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**ICANN Transcription**  
**GNSO New gTLD Subsequent Procedures Working Group**  
**Thursday, 29 October 2020 at 15:00 UTC**

Note: Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record.

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ANDREA GLANDON

Good morning, good afternoon, good evening. Welcome to the new gTLD subsequent procedures PDP meeting being held on Thursday the 29th of October at 15:00 UTC.

In the interest of time, there'll be no roll call. Attendance will be taken by the Zoom room. If you're only on the audio bridge, could you please let yourselves be known now? We do have Cheryl Langdon-Orr who is on the audio bridge.

Thank you. Hearing no names, I would like to remind all participants to please state your names before speaking for transcription purposes and to please keep your phones and microphones on mute when not speaking to avoid any background noise. As a reminder, those who take part in ICANN's multi-stakeholder process are to comply with the expected standards of behavior.

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

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JEFF NEUMAN:

Thank you very much, Andrea. Welcome, everyone. Today's agenda is pretty packed so I want to get started as soon as we can. Let me first ask if there's any changes or updates to any statements of interest. Okay, not seeing any. Great.

Our agenda, like I said, is pretty packed. We're going to get into a bunch of actual topics you see on the agenda, and as we get to them, ICANN staff will help us with putting in the direct links to those documents in the chat, because it's quite small to read up on the screen. If you can, it's great. Your eyes are better than mine, which is good.

I just want to start with a recap of how these meetings are going to go. We talked about this at the other meeting, but given the time that it was held, it was not attended by as many people as today. The way that these sessions are going to go is that we're not going to walk through every single comment that's presented. When we get to these spreadsheets, you'll see a leadership comments column, and in that column, the leadership team has gone through the items for today and has made notes on certain comments that we'd like to point out. That doesn't mean that we can't discuss any other items, it just means that those are the ones that leadership felt either add something new that we haven't discussed or a change in circumstances or some reason why the group may want to address.

And of course, the group can decide that it doesn't want to address it or that it does, and then there's a whole bunch of different ways the group can address it, either by taking a conversation off list, if it's just a clarification point, then it just might be some new draft language to look at, or it could be that that's a

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great comment but it's more in the weeds of implementation and we'll take those comments and forward it on to the implementation team but at this point it won't change our recommendations.

So there's a bunch of ways that it could come out, but that's in general how we're looking at these things. So we expect that everyone, when they come to these calls, has read all of the comments before we got on the call, and will also, as we go through these sections, ask to see if there are any comments that the group wants to discuss that leadership may have not put in something in the leadership comment column. Any questions before we get started on the first topic here?

Jim asks, "How far in advance can we expect leadership comments to be populated in the spreadsheets? For example, we have a call on Monday but I don't see any leadership comments in the document.," Yeah, so Jim, our goal is, because we just came off of ICANN week, our comments were in the leadership section for this call yesterday and our hope is that we get the comments in the leadership comments part by Friday for the Monday call. And we hope to get one meeting ahead, so that's our goal. Hopefully that'll help.

Paul says, "One day in advance is tight turnaround." Yeah, Paul, you don't have to rely on—hopefully you're going through these comments on your own and figuring out the ones that you might want to discuss. So while, granted, leadership may only have their comments in a day before the call, that really shouldn't necessarily bind you all from making your own comments and trying to figure out what you'd like to discuss on the call.

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Donna, please go ahead.

DONNA AUSTIN:

Thanks, Jeff. Just a question on when will we be in a position that we've wrapped up a conversation around a topic? So we had some conversations about predictability framework on Monday and there's been a subsequent e-mail that you sent out and Anne Scalese and myself have responded to. So, at what point will we kind of know that we've wrapped up a topic and that's closed?

JEFF NEUMAN:

Great question. So that first one is a little bit of an anomaly because we didn't put a due date for comments on it, so we're going to ask that we get comments on those questions by Monday at the latest simply because—but in general, and then we'll figure out where we are on Monday on those particular questions. But when we send out further questions on the list, we will put a due date that maybe depending on the scope of what we're seeking feedback on, it may be a short turnaround like before the next meeting or it may be a little bit longer depending on, like I said, how open ended the subjects are and the questions.

And yeah, as Martin says, please do respond on the list. I tried to summarize—and you probably haven't read it yet because I sent it out shortly before this call, but I tried to summarize where I thought we were on at least the comments from Anne and Donna. So please do weigh in if you've got thoughts on those on predictability.

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Let's now turn to applicant support. Obviously a topic that has a lot of interest, and of course, a lot of support in general for. I guess that's weird to say, support and support in the same sentence. But there were a number of comments that we got in on this, and I think from looking at the comments that we received and what we have or have not considered, a lot of these, we actually have considered already and either they didn't make the recommendations for one reason or another or remember, this is one of those areas where we did set forth in our recommendations that a specific implementation team be set up or Work Stream to be set up specifically to be devoted to the topic of applicant support, recognizing that many or most of us are not quite skilled in this kind of area. So there's a lot of great comments in here from ALAC and registries and others with specifics, but some of those will in general be referred to in IRT.

But I do want to start with the registry comments in the new information. A bunch of the registry comments are ones that I think we can—if the group agrees with—seem like they just make a lot of sense from a clarity perspective, so more specifically, number 17.9 which lists a bunch of metrics, and I'll note that the ALAC comment lists some metrics as well, which is good to put in there. I think those are helpful, and so I'm not sure we need to spend a lot of time discussing those, although please do let us know if you do disagree with any of the metrics either specified by the registries or the ALAC. I think the registry comment 17.17, we use kind of the colloquial term going out of business in our recommendations and I think the registries rightly point out that we probably should define that a little bit better than in the colloquial.

