
MONTREAL – GNSO - New gTLD Subsequent Procedures PDP WG (3 of 4)

Monday, November 4, 2019 – 15:15 to 16:45 EDT

ICANN66 | Montréal, Canada

JEFFREY NEUMAN:

Okay, we're going to get started in two minutes so just giving the two-minute warning. Okay. Hello, everyone. Welcome to the third Subsequent Procedures session. The first two were on ... Wow, what day is it? Saturday? Today's Monday? Yes, okay. The first two were on Monday. We'll review what happened at the second session on Monday. This is the third session, and then there will be a 15-minute break at 16:45. Then, we will continue on for another hour after that. We have some good time to get a lot done. Let's use the time wisely because we're sending the message that we are getting towards the end. Let's not disappoint everyone, including my wife who wants me to have some more free time.

Again, welcome. Why don't we go on, there? Cool. The first thing we'll do today, the first big thing anyway, is we'll go over topics that leadership has identified as possible topics for public comment. Then, we'll go into the substantive topics that we started on Saturday. I should probably say I'm one of the co-chairs. Cheryl Langdon-Orr, the other Subsequent Procedures co-chair, is at a conflicting session right now but she will be here for the second part. I guess I should ask if anyone can speak today? It's an open meeting. Even though this is a working session of the work group, this is an open meeting. If anyone wants to contribute that's not only welcome but encouraged. If you

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

want to move from the back up here, that's fine, too. That'd be great. If not, you could stay where you are.

Why don't we move on, then? Just as we do at all public meetings, just a couple of minutes on where we are at this point. Last year, 2018, we published an initial report dealing with, I would say, about 90% of the issues that we are tackling. As a result of realizing there are a few issues that we had left out of the initial report, we published a supplemental initial report for comment towards the end of the year. Public comments were received on both the initial report and the supplemental initial report. We created three sub-teams to analyze those comments and to look at whether the comments would substantially change our thinking on the subjects or raise any of the issues that were brought out in the public comments.

Those three sub-groups then finished their work on analyzing the comments earlier towards the summer of this year. We got together as a full group to go over all of the topics. Right now we're in a period where we are taking all of the discussions, comments, and reports, and preparing draft final recommendations. As we've been discussing within the working group, there are some subjects where either we've changed our thinking a little bit or where we have come up with some new ideas. As this was going on we as a group realized that we would probably need another public comments period.

As we'll talk about in a few minutes, the public comments period is not to put everything out for comment again, it's really to put out those topics that were not afforded an opportunity to comment on earlier, to

put that out for comment now. It's not going to be a comprehensive draft final report that will go out for comment but select topics. That's one of the agenda items for today's meeting, to start that discussion. Also, concurrently with the work since mid-2017, concurrently with us working on most of the issues, the separate work track was created to look at the issue of geographic names at the top-level.

For those of you that were there at the first two sessions on Saturday, that Work Track 5 has now completed its work. It has now formally delivered its final report with consensus support of the work track to the full working group. The plan is to integrate that into the final report. Just to set expectations on that, it is not the intent of leadership to go over that section until we have the final report drafted. At that point, we look at all of the recommendations and we have to do a consensus determination on all of the recommendations at that time.

It's not to redo any of that work, unless there's a strong objection of anyone in the full working group. We do have the right to review that Work Track 5 final report if we want to exercise that right, but many of us, especially the leadership team, realize that with almost 200 people, if not more than 200 people, working on that Work Track 5 report, the process they went through, the work that they have done, the topics that they have covered, the issues that they've covered, the potential proposals in all of that, seems at least to the leadership of this full working group to be comprehensive enough to incorporate in the final report and not having to directly address until we have that draft final report.

That's not to say that there may not be issues on the edges which may impact geographic names. It's to say that, with regards to those substantive recommendations, it's not our plan to delve deep into those at this point. Does that make sense? Just looking around the room. Great, okay. Let's go onto the next slide.

Just to review our timeline and where we're at, you'll see, if you can read that, when our work is expected to complete, by the first quarter of ... Sorry. Our work on our draft final report should be complete towards the end of this year, having a public comment period in early Q1 2019, while we're putting together the final report for other subjects, and then ultimately, hopefully, to do a consensus call towards the end of Q1 2019.

That is the hope. This would mean that beginning of Q2 we can deliver a report to the council. I don't know, did we include ...? I'm looking over here for Steve or Emily. Move to the next slide, there. Did we include the estimate for what happens beyond that, or just this one? No? Okay, I'll talk to that. Hold on a sec, Maxim. If we deliver a final report to the council at the end of Q1 it would be our hope that by the end of Q2 2019 ... It says 2019, it should be 2020. There we go. Thank you. Is that what you were going to bring up? Yes. What happened there, Steve? Thank you guys, sorry. It should say 2020. I'm with you now.

It's hoped that by the end of Q1 2020 the council could deliver a final report to the board, with the board hopefully at that point making some sort ... Or, going out for public comment as it's required to do, to get input from the other supporting organizations, as well as the

community, and hopefully at that point in 2020 could approve moving forward with the implementation work.

Sorry about that timeline slide. We will get an updated one and post that one. The last one should say Q1 2020. Thanks. Maxim, was that it? That was the comment? Okay. Sorry about that. Alright, next slide. Are there any questions on the timeline? Sorry, I should ask. Jim, please.

JIM PRENDERGAST:

Thanks. Is the next slide a timeline with a public comment period or have you finally gotten rid of the one without a public comment period? This is the consolidated final timeline that we're working off?

JEFFREY NEUMAN:

Yes, sorry. That second diamond there is, I think, the beginning of a public comment period. Is that what that second ...? Yes. Can't see it on the screen right now, unfortunately. That second diamond on that last line is supposed to indicate a public comment period.

Okay, let's move on to the next slide. Sorry, next slide. Again, just to level set. Now we're talking of having a public comment period on a narrow subset of topics. We've already had public input. Just to go back with something called community comment number one, we had a community comment number two. Community comment number one was for stakeholder groups, constituencies and others as we were getting started with our work. Community comment number two was a set of comprehensive questions on each of the 40-plus topics that our

group had. It went out there just to make sure that we had all the information that we could get, all the comments we can get. We used those comments as well as the group discussions to come out with the initial report.

We obviously had a public comment on the initial report. We had a separate public comment on the supplemental initial report. We've already had all of these topics out there for at least four public comment periods. A lot of this material has already been out there and been consumed for public comment. We've gotten lots of great comments on almost everything. What we're really trying to focus on now are those topics or recommendations that we have that were not out for public comment or could not have been commented on, or should not have been commented on at that point in time.

If there were several options that we put out there on a particular topic, and it just happens to be that we chose one of those options that are already out for public comment, that's not the type of thing that needs to go out for another comment. If we substantially change something or came up with something new, or came up with something that could not have reasonably been commented on at that time, those are really what we're looking at.

We're also going to narrowly tailor that comment to focus on specific questions. If we put out something, for example, on the predictability model, which is probably likely, we're not going to just throw out every issue that deals with predictability. We're going to be very specific in saying, "This is what the group has come up with. What are your

thoughts?” For something like ... I'm just trying to go through some of the topics in my head. We'll talk about it as we go through these topics specifically in the next couple of slides.

What we're trying to do here today is start the discussion on topics that we pretty much know because of the way discussions have been going that we're going to have to have at least some component of that topic out for public comment. This is just the start of that discussion. At the end of the day, we're not going to know everything that needs to go out for public comment until we really are getting close to having final outcomes. This is, again, a start to get everyone thinking about it, to get us thinking about it, and so we can, behind the scenes, start drafting up narrow questions or things that we would recommend going out for comment on. I hope that makes sense. Sorry, Kathy.

KATHY KLEIMAN:

You can't see me, I'm in the side view. Jeff, I've wanted to mention something about the public comment because the public comments were really unusual ones, in that they had options, questions, dependencies. 300 pages just of the first one. They weren't recommendations as I understand it. I came into the working group about then. They weren't recommendations of to the full working group. They were recommendations coming in from sub-teams, as I understand. In light of our new direction that we're working on recommendations together, that we have a much better idea where the recommendations are going from the working group, and also the interdependencies, the interrelations – a lot of this cross-relates –

shouldn't we be thinking about public comments more broadly?
Thanks.

JEFFREY NEUMAN:

We'll come to the topics. If there are interdependencies, we certainly can discuss those as a group. I just want to emphasize that yes, we had an initial report, and we had public comments on that, but there have been three other opportunities for comments on those topics. I think for anything that's novel that we've come up with, which is not a huge amount of areas. Certainly, those will go off for public comment. I don't think, at this point in time, we need to go out for public comment on everything yet again.

Remember, there's only a requirement in the operating procedures for one public comment period after the initial report, which we did. Everything else has been above and beyond. There should be more public comment periods, because we actually had a couple of public comment periods on Work Track 5.

Let's talk through the subjects, at least start that discussion now, and then I think it will be easier for us to understand. If we're just going with the status quo on something, the way it was in 2012, or if we are making minor changes or things that certainly were out there for public comment and came back as a result of massive public comment, then at this point I would not recommend going out with a full public comment, giving everyone 400 pages again to review, and then reopen

subjects that we as a group believe are fairly well closed. I certainly want to hear from others. Anne.

ANNE AIKMAN-SCALESE:

Thanks, Jeff. I don't want to foreclose the approach that you feel is most efficient, but the one caveat that I have, and we'll see as we go through the topics, is that the conditions on everyone in the working group agreeing that the "initial report" could go out the way it went out was that there would be full opportunity for the full working group to discuss all the issues. I'm hearing a little bit of a different theme, now. The theme now seems to be, "We already covered that," whereas what was said when the initial report went out and the full working group had not discussed every issue fully was, "There will be plenty of opportunity to do that." That's what we have been trying to do, issue by issue.

In terms of seeing the big picture, how does everything relate to everything else, I'm not sure that the public actually has the benefit of that. I think there are a lot of interrelated issues. I don't want to take a position or anything on it now. I think it was a different sort of initial report. It was not your traditional, "Hey, we all recommend all these things." We had so much work, and you had so much work that you and Cheryl had to organize, and you had five work tracks. Then you said, "It's going to be more efficient for us to address it to the public this way," but the big picture of everything hasn't been out to the public. Just a little bit of a caveat.

I'm not sure what, bottom line, we feel on that. I don't want to delay anything. I think we should have a working assumption within this working group. I've heard a lot of twists on the working group that there are those who want to proceed quickly, and there are those who want to delay the next round. I don't think that's really true, personally. It's not at all true for me that I have a position one way or the other on that. I just want to eliminate obstacles. I just want to be thorough in our work and make sure that when it's completed people can't poke holes in it, procedurally. I just appreciate being able to express those thoughts.

JEFFREY NEUMAN: Okay, thanks, Anne. Any other questions and thoughts? Sorry. Oh, Jim.

JIM PRENDERGAST: Yes, thanks, Jeff. To use the word, I think Anne ... I don't know if we want to get into those now, but I've got some thoughts on why I think a full public comment would be more beneficial than just going out piecemeal by piecemeal. Do you want to have that now, or you want to talk through the issues that are up for [potential], and then come back to the topic?

JEFFREY NEUMAN: I think at this point, why don't we go through some of the issues and then come back to that discussion? Just because we're talking high level, and it's probably in this case easier to go through some of the details.

JIM PRENDERGAST: Okay.

JEFFREY NEUMAN: Why don't we go onto the next slide? Cool. The way that these next couple of slides are organized are in the order in which they appeared in the initial report, and the sub-sections that they were in that report. They're very general up here. There's a lot of specific details within these. We've gone through each and every one of these with the exception of the last couple on the last slide that we have on this. We have been discussing these pretty thoroughly.

On the notion of continuing Subsequent Procedures, this is the section that deals with whether we should have new gTLDs. That's the core question of this section. We, the leadership, don't think that this is a subject that needs to go out yet again for public comment. To refresh your recollection in community comment number one, as well as the initial report, this question was asked. Comments were solicited by every group. We think that the recommendation ... That yes, we are in support of continuing the 2007 policy of having subsequent rounds should be upheld. That's what we've all been discussing. That's gone out for comment many times and it's the leadership's view that that particular section would not need to go out.

Look, at this meeting there's a lot of sub-topics within each of these. You'll probably want to take this back. You have the slides. You'll want to take it back and then look at those Google Docs. If you look at the top

it says “overarching issues.” The next one says “foundational issues,” if I’m not mistaken. Each of those topics or headings has its own Google Doc. That’s what we’ve been going through all these meetings in the last five months or so. That’s where you can see all the sub-sections in there. I’m just going to go over the thinking as to why leadership believes some of these things would go out for comment.

The second one on the predictability model. We’ve had a lot of discussions on that. We continue those discussions, even, on Saturday. We’ll continue it later on today. We think this one is, I would say, almost certain to go out for public comment with whatever model that we choose to be adopted. This is one where yes, the subject was out for comment, but as we hone in on a particular framework, that we think this is one that really should have an opportunity for comment.

I know there’s some people here in the room that may not understand what we’re talking about because you haven’t seen this. This is really most of the working group. I know we’re getting very detailed, here. Essentially I probably should say what this deals with is there’s a policy from 2007 that states that new TLDs should be introduced in a predictable manner. The working group has pretty much come to the conclusion, as we’ll talk about later, that not everything was as predictable as it should have been in 2012. We are coming up with a framework on what to do with issues that come up after the final Applicant Guidebook comes out.

When is a public comment required? When are other processes required, when those come up? That’s what this is. Again, I don’t think

anyone ... Look around the room. Does anyone disagree that this is a topic that likely needs to go out? Yes, no? Jim.

JIM PRENDERGAST: Just to back it up, I should have asked you earlier. Not specifically related to this, just for clarification. When you say, “We, the leadership, have decided,” is that you and Cheryl, or is that the leads of the work tracks that have been part of leadership throughout the course of this?

JEFFREY NEUMAN: That’s a good question. It’s definitely Cheryl and I. We have invited all the leads from the former work tracks to show up on leadership calls if they want. Some of them have. Not all of them have. Those that have shown up we’ve certainly asked their input. Yes. Kathy, please.

KATHY KLEIMAN: Jeff, is there a slide that shows some of the sub-headings under some of these very broad topics? I think it would help for us to be able to see it. Hearing it is good, but seeing it is better so that people can process the breadth of each of these topics. 2.1.1, if I remember correctly, had a number of issues involved. 2.2.2 does, of course. 2.2.3. Is there a place where we can easily, while you’re talking us through it, see the scope of these issues? Thanks.

JEFFREY NEUMAN: I guess the only thing I could ask staff to do is post a Google Doc, I don't know if that would be possible, as we go through these sections. These are documents still in progress. They're the same documents that we've all been looking at that have red lines, and incorporating the comments in. I'm trying to remember, the first page of each of those documents, does it go into more detail, or it's just like this? The headings on a table of contents page? I forgot that these slides ...

UNIDENTIFIED MALE: Sorry, it's weird to have a dialog here, asking questions right next to me. Kathy, are you looking for this detail, or are you looking for the detail that might be captured in the summary documents? I'm not sure this is the right format to be able to go through every element of the summary doc into ...

JEFFREY NEUMAN: Sorry, I forgot these slides.

UNIDENTIFIED MALE: The source material for this is a Google Doc. That was just shared in the Zoom room. If you want to look at that, that document has additional context beyond what's on the summaries on that slide. What I shared in the Zoom chat actually provides all this information, as well. Thanks.

JEFFREY NEUMAN:

I forgot about these slides, my fault. We're still on predictability. I think, again, really the rationale is that we still have work to do, or we're still doing work on the predictability model, specifically in making sure that the boundaries are understood between our framework and the existing processes. Then, of course, trying to be more clear for ICANN Organization and the community as to when to put this framework into play, and when other things need to be followed. Topic 2.2.3 is on applications assessed in rounds. We put "possible public comment." Not the concept of whether we do rounds or whether we do ...

To bring us back to the discussions, one of the remaining issues is that I think the working group is leaning towards, "There should be a predictable process for multiple rounds." I think the group has come to a conclusion that a first-come-first-serve process was not something we were going to recommend, that it should be a predictable process of multiple rounds where there is a predictable, rational gap in-between those rounds.

The question that we're still grappling with, that we hope to have some sort of recommendation on is, is it a time-based formula in-between rounds? In other words, do you say, "We will have the next round in 2021 and then the following round in 2024," or is it some sort of threshold that we've been talking about? For example, we can launch the next round six months after we have completed initial evaluation for 75% of the applications. That's an example, that's not what we've come up with, but just to try to put that out there. When we come to a recommendation on that, that might be something we would want as a group to put out for public comment. Christina.

KRISTINA ROSETTE:

Kristina Rosette, completely unaffiliated for the first time in 13 years. I'm in the process of listening to a year's worth of recording so I can rejoin after my ePDP detour. I am confused because it seems to me that if we have the discussion of, as a working group, is there a view that there should be a public comment on all of the recommendations? I'm not sure what we gain by having this discussion at this point. If we have this discussion, that still doesn't resolve the broader issue of does the working group as a whole feel that there needs to be a full public comment period?

To put it a little bit more directly, I'm not really sure how this is helping us, from an efficiency perspective, get to any to decisions and progress. That would help me because at this point I'm just confused. Thanks.

JEFFREY NEUMAN:

Yes, thanks, Kristina. Up until today there has not been an ask from anyone in the working group to go out with a full public comment period. We've had a number of conversations on this topic. We've had input from a lot of people. We've had a number of calls, and the general thinking of both leadership and those that were in the working group was to just put out those particular areas that have the rationale that I said at the beginning, those areas that were not out for public comment, or could not have been out for public comment, but not the whole thing. What you're hearing today from a couple of members has not been the general thinking of the working group.

KRISTINA ROSETTE: That is helpful context, and I appreciate that, thank you. Based on just what I'm hearing, and what I was seeing in terms of facial expressions, it might be helpful to take a very informal show of hands or something. It doesn't seem to me, again, coming into this after been gone for a while, that everyone was of the same view that it was settled. I think it may have been a case of silence being assumed to be acquiescence, and that not necessarily being the case. Thanks.

JEFFREY NEUMAN: Yes, thanks. I'm not going to do a show of hands on this one because there's a lot of people in this room that aren't on the day to day calls. The group has been together for three years. To do that her, I'm afraid, could easily give a misleading impression. Anne, please.

ANNE AIKMAN-SCALESE: I just wanted to give a little context. I don't agree with the notion that this was all settled in the group. What really occurred in the dynamics in the group is that leadership in particular, and perhaps many other working group members, were thinking, "You know what? We don't need any more public comments." Although there were a lot of comments that were made, "Let's try to avoid a second public comment, because we think we can do this thing." Then, there were several others who said, "But wait, how can you avoid public comment on these new things that you've come up with?" I don't think those of

us who said that were ever asked, “What are your thoughts about the true scope of public comment?”

I think it would be a misrepresentation to state that the group made a conclusion about that. I think it’s very ripe at this point in time. I don’t mind going through these topics because I think it’s very helpful to the group to go through the topics and try to refresh our recollection on what the high-level agreement was. The truth is, I don’t think many of us have the strongest memory of what was the high-level agreement on these points. That’s what makes it a little bit difficult to react to the summaries prepared by leadership. We probably don’t have a recollection of the high-level agreement on everything.

I noticed that in one of your chart things you said “types of TLDs.” Well, I certainly remember a long list of types of TLDs. Do I recall a high-level agreement from the group that yes, we should have such a list? I’m not sure what we said. There were seven or eight types of TLDs. I don’t remember if we said, “Yes, we should have all those types,” or we didn’t, or what. I notice it says, “Don’t put that out for public comment.”

JEFFREY NEUMAN:

Thanks, Anne. I intend to go through each of these, and to say where I think the group is. Not in excruciating detail, because there’s always details behind it. More at a high level. I think you’re right. Actually, I think you’re right. I think the way you put it initially is right. Initially much of the working group believed that nothing needed to go out for public comment. There were a lot of people that said, “You know what?

We've done three public comment periods. We shouldn't do another one. We're good." Then, the working group went back and said exactly as Anne said. There's some things that just need to go out because they've changed significantly or because they were not necessarily foreseen to go out for public comment at that time.

That's the starting point. The starting point was never, "We're going to have a public comment period on everything." It was, "We don't really think we need another public comment period, because most PDPs don't do this many public comment periods." It's really the recognition that there were new things or things that couldn't have been commented on. I do like the way you said that, Anne. I think that's better than I would have put it.

ANNE AIKMAN-SCALESE:

Very quickly, Jeff, if I could come back on that. For example, you have a thing labeled on the types of TLDs that says "no public comment." Well, the list that we made probably bears public comment because it's far more detailed, I think, than ... Again, I wish I had a stronger footing on what exactly the high-level agreement is on that before having to try to determine if public comment is needed.

JEFFREY NEUMAN:

Right. We'll get to that topic and we'll get to why leadership doesn't think there needs to be one. 2.2.3, getting back to here on the rounds. Really, the narrow question that we would put out for public comment, or would be put out for public comment ... Again, we're putting

“possible,” not “definitely,” because this is not just a working group leadership decision. When it says possible, that means that leadership believes it probably will. It’s up to the group as a whole. Paul, love to get to ... Okay, go on. Sorry. Go.

PAUL MCGRADY: I'm just speaking up against Kathy, who's been waving at you for about five minutes. You can't see her, but I can. Thank you.

KATHY KLEIMAN: Thank you, Paul. I'm worried that we've never put out the recommendations of the working group for public review. We've got them now. We've worked really hard on them. We've got lots of public input, but it was on choices, options. We've got recommendations, now. We've narrowed things down after huge amounts of discussion, debate, and work that you and Cheryl have led, and the sub-team chairs. I think it would be very fair to put this all out for public comment so that everyone can see ... If we can't remember what we're recommending then I assure you the public doesn't know what we're recommending. To put it all out and to show the interrelationships which people will get, it's one set of rules. Why don't we put it all out at the recommendation of the working group? Thanks.

JEFFREY NEUMAN: Okay, thanks, Kathy. Thank you, Paul, for drawing my attention. It's my peripheral vision. [Kristoff] if you want to speak for Kathy or Steve,

somehow get my attention. Actually, that's why it's sort of helped to have Cheryl sitting over there at the last meeting. Cheryl was able to see. We had a whole, full view. Alright.

Why don't we move onto the next slide? Or did we just put the ones out for ...? Okay. The next one we think that would likely go out for public comment, but we should probably go through the others. Can you go back to the table? What we have here are slides that have whether we think it's likely or not likely. If it's likely then we have slides after it that explain why we're likely.

Why we put 2.2.4, and Anne had raised this, because leadership believes that in that section, although there were lists of TLD categories that could have been approved by the group based on the public comments and based on the discussions, it's the recommendation that only those TLD categories that were set forth in the Applicant Guidebook, plus the one, .brand, which was recognized after the publication of the guidebook, would be the official TLD types.

We've had lots of discussion on other potential "categories," but we did not see agreement on those particular types from within the group, if we were to take an assessment of where the group was. Specifically, we believe, and I'm looking at the Google Doc, that there's a high-level agreement, that there was support from most of the community to maintain the existing categories and not to create additional categories above those that were in 2012. Or added, sorry, with the .brand. Anne.

ANNE AIKMAN-SCALESE: Thanks, Jeff. That kind of raises, I think, the procedural question that does concern me a bit, which is that we did not have a consensus call prior to putting out the initial report. We all agreed that it was going to be more efficient that way because there were just so many issues, and so many questions that needed to be asked. Now, you're actually, I think, talking about choosing which items go out for public comment without ever having had consensus call within the group about what the group did or didn't agree, and whether there are any minority views.

I think that the vulnerability, there, is, "Hey, you guys did this whole thing without a consensus call, then came to a final report, and then did your consensus call." I don't really want this working group to be subject to those types of accusations.

JEFFREY NEUMAN: Thanks. I see Susan. Have a look over here. Yes, Susan.

SUSAN PAYNE: Thanks. I just wanted to respond or react to what Anne was saying because I'm a little confused by you saying that. Others who are more familiar with PDP procedure than me can perhaps correct me if I've got it wrong. I've been in RPM's meetings this week, which Kathy, indeed, is one of the chairs of. She's been proposing putting out our initial report quite soon. It has been very clear that we're not doing any kind of consensus call on that before it goes out. I'm mystified as to why now suddenly this SubPro has failed in some way for not having done a consensus call before we did the initial report.

JEFFREY NEUMAN: Thanks, Susan. Anne wants to respond?

ANNE AIKMAN-SCALESE: I think, Jeff, you and leadership know ... I could be absolutely nuts, but initial report in the operating procedures generally has a consensus call. Julie.

JEFFREY NEUMAN: Okay, I'll let Julie respond, and then ... No, I wasn't going to respond. Julie, and then Kathy, sorry.

JULIE HEDLUND: Thank you, Susan. Yes, we've been having this discussion in the RPM's PDP Working Group. The consensus call designations are generally for the determination that the leadership makes as to the levels of support for the recommendations in the final report. Generally, there's not a consensus call associated with an initial report.

JEFFREY NEUMAN: Thanks. Let me go to Kathy and then Martin. Am I missing ...?

ANNE AIKMAN-SCALESE: I'm happy to wait for Martin, as well.

KATHY KLEIMAN:

I am indeed co-chair of the Rights Protection Mechanisms Working Group. We're not holding a consensus call, but we worked very hard to arrive at specific recommendations coming from the working group. We still have some open questions, but we've worked very hard to arrive at recommendations that are coming out on behalf of the working group, and not questions and options. We're much further along. It's a much more traditional initial report, I think, than what came from ... Feel free to disagree, Susan, but we're going to be going to final report very quickly because we've done the data. We've collected the data, we've analyzed it. A lot of this is fairly ... We'll see what the public says.

It's in fact inspired by that, the idea that this group would put out not just 300 pages of questions, but really what we think the answers are. I think it would be very helpful to the community to see the full roadmap, rather than just bits and pieces. Thanks.

JEFFREY NEUMAN:

Okay, thanks, Kathy. I saw Martin and then Greg. Susan, I didn't know if you wanted to respond or not. Sorry, I don't mean to put you on the spot.

SUSAN PAYNE:

Yes, we're going to have some recommendations, but we also, as you know, have some questions in there, too. We also have a ton of things called individual proposals, which can have widely ranging support, or lack thereof, within the working group, that are all getting dumped in

the report, maybe. Well, no. The individual proposals, as I say, ranges of support. There are individual proposals on all topics.

We're not just talking about the URS, here. This is getting into a level of detail that people don't need. I don't think that there's a vastly different procedure having been followed in this working group, as in the Rights Protection one. There were recommendations coming out of SubPro. There were questions too, but there are recommendations in there.

JEFFREY NEUMAN:

RPMs, we'll put that aside. Let's continue on this. Let me go to Martin and then Steve, and then get back into the substance.

MARTIN SUTTON:

Hi. I'm just trying to think of a time, going back to when we prepared the initial report, and even the supplementary reports, that this question arose at that time. I think we had full discussion at that stage, and amongst the group that was the feeling that nothing would need to go out for a public comment unless it was vastly different and new. I'm a bit worried that we're dragging another conversation back here again, months down the line, when we could be focusing on this activity here to work out what exactly needs to go out to public comment. I think we've labored on this previously. I don't really see the point of having to do that again.

JEFFREY NEUMAN: Thanks, Martin. I'll go to Greg, then Steve, and then let's go back to the slides.

GREG SHATAN: Thanks. A couple of different points. First, while we don't use the consensus terminology in a preliminary or initial report, we do look for something like strong support, broad agreement, getting traction. There's some term that signifies some general idea that the great majority, or at least the substantial majority, is behind the report as it's going out, whatever we want to call it. Maybe we need a ranking system. Apple, banana, cherry, or something. I really don't care what it is. It's not like we just put stuff out without any sense of, not to use the word consensus, but consensus, on what the result is. It is true, we don't call it consensus. It's also true that we do decide that it's something that the vast majority can get behind. If there's an issue then there's an issue.

I have to look back. I seem to recall we called it a preliminary report, and not an initial report, because maybe it wasn't quite baked. I guess the question is really, without going back and looking at that prior report to see how close it was to a draft final report ... It's probably premature for me to comment, but if it didn't really look like something where the community was getting an idea of what our final report would look like, then I tend to shade toward where Kathy's coming out, even though I would much prefer to agree with Martin and Susan.

I'd love to get this going. If what was presented was a loose Smörgåsbord, or to the extent it was ... I also wonder if we put out half

of the things for public comment, then are we going to give them the other half for context but tell them not to comment on it? Or are we going to just black them out? Again, practicality. If we're going to put something out and we're going to have a comment period, the question is why not comment on everything?

JEFFREY NEUMAN:

I'll address this. Thanks, Greg. Yes, look. To go back, it was an official initial report. What we did is we had four work tracks for this report. We had four work tracks. We took the temperature of the room of all of those work tracks. All of the members of those individual work tracks were in favor of putting these out. What we did then is come back to the full group. We had these four work tracks where, again, we didn't go a formal consensus call, but when we looked around the room everyone was very comfortable for the recommendations that were there to go.

The full group then said, "Hey, we haven't all 200 of us looked at these. We know that the work tracks approve them, but now there's 200 more of us. We haven't done a consensus call as a full working group on the recommendations." To which point, we said, "That's not necessary because we can't get this out to the public."

I don't want anyone coming away from these discussions to think that there was just ... There were recommendations in there, and we are very specific to say that, "The work track believes that," blah, blah, blah, in a lot of areas. Not every area. Yes, there were some areas that just had questions. For most of the areas, when you go back and reread it,

you will see that we say that “a work track believed.” It was not the full working group, and we made it very clear it was not the full working group. It’s probably somewhere in between the extremes that’s being said at this meeting.

I really want to get to the substance of this so we can more fully understand. It’s not a correct statement to say that we threw out a hodge-podge of things. It is a correct statement to say that the work tracks individual supported those materials, and the recommendations therein, to go out for public comment. Anne, I see you have a comment. Anyone else? Steve, sorry. Let me go to Steve first. Sorry, Steve’s been in the queue for a while. Sorry.

[STEVE CROCKER:]

Thanks, Jeff. I guess I'm right in the middle of microphones, here. It was just a practical point to raise in that when you do a public comment from a realistic perspective, it creates a lot of overhead. It’s a lot of overhead for the community, especially as it’s a long report. It’s a lot of overhead for staff once we have to compile comments, and then it’s again a lot of overhead for the working group who is required to look at all those comments. This is certainly not to sway you one way or the other to do a public comment, but to the extent you do do one it’s generally a good idea to be judicious and purpose-driven in what you’re asking. Make sure it serves a purpose to seek additional public comment. Just a practical comment, I guess. Thanks.

JEFFREY NEUMAN: Thanks, Steve. Let me go back. Is anyone else in the queue other than Anne and Jim? Let me cut it off here and get back into this. Anne, please.

ANNE AIKMAN-SCALESE: I will try to be brief. In ICANN’s very template for preliminary recommendations, there’s a paragraph which covers that in an initial report there should be a statement of consensus or lack thereof. There is also a statement [where] brackets around the options, “Where there is a majority and a minority view on a particular issue, both viewpoints have been included. Any additional statements filed by WG members in respect of particular topic have also been ...”

JEFFREY NEUMAN: Yes, thanks, Anne. Don’t go through the whole thing, right? You’ve got it.

ANNE AIKMAN-SCALESE: In other words, the notion that for an initial report you’re supposed to have normally a reflection of working group agreement, or lack thereof, I think, is pretty well [counterfeit].

JEFFREY NEUMAN: Yes, I don’t want to reopen that. We had so many discussions around that. It is a “should,” it’s not a “must.” At the discretion of the leadership, and with concurrence of the group at the time, we put it out there the way it was put out. I don’t want to delve back into that. We’ll

do a consensus call on the recommendations in the report at the end, so that our requirements are going to be fulfilled. Jim.

JIM PRENDERGAST:

Thanks, Jeff. I said I'd hold my arguments for doing an entire public comment until later, but it sounds like we're having this discussion now. I think the public comments that we have had to date have proved valuable. Without them we wouldn't have had new ideas that came in as a result of them. We also wouldn't have had the warning from the board related to private auctions and their concerns. I think one of the benefits of actually continuing with the work and drafting a final report, and putting that out, is that you give not only the participants in this working group but also the community at large, the board, and the GAC, the opportunity to see the product as a whole.

Things have changed significantly since the initial report. We're at the 5-yard line heading towards the end zone. Let's give them the chance to review the product now so that we don't get surprised six months from now with GAC advice on things that we didn't give them the opportunity to come back on holes in the process, either from ICANN Org, the board, or the community at large. In the long term, I think it actually saves us time. Everybody's focused on what Cherine said about, "When it's sent to the board, we'll move quickly." Don't presume that means that they will approve it quickly. They could easily quickly kick it back to us if they find that there are gaps in policy. They certainly don't want to be in the position of having to make policy again, like they did.

JEFFREY NEUMAN:

Thanks, Jim. I'll latch on to something you said, "gaps in policy." If we put out a full report ... Actually, I don't want to get into this now because we're going down a rabbit hole. Just remember what's worse than not doing a full report and putting it out for comment is doing a full report, putting it out for comment, and not addressing every single comment that comes back, which we may or may not do if we did that.

If we're fully settled as a working group as to where we are in certain things, and we go out and solicit public comment, and we don't pay attention to every single comment, respond to every single comment, incorporate every single comment, and do another six months of analysis, then we've actually done a worse thing than had we not put it out for public comment.

I think let's just drop it for now. I think we understand the view. I'll certainly discuss it with the rest of the leadership team. I really want to get into the substance because at high levels we can say anything about everything. We're not really getting into the detail. Let's get into the detail, and see if we ... I think in a lot of these areas where we think we'd need to go out for public comment, we think there's probably agreement there, or no disagreement there.

Let's get back into the substance. 2.2.4, back to the TLD types. Again, the group seems to be leaning towards the notion of not having additional TLD types other than what was in the guidebook, plus brands. That recommendation was in the initial report as a

recommendation of the work track. Therefore, if that is the high-level agreement, that's why we say it's not anticipated, we don't think that would need to go out for public comment.

2.2.5, discussion on application submission limits. We believe as leadership that there's a high-level agreement that there's not support within the community to limit the number of applications in total or by an individual applicant or group. We know that there are individuals and certain comments that were filed that favored such limits. In general, most of the comments did not support those types of limits. If that is indeed the way that this working group is going to go, we would not need to go out for public comment because that was the way that the work track was leaning at that point in time, as well. Looking around.

2.2.6, RSP pre-approval. We think as leadership that there's high-level agreement that we have this program. The concept of having the program is not something we would put out for public comment, but we think we've come up with some additional details and are likely to come up with some more details that may need to go out for public comment that were not in the initial report, or were not commented on. This is why we think, as a leadership team, there may be elements of this that might go out for public comment.

Moving onto the foundational issues. The reason 2.3.1 is not anticipated is because it's pretty much just a reference to the CCT Review Team report. I see you Kathy, hold on. We kind of deferred that to ... There's

nothing, really, that we said in the section. That's why it's not really anticipated. Let me go to Kathy.

KATHY KLEIMAN:

Sorry, backtracking. I've got 2.2.5, which is application submission limits. It's just one of the basic questions. In red, in this document, it says, "Complete. Revisit if there is support to place application limits." We seem to have left ourselves notes about coming back to some of these things. What do we do with the notes we left in the documents to ourselves? How do we present those notes? Your summary seemed so much more definite than when we were when we went through some of this. Again, what do we do with the notes and the questions we left in the documents to things that appear not to be going out to public comment?

JEFFREY NEUMAN:

Oh, I turned it off. The next steps of the group, regardless of whether they're not public comment, we are preparing draft final recommendations and summaries for those, much like ... Actually, no. We haven't come out with the ... We're taking these Google Docs. We're taking the notes. We're using all of that to create the draft final recommendations. That's the next step that the group will see, once those are ready to go out. The Google Docs were intended as notes to reflect discussions, which then could be incorporated into what would become the draft final recommendations.

That’s the next thing everyone will see in the group on each of the sections. That’s when we’ll validate whether public comment needs to go out on the sections or not. I hope that helps. We’re taking those notes and creating new documents that have the draft final recommendations. Anne, please.

ANNE AIKMAN-SCALESE: Jeff, I just want to suggest to you it’d be more appropriate to review these topics after the working group has seen the draft final recommendations. Otherwise, you’re going to have a bit of a waste of time.

JEFFREY NEUMAN: We’re going to do that again. We will do this exercise after we see those, but we’re just trying to get ... For planning purposes, this was a big topic. If you recall, many members of the working group asked to go over this at this meeting, and that’s why we’re doing it. I understand your position.

The global public interest section, which also deals with picks and mandatory, voluntary, all of that. We still think there are some open items, and we think that there are some things in here that are likely to out for public comment, which is, again, why we put “possible.” That’s the view of the leadership.

With these other areas, however, we can go through each of these just for ... Sorry, I'm just scrolling through documents. Yes, this would be ...

Steve, I don't know if you've published any length of foundational Google Doc? The summary document for the foundational issues, this topic here. Oh, you're working on it? Okay.

The next section deals with – wow, this section's long – applicant freedom of expression. There seems to be high-level agreement of what was in the initial report, which is that it would be helpful for an implementation team to provide additional guidance relating to applicant freedom of expression rights. Obviously, more detail behind that. Essentially, that's what we think this high-level agreement ... That was all in the initial report, and it was all out for comment. We don't anticipate having another public comment period on that as a whole.

The next subject, Universal Acceptance, the high-level agreements. We think they are essentially supporting the work that's going on with the Universal Acceptance Steering Group, and for making sure that applicants are made aware of the risks of applying for a new gTLD, and where to get additional resources. I didn't think that, again, was in the initial report, as recommendations from the work track didn't get any comments that really would have changed the thinking as we had discussed as a group. That's another area that we don't think would need to go out for public comment.

Communications and systems. Those two sections, they're not in ... I don't think that was in the foundational issues document. I think that's in the next one. Oh, right, pre-launch. There's another Google Doc called "pre-launch activities." I don't know if you've already beat me to the punch and put that in the Zoom room. Those recommendations are

what we've called "implementation guidance." There's nothing major that we're recommending there. Lots of logical improvements that both came about through the initial report and also through comments that came back. Things like making sure that the applications are put on a system that's searchable, obviously security, making sure that your systems are secure to avoid the kinds of data breach that they had the last time. We don't think those sections need to go out for public comment. There's nothing truly new in there that wasn't already suggested at or included in the initial report.

Move on to the next one. Sorry, we probably should have gone through ... We can go through the slides, here. What's that? No, we're good. To this one, here. Application fees. On the notion of it being cost recovery, I might actually put this one as a "possible." I'm now thinking about it, as to why I'd meant to make that change. We did have subsequent discussions. This is one that's possible if we can agree on ... I think we have high-level agreement. We believe we have high-level agreement on the notion of it continuing to be cost recovery and continuing.

However, subject to some sort of floor if the cost is deemed to be too low, or at a point where the community believes that there would be speculative or warehousing-type applications. If we agree on that as a group, and if we agree on a specific formula, then that would need to go out for public comment. If it still stays as the recommendation the way I phrased it, that was what was in the initial report, and that may not need to go out for public comment. This one's kind of up in the air, but we'll know for sure after we go through the final outcomes.

On variable fees, this is asking the question of whether different types of application should pay different fees. Most of the community seemed to support the notion of not having variable fees, that each application would be treated the same for that purpose. Sorry, I thought I saw a hand. Nope. For application submission period, we think a lot of this is implementation guidance. In the initial report we had recommended a period of between three and six months to have a submission period.

We got comments back with differing views. We still believe that because a final draft/final recommendation would likely come out between that time period that we had recommended in the initial report, that as long as we stay within that range, that would not need to go out for public comment.

Applicant support. We have a wide range of recommendations there. Again, it seemed to be similar to those that were in the initial report. Terms and conditions, applicant queueing. The terms and conditions refers to the ... I'm forgetting right now. Annex? Not annex. What do they call that? Module five, I think. I've forgot the term, now. That's the terms and conditions for an applicant applying. There may be no major changes recommended, but that's on we'll probably have to come back to depending on how we come out on a couple of other sections.

Application queueing. It seems like there's high-level agreement on using a similar process as 2012. For application change requests, this one, as leadership team, we think it's quite possible to go out for public comment, especially if we allow different types of changes to be made

to the application that were not allowed in 2012. That's where the discussions have been going.

Let's go to the next slide, which I think has more detail on the application change requests. Again, this basically says what I said. In that section, we're talking about potential changes to allow things like joint ventures. Again, all changes would need to go through public comment, etc. All of that would be included in what would need to go out for public comment.

Go to the next one. Sorry, I'm just looking at the time, here. Okay. Application evaluation criteria, with respect to reserve name, registrant protections. We think that the high-level agreements will be very similar to what we had in the initial report. Closed generic string similarity, we're going to talk about as separate topics in the next session. As you probably will see in the next session, those are topics we think could likely go out for public comment.

IDN, security/stability, applicant reviews, role of application comment, and name collisions. As we've been discussing in the last several meetings, we don't anticipate going out for public comment on those issues. Again, that will depend on the draft recommendations, or draft outcomes. Next?

The dispute proceedings. "Objections" we have as undetermined because there's still a couple of outstanding questions, depending on how those come out. If they come out to handle in a way that was similar to the 2012 round then it may not need to go out for public

comment. One thing that we've talked about is potentially allowing an objection for a verified or validated top-level domain if there's another application for a similar string that doesn't have those types of restrictions. If the working group believes that that is something that we think we should pursue, then that would be the type of thing that would be likely to go out for public comment. If the group does not believe that we should have something like that then there may not need to be an additional comment on objections.

Accountability mechanisms. This is the section where we've spent a lot of time, recently, talking about appeals. We think that we now have much more detail. Certainly, by the time we go out for public comment we'll have a good amount of detail that we do believe should go out for public comment.

Community applications. At this point in time, we don't think that there's anything new that would need to go out for public comment from what was in the initial report.

Auctions mechanism, a last resort we'll talk about also in this session. We think that there are some things that we've been discussing that, if the working group would like to adopt those, would certainly need to go out for public comment. If the working group, however, resorts back to the way it was in 2012, then it might not need to.

Why don't we go to the next slide, because it should have more detail on ...? Yes. On objections, there are some unresolved elements that, again, if they get resolved in a way where the outcomes are something

the community did not have a chance to comment on, we'll do a comment period on it.

Like I said, appeals. We believe that we've been making some really good progress on coming up with an appeals mechanism in addition to the accountability mechanisms that we think would be ripe to go out for comment.

There's some things in the chat, Steve. I don't know if those are just you publishing the links, or whether there's additional stuff. I want to make sure we're covered. I see the chat blinking, there.

[STEVE CROCKER:]

Thanks, Jeff. I think it was a link to the operating procedures related to the requirements for publishing an initial report. I think it's touching on the conversation, there. Thanks.

JEFFREY NEUMAN:

Yes, if you could just point out if there's anything that should be said from the Zoom room. I'm not on it, now. I'll get on it before the next session. I just don't want to hold up anything here. Anyone? Jim, please.

JIM PRENDERGAST:

Yes, thanks, Jeff. Could we just back up a slide? As you were walking through this you had a lot of "ifs" in there. "If" the group decides, "if" the group determines, "if" ... When are we going to actually do that?

JEFFREY NEUMAN: Again, with the next steps, we have to finish up a couple of the summaries. There's a couple of leftover topics. Once we finish that, then we go back over all of these with the draft final recommendations. That's when we do that. We'll have calls, and that's ...

JIM PRENDERGAST: So then we'll be reviewing raft final recommendations for each of these sections? Okay.

JEFFREY NEUMAN: Yes, I just [stated] the mic. Yes. We will be reviewing draft final recommendations on each of these, absolutely. It shouldn't really come as a surprise because as we've been going through ... If you look at the current Google documents, now, and have been going through them, a lot of them are based on the high-level agreement section. You can go back to those, look at those, so that when we get to those discussions they're not going to come out of the blue, they're going to be based on those.

In the other areas in those documents ... As we've been going through each of these sections we've been talking about, "Okay, should we move that up to a high-level agreement or not?" In some cases we have, in some we haven't. There's a lot of subject areas we talked about that just didn't seem to get much support from the temperature or the reading of that call, or on the e-mail list. A lot of those will now drop out if they didn't reach a threshold. It's not to say that it can't ever get brought up again.

As we prepare these draft final recommendations a number of those areas that were just talked about, if they didn't seem to garner support on those calls or on the mailing list, they're not going to show up there. It'll be working group members' opportunity to ask about those, and if they're not in there to try to drum up support for those to get them to a high-level agreement, if that's possible. We'll have to see as we get down to this.

JIM PRENDERGAST: Just a clarification, then. For lines 2.8.1, 2.8. ... Everything but 2.9.1 in there, in order for us to make the determination of whether or not public comment will be needed, we will have draft recommendations to review first, yes?

JEFFREY NEUMAN: Yes, sorry. Yes.

JIM PRENDERGAST: Okay.

JEFFREY NEUMAN: It may be on the ones that we already now need to go out for public comment. We may not have a draft final recommendation at that stage. That's one of the reasons why we're going out for comment. We'll have to take each one of those as we go. In other words we could say, for example, on the auctions. I believe that when things require an auction

it seems like a sealed-bid auction seems to have a good amount of support, but maybe the “when” that auction is done may not.

We may have a recommendation. Again, I'm trying to just use this as an example, don't jump on it to be definitive, but if we say as a group, “There's high-level agreement on doing sealed-bid auctions rather than the Dutch-style auctions. However, the group is seeking feedback on the timing of that,” and then provide the different options. That's the only caveat on some of the areas.

JIM PRENDERGAST: Okay. Just to explain, the puzzlement on my face is because I've got the timeline staring back at me on my screen, and I'm just not seeing how this is going to work.

JEFFREY NEUMAN: We'll get there.

JIM PRENDERGAST: Okay.

JEFFREY NEUMAN: Yes. Sorry, I'm just going through this. Next slide? Since we went through objections, accountability mechanisms, we're going to talk about ... Go to the next one? Cool, next one. Okay. The last three are TBD on this one. Those are the three areas left that we haven't gotten to. When I say “we haven't gotten to,” there were sections in the initial

report. There was a review of the comments. Now, we're just talking in detail about these three areas. We don't know at this point whether anything from there will go out for comment.

On the base registry agreement, on the registry/registrar nondiscrimination, and on the registrar support of new gTLDs, those you may recall we just discussed several meetings ago. We went through it. It seemed like both on the list and on the call there did not seem to be anything that differed greatly from what was out in the initial report, and there seemed to be high-level agreement from the group on those particular areas.

I think we can go to the next one. Alright. I think ... What time are we scheduled for break? Should we just break now before we get into the substance? I'd rather not have that get broken up. Alright. We have until ... I guess we have to do until 17:00? Sorry, I'm looking at Steve, first. I'll get to you, Kathy. Alright. Let me just ask Kathy, and then we'll break until 17:00.

KATHY KLEIMAN:

Jeff, can you give us a preview of coming attractions? Maybe flip through the next few slides so we can see the order of the issues that are coming up?

JEFFREY NEUMAN:

It's actually interesting, because I don't remember the order that it's in in the slides. The three areas are ...

KATHY KLEIMAN: Predictability?

JEFFREY NEUMAN: Predictability, framework, the string contention, but only a specific part of that, and ... What am I forgetting, off the top of my head? Is it up there? Limited appeals. There you go, it's right up there. There you go, there's your ...

KATHY KLEIMAN: Thanks, Jeff.

JEFFREY NEUMAN: There's your topics. Also, just as a preamble to all of that, we did go through some of the predictability model on Saturday. We're going to review what we went over because we know that it was always planned for today. We just have a lot of extra time on Saturday because Work Track 5 was approved, or was sent to the full working group without too much in the way of questions. We thought, "Well, while we have some opportunity we'll go through it." We made it clear that we were going to again go through it today. We didn't want to disadvantage anyone that couldn't make that session. I will see everyone back here in 20 minutes. Thanks.

Thanks. Okay, everyone that's in the Zoom room, hopefully you can still hear me. We technically have to do this as two separate sessions, so

what we're going to do is turn off this session, which will kick you out of the Zoom room. Just log back in in about 10 minutes. Thanks.

[END OF TRANSCRIPTION]