meeting.

The topics are on there, so you'll know in advance what we're talking about. We will make sure that we are not repeating conversations that happened from the first call during the week and the second call and vice versa. For now, we are planning on the calls being Mondays, which we currently do, with the exception of the occasional Tuesday. Right now, the call is Tuesday for some people in the world. We're going to go to Monday and Thursday because there were just too many conflicts on Tuesday and Wednesday with other working group calls and PDPs and stuff going on. We do recognize that there may be some other conflicts that this might create but hopefully not with the ICANN policy processes that are going on and the ones that we know about from the calendar. We will have to make sure that the Thursday calls do not interfere with

GNSO Council calls that occur once every, what, three or four weeks? So we'll make sure not to do any kind of overlap there.

The second item which I referred to is, if you scroll to the end of the schedule, you'll notice that we do have dates in August now. I see there's one typo. Can you just scroll up one second? I think I forgot to change that from August. It should be – no, I didn't. That's right. Never mind. It's August 1st. I'm right. Never mind. If you scroll back down – sorry – you'll see it has us going to mid-August now instead of what was originally in the plan, which was June or July. Ultimately, it became September, but we're trying to move that back a little bit by doing two calls a week.

Are there any questions on that?

A couple hands. Let me go to Kathy, then – I don't know why they keep jumping back and forth here. I had Kathy first and then Jim and it jumped. So I'll just go to Kathy first and then Jim.

KATHY KLEIMAN: Go to Jim first. Go ahead.

JEFF NEUMAN: Jim, would you like to go first, please?

JIM PRENDERGAST: Sure. Jeff, what you're proposing is now three hours of calls per week plus, for those people who are also participating in Work Track 5, an

additional 90 minutes? So four-and-a-half hours of calls per week on this?

JEFF NEUMAN: If you look at the schedule – can you scroll up a little bit? – we're hoping to, with Work Track 5, which we don't necessarily on here past the ICANN meeting, at some point bring that into the full working group discussions. The Work Track 5 leaders are still discussing when that would be. Yes, for a few weeks at least there will be some extra calls per week.

JIM PRENDERGAST: So you're anticipating, according to this work plan, that Work Track 5 would be done before the ICANN meeting?

JEFF NEUMAN: No, sorry about that. The leaders of Work Track 5 are still discussing what the schedule looks like after ICANN. [We'll] update this to include that schedule once the co-leads have discussed that and then brought it up with the Work Track 5 working group or [inaudible].

JIM PRENDERGAST: Three hours is a lot for this. I know what you're trying to do here, but I want to register a concern that you're going to start to get some burnout. You're going to start to get people who are not participating because, as you mentioned, for Europe especially, it's a big holiday

period. In fact, a lot of the Europeans who would regularly be participating aren't even on this call right now because of the time.

So I've got some initial reservations with the amount of time you're asking people who are volunteering to commit here on a weekly basis and would suggest that maybe we continue to have this discussion when there's better representation on the call than we've got at this hour of the evening.

JEFF NEUMAN: Thanks, Jim. We amongst the leadership team had a lengthy discussion on this as well, so we understand the concerns. We're going to keep this on the schedule so people can thinking about blocking time out to make sure that there's no conflicts and we'll send out invites to have it on people's calendar. I think we can certainly continue discussions by e-mail, but we're what we're finding, unfortunately, is that the amount of conversation on e-mail is just not what it should be. It seems like calls are necessary on these topics. We are planning on being much more strict to the topics that we discuss on which days so that, if there are topics that you may not have an interest in or you do not think that you necessarily need to participate, then you'll know that well in advance.

I certainly understand the commitment and the potential burnout and everything else, but we're trying to look for ways to not slip further behind. This is the most logical way that we can do it.

Let me go to Kathy and Christopher and then – [oops]. Thanks.

KATHY KLEIMAN:	Great. Hi, Jeff. You won't be surprised to find that [Cheryl also] – I'm getting an echo, I think … that I don't think is the most logical way to proceed. Many of us have already planned our summers. We're past Memorial Day now. We've planned our summer schedules based on the [inaudible] that we had – sorry about the feedback, guys. I think this puts at a distinct disadvantage those of us in the group who are not paid to be here. Many people are, and this is part of their jobs. But for those who aren't, you're doubling the amount of time. And there are other things going on in ICANN. So I think this is distinctly unfair.
	I also think you have a relatively few number of participants as it is for the importance of this PDP that you're leading and leading quite well. So I object to two meeting a month. I think it will detract greatly from the discussion and from the participation and result in incredible unfairness and should probably be reported to Council. Thanks.
JEFF NEUMAN:	Thanks, Kathy. You said two a month. You meant two a week. Javier just put that into the chat, just to clarify what you said. So thanks, Kathy.
	Let me go to Christopher.
CHRISTOPHER WILKINSON:	Good morning, everybody. Here it's just ten past five in the morning. I think this is quite impracticable. You've already got, in the light of the importance and scope of some subjects, very small participation here. Some interest groups are represented by single-figure participants. It won't work. The PDP has not yet begun to deal with the Work Track 5

issues. You will not finish this by September. Much of the public discussion has not yet begun.

I'm less sanguine about the co-leadership. I feel that you're presiding over a great deal of recursiveness. The same subjects are brought up over and over again and not resolved. That will continue, as far as I can see. If some of our stakeholders think that they can, in effect, filibuster this whole issue by ensuring that it takes so much time that you finish up, back in 2012, through exhaustion, I don't think that's going to happen either. There are propositions on the table which are so far removed from common sense and reasonable public policy that, frankly, you won't solve the problem by doubling the time. You need to get real. Thank you.