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So I think that's a good clarification, and even to take the registry definition.

I think 17.13 as well in the registry comment is one of those from a clarity perspective is probably worth adopting. We'll get to some of the other comments in a second, but let me just stop there and see if there's any discussion on the items that I've just mentioned.

Okay. Some of the other ones we know we're going to have to have discussion on the list about start with the registry comments on figuring out exactly how or providing some more guidance on the bid credits, the multipliers and making sure that there's consistency within the recommendations about how those are applied. The one part on here though in the registry comments that I'm going to ask a question—doesn't have to be responded to on this call, but there's a comment in here about there's a concern on how the bid credits and multipliers could be used, I guess unintentionally, for gaming. That's just stakeholder that the leadership team, we just didn't see. Not that we don't agree with it, we just didn't see the tie. So it would be good to get some more feedback. And we'll put that question out to the list after this call.

Looking at the chat here. This is from Donna. "In reviewing the comments, has an analysis been done where comments are similar across groups etc. or are they just reviewed individually?" We're trying to, Donna, as leadership is going through, to see where the ties are, but I wouldn't say it's a formal analysis.

One of the next issues that's brought up in line 22 is—and I do want to note that staff has done some analysis of the commonalities. In the column that says notes, there is some

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reference to where other comments are similar to the ones that have been made by another group, especially where there's themes.

Okay, so a question to ask to the group. If you recall going back to—and we will discuss this topic because there's a specific question asked about it, but on the notion of whether there should be reduced fees or an elimination of fees for those—ongoing—registry fees, sorry about that, for registries that qualify for applicant support. And I'll note an interesting comment from InfoNetworks on the possibility of perhaps that it wouldn't be unprecedented to have a lower fee for certain types of registries, and in this case, there's a reference to .museum which still pays only \$500 a year in registry fees to ICANN given their small size.

Now, I will say that the comments that we got—and as you go through this—are mixed as to whether ICANN should or should not reduce the funds or eliminate the funds for registries. And again, these are ongoing registry fees, not the application fees, but rather the ongoing minimum of \$25,000 a year. So there are a number of groups that are opposed to doing that for a number of reasons as they indicate, and of course, there are a lot of groups that are in favor of it. But I also want to draw everyone's attention to, if you recall a couple weeks ago when we discussed the ICANN board comments, that they were concerned about providing actual funds to third party providers of applicant support services in the fact that they—aside from let's say some money that they set aside, they set aside those funds for a reduction in the application fees but not for application services. So while ICANN doesn't seem to have an issue or shouldn't have an issue

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with playing —I'll paraphrase it—the matchmaker role in kind of helping them with matching them up with providers of these application-type services, ICANN's role being a grant seeker and one that pays third parties is probably limited. So that's a theme that runs through these comments.

Cheryl, please.

CHERYL LANGDON-ORR: I just wanted to point out why we wanted to bring in the .museum example to any discussion today, and we've moved off line 22 on screen, so sorry about that, but I'm sure those of you on screen in your own computers will see that. One thing that we didn't refer to in the leadership team is of course this as information can bring in perhaps an option whereby a degree of payment is linked with a degree of success/activity within the TLD so that ongoing fees could increase all the way up to the full normal fee paying degree, depending on the performance of a TLD. So I just wanted to make sure that the group considered that as we go forward. Thank you.

JEFF NEUMAN: Thanks, Cheryl. And also related to that is there were a number of comments, both those that supported applicant support completely and those that said they can't support some aspects. A common theme there was that no matter what happens in terms of the services that an applicant gets, it needs to meet all of the other qualifications, that getting applicant support is not a substitute for leniency in the security, stability and other technical requirements.



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There are some comments in the chat. Paul says, "Reducing fees is a Pandora's Box. If ICANN can lower them for certain registries what is keeping them from raising them for others? .museum is an outlier and should stay that way." Donna agrees, and it may not be a conversation for this group. A plus one to Paul from Marc, and comments from Paul about ICANN could favor one type of speech over another, and then Marc points out, wouldn't that be the type of content based decisions the Board has expressed concern about?

So, any other thoughts on this? Like I said, there were sufficient comments on both sides of this to give applicants some sort of assistance with ongoing fees as well as those that didn't think that that should happen, as you kind of hear or see on this call, and what it's led us to conclude is that we're not going to get a consensus on any sort of ongoing support for the applicant support program for once an applicant becomes a registry.

We'll note that the registry agreements, as amended a couple years ago, does have a provision in there where ICANN and the registries could agree on mechanisms that may provide for a lower fee and so there is another venue to potentially address this.

Jumping to the ALAC comment below, the only thing on this one, we did talk several weeks ago on the use of the word "community," that's why we didn't point it out this time that the use of the word "community" here in the applicant support documentation is not the strict "community" definition as in, let's say, CPE, so there's some confusion about that and I think we already agreed to at least make a reference that the use of the word "community" in this documentation is not intended to have

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the same meaning as the capital C community in the community priority evaluation documentation.

The second thing from the ALAC wanted to point out is they proposed metrics just like the registries do. We're going to see where there's overlap on those metrics, and unless we get comments otherwise, we think that these are good additions to put into the metrics section.

Okay, the board comments on this subject, we have discussed already on a previous call. I want to jump to the GAC comments on this, and more specifically, the GAC has just repeated previous advice that it issued on this topic, and so there's a certain reference here to trying to provide a definition of middle applicant.

We do address middle applicant in the recommendations, but we don't give a specific definition for it. So we can, if we choose, as a working group, try to develop a definition, possibly through a couple people that are interested in this area that want to try to propose a definition for middle applicant, or the other alternative is we can restate the recommendation without using the term "middle applicant." The recommendation would still have the same meaning because essentially, what we were saying was that the applicant support must be based on a set of qualifications, and those qualifications are not just unique to the developing or underdeveloped nations. And that's where the term middle applicant came in. But I'm not sure we necessarily need to use the term in the recommendation. Thoughts, questions, comments?

Paul has asked that, "[GAC] reiterated its advice, what communicate was that in? Where is this in the comment? Or did

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you mean something else besides advice?” Yeah, I apologize, I probably shouldn’t have used “advice.” They mentioned it in their previous comments to us on the initial report, and several months ago by letter, they sent us some additional thoughts on a number of topics, including applicant support. I think this was after ICANN—maybe have been before ICANN 68. I’m trying to remember the timing now. But it was that letter and it was comments to the initial report—so, sorry, I may have misspoke when I said “advice.” I think it was their letters.

Yeah, no, that’s okay, Paul. Just to be exact. Jim’s got a comment. “Generally speaking, it’s best if we, the Sub Pro working group, define any terms so they are not misconstrued during implementation.” Like I said, we have two options. We can either define the term “middle applicant” or we can recraft the recommendation so as to not include this new kind of term. Either way, it’s an option for us. Is there anyone on this call that would be interested in kind of helping to craft a definition or recraft the recommendation in a way that doesn’t use the term “middle applicant” but still conveys the same point? Lots of volunteers today. Okay. We’ll put that question out then to the list and see if we can get someone that’s interested in doing that.

Okay, moving down to the—I think that’s all that leadership has indicated in terms of needing comments. There’s a lot of other comments there that you can read, especially on the question of support, reduction or elimination of fees. You’ll see a number of comments that are both pro and against the elimination of fees, and so that’s not something that for a couple of reasons we think is going to make our final recommendations, one, because there

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doesn't seem to be agreement, and two, because of the difficulty that ICANN has already kind of gone into on providing that kind of support.

Okay, any other questions on applicant support? Donna, please go ahead.

DONNA AUSTIN: Sorry, Jeff, is that the end of the applicant support conversation for now, or have we got more comments?

JEFF NEUMAN: No, I think that's what leadership has picked out, so if there's anything else that others want to discuss ...

DONNA AUSTIN: I guess I have a meta question for the leadership team. Based on the comments that have been received and being reviewed by the leadership team, where do you think we are? Are we in good shape with what's written in the final report, or are there a couple of nits that we still need to work through as the working group?

JEFF NEUMAN: On applicant support, we think we're in good shape. We think that there's a couple of action items that we just went over. One is defining the notion of the middle applicant. The other is moving the metrics over to the metrics section and seeing if there's overlap. The other thing that we are asking the working group to do is to look at the specific mentioned clarification, new

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information comments that we pointed out. That was 17.9 is the metrics one. These are all from the registries' comments. 17.9, 17.17, and then—sorry, the last action item is to make sure that we're comfortable with the notion of bid credits as to how it fits in with the other areas of the report, and an outstanding question to the registries if they could be more specific on indicating the types of gaming that they are concerned with.

Okay, let's move on then to topic 32 if I'm not mistaken. This deals with limited challenge and appeals mechanisms. I think we definitely got, again, lots of agreement or support from a wide variety of different groups. I should say either support or not ideal but willing to support, or no opinion. So the bulk of the responders fit into those kind of areas. And a fairly diverse area.

One of the comments we think we should address where for example the—and again—well, first one is a comment from the INTA, so it's line 11, where INTA basically states that having—and I'm paraphrasing here—the same entity or review and appeal or challenge, they're afraid, will frustrate the purpose of that challenge and appeal. On this one, leadership just wants to note that we believe we've had this conversation before and while we understand the concern, we discussed this on multiple occasions and came to the conclusion that having to set up a kind of secondary system for appeals for getting other entities up to speed just to hear appeals could be a very costly and time consuming endeavor. And while we understand that it's not ideal, that we were not going to recommend and did not recommend that appeals or challenges be heard from different entities than the entity that heard the original case, though we did, in our

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recommendation, say that it should be from other people at that entity that did not have involvement in the original decision.

And of course, there's more. We're going to go through ICANN's comment on this as well, but let me go to Alan.

ALAN GREENBERG:

I guess I'm asking a question. Is there anything we can do to strengthen the recommendation that it not be the same panel, the same people? I'm not really sure how we can do that. In any given case, it may be possible that there is no other person with expertise in that particular area, so we can't ask them to guarantee it, but just wondering if there's anything we can do to give a higher level of confidence that it's not being reheard by the same people. I'm not sure what the answer is, I'm just asking the question.

JEFF NEUMAN:

I'm going to ask Julie or Steve or Emily to pull up the actual recommendation on that. I do think we are pretty clear, but that doesn't mean we can't get more clear on that. So while ICANN is going to that recommendation or implementation guidance—and I can't remember if that's in the section or the annex, but I think it's in the section itself.

