
COPENHAGEN – GAC discussion on New gTLDs Policies (continued)

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CHAIR SCHNEIDER: We need to start or resume, rather.

We are having the second part of the session on new gTLDs where we'll hear a little bit more in detail from the --- for evaluating and prioritizing community-based new gTLD application --- opportunities for opportunities to express themselves, to create places for them to assemble online, through having a top-level domain. And here we're talking quite a wide range of different types of communities. Very obvious social and cultural communities, but also there have been trade associations and other non-commercially based entities who found themselves in difficulty and not being able to realize their ambitions to create their own top-level domain or finding themselves in protracted processes of uncertainty about how and when they would actually realize their objective.

And we've also witnessed communities with limited resources finding themselves in contention with wholly commercially-based competitors and ultimately unable to sustain their ambitions. If, for example, the only way to resolve the

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contention was to go to auction, they would find themselves at considerable financial disadvantage.

As you may recall from the Hyderabad meeting, the report on this issue that was commissioned by the Council of Europe with its comprehensive analysis of the various problems contained a number of important recommendations with the aim of preventing reoccurrence or repetition of these problems in any future application process or round, if it decided to have another round.

While there were copies of the -- hard copies of the report over on the side there -- I don't know if there are any still left, if you actually haven't had sight of the thing physically, back in February, I circulated a reminder about the availability of the report and encouraged preparation for this session you all to focus on the recommendations.

We said in our communique in Hyderabad that the GAC will consider the report with a view to its use within the community as an input to the new gTLD policy development work. So this follows very neatly on from the session we just had about the engagement in the PDP processes. And this session is the opportunity to review the recommendations made in the report by the commission by the Council of Europe and to decide whether the GAC should express support for the consideration of

these recommendations in the PDP. We might make a statement to that effect in the Copenhagen communique.

We have, very fortunately, one of the two legal experts who were the authors of the report here with us today on my immediate right. Eve Salomon is here and will speak about the recommendations and invite you to comment and put questions to her.

On my far right is Elvana Thaci who is here as the representative of the Council of Europe who are an observer on the GAC.

And I'll invite Elvana, first of all, just to say a few words about the context of the report for those -- for the benefit of those who are new to it, new to the GAC, and maybe new to the whole area.

I thought it would be useful for the council to explain why they volunteered to commission the research and the analysis and to publish the report with its recommendations.

So I'll turn to Elvana, first of all, to say a few words, if you'd like to do that. Thank you.

ELVANA THACI:

Thank you, Mark. And thank you again to the GAC for having the Council of Europe to present its work on applications for community-based new gTLDs.

Initial two words about the mission of the Council of Europe as an observer in the GAC. We are observers in the GAC since 2010 based on a mandate that was given to us from the highest decision making body of the Council of Europe, that is the Committee of Ministers. Our mission is to assist and to provide expertise wherever necessary to the member states of the Council of -- the 47 member states of the Council of Europe, which are also members of the GAC, in order to encourage due consideration of human rights, fundamental rights, and freedoms, standards, international human rights law in the context of ICANN policy making processes.

Since we became observers in 2010, we have submitted three reports to the GAC on freedom of expression and freedom of assembly; in 2012 that was specifically related to the preparations for the first round of new gTLDs; in 2014, which was a report covering human rights more broadly speaking; and then this report which will be presented to you today.

Why the Council of Europe? What is our point of departure? In 2012 -- I think it was 2011 -- the Committee of Ministers issued a statement, a declaration on domain names and freedom of expression and freedom of assembly and association. And it stated there that domain names are actually tools that can be used by individuals, groups of individuals, communities to express themselves to associate around common causes. So

there are not only technical resources and should not be considered only for their addressing function but also for the expressive value that domain names might have. And it is important that the rights of freedom of expression and freedom of association in that particular context are enjoyed and exercised without discrimination. The principle of non-discrimination is essential to international human rights law, especially with regard to the protection of minorities and vulnerable groups.

Recently we have supported the ICANN webinar on community consensus on the need for change regarding community-based new gTLDs, which resulted in a general agreement between those who participated in the webinar, including some ICANN board members, that ICANN policies and procedures should be as clear, as fair, as reasonable and transparent as possible in order to ensure consistency, to increase predictability, to ensure due process, and to eliminate discrimination, and to deter potential gaming.