JEFF NEUMAN: Thanks, Christopher. I fully understand your comments. Let's make sure that we're going to block these dates off, and times. We can certainly continue this discussion on e-mail. I don't think we should take up more of the time on this call to talk about this issue. Also, on the e-mail let's talk about ways in which we can make things go a little bit more efficiently to get through the subjects.

Let's move on. I do want to say that you'll see on your screen some timers. One of the feedbacks that I've got and other leaders have gotten is that there are certain comments, including from me, that take a little bit too long, so we're going to try this timer out to make sure that we can hear everybody that wants to be heard on a subject but also move on to different subjects so we don't get some filibustering or any kinds

of dwelling on issues for too long. The intent is not to suppress any views but rather, if someone agrees with a comment that was made, they can either do a +1 in the chat or succinctly make that statement in an oral comment.

So our proposal then would be to essentially do a two-minute timer for initial contributions on a subject and then a follow-up of one minute. Let's see how that works. It's not our intent to want to stifle any conversation, but we have been spending, as Christopher said, a lot of time on some subjects, and it seems like some of the same things are said over and over again.

Finally, one of the things that we're going to do is really put much more effort into conversations online on e-mail lists. For certain subjects, we're going to be setting up smaller groups, especially if it's a complicated topic. One of those I'll be talking about is finishing up the pre-approval program. There's been certainly a lot of comments on our PDP. We want to try out some new things to see if we can make things more efficient.

Kathy, I'll give you the last word, and then we'll get onto the substance – oh, I guess I won't [inaudible]?

KATHY KLEIMAN: I'm coming off mute. It's actually a question also for Cheryl, please, which is, based on what you're saying of now doubling the amount of regular members, not even including the Work Track 5 people, and doing more online in small groups, are you saying that, if we are not full-

time ICANNers, if we're not paid to be here full-time, we should just drop out now? Just checking?

JEFF NEUMAN: I can respond—

CHERYL LANGDON-ORR: [Let's not,] Kathy.

KATHY KLEIMAN: Cheryl, it's a serious question. You're asking for [inaudible] amount of time with no notice, and you've only heard objections so far. Thanks.

CHERYL LANGDON-ORR: And many of us discussed that this is what we felt we would hear. But we also need to present this as an option and see if we can find greater efficiencies in the way we're operating. We also don't want to stifle what seems to be very healthy and robust discussion about, as Christopher also reminded us, topics, including those that we know are going to be very important to have full, frank, and fearless considerations. We were hoping that the greater predictability associated with what's being done [inaudible] – in other words, time binding or time bounding – on the forecast work plan would assist people to pick and choose if that's one way that they think they might be able to manage.

Kathy, if you think that the leadership team, myself included, are looking forward to this, especially any of us who do something other than the Subsequent Procedure PDP, I can assure you that's very much not the case. But we also have got a job to do in bringing the PDP to a close.

JEFF NEUMAN: Thanks, Cheryl, and thanks, Kathy. Just for the record, I don't know if there's really anyone on this call or … well, I shouldn't make that assumption. I know that I am not paid by my employer to be on this call or chairing this group. I just want to get that out for the record. I had to get my employer's position. I, like many others, have a full-time job that's completely separate and apart from the subsequent procedures. So I don't think it's fair when you make some comments about how this is only benefitting those that get paid to do this. I want to just throw that in there, but again, let's continue more discussion on the e-mail list, like we're supposed to.

Let's go on to the [subject] [inaudible] for the call. Let's go to the preapproval process document. While that gets put up, I think I highlighted a part where it says – hopefully you're on that … if you scroll up … whoever's got the – Steve, you got control there. I think I highlighted a spot that is left off here. It should be yellow highlight. It was the 100% sure – no, up a little bit … up … up. [inaudible]. I could just look at the version online, but I'm trying to use the version that everybody can see on Zoom – here we go. I think this is it. Right? Yes. Okay, good. All right. Because I see that comments is left off here [inaudible].

So we spent a lot of time talking about the preapproval program. This is our, in fact, third call addressing it, but I think we've gotten to a point where there are some principles that it sounds like are getting some general approval or agreement – I should say lack of heavy objection – at this point. I want to keep going through this document. You'll see in the last section – not right now – that there's a bunch of things that are referred over to other sections because of the [tie] with those and/or because they're not unique through the preapproval program.

Where we left off on the RSP preapproval program was a principle that we were discussing that says that the results of the program – whether RSPs or which RSPs have passed evaluation – that list of those RSPs, could be made available to be used by potential applicants with an adequate amount of time to determine if they wish to apply for a gTLD and which RSP to use.

There was lots of discussion [inaudible] e-mail chain with Anne and some others talking about whether that should be four months. Six month was proposed. A year was proposed. I think at this point the best thing that we can do, because we're all grasping at straws at this point, is keeping this principle and then letting an evaluation [with some] implementation that gets set up to determine, along with ICANN staff, what that exact timeframe would be, following this general policy of trying to ensure as much time as possible so that potential applicants could know the results prior to applying and/or prior to choosing an RSP.

I think that pretty much covers most of the comments that you'll see below that. Again, you'll see three months, a year, six months, so I think

that's probably where we're best in moving forward and have the best chance of getting some sort of consensus on this issue.

Thoughts? Comments?

Okay. Moving onto the evaluation standards, for this one – sorry. If you can just go jump down to—

STEPHEN [COATES]:   Hey, Jeff? Oh, never mind.

JEFF NEUMAN: Yes, Steve?

STEPHAN [COATES]:   You had Kathy's hand up for a moment. I'm not sure if she still has her hand up.

JEFF NEUMAN: Sorry, Kathy. Go ahead.

KATHY KLEIMAN: Thanks, Jeff. Hey, where we are on – maybe it's below – taking people off, on taking backends off as RSPs if they are no longer approved?

JEFF NEUMAN:	What we discussed last week – there was not too much follow-up on e-mail afterwards – was that the sole purpose of getting preapproved was to be on this list prior to the beginning of a round. Taking someone off the list didn't seem to fit in with that notion, especially because any actions – I don't want to get into all of last week's call because we'd just be repeating the whole thing, but it didn't seem like to most people that the comments that came in … it made sense to take someone off the list. Because there was no process – I'm not doing a great job here. Let me go back.

In 2012, when there was a backend RSP, it was approved, and then that was it. If, at a later point in time, prior to the completion of the evaluations of every single application, an RSP or even a registry operator were in breach or terminated, there is no way in the current 2012 round to undo the previous approval of that RSP.

Using that same logic, it didn't seem to make sense to have those removed from the preapproval, the caveat being that we were talking about having either a preapproval or some sort of process prior to the next application window to make sure that those RSPs should stay on the preapproved list for that subsequent round. It seems like having that type of solution would avoid the bureaucracy. It would avoid setting up much more comprehensive programs than this was intended to solve on the balance.

I was hoping for some more communication on the list, and I think we should have it on the list without readdressing it. Let me give a couple minutes on this to Christopher and then to Kathy and then encourage that discussion to go on on the list. Let me go to Christopher and Kathy.

CHRISTOPHER WILKINSON: Thank you. Good morning. Jeff, I've said, out of his discussion to a certain degree, it seems to me that we need to be much more proactive. You're going to get, in the foreseeable future, reactions about the concentration of the RSP markets, both economic and geographical. There will be registry applicants who will be under pressure, either from their owners or from their governments, to ensure that the backend of their business is conducted in the jurisdiction concerned.

I think ICANN needs a technical assistance package and buddy system to ensure that applicants who need to find an RSP in their jurisdiction can do so and that there will a technical and economic support to achieve that end. Otherwise, the RSP market will continue to be excessively concentrated from an economic point of view and politically/geographically concentrated. We need to look into that. Thank you.

JEFF NEUMAN: Thanks, Christopher. Let me go to Kathy and then Jim.

KATHY KLEIMAN: Jeff, in this case, there actually was online discussion. I think there was Anne following up, I believe, on Jamie's suggestion and letting applicants know when their chosen RSP was no longer preapproved because we don't think ICANN's going to leave RSPs that have problems on the list. We talked extensively about the notice an applicant might need and the time they might need to switch RSPs. And that was

followed-up with on the list. So I think there actually is. I'm surprised it's not here. I think you had very constructive work on the list. How do we incorporate that as quickly as possible? Thanks.

JEFF NEUMAN: Thanks, Kathy. I'll go to Jim and Donna and then come back and circle to some of those points. Thanks.

JIM PENDERGAST: Thanks, Jeff. My comments are not exactly focused on this as a subject matter. I'm trying to get a better sense on the process because you're encouraging people to take these conversations to the list.

Can you give us a sense, as the co-lead on this, of how you're going to be weighing that along with the comments that are made on a phone call and how it all gets wrapped in together? There was a pretty healthy discussion on this topic last go-around and then, as Kathy pointed out, there was some on the list. But you really want to see more of a demonstrated, documented reiteration of the arguments that were made on a call, on the mailing list, in order to get that to set as opposition. I'm not sure how you want us to do this going forward. And it's not just on this issue. It's generally speaking. Thanks.

JEFF NEUMAN: Thanks, Jim. I'm taking note of these, but I just want to go to Donna and then I'll respond.

DONNA AUSTIN:	Thanks, Jeff. Donna Austin from Neustar. I guess my comment was a little bit aligned with Jim's. I did look at the discussion that was going on the e-mail list, but I had trouble passing who had said what and in relation to what topic we were talking about. So the e-mail discussion was a little bit hard to follow, so I think we probably need a bit more structure to that. I know it's more work to everybody, but maybe we can resolve Jim's issue about whether we discuss something here.
	I think some of the stuff that I struggle with when we discuss things here is that I never know what we've agreed to or where we're heading down the same path or what you think is outside and we still have to deal with. Some clarity around that would be helpful. Thanks, Jeff.
JEFF NEUMAN:	Thanks, Donna. Actually, let me work backwards. We are continually updating these documents. If you read these document and we are incorporating the notes into these documents where we see things like agreements or strong opposition or whatnot and referrals to other sections, to keep up with this, the best way is to read these documents. We're trying to be very clear on things like drafts, principles, policies, and all sorts of things, just so that we can summarize the conversations and also not give all the weight to the conversations that go on on the phone or on these calls because there are extensive comments and discussions and notes that took place prior to having the call. So, even though it may seem like, on a call, there's a few people that are leaning in one direction, that doesn't take over all the months or years of previous conversations on the subject.

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It's one of the reasons why, Jim, I want to put more focus on the list: I don't want to overly weigh the comments that are made on the phone or on these calls more so than the months of comments and discussions that have led up to all of this. I think they're all important and they all need to be taken together. That's what we as the leadership team do, and policy staff, to update these documents. So we're trying to reflect that.

I think, on the list, there were going to be some subjects that seem pretty large – one of those we'll get to a little bit later – that we believe would require a separate sub-mailing list, this way to not clutter up everything that everybody sees. But on some subjects, we think, we're just going to have a few outstanding items on, where we don't necessarily need to establish a separate sub-mailing list. It's not an exact science, and it may turn out that something that we thought were only a couple of issue out turn out to be bigger. We may need a list for that so that everybody is not inundated with all of the stuff that may or may not want to see.

Those are the things we're trying to do, but, Jim, yes, also to document the conversations. The notes come out every week. There certainly are a couple of people that review that religiously and then make comments, but it's clearly not done by everybody. But it is really important to read those notes. We incorporate those notes into the documents to the extent we can. You'll see some of those reflected later on in this call from the discussion that took place.

I don't know, Cheryl, if you want to add to that, or if anybody else wants to add to that.

CHERYL LANGDON-ORR: Yeah. I just want to verbalize very briefly – thanks, Jeff – what I put in chat, just so that whoever listens to the audio also knows. One of the other things we're wanting to do is make sure, at the end of each call, we spend just a few minutes establishing where we are or are not up to in terms of any generalized agreements or lack thereof or next steps towards developing generalized agreements or lack thereof on any of the topics and sub-topics. We also will be starting off each meeting with a brief recap of where we are up to. That's with the intention of picking up what has happened in any list traffic and trying to integrate that. So we're trying to bookend these things, as well as time-bind them a bit better. Thank you.

JEFF NEUMAN: Thanks, Cheryl. Steve, you are next.

STEVE CHAN: Thanks, Jeff. This is Steve Chan from staff. In our role as staff, we sit back and listen. I get the impression – actually, just scroll up for a moment. Going back to the high-level agreement, the very last one – I'll mention what it is for a second – if you look at this one, it seems like there might be a disconnect in what the preapproval system or program is supposed to do. If you look at this bottom one, the working group confirms that the only difference between a preapproved RSP and one that is approved during application evaluation is the timing of when the approval takes place.

So I guess I just want to bring attention to this statement, which is supposed to be a high-level agreement. If at least my understanding is correct, then that maybe put some of the concerns into different context. I don't know if it helps to look at this one again and I guess get confirmation that this understanding is correct, that there is agreement with this high-level principle amongst the working group members. Thanks.

JEFF NEUMAN: Thanks, Steve. I'd like to hold off on that for one sec because I think it does relate to the next section. If you can go back, you'll see why because it is part of this – if you go back to the evaluation standards. Also, if you can go to – you can't go to it because it was in an e-mail. In the e-mail I sent out prior to the call, piggybacking on that high-level agreement, which, like you, Steve, is what the leadership understands the high-level agreement to be on, because there is no difference between evaluating it earlier in time and evaluating it later in time during the application window, we think that the evaluation criteria should be put into or grouped into the discussions on – thanks for pulling it up – 2. … wait. Is this the right one? I sent a couple e-mails out. No, actually. It should be … that would be the right one. Yes. Thank you. So, because that high-level principle we think has agreement, then it makes sense to group the technical discussions on the evaluation criteria with the evaluation criteria that would be in the regular application process.

Therefore, because there's been some good conversation – I know Jim was part of that conversation, Rubens, Anne, and others – I think the

proposal there would be to create a small group to talk about the policies behind the technical evaluation process. In that small group, it would be looking at the materials that were already discussed within the working group through Work Track 5 through the initial report – those were Sections 277 and 2111 – as well as the comments we got back on those sections, which were reviewed by Subgroup B, in the case of 277, and Subgroup C, for 2111. Those were applicant reviews and registry testing, respectively. Those were the sections. It also has the advantage of giving some more time for ICANN to get back to us on the EBERO pre-delegation questions that were raised by Jim and for us as a group to evaluate those responses.

I'm going to go to the list. If there are any issues with the high-level principle of treating the evaluations the same or stated otherwise, the only difference between the pre-approval process and getting approved or passing evaluation during the evaluation window is a function of timing. Let me see if there's comments on that.

Kathy, please?

KATHY KLEIMAN: Hi, Jeff. What I understood from the list is that it's a function of marketing. That's what the difference is: the ability to market as an RSP to potential and interested applicants. Because of that, there is a consumer trust issue involved. We heard about that extensively, so I think there is much more agreement here than we have listed. Thanks.

JEFF NEUMAN: Thanks, Kathy. For the record, the only person that raised the marketing comment was Greg Shatan in his comment that marketing advantage is not indeed described in the initial report, nor was it described in any of our discussions or comments that we got back. So we have to be very, very careful in this group. Not to discount the statements from Greg. I think it definitely could have an effect, but there had never been declared a purpose in any of the previous documentation until Greg and the follow-ups that mention that. I think we really need to be careful not to keep piling on. This is just one example of someone raising a comment about a potential marketing advantage and now it's this other issue which it never was intended to be.

Any follow-up on that?

KATHY KLEIMAN: Yeah, Jeff. I've got a follow-up. It's Kathy.

JEFF NEUMAN: Please, Kathy.

KATHY KLEIMAN: I don't think it was Greg. You heard about it actually from some of the representatives and from others who work with applicants, that this is an issue of marketing. Look at the e-mail. Look at Jamie's and Anne's exchange that RSPs who are holding themselves out to be RSPs should be currently certified or currently approved by ICANN. If they've had incidents and they had – there's a notice issue here. I think we're just bypassing the result of the long conversation that did continue on the

list. So, I think, by all your standards, we've met a new level and we added to our understanding on this issue.

JEFF NEUMAN: Thanks, Kathy. Jamie, please.

JAMIE BAXTER: Thanks, Jeff. I think the point that I would like to reiterate from what I was raising was more, I guess, a concern that this conversation started out of an interest in reducing costs and creating efficiencies that benefited the applicant. I don't know if it's just me, but it feels like the conversation has now shifted to how we protect the RSPs. I guess I'm just uneasy with that because that wasn't the intent of going down this path, from what I understood. So I raised in my exchange through the list the concern for continuing to focus on the benefit this brings to applicants, since they're the ones who benefit from the cost saving and the efficiencies.

So whatever comes from this that helps the RSPs I'm certainly not against, but I just get concerned when the conversation continues to shift to what they're losing out on or why we shouldn't be pushing back on them in some way when that wasn't the intent of this, again, from how I understood as the conversation started way back. Thanks.

JEFF NEUMAN: Thanks, Jamie. That's really, really important. I think you're making the point I was making earlier, which is that I think getting into a whole discussion of how one markets themselves and unfair competition is not

the right focus for this conversation because, as you just said, the whole intent was to reduce costs, increase efficiency, and give greater predictability to applicants on who would an RSP that they could chose that they know would have already passed the evaluation process and that they wouldn't have to foot the bill or pay for the technical evaluation of the RSP.

So all of that, Jamie, is exactly what you said, which is why I think getting into the conversation of how it's used from a marketing perspective take us away from all of the two years of work that's gone on on this discussion.

Steve just put in the chat, "Is it helpful to review the policy goals?" I think it's helpful for people to do that offline. I absolutely think that that's essential, but I'm not 100% sure that we should do that at this point.

Just reading the chat, Kathy says, "The question is, what happens if an RSP loses approval?" I think, Kathy, what we're saying is that RSPs don't lose approval. Once they're evaluated, they have passed the evaluation. If, when they're in operation they violate their SLAs, that's a contractual compliance issue at that point in time. But, just like the current 2012 process, there is no mechanism that we are proposing in this that would envision having to revisit whether someone initially passed their evaluation. Same thing like in 2012. There was no way.

Let's say there was an evaluation of – what was the first TLD? Well, I don't want to go to actual TLDs. Let's say the first TLD was delegated in the root in 2013. That was a point in time that was before all of the

technical evaluations, including the subsequent, if they went to extended evaluations, were completed. If that first TLD that was delegated in the root somehow violated all of their SLAs, and the RSP or the registry operator were terminated – granted, that didn't happen – there was, in the 2012 round, no mechanism to undo any evaluations with that RSP that were already done.

So, at the high-level principle, what we're saying is that the only difference in treatment between going through the preapproval process and going through the regular approval process is a function of timing. That's it. Once we think about it from that standpoint, the whole notion of being removed from a list doesn't come into play.

Let me address Christopher's comment, too, because I think that does relate to a topic that's on here as well and one that was responded to in an e-mail to Anne. No. Just like there are not contracts today between an RSP and ICANN, there would not proposed contract between ICANN and the RSP as part of this preapproval program. There may be, on the side, some terms and conditions for actually being evaluated – just terms and conditions of how to participate in that program – but no ongoing contract between ICANN and the RSP, just like there's no ongoing contract today with an RSP and ICANN.

Kathy, please?

KATHY KLEIMAN: Sorry. Coming off mute. In all my years in technical work, I've never heard of a one-way approval and that an organization in the technical

world has failed its obligations would continue to be listed as if it had passed its obligations.

In this case, let's assume 5,000 or 10,000, or 20,000 applications will be processed over a significant bit of time. I agree with Donna in the comments that registry operators can be responsible for problems, but also RSPs certainly can. If an RSP is encountering problems, even as applicants are being processed, and the RSP is no longer eligible for the expedited review because it has failed on certain technical grounds, I don't understand how we can have [inaudible] list. What goes up cannot go down. That doesn't make any sense to me.

So file it as a huge minority position and one that I'm finding absolutely crazy. Let's see who else agrees. Thanks.

JEFF NEUMAN: Thanks, Kathy. I just want to correct some things that were said. Maybe it's just because I wasn't clear. Kathy, you said that you've never heard of a process, but that's what happened in 2012. In 2012, if you were approved during the evaluation, it's not like there was any process to unapproved you if you later violated your SLAs. That's all done at the contractual compliance level after the TLD is delegated. In theory, it is possible to violate your SLAs with respect to one TLD but not necessary others. So the connection you're making doesn't necessarily flow.

[On] the other thing that you said is, this is not an expedited review. This is not a quick review, a quick look, or anything like that. This is a full review. Going back to the high-level principle, it would be the exact same review as if you applied [it] in conjunction with an applicant that

submitted for a string. No differences. When you think of it in that context, then this starts to make some more sense.

I don't want to spend too much more time on this, other than to say let's continue this on a list: the evaluation criteria. We'll create a sub-list to talk about the evaluation criteria with the understanding on the high-level principle that the treatment of the RSPs are the same regardless of when they choose to get approved.

Cheryl, please.

CHERYL LANGDON-ORR: Thanks. While you're working in a small group, etc., and while the rest of us are [conjugating] over these discussions and debates that are coming forward at this point in time, don't lose sight of the fact that it is absolutely possible, and indeed plausible, for, in our final report, us to say – it's in keeping with the high-level belief – that the desirability of having of benefit to applicants or having a preapproval list of registry service providers on deeper discussion and analysis became simply too complex to sort at this time, and it can be withdrawn. So don't lose sight of that as an outcome option as well.

JEFF NEUMAN: Thanks, Cheryl. At the end of the day, we'll see where this goes. Again, I don't want to lose sight of all of the hours of discussions, transcripts, notes, comments, initial reports, and further comments that have already been done on this subject. Just to tell you, to prepare for this call I went back through every – well, I can't guarantee it's every one of

those, but as many of those I could find to balance it with the conversations that we've had over the last couple weeks.

Moving down onto the voluntary program, with the exception of the Business Constituency, every other comment we got on whether the program should be voluntary or mandatory was in favor of voluntary. This again is looking at the community comment– I can't remember if it's one or two; I think it's two – and looking at the work that was done from Work Track 1 Subgroup A; all of that stuff. The only comment that we got of divergence was [from] the Business Constituency. We'll get to that in a second.

We got a concern from the Non-Commercial Stakeholder Group, which I've read several times. Maybe Kathy or someone else – what I got out of that was that it an issue with the wording but not an issue with having the program voluntary. In fact, the Non-Commercial Stakeholder Group does specifically state that it should be a voluntary program. So I think that's an issue of wording. I believe that we can solve that one.

On the Business Constituency divergence, what I did here was I started a list from my own mind of what would be the pros of making it mandatory and the cons, looking at previous conversations and transcripts and comments again. So I shouldn't say it's out of my own mind. It's out of those previous discussions.

One of the things that we can continue, if we think this is a helpful exercise, is to continue to draw out these lists further. I want to just ask the group if there's any change in the group's view of whether this

should be voluntary or mandatory. Hopefully everyone understands what I mean by voluntary or mandatory.

I know Cheryl's hand is up, but I believe that's an old hand.

CHERYL LANGDON-ORR: Actually, I just wanted to make sure that everyone realizes this is simply a taking-of-temperature exercise. We're a relatively small group compared to other meetings. Any opinion in terms of Jeff's question posed would only be of interest and advisory at this stage. I just didn't want people to think the barn door was closing there, Jeff. That's all.

JEFF NEUMAN: Thanks, Cheryl. That's a great point. It's a taking of temperature to make sure that, at least on this call, we're reading the group correctly from the participants on this call.

I'm not seeing any additional comments, other than Donna's confirmation of voluntary.

If we move down to the funding and the cost issues, the recommendation here in the last bullet, which seemed to have agreement from all of the groups, although there was certainly concerns about knowing what those costs would be because it's hard to understand that at this point – given that, though, if our policy is that it's cost recovery and then we [erect] the – because the cost will only be able to figured out once the implementation is decided and discussed, I think at this point all we can do is note that there are some reservations

on this, but only because the costs are not known at this point, not in the principle that it should be cost recovery.

This is probably the toughest one, or one of the toughest ones: factoring in the number of TLDs that an RSP intends to support. The proposal that was put out for comment was that the RSP's overall breadth or registry operator support be also considered not just in the pre-approval process but in the approval process as well. So this issue, like the others, would be part of the small group discussion if we all still agree with the principle that Steve pointed out earlier, that the treatment of RSPs should be the same, except for the fact of when the evaluation takes place.

If we scroll down, I think – I'm trying to remember … yes. Thank you. At the end, the recommendation that I would propose would be that the implementation team – of course, ICANN org is part of that implementation team – should determine a mechanism a potential RSP's ability to scale, to handle a self-declared number of TLDs, domain names, DNS queries, RDAP queries, etc., and provide responses as to how each RSP would increase scale to meet unexpected increases in volumes for the TLDs they support.

In other words, to reword that in a shorter way, it's that this is really an issue of scalability that needs to be evaluated. I think the small group that talks about this should work on this recommendation, but ultimately, at the end of the day, an implementation team would be required to develop ways to measure scalability in these important items to evaluate whether an RSP could pass this part of the evaluation.

Kathy, please?

KATHY KLEIMAN: Hate to do it, but going back again to that underlying agreement, which I don't think exists because we haven't balanced the obligations and requirements of the RSPs and we haven't let applicants know when someone is no longer certified, that repetition of that agreement I don't think is there. So I think we have to note that [each time]. What I've done is put the NCSG comments, the more detailed comments, into he chat room. But, Jeff, I'm still concerned about that underlying agreement. Thanks.

JEFF NEUMAN: Thanks, Kathy. One of the things, when I went back and reviewed the NCSG comments, along with the previous discussions and comments from NCSG previous to this, is that it seems like there was a – I think we really need to go back to the NCSG because I think there was or is not necessarily the understanding of what was proposed as part of the preapproval program from the comments that were received by the NCSG. I think we need to have conversations with the NCSG to make sure that we're on the same page in terms of what the program is and what it's not and then see whether these comments still exist from the NCSG. In other words, from going back into those comments and reading it in conjunction with everything else, it seemed like the NCSG was looking at this program as more than the function of being no different, other than timing, or relying on timing.

So I think this is something to explore with the NCSG, but they were the only comments that we got that seemed to not necessarily agree with the high-level principle. But it also could be from not a full understanding of everything that we have discussed to date.

I think we should go back to the NCSG and have that and just verify, given the new understandings and the principles that we're coming to general agreement on, whether this is still the view.

Cheryl, is your hand up? New?

No? Okay, sorry. The hand looks up on my screen. Then, looking at the periodic assessment, let's look at this again here. We discussed this a little bit earlier. The discussion seemed to support periodic reassessment. Some have recommended that this be done either X number of years, while others have discussed only reassessing – I don't know if I have to many S's in there or if it's just my eyes at this late hour – prior to the commencement of the next subsequent window.

The latter, meaning reassessing prior to the assessment of the next subsequent window, would work if we always do discrete rounds and never go to a first come/first serve, which, by the way, is seemingly the way we're heading anyway. The former, meaning doing some assessment after X number of years, could have the issue of requiring reassessment during a round where applicants are supporting applications, thus making it difficult for applicants if, for some reason, the reassessment shows that they should not continue to be approved. On balance, it seems more logical to reassess prior to each round, but if we ever do come to a first come/first serve model – I'm not saying we

will or are – then we would obviously need to come back and revisit this.

As Christopher said, there's no agreement going towards first come/first serve. I agree with you Christopher. I'm just trying to present a balanced view here without saying that it's never going to happen. I'm not saying it is going to happen. I hope that makes sense.

Let's see. Just going back in the comments … okay. I've got those. Does that make sense? Again, this would be referred to with the smaller group because, if you think about a reassessment of the preapproved RSPs, then wouldn't it logically make sense to do the reassessment of subsequent approved RSPs that are approved during the evaluation process?

Donna, please?

DONNA AUSTIN: Thanks, Jeff. I'm just trying to understand this. What you're suggesting is a period reassessment of our RSP outside of an application window. Is that what you're suggesting?

JEFF NEUMAN: No, I'm not. Sorry. I guess I wasn't clear. There are two options that we can consider. At the end, it says, "On balance, there would only be a reassessment prior to the next round for that round," that next subsequent round. So that's what is being suggested in this. But if the group wants to go a different direction and do some sort of reassessment every couple of years, then we'll have to figure out those

other issues that stem from that. Just to be clear, looking at all of the previous materials, it seems like, on balance, it would be more logical to just do the reassessment prior to each round.

DONNA AUSTIN: Rather than every … I guess I'm having trouble with the word "reassessment." The preapproval process would be a requirement in any additional rounds or something like that because how that reads to me is that the RSP would be assessed in some way by ICANN of its performance over time. That is going down the path of some kind of accreditation or something like that. I would prefer it if we could be a little bit more sensitive to the wording. So let's be really clear about what it is we're trying to do here. Thanks.

JEFF NEUMAN: Thanks, Donna. I think the intention is exactly as you were discussing, so I'm happy to take wording changes that make it better. The only thing I would ask you to consider – well, the group will consider – is, when someone is – I use the term "reassessed," but that's obviously a bad choice of words. Do we want an RSP to have to go through the full evaluation process to each round, or can there be, in essence, a shorter … not shorter, but is there the need … I guess me leave [it] at that. Is there a need for a full preapproval process for each RSP before each round? Or, once they are preapproved or regularly approved in an evaluation, do they need, for the next round, to go through the full process again? Let me put it that way. Not an answer I think we need here, but I think that was what was going through my mind when I came

up with the word "reassessment." But I completely understand, now that you've said they way you did with your comments, that that's probably not the best wording.

Let me go to Jamie and then Donna.

JAMIE BAXTER: [Thanks, Jeff]. I think, if we go back to [inaudible] earlier to say that it's really just a difference between the timing of the evaluation, whether it's before the round opens or after the round has closed. That seems to align with what you're suggesting in that, going into each round, there is some sort of an assessment of the RSP that builds and presents confidence to applicants who are making selections, especially if it's to select an RSP that is touting the preapproval status.

So I wouldn't be unnecessarily objectionable to that new evaluation being truncated in some way. I'm not a technical person, so I don't know what's really involved. [inaudible] for suggestion for the way you've described it as there being a new evaluation going into each round, primarily, as I stated, for the purpose of giving the applicants the confidence in which RSPs [inaudible].

JEFF NEUMAN: Jamie, you're trailed off there. It got a little quiet, but I think we got the gist of the comment on the assessment and the support in line with the principle of the only difference being the evaluation prior in time and that the word "assessment" to you seems to convey that kind of meaning.

Donna, please?

DONNA AUSTIN: Sorry, Jeff. I've just had an urgent working come up. My question was, are we going to discuss grandfathering? Because, if we're going to discuss grandfathering at this point, it might be moot. But I'm not sure where we got to on that. Thanks.

JEFF NEUMAN: That's a good question. On the grandfathering issue, if you go back up to the high-level principles – I'm trying to do this from memory, so I'm hoping my memory is correct – there was a notion of treating all equally, right? So where's that? The last one. The RSP preapproval process and structure should treat incumbent RSPs and prospective RSPs in an equitable manner. This was a comment from Google, supported in comments from Mike [inaudible], but it seems to have had support in our discussions.

If you follow that principle – I think it might also be in the high-level agreements; I'm not 100% sure of that – and look at the comments we got on grandfathering, which were very much not in favor of grandfathering, it wasn't the intent to enter into that discussion for grandfathering for this next round. That may be a different discussion of grandfathering after that, now that [to] everyone we could give notice. In other words, you may be able to take the results from – I'm not saying we should or shouldn't. I'm just saying it's a separate issue of whether you take those that are preapproved and/or approved in this

next round and have a grandfathering process moving forward. That could be discussed. Hopefully that makes a little bit of sense.

Let me go to Jim and Kathy.

JIM PRENDERGAST: Thanks, Jeff. I asked a question in chat. I know it's tough following it. Maybe as part of the data request that we have going into ICANN about getting an update report on both the EBERO-triggering incidents, as well as the issues around pre-delegation testing, could we get a better sense from ICANN about what happens when there is an EBERO-triggering incident? Is there a reassessment that takes place at that point, or is there some sort of retest? That might help inform these discussions as well. Thanks.

JEFF NEUMAN: Thanks, Jim. Sorry I missed that comment. Yeah, it's hard sometimes to follow it all. I think, just to narrow your question down, it makes sense to ask basically how a registry gets …. I think what you're asking is how an RSP gets out of EBERO once it's put into that status. Man, I said that even worse. Sorry, Jim. I butchered that.

JIM PRENDERGAST: No, that's all right.

JEFF NEUMAN:	I'll go back to the transcript and say it right. But, yes, I think that's important.
JIM PRENDERGAST:	Yeah, because I think, for those who have been through the change of an RSP provider, there is a reassessment that a company is [that]. But, when there is a failure, I don't think anybody knows the extent the retesting that actually takes place at that point. So that'd be helpful. Thanks.
JEFF NEUMAN:	Thanks, Jim. Kathy, please?
KATHY KLEIMAN:	Can you hear me, Jeff?
JEFF NEUMAN:	Yes.
KATHY KLEIMAN:	Good. I still see a tension here, especially as we're talking about grandfathering, between the protection for the RSPs and the protection for current and future applicants.
	Again, I'll remind you – I don't, especially as we're talking about extending this – of the comments of the NCSG, which I know you don't like, that, "Mechanisms" – here I'm just reading – "should be put in

place in order to A) enable regular root reviews of RSP, B) public cataloguing of receipts against RSP" – its complaints – "and C) investigation/response taken to the complaints." There has to be a process for unapproving, and we haven't gotten there yet. What goes up must be able to come down if it's not deserving of the status. I still don't see how we've built that in. Thank you.

JEFF NEUMAN: Thanks, Kathy. Just to be clear, I think the group was saying the opposite, that, from looking at the comments and everything in total, there was not support for grandfathering RSPs with respect to this next round.

What I was discussing was that, if we do a recurring preapproval or reassessment – whatever we decide to call – for subsequent rounds after this next one, there was not yet been a discussion of whether that periodic reassessment or recurring reapproval would be the exact same full process that they went through or whether it can be some other type of reassessment for those that have already been preapproved. That would be in line with the NCSG comments, I believe, on having that reapproval or reassessment – whatever anyone wants to call it. So I think there's agreement there. I think I didn't misinterpret.

I want to get to the last couple parts here. Christopher, if you could be brief, that would be great. Or, if we could save that for the small group …

CHRISTOPHER WILKINSON: Very briefly, this is like testing the car. The preapproval has to have a term and it has to be renewed, but I see no reason for synchronizing the renewal period of a preapproval with rounds. It could be longer. You could make it longer and then just say it will definitely be interpreted if there's an EBERO.

JEFF NEUMAN: Thanks. I think that's something, Christopher, that this group will look at with the technical issues. Again, I want to stress that, if we have a principle that there's no difference between those RSPs that are preapproved and those that are approved, then any reassessments would apply equally to those that are approved during the application window, as would those that were preapproved before the application window. So that's something that this group would need to consider.

If we look at then the next subject – I do want to just to do some last minutes, again, with the notion of having this go to the sub-group mailing list – can we scroll down? Sorry, Steve. The last couple of items here. So the grandfathering we already addressed. If we can scroll down a little bit more here to the referrals. Yes, this is the section.

So, if you'll see, in line with the notion of, again, treating preapproved RSPs no differently than regularly approved RSPs, you'll see a number of referrals to these other sections which deal with the registry system testing or the registry application evaluation criteria – really where all of that fits in. So you'll see the GAC comments, the NCSG comments, the registrar comments. All of that really is applicable to technical evaluations in general, especially if, again, we apply the high-level

principle of that there's no difference between those that are preapproved and approved.

Hopefully, when you look at this document after the call, you can just keep that in mind when you go through this document. As we write some additional text and put it in here, that's the concepts that we will be keeping in mind as well.

Just looking at the comments, Donna said, "Can we just have a principle which says that" – whoops; lost that here – "preapproval would be required for future rounds?" We absolutely could. This working group should discuss that, but, yes, we certainly could have that a principle.

Some other comments on the EBERO. Christa has got a comment on RSPs. "Preapproval RSPs should be done in a way that takes into account the capacity." That all relates to the scalability comments that we talked about above with that recommendation. So please look at that scalability comment.

I looked in other industries as well. It's very common in many other industries to look at scalability rather than coming up with a specific, "Yes, you're approved for X number of TLDs that have Y number of DNS queries and Z number of RDDS." It gets really, really complicated. But the organization's ability to scale can be evaluated in terms of their answer that they provide is routinely done in many industries.

So look at that recommendation. It seems to take into consideration a lot – there was a lot of divergence on the notion of taking in a number of TLDs, a number of queries, primarily because it was hard to come up with objective criteria. If you look at the registries, the registrars, and

even non-contracted parties, there were a number of them that said that it would be difficult to come up with an exact number.

Putting all of that together, it seems like having a way to measure the scalability of an RSP takes that into consideration.

Just to recap, because I know we're out of time, we're going to create a mailing list for those that want to participate further in these discussions, along with the registry system testing and evaluation criteria in general. Since we won't get to that topic on a full working group call for quite some time, I think this small group can work on hopefully resolving a number of things before we get to that – or, I should say, resolve some of those to present to the full working group when we get to that topic.

So we'll put out a call for volunteers that want to participate in that, and we'll do that shortly after this call, probably tomorrow. The next call is Monday, June 17th. I'll have to update the work plan because we didn't get into the public interest stuff, but we will definitely start on that next week.

Thank you, everyone. Thanks for a productive call.

[END OF TRANSCRIPTION]