Okay, so 32.5, it does state that—skipping down to the part that's applicable, we do say in the rationale that the working group discussed whether there would be a large enough number of experts in all evaluation and needs to ensure that a different individual within the entity could serve as arbiter of the challenge.

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The question may require further consideration in the implementation phase. The working group considered a proposal to have alternate evaluation. The working group noted however that in some cases, there was only a single evaluation entity used in the 2012 round, like CPE or applicant support program, and we understand that there could be significant cost implications if additional providers needed to be onboarded in subsequent rounds solely for the purpose of addressing evaluation challenges.

So we address it in the rationale. But can we go to the actual recommendation itself? Or the implementation guidance. Yeah, so it says in the case of challenges to evaluation decisions, the arbiter should typically be from the entity that conducted the original evaluation, but the persons responsible for making the ultimate decision in the appeal must be different from those that were responsible for the evaluation. And same aspect—

ALAN GREENBERG: Okay, you can't get any stronger than "must," so that's fine.

JEFF NEUMAN: Yeah, I think it's interesting because we have sort of a recommendation within an implementation guidance. So the guidance is that it should be the same entity, but we do say that it must—if it is the same entity, it must be a different person. Paul says, "Shalt." I think I like Paul's humor.

So I think we're okay from there. We can scroll back to the chart. Yeah, thanks. Now, ICANN Org brings up a number of interesting comments. The one that I wanted to point out was something that

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I remember bringing up when we were initially discussing this topic, which was that there are certain places where ICANN itself is the evaluator, and I think the one that they cite in their comment is like background checks. They actually send out the background check to have a third party get them information, but ICANN itself is the one that makes a decision.

So originally when—

Okay, is everyone still on? Yeah. Okay. So when this topic came up, I had suggested that we had some very kind of general language that said that anyone who does—sorry, let me take a step back. There were some that suggested that we do a hard delineation between accountability mechanisms and the appeals/challenges being if there is an action against ICANN, it'd be under the accountability mechanisms versus being an appeal or a challenge. I tried to push back on that saying that there may be areas that ICANN itself is the evaluator for, but there was a lot of pushback in the group saying, no, they really can't be.

Well, ICANN Org has provided evidence that they can be in certain circumstances the evaluator. So if you look at our chart in annex F, we don't include any challenges based on where ICANN itself is the evaluator. My recommendation is that we pretty much have the same rules that would apply that a challenge could be filed to an ICANN-based evaluation to someone at ICANN other than the person or persons that were involved in the original decision. I think that's the most logical approach. I would not recommend that we say it all should be done under the accountability mechanisms, because that, we were trying to draw the line of the type of dispute being certain ones are made for the



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accountability mechanisms and certain ones, like these challenges to evaluations, were not necessarily made for the accountability mechanisms.

So I'd like to just now see if anyone would object to the notion of adding to the chart where ICANN is the evaluator, the same principles that we've done with other evaluations. Namely, list the party or parties that could challenge the ICANN evaluation decision and the mechanism for which that challenge gets addressed. So that chart is in Annex F, I think. Yeah.

So Anne says, "Where ICANN is the evaluator, the Accountability Mechanisms should apply rather than instituting new appeals mechanisms. It's duplicative." I don't think ICANN Org opine as to which one should apply in their comments. But I'll tell you why I disagree with that. And this is personal, but we did discuss it in the leadership meeting. The reason I disagree with that is the accountability mechanisms are meant to address bylaw-related issues.

So if, let's say, ICANN does the background checks and they disagree or they think that there was information about an arrest record that's just not true for whatever reason, and that arrest record is the record that dooms the application, so ICANN's made an evaluation decision that the application be rejected.

This is something that could be challenged by an applicant saying, "No, wait a minute, I don't know where you got that information wrong or the third party. That wasn't me, here's proof as to why it's not me," do we really want to say that that's something you go to the ICANN board for a reconsideration decision? I think it

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specifically goes against what we were trying to accomplish here, which was a lean, fast mechanism to be able to address substantive challenges to the evaluations.

So Susan agrees, but Anne says the bylaws also say you could challenge ICANN for failure to take account relevant information when making a determination. Yeah, so in theory, it could be addressed under an accountability mechanism, but again, is this the type of decision that we want to be decided by the board? This kind of day-to-day, mundane detail? We can't prevent someone from filing an accountability mechanism, and that's the basis for another question that we'll talk about, but certainly, it would seem odd to require them to do accountability.

So Anne's saying, "What about the fact that we will have to advise clients to do both?" Anne, that's a personal decision, legal call that you may or may not want to make, but again, I'm not sure that that's persuasive, to say that it shouldn't be subject to a challenge or a deal. Because in theory, you could advise a client to do both under for any of the other ones too, in theory.

Anyone else have thoughts? Anne, go ahead.

ANNE AIKMAN SCALESE: Thanks, Jeff. I'm just trying to prevent duplicative efforts and I'm just wondering if there's a way deadlines for RFR and IRP could be stayed pending any internal ICANN appeals so that we don't get into a wasteful situation of having to advise clients to do both. Couldn't we just say if there's a pending appeal of a decision that's

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made by ICANN in an evaluation, that it stays any related accountability mechanism deadlines?

JEFF NEUMAN: Thanks, Anne. I don't think we as a working group for this matter would have the jurisdiction to put in here that something would or would not stay an accountability mechanism proceeding. But on the other hand, wouldn't the decision of the challenge also give rise to and start the clock over again for request for consideration and/or an IRP?

ANNE AIKMAN SCALESE: Well, maybe we should make that clear if that's our recommendation.

JEFF NEUMAN: Well, I think what I'm saying is we can't really—I don't think this working group has jurisdiction to be able to revise the rules of an accountability mechanism. So I don't think—and by the way, that also addresses one of the ICANN Org comments, which is they wanted us to try to distinguish between those two, and all we can do is provide for a challenge and appeals mechanism. If the board and the community want to work accountability mechanisms around that, that's their discretion and the community's discretion. But we can't operate in both directions. We can only prescribe challenges and appeals. We can't touch the accountability mechanisms. Susan, go ahead. Oh, sorry.

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ANNE AIKMAN SCALESE: If I could follow up, Jeff, I think you previously said that whatever this group wants to recommend to the board, the board should be ready, willing and able to change bylaws in order to do it. So I don't think that argument works that well here. I think somebody needs to flag the issue for the board somehow and the working group should flag it and say that it would not be efficient to be conducting both accountability mechanism proceedings and appeals from ICANN-evaluated decisions at the same time. It's just not efficient.

JEFF NEUMAN: Okay, thanks. Let me go to Susan, and then Alan.

spr9 Thanks. Hi. So this is kind of quite timely. There's a group that is working on a final version of the rules for the IRP. We have interim rules in place, but we have a group working on the final rules, and we actually are about to continue next week our discussion about the timing rule. Now, I most certainly can't prejudge the outcome of the debate on that, but there are various mechanism that have been raised by members of the community in the past of issues that perhaps ought to be taken into consideration on the timing.

For example, if you have a deadline to bring an IRP, should you get some grace period if you're previously bringing a request for reconsideration? So I will bear this in mind. I don't think there's any harm in some kind of a note—if this group wants to make a note to flag this. I don't think there's any harm in that. But I will make a note for us as the IRP IOT to bear this in mind. It's very

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likely as well that the proposed replacement rules will go out to public comment. So that should also be an opportunity for you to raise this as a comment if you feel it hasn't been addressed.

JEFF NEUMAN:

Thanks, Susan. That's helpful. And yeah, we can certainly flag the issue, so we could take that back and see how best we can flag the issue. So when we add ICANN to the list of entities to which an appeal or challenge could be made for any area of the evaluation that they themselves conduct, we can certainly flag the issue of the inner relationship between the challenge—yeah, I don't think it would be appeal because I don't think they're a dispute provider for anything, but certainly the interaction between ICANN as an evaluator and the accountability mechanisms. Alan, please.

ALAN GREENBERG:

Thank you. I just want to comment that the concept of recommending a fundamental bylaw change which reduces the ability to hold ICANN accountable is just not going to fly, and I would not waste our time doing that. I think Susan's point is more to the point, that if there is going to be limitations or consideration because of multiple mechanisms, then it's going to have to come in the general rules. So I agree, we can flag it to make sure that it's considered by the groups looking at other rules, but there was just too much time put into building the accountability mechanism we have right now that I just can't see making recommendations to changes to them. I think that's not going to be a particularly useful use of our time presenting it, or the community's time even

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considering it. Thank you. That's my opinion, but I think we have better things to do.

JEFF NEUMAN:

Yeah. Thanks, Alan. So I think the action item here is to make sure we flag the issue and that it be considered by whoever is considering these things that we want to make sure that there's no duplication or that someone does not lose their opportunity to participate in the accountability mechanisms simply because they were electing to participate or the challenge mechanism here.

Yeah, I think that's it for this area. I think the ICANN comments are interesting, but if you want to read them, that's great. You should read it and probably hopefully have read those comments already, but there seems to be an indication of, well, the requirement that panelists have backup people to hear challenges or appeals could drive up costs. ICANN certainly mentions that in a number of areas, but for those, it's just kind of, thank you, we've noted that but this is still our recommendation.

All right, let's go then to the next topic, which is the applicant guidebook. So if someone can drop the link to this spreadsheet into the chat. And as you'll notice, by the way, we are not going in numeric order. There's a reason for this. We're trying to get in as many sections as we can in these calls. So going in number order would not be conducive to that.

Okay, on the recommendations with respect to the applicant guidebook itself, you will see a diverse group of those that either support it or have no opinion from the community. The one aspect

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that seemed to get some comments really related to the language issue.

So I believe that for all three of the comments that came in from the “do not support certain aspects,” the leadership believes that we've discussed all of these items and that no changes are warranted. It's some discussion of either wanting additional languages other than the UN six or insisting on the publication of the UN six languages all at the same time as the English. And we've been through this topic so many times, and I think came out sort of in the recommendations as good as we're going to get, which is namely that the English version must be published no later than four months prior to the application window opening—I'm paraphrasing—and that the six other languages need to be published as soon as practicable either at the time of or soon as practicably after the English language, but in no event should there be less than two months, I think it is, between the publication of the UN languages and the commencement of the application support period.

On this one also, ICANN Org, on line two—Christopher, please.

CHRISTOPHER WILKINSON: Hi. Good evening, everybody. I apologize for missing the previous call, but the UTC scheduling is not feasible in Europe from my point of view. But on this particular point, Jeff, I think the position that you've just outlined does in fact give the English language applicants an unfair advantage in terms of timing and evaluation resources. I would strongly prefer that all languages be published at the same time. Thank you.

JEFF NEUMAN: Thanks, Cristopher. And again, we appreciate the comment, but we've been through this on a number of occasions and we didn't seem to get agreement from the working group that that should be the recommendation. Alan, please.

ALAN GREENBERG: Thank you. First, remind me what—you said that the non-English versions must be out for at least two months before the closing of the period. How long is the English one out ahead of time? Is that four months?

JEFF NEUMAN: Well, remember, the wording is in terms of at least.

ALAN GREENBERG: I understand.

JEFF NEUMAN: The latest the English version can be published—the earliest the application window could open is four months after—

ALAN GREENBERG: Okay. The concept of all languages coming out at the same time just does not work, because remember, the applicant guidebook is not being developed in secret. So anyone who's paying attention has the current version of the English one which will be a moving



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target, but this is going to be something which you can't keep in secret until the other versions are out. So the English one de facto is going to be available earlier because it's going to be available as it evolves during the whole period.

However, the way these big documents like this tend to be translated is they tend to do early versions and then deltas. As we have redline, they go back to the interpretation. So I think we could lower the difference to only one month instead of two and give at least three months for the non-English versions. I don't think that's an unreasonable target.

Now, we should get staff to check with language services to make sure that we're not doing something really dumb. But these documents are not likely to be translated en masse at the very last moment. So we probably can bring them closer in line than what we have right now without doing any harm or increasing the costs measurably. I think it's probably worth checking with language services though.

JEFF NEUMAN: Thanks, Alan. Martin, please.

MARTIN SUTTON: Thanks, Jeff. I was just going to follow on with Alan's comments. That seems sensible and I do remember the conversations we had on this. I can't remember the language that we've used on the final draft, so forgive me if it is something like this, I just wondered what then—can we sort of emphasize the point that language translations will be available as soon as practicable and

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possible after the issue of the English language version, and certainly no later than the two months period. Thanks, Jeff.

JEFF NEUMAN:

Thanks, Martin. That is the language that we use. We do state in the recommendations that it should be as soon as possible after—well, it doesn't even say after the English, it just says as soon as possible but no later than, essentially—or it says that the application window can't open until two months after those are published. So that's essentially the language that we use.

Now, Kurt has said in the chat that as a policy statement, we could say “take measures to translate as quickly as possible” rather than debate two versus three months. So, Kurt, we did have that initially, but there was concern from a number of members of the working group that “as quickly as possible” could mean three months after or two weeks before the application window opens. So there was definitely a concern that just basically saying to translate as quickly as possible would solve the issue, because we did have that initially, but there were a lot of concerns expressed that there could be an insufficient time then between the publication of these foreign translations and the application window opening. That's how we sort of came up with the two months.

So we can float the proposal of making the time frame closer to the list, but it's going to take really consensus support from the working group or overwhelming support to change the recommendation that we have, because this issue has been addressed and it's not really new information that's being

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presented. But that doesn't mean that the working group can't change its view.

Okay. Let's see if there's any other issue on this topic that we flagged. Oh, yes, so in the ICANN Org comments, there are questions that are raised because we used the language in our recommendations—or potentially implementation guidance—that the writing of the applicant guidebook does so in simple language, essentially focuses on the user, and effectively serves those who do not speak English as a first language. ICANN wants us to further clarify what that means. Leadership team spent some time on our call talking about this, and at the end of the day, we were a little bit taken aback because we think that this language is pretty self-explanatory. But we can certainly come up with some examples like not using legal jargon, not using too much ICANN insider language, making sure that we're not using complicated words. These are kinds of things that, in theory, we could put into the recommendation. We were just scratching our heads going, we didn't know that this would be a difficult issue. But again, because the Implementation Review Team is likely to be involved in helping with the drafting of the guidebook, obviously, the Implementation Review Team can keep this in mind as they are reviewing that language.

So the question to the working group is, do we need to put in some examples of what it means to be focused on the users or address the needs of new applicants, or do we think that this is good enough to understand to a reasonable person and leave it to the implementation team to, as they're drafting or ICANN's drafting, to just keep this in mind? Donna.

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DONNA AUSTIN: Thanks, Jeff. Given it's staff that actually leads the IRT and they're asking for clarification here, wouldn't it be in our best interest to just provide as much clarification as we can? Otherwise, the same thing's going to come up in the IRT.

JEFF NEUMAN: Yeah, sure, like I said, we can address this by providing examples, or we could just leave it as high-level principles for ICANN to interpret, and the IRT. So I guess that's why I'm asking the question to the group as to what we want to do. So I take it, Donna, that your recommendation would be we try to come up with a couple illustrative examples of what we mean.

DONNA AUSTIN: I think so, Jeff. If ICANN Org has called it out, then they are obviously giving us a heads up that if this comes to the IRT, we're going to have the same problem. So why don't we just provide a couple of examples and send it on its way?

JEFF NEUMAN: Okay, that makes sense. Do others support that? "There is a term of art, plain English, with standards for it available." That's from Kurt. And I think we do use that in the recommendation, but if we don't, we could certainly amend it. And there's a style guide that's used by ICANN staff. That's from Cheryl. Alan says, "If we cannot come up with examples or more guidance, we can't expect the IRT members to."

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It seems to me that what I'm hearing from the group is for us to put in more guidance, and so I'll repeat the ones that came up in our leadership call in our short discussion to see if these are ones that people agree with, is to make sure, to the greatest extent possible, to reduce the ICANN acronyms, the ICANN jargon, legal jargon, to remove the tedious discussion of historical information as to why there's a particular rule in place. Use plain English, I guess, is another one. Are those the types of things that we can see as helpful examples? Annebeth.

ANNEBETH LANGE:

Yes, hello. We have to remember that even if we have language in the UN languages, it will be a lot of applicants out there that will not have their native language as one of the options. So the English option or the English version is the most important for a lot of people. So it's important to make that as readable and plain as possible. Thanks.

JEFF NEUMAN:

Thanks, Annebeth. Staff, can we bring up the recommendations here, the 12.4? Okay, so we say here that focus on the user when drafting future versions of the applicant guidebook and prioritizing usability, clarity and practicality in developing the guidebook for subsequent procedures. The applicant guidebook should effectively address the needs of new applicants as well as those already familiar with the application process. It should also serve those who do not speak English as a first language.

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Okay, so it does seem like we can insert some sort of sentence in here that says the working group recommends avoiding—or maybe we have it in an implementation guidance. There it is. Thanks, you guys are a step ahead. So in implementation guidance 12.8, we do say to promote usability and clarity, write the applicant guidebook using plain language standards to the extent possible and avoid complex legal terminology when it is not necessary.

So, is plain language the same as saying plain English? I'm asking the group.

CHERYL LANGDON-ORR: I think plain language is the better term of art. I think plain English is the older form.

JEFF NEUMAN: Okay. Great. Well, the only other thing we can do to be more clear is to put that part of it in the recommendation instead of in an implementation guidance. I guess that's what we can do. Steve, please go ahead.

STEVE CHAN: Thanks, Jeff. There was a suggestion from Donna a little while ago in the chat about us reaching out to our Org colleaues. I think we can do that, because it might be relatively simple to ... so I guess maybe there's a disconnect between 12.4 and then the implementation guidance that's attached to 12.6, and maybe they should actually be linked, which maybe helps address some of the

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questions that they raise in the comment. So I guess what I would suggest is that we can actually reach out to our colleagues and see if the implementation guidance under 12.6 goes at least some way towards addressing their question, and then to the extent there is still a gap, then I can—or we can—help bring that back to the working group to consider if there's further work needed. Thanks.

JEFF NEUMAN:

Yes. Thanks, Steve. That'll definitely help. I think, though, moving that 12.8 implementation guidance into a recommendation itself may also help. So why don't we put as action items both? Putting it into its own recommendation or joining it with one of the other recommendations. And then also talk to ICANN staff who's going to be responsible for this to see if that will address the comment.

Okay. Thanks, everyone. Let's go on then to the next topic, which is communications, I think. This is topic 13, communications. So lots of diverse support here. And I'm not saying that from a quantitative perspective but more from there's support from various constituencies, law firms, the ccNSO council. There's just lots of diverse support, and/or those that may not think it's ideal but it works, or those that have no opinion. So if you look at those groups, it pretty much covers the gamut.

That said, there are comments that were submitted, mostly about the length of the communications period. For those comments that came in, the response that leadership had is that we did discuss this at great lengths, and we came up with the communications period that we did in response to the comments that came in from

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constituency comment two, maybe it was, but also to the initial report, and I don't think there's a need to go back and address making the communications period longer, especially given the wide, diverse support for what we had in there.

The ALAC comment, which is line three, is it's important of the community to understand how comment forms will be used. That actually plays into—and that's already mentioned in our section called role of public comments, so we'll move that comment into there, but also note that that has been discussed and it is addressed there.

But then they talk about with respect to recommendation 13.2, metrics are needed to evaluate the effectiveness of any communication strategy and plan in achieving program goals. And this is something that when the leadership team discussed, we thought that that was something that we could pass on to the IRT, that we weren't sure from a working group higher level that we needed to specify what the exact metrics would be for a communications strategy. But let me just stop there and see if there's any comments.

Okay. The comment from the registries is also one on the timing, and so especially with respect to applicant support, we believe that this one also has been discussed and already addressed. The comments on line 16 from the ALAC, we would propose, again, passing through the metrics to the IRT that if they want to build in these or any metrics for evaluating a communication strategy, and—yes, so that's on the ALAC comments.



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And then on the last comment from ICANN Org, ICANN Org states that—what we say in our recommendation is that the communication strategy and plan needs to support the goals of the program and ICANN Org suggests that we define the goals of the program or just link it to what we state in 6.1.1 in the affirmation which talks about innovation, competition, etc., and so on that one, leadership thinks that we should just link it back to the affirmation so that it's clear that those are the goals that we're talking about. Questions, comments?

Okay, that seems to have some support, so that's good. Let's go to the systems, number 14. This is our last topic for today, so thank you, everyone, for bearing with it. I know there's a lot of material. This section had a lot of support as well. Sorry, I shouldn't talk about that in terms of quality, but had a diverse set of support or alternatively no opinion. So that's important when looking at these recommendations, and so the two comments that say that they don't support certain aspects, we think those have both been discussed and addressed because it talks about—well, the first one talks about publishing the system in multiple languages, but that would, I think as we discussed, raise the cost tremendously, and so although it's not something that we would oppose—it's not like we oppose having things in other languages, but when we discussed it, we agree with ICANN Org's comments to the initial report that doing something like that would add tremendously to the costs.

But we do state in there that we do have a “may”, so we do say that ICANN may put in place a system in other languages or in languages other than English. It's just a “may,” it's not a “shall,”

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because sure, if ICANN can figure out a way to do it where it was cost effective and not such a burden, then obviously, they should do it, but I don't think there's a reason why we should change the wording on that one.

And then on the new information comments, there was a comment from Dotzon that talks about the testing of the system. If you recall, what we said in there was that ICANN essentially open up an operational testing environment that's open to anyone that wants to go play in the system so they know how the application system works, but what Dotzon says here, we also did discuss—sorry, this isn't that one.

The part that we need to discuss here is that Dotzon has pointed out that there are certain systems that were used that didn't allow certain character combinations. So I think that is new information and that's something that our action item is to find out what those were from ICANN staff and see if there's a way to fix those issues.

Katrin is saying it's about the angle bracket issue. So I think that is new information to us, so we'd like to get more information about it. and Katrin, actually, if you could give an example, maybe send around to the group as to something—I'm trying to picture it, but also to see if that was just something unique about the custom system that ICANN built or whether that's a common problem in third-party software. Thanks, Katrin.

ALAC raises a point about opt-in notifications and a GAC tool for names with geographic meanings. On the latter, the geographic meanings, we believe that that has been discussed by Work Track 5 and incorporated into the final report, that although it was

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discussed, there was not a final recommendation to recommend that. Of course, ICANN could choose on its own to do it, but absent a change in how this working group feels, we think that's in the column of asked and answered. With respect to the other types of opt-in notifications, that is something that we discuss in a number of other areas.

And then the ICANN Org comments here, again, they seem to repeat—not in exact words—some of their comments to the initial report, basically saying that this may cause complications. Having something like historical changes would complicate the system, may have sensitive data, etc., and complexities. And I think we certainly took that into consideration, which is why we have these things in implementation guidance.

They expressed concern that opponents of the program might argue the deployment of applicant-facing systems is not as predictable or transparent as essentially what we recommended, and therefore we're giving some ammunition to those that oppose the program. That one was an interesting comment that we sort of read, looked at and said, "Look, if someone's going to oppose the program, they're going to oppose it on a lot of other grounds" and leadership didn't see a need to change the subjective language of predictability and transparency. That term is often used in ICANN bylaws and if someone wants to challenge it, they would challenge it anyway so we didn't really think that that deemed us having to go back and reword the recommendations.

And I think finally, the working group suggested that in service of transparency, once the systems are in use, ICANN should communicate any system changes that may impact applicants or

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the application processes described under predictability should be followed. And ICANN states that issues related to security, stability as well as the proper functioning of systems, ICANN cannot be constrained by essentially the predictability framework.

This was an interesting comment to me. Certainly with emergency situations, I think as we've been discussing on e-mail in the predictability, I think there's a recognition that in true emergencies, ICANN should have the ability to make narrow changes, but to allow ICANN to avoid all the predictability framework under the guise of it's an issue related to security and stability, when leadership discussed that, it seemed to undermine the entire predictability model. Now, I don't know if that's something that others agree with, but it seemed to me that if we said ICANN has the right for any issue it believes related to security and stability, it could just circumvent the entire predictability framework. I think that would be a hole that you could drive a truck through.

So Paul's saying maybe we're over reading that. That is possible, but in other circumstances, ICANN staff does use the term "emergencies," but here, they do not. So Marc's saying it's unlikely ICANN will give on this one. Again, we're not saying that ICANN shouldn't be able to act in emergencies, but to basically have a blanket exception for "issues related to security and stability," I think would be a little excessive. But Donna, go ahead.

DONNA AUSTIN:

Thanks, Jeff. I'm not necessarily on the same page as you with this. I think we do have examples. I think the glitch and also when ICANN found out that there was sharing of information, I think they

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were things that they needed to respond to immediately and didn't—it wouldn't have served any applicant well if they had to wait to go through a SPIRT process. So I think there are legitimate examples available where—and it's probably why ICANN is a little bit sensitive to the idea of having to put things through a SPIRT. So I do have some, I guess, sympathy from where ICANN is coming on this. So I think we need to continue this conversation.

JEFF NEUMAN: Okay. Fair enough. I would classify those, Donna, the two you mentioned, as emergencies. But if you think about it, everything that ICANN did could be considered security and stability. So there's no change that was made to the program that I don't think an argument could be made was in the line of security and stability. So we'll bring that to the list.

CHERYL LANGDON-ORR: I was going to say perhaps we can come back to that at the beginning of next one, if it's gone to the list, Jeff.

JEFF NEUMAN: Yeah, so I think that's the only action item from the system, so I think we are up against time. So the next call is 20:00 UTC on November 2nd. Thank you, everyone. We'll discuss whether we tack this issue on for discussion for the next call or whether we just try to work this out on the list. I prefer trying to work it out on the list because there are a ton of topics that we need to go through.

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So if we can work it out on the list, great. if not, then we can reserve the right to address it on the next call.

CHERYL LANGDON-ORR: In chat I've listed the topics for next call, application change request, string similarity evaluations, and auctions. So that's just to remind everybody what their homework needs to be.

JEFF NEUMAN: Yeah. Thank you, Cheryl. Thanks, everyone. Look forward to talking on November 2nd. Thank you.

ANDREA GLANDON: Thank you. This concludes today's conference. Please remember to disconnect all lines and have a wonderful rest of your day.

**[END OF TRANSCRIPTION]**