The objectives of the report that will be presented to you in a moment by our expert, independent expert, by Eve has, essentially, a two-fold objective -- to examine community applications, in particular, ICANN processes dealing with community objections and community priority evaluation from a human rights angle, freedom of expression again, freedom of

association, the principle of non-discrimination and due process; and, secondly, to contribute to the GNSO policy development process on community-based applications and human rights. Eve will explain to you the findings of the report and give you a comprehensive overview of the recommendations.

In a nutshell some of key conclusions of the report were that there are some weaknesses in the processes that may affect human rights. And the report highlights that prioritization of communities is insufficiently developed.

The current guidelines for the -- in the Applicant Guidebook and community priority evaluations are insufficient. The report considers that ICANN's understanding of public interest is not clear. Especially the types of individuals and groups that are considered as communities are not clearly defined.

Finally, it is recommended reassessment of the purpose of the community-based application process so that ICANN processes can better support diversity and plurality on the Internet.

And, with that, I think I can close my initial remarks. As I said, Eve will give you a comprehensive explanation about the recommendations of the report.

Thank you very much.

CHAIR SCHNEIDER: Okay. Elvana, indeed. Let's go straight to Eve to go through the recommendations.

EVE SALOMON: Thank you. Could you please put on my first slide. Thank you.

Thank you all for being here. My job is to keep you awake for another hour at least after such a long day. So I'll do my best.

I've set on this slide the three, if you like, key overriding findings of our report.

We recommend a number of revisions to the community application process, starting with the need to get greater clarity on what the public interest objectives ICANN wishes to fulfill through the process and a clear idea of what ICANN means by a community in this context. It's very clear that the whole community-based application process was set out with great intentions, but we feel that a lack of clarity about what public interest values were, it was meant to resolve and what exactly was meant by a community led to a bit of a downfall of the process.

There were some 84 community-based applicants in the last global gTLD round. 46 were uncontested. So they went through

in a straightforward way. These involved brand names, internationalized domain names, and geographic names.

However, some 27 went into contention. And only five were successful in the community priority evaluation process. This low success rate warrants a re-examination of that process.

We feel that any revised process should be based on greater clarity of what community preference is actually for and the global public interest objectives it is meant to serve.

By aligning registry conditions to these objectives, ICANN could deter gamers who have no genuine interest in serving a bona fide community.

So let's turn now and look at the specific recommendations in the report which are intended to remedy these findings. So if you could go to the next slide.

The next slide, please.

Thank you.

There are a lot of recommendations I'm going to be going through, and most of them are hopefully straightforward, but I will pause to allow for questions and comments. But let me preface all of this by saying that you are not being asked to support these recommendations, to endorse these

recommendations. We're not asking you to agree with them. What we're asking you is whether or not you feel these are recommendations that the PDP should be looking at.

So I just want to make that clear. It's for the PDP to initially, if you agree, take a look at these recommendations in much greater depth than you can possibly do in an hour here or, indeed, in some cases, that rewriting the report could do in depth. But we do think that these are -- or we commend to you the fact that we think that these are all issues that we feel should be looked at by PDP for the next -- for the new gTLD round.

Okay. So firstly, starting with recommendations having to do with the definition of community. I'll just read these out in case anyone can't see them.

So define a clear and consistent definition of community and provide clarity on the public interest values community TLDs are intended to serve. I think I've covered that already in my introduction.

In so doing, reassess the criteria and guidance as formulated in the AGB and CPE guidelines in the light of the spirit of the GNSO policy recommendations. I just remind you here, the GNSO policy recommendations called for communities to be something that was very loosely defined and really up to the

applicant community to define themselves what that -- what the community was. That -- That broad-based notion got severely restricted going through the process of both the AGB and the CPE guidelines.

And finally, to instruct and train the delegated decision-makers, such as the experts and panels deciding on the community objections and the CPE, so that they can interpret the cases before them in light of the purpose for which community-based applications were enacted. So really, this is a set of three recommendations that call for greater clarity on what community applications are for, what their purpose is, and for all the various guidelines to be amended in light of that and the experts who are delegated to advise on that to be trained in light of clearer definitions.

MARK CARVELL: Thanks, Eve. So let's take comments and any questions on that first group of recommendations. Is anybody wanting to -- Yeah. I see European Commission. Megan.

EUROPEAN COMMISSION: Yes, thank you very much, Mark, and thanks to the Council of Europe for making the presentation. I just wanted to mention that in the competition, consumer choice and consumer

protection review, we also looked at the objections process and the way in which the community priority evaluations went through. And of course we referred both to the ombudsman's own motion report and also to the Council of Europe report and recommended that this issue be reviewed in depth by the PDP group. Just so you know.

Of course you've all had a chance to read the draft report of the CCT, but I just wanted to put that in context. So that this also comes from the CCT review team that this should be looked at in detail by the PDP group.

Thanks.

EVE SALOMON: Thank you.

Yes, Iran.

IRAN: Thank you.

European Council claimed that ICANN does not have a proper understanding of public interest. Perhaps we may rephrase that. It has been discussed at length in the CCWG. There was no agreement to define what is public interest. There is very, very high level and broad reference to that as in the ICANN article of

incorporation, and it was also in the previous part of the agreement between IANA and the United States, what is public interest. A very high-level reference.

So it doesn't mean that ICANN does not have any understanding. It is difficult. We have not agreed to any definition for that. It is absolutely impossible what is public interest. So you ask ICANN something which was discussed at length and is not possible to have. That is point number one.

And then you mention that or claim that ICANN does not have an understanding of the community. It is quite strange question. It has been dealt with several years, and according to the merit of that question, it has been dealt with.

And the last question I have, you ask the GAC not to support this recommendation but suggest that, I put in that way, that be considered by the PDP for that of. Is it possible you make it -- Why you have not raised this question directly to the working group dealing and the PDP and you came to the GAC? Did you support -- did you submit it and they reject that? They didn't want to consider it? This is an open group, and they considered every proposal, individual, from the community, and so on, so forth. Or you have already submitted that and they have agreed to take into account and you want to have additional suggestion

from the GAC to propose that. So that is something that we need quite clear.

So if you want to have considerations, maybe some formulations to be considered for necessary action as appropriate, but not beyond that.

So these are the things. So I don't think that GAC would be in a position to have any definitions for politic pol- -- or public interest, and would not be GAC in a position to say ICANN does not understand what the community is. And to the PDP process, I think the process is open. You can submit that. But GAC could put it in a very, I would say, soft term with suggestions for any action as appropriate.

Thank you.

EVE SALOMON:

Thank you. If I can reply to those.

I'd like to just make -- put it clear on the record that I have never or we have never said that we don't think that ICANN has an understanding of the public interest or communities. What we are suggesting is that it would be helpful for ICANN to try and be -- to have greater clarity on the public interest objectives it wishes to serve through the -- the introduction of a community-

based application process, which is a completely different thing all together.

ICANN has high-level public interest objectives, of course, but when it's specifically looking at community applications, it would be extremely helpful if those who were considering applications had an idea of what they were for, basically. So that's what that point is about.

In terms of communities, just to give you some examples of the different definitions of community, as I said the original GNSO intention appears to be that community is self-defining. A community is whatever the group claiming to be a community says it is.

However, to be eligible for either priority consideration for a contended string or to lodge a community objection, communities have to demonstrate certain characteristics. The fact of the characteristics of eligible communities vary within the body of ICANN's own processes and guidance leads to confusion and a perceived lack of coherence.

So that's a point. There are different definitions of community all along the processes.

And finally, why have we brought this to GAC rather than directly to the PDP? Simply because the Council of Europe is an observer

to the GAC, and this is where it felt appropriate to give you first opportunity to have a look at it.

Thank you.

MARK CARVELL: Thanks. We have a question from Belgium, I think.

BELGIUM: Thank you, Chair. Thank you Mark.

This is a question for clarification, because it is true, we have confirmed that the community-based applications are more difficult to deal with within ICANN. But I heard Mark saying that he was talking about applications from commercial communities, and now you are talking about communities that have a general interest.

I think that not all communities can be dealt with in the same way, if they are purely commercial or if they have a general interest purpose. Do you make a difference in your report?

Thank you.

EVE SALOMON: I want to make it clear that we are in no way seeking to propose that commercial -- commercially oriented applications should not necessarily qualify as being community applications.

Thing -- It's very hard to get the right words, but I think that if we can agree that there might be a difference between community-based applications and -- or community-based applicants and applicants who are purely profit motivated. So community-based applicants may well, and I'm sure they do, intend to make a profit, but their objective is to benefit the community that they represent or the community on whose behalf they are applying. Whereas a generic applicant is not accountable or working for a specific community.

So it's hard to put that into easy form of words, but I hope that's clarified what we mean by the distinction.

MARK CARVELL: Elvana, you want to say a few words? Okay. Then we have to move on to the next set of recommendations.

ELVANA THACI: Thank you. I just wanted to complement the response Eve gave to Iran why the Council of Europe chose to submit this report to the GAC. Exactly for the same reason that was mentioned here, that we are observers in the GAC. But we consider that all these

questions are intrinsic to the human rights considerations of what is being discussed here. And it's incumbent on states -- on states which are member states of the Council and are also member states here in the GAC to uphold human rights values, to uphold human rights standards and to consider human rights as you prepare your advice or as you interact with other communities in -- in ICANN.

So in that sense, that is the background and the objective why we submitted the -- the report.

We are trying to raise awareness, really, and to bring the human rights discussion on the table of the GAC, and through the GAC in the ICANN community as a whole.

Thank you.

EVE SALOMON:

If we could move on to the next slide, then, please.

Thank you. I'm afraid there are ten recommendations here and I'll read them out in batches.

Provide clarity on the expected costs for community objection and seek to lower these costs.

The AGB didn't disclose the cost of community objections, but community objectors have told us it comes to hundreds of thousands of dollars for a single objection.

Second, assess the possibility to collectively file a community objection.

Again, this is linked to costs. At the moment, one or more objector can't have a -- file a joint objection. They have to do it individually.

Third, assess whether it is feasible and desirable for certain organizations within ICANN, such as ALAC and the GAC, to be able to file an objection.

And, four, introduce a quality control program to guarantee maximum predictable and ensure consistency. Again, looking at the results of community objections, there seems to be quite a lot of inconsistency or apparent inconsistency on who is considered to qualify as an objector and who does not qualify as an objector. And we think that having an independent quality control process might help that particular problem.

So are there any questions or comments on any of those?

If not, I'll move on. Next five.

Expose the -- I'm sorry, we do. Sorry.

PALESTINE:

Hello. Actually, I'd like to comment on the previous slide. It is very clear that ICANN uses this term that has to do with the word "community" in all its publications. Actually, there are certain discrepancies that has to do with the difference of how to interpret this. Everybody has its role in taking or making decisions in ICANN. So how can ICANN determine the public interest? As long as there is no specific agreement to agree on what is the meaning or definition of community.

Thank you.

EVE SALOMON:

... issues with the word community because of course ICANN constantly talks about the word community. And here we're talking about community applications, community-based applications. So it's the same word but they have completely different meanings.

The ICANN community is the amalgam of individuals, of groups, of legal entities, of states that constitute ICANN and the stakeholders within ICANN, whereas community-based applications is -- has a completely different meaning all together and has to do with a process that ICANN developed to give communities, which is not the ICANN community but other

communities, preference over generic applicants when applying for strings that may be contested.

So you're absolutely right to say -- to pinpoint this confusion, and that's one of the reasons why we suggest that ICANN re- -- relook at the definition of what it means by community in this context, in the specific context of community-based applications.

MARK CARVELL:

Thank you, Palestine for that question. Thank you.

EVE SALOMON:

So moving on with community objections. Number 5. Expose the implicit standards that have influenced the delegated decision-makers in their decision-making and assess to what extent these standards correspond to the goal of community-based applications.

Again, there have been inconsistencies in -- in the process of considering community-based applications and why -- sorry, objections, and why some objections are refused, because they consider that the objector doesn't have adequate standing. And those decisions are made on assumptions which aren't necessarily obviously clear. So we suggest that they are made obviously clear.

And number 6, introduce an appeal mechanism that can examine substance as well as the fairness of the process.

This is a recommendation that we suggest is looked at not only for community objections but also for the CPE process going forward.

Are there any comments or questions on numbers 5 and 6?

Yes.

IRAN:

Is not a question, but I suggest that you kindly review and consider the preliminary 30-page questions which have been recently on initial draft by the PDP Working Group on the new round of gTLD, some of which has been considered to put for public comments. So you are better fitted to reply to that, because this appeal mechanism, it's considered. It was discussed on Tuesday, last Tuesday, and people mentioned that appeal is not an IRP. They said they want to try, whether is possible or not.

So it is a good way that you comment on those public comments when it is put on rather than to the GAC, because your (indiscernible) 47 countries. You can have more power to comment on that, rather than something from GAC saying that please consider them and put some action as appropriate.

So that is -- Many much these questions have been raised in that 30 pages of reply that prepared by the PDP group. So perhaps you may need also to consider that one.

Thank you.

EVE SALOMON:

Thank you.

The point of appeal should be nothing new to GAC because GAC has already made that proposal to the ICANN board.

So this is -- this is going -- going over old things for you here.

So moving -- moving on. Reconsider the standards on disclosure for the purpose of transparency for both ICANN and delegated decision-makers, and ensure effective remedies are in place in the event of nondisclosure.

This has to do with conflicts of interest. There have been a number of allegations that experts who were on panels potentially had a conflict of interest in the matter that they were considering. So the proposal here is that potential conflicts should be made more transparent and up front.

Guarantee that both delegated decision-makers and the ICANN board can be held to ask for decisions taken by third parties appointed by or under authority of the board. At the moment,

because there was no real appeals process, there's a gap whereby delegated decision-makers say they're really only advising the ICANN board. And the ICANN board says, quite properly, well, we don't have the means to second guess what our experts are telling us. So nobody takes responsibility, and complaints sort of fall into a bit of a hole. So we're suggesting that that is something that should be looked at.

And number 9 is very similar. Guarantee that adequate checks and balances are in place for the ICANN board to be sure that its delegated decision-makers act on the global public interest based on international human rights law.

And, finally, provide clarity and transparency about the required community-specific expertise, qualifications, and background of panel members of delegated decision-makers.

Here there has been an understandable assumption by a lot of community-based applicants that those experts who are considering their objections or their applications have some specific expertise in the topic of the community itself.

This has not been made explicit by ICANN. It could be that it's not necessary to have this expertise, but we do think that this should be considered and be made very clear and explicit one way or the other.

So are there any questions or comments on that? Yes, Palestine.

PALESTINE:

Thank you. I expect that it is very important to put into consideration that in the future is there any practical solution for the new gTLDs, or is it just a commercial process? Now, there have been more than a thousand gTLDs that have been launched. And, as you said before, many of them were not successful. They incurred tremendous costs for gTLDs without getting a benefit out of it. So I assume that we have to try to see if there is a real need in the world for a new gTLD or not.

Because the thousand gTLDs that were launched before, there has caused some turbulence in the industry. Thank you.

EVE SALOMON:

I think that's a bigger question that should come out of the PDP that's looking at whether and, if so, how to have a new gTLD round. Thank you.

So shall we move on to the next slide please, then.

The community priority evaluation is a process whereby, if a community applicant is in contention for the string that they've applied for, they can, if they so wish, enter into what's called community priority evaluation. And this is a process set up

through the GNSO where communities, if they passed a threshold test, would automatically be given priority to generic applicants for the contested string. So, looking at some of the recommendations about this process that we found, firstly, consider reducing the costs for community-based applicants for future rounds and provide estimates of the cost for defending applications.

In this case the AGB estimated that the costs would be \$10,000. In fact, it was \$22,000 without any priority of why there was an increase. However, as most applications were contested or had to go through the objection process, whatever, a number of applicants estimated that the entire application process cost them up to a million dollars with a quarter of that being paid to ICANN or ICANN-related costs.

2: Establish clear time deadlines for the application process, the accountability mechanisms, and any appeal mechanisms.

This is to enable clarity and the ability for applicants to plan their businesses appropriately.

Ensure appearances of conflicts of interest are reduced through transparency and disclosure of the interests of all decision-makers. This is very similar to what I just said about the community objection process.

And consider whether ICANN should provide dedicated staff assistance to community applicants. The AGB indicated that there would be help for community applicants. But, in practice, ICANN staff, for understandable reasons, kept themselves pretty distinct from the process.

But I think it should be looked at whether -- you know, given that communities are not necessarily professional applicants, whether some assistance should be given to them by ICANN staff.

So are there any questions on those four? Okay.

Looking at the next two, keep community applicants informed about anything which affects the progress of their application.

To facilitate due process, they should have the opportunity to provide input into such matters including accountability mechanisms instituted by third parties.

What we found is that, if there was an accountability mechanism, like an objection or an IRP then instituted by a third party, the applicant themselves were not necessarily included in that process or given the opportunity to comment on what an objector might be saying.

Have a clear set of definitions and/or guidance that works across different but related ICANN processes. Introduce a

comprehensive quality control process and have full disclosure of the assessments made by the economists intelligence unit, which is the -- EIU is the body that actually looked at the CPEs.

Again, quality control we think is vitally important. And, indeed, in the initial contract between the EIU and ICANN, it did state that there would be an independent quality control process. This was never, from our research, actually implemented. We think, in order to ensure a degree of consistency and assurance to applicants, having an independent quality control process would be a good idea.

Any questions on those two? Okay. Moving on, the last two, in any future new gTLD rounds, ensure that post hoc guidance is not issued in such a way as to give any impression of unfairness. In this case, the EIU issued guidance on how they were going to interpret the AGB after applications had already been submitted. Now, that might have been absolutely fit and proper; but it gave the appearance that the goal posts were being changed when it was too late for applicants to make any changes to their applications.

And, finally, full registry conditions, including key elements of the application and any additional public interest commitments should be published to enable ongoing monitoring by

stakeholders to ensure compliance by the applicant to the community to which it is accountable.

Again, by publishing a full set of the commitments made by the applicant, this allows for greater self-regulation by the community itself to ensure that their registrars actually being properly accountable to them. So are there any questions or comments on those?

UNKNOWN SPEAKER: Yes, European Broadcasting Union.

EUROPEAN BROADCASTING UNION: Thank you very much to the Council of Europe for having done this report. Very timely and very important in this phase of the process where we have to think about the future of the gTLDs.

I have one question on the last point. This idea of having a monitoring of the conditions for the application and the engagement that they are taking by the community is something that the ICANN staff has to do constantly over the time? Or only for the period of time of examination? This is not clear to me in this short presentation that we're doing.

EVE SALOMON:

The proposal is that this is something that should be published in relation to the successful applicant. So one of the recommendations we make in the report, which I'll be coming on to, is that in the future round, there should be mechanisms in place to ensure greater accountability between a successful applicant and the community that they're serving.

So one of the means of doing that is to publish commitments so that the community is better placed to hold the successful applicant to account.

Anything else?

Okay.

The next slide, please.

Next slide, please.

Thank you.

This is just one recommendation on this slide, so this is easier.

And this goes really about accountability mechanisms.

You're all aware of the various accountability mechanisms that ICANN proposes. But what we found is that they're not terribly useful when it comes to contested community applications. And, therefore, we're proposing as, indeed, the GAC has proposed to the ICANN board previously, that there's a single

appeal mechanism, which can reconsider the substance of the decision as well as procedural issues.

Now we think that there's probably a means to avoid the appeal mechanism being effectively used as a primary decision making body by introducing a process similar to the existing cooperative engagement process which would seek to limit the grounds of appeal.

However, in order to have an effective appeals process, this would also require greater transparency of the decision-making process at first instance.

So this is our suggestion. And, as I say, it pretty much mirrors what the GAC has already, in fact, suggested.

So are there any questions about that?

If not, then I'll go on to the final slide. Now, these are a number of recommendations that came up in our discussions with ICANN staff and with community applicants and one or two that we propose ourselves. I'm not pinning my colors to the masts of any one of them, except perhaps the last one, which I can go into in more detail. But, nonetheless, we do think these are all ideas which are worth further consideration.

The first one is consider community applications first.

This is something that was actually suggested by some of the ICANN staff that we spoke to.

That in any new gTLD, the community applicants are looked at before generic applications.

And, if an applicant is deemed to be a community in ICANN terms, then no other applications for the applied-for strings should be considered.

So that's what that idea says.

Number 2: Consider whether the model applied for geo name TLDs could offer possibilities as well for TLDs. Now -- for CDAs. Sorry.

Now, in consideration of the rules in the AGB for geographic names, it suggested that further thought could be given to the possibility of establishing prior consultation obligations with entities and organizations who are already accredited as representatives of certain communities, for example, by relevant specialized international organizations, for example, membership of the IOC or UNESCO or others.

So, again, this is an idea that's been put forward that we think is worth looking into for any new gTLD rounds.

Third: Consider inviting applications in staggered batches in order to manage ICANN's workflow. One of the reasons why all the deadlines at ICANN had set itself for dealing with the last set of gTLDs slipped so badly is because the number of applications that came in was so much greater than had been anticipated.

So a way to do a staggered process would be for ICANN to, say, invite expressions of interest asking potential applicants to submit an interest in a string of their choice. ICANN could then advertise the strings in batches requiring all competing applications to be submitted simultaneously. And, at the same time, ICANN could ask for any community objections. So this sort of process would help ICANN manage the workload and make keeping to deadlines easier.

Publishing a timetable for future string batches would also help potential applicants manage their application workload and business expectations. And this would also comply with GNSO principle 9, which is there must be a clear and prepublished application process using objective and measurable criteria. So that's what the idea of staggered batches is about.

Fourth: Consider whether a form of "beauty parade" for all applications would be workable. This is something that has been considered before the last gTLD round. It's probably worth having a look at again. So, rather than having a high bar for

priority, ICANN consider all applications for particular string together, retaining the principle of preference for bona fide communities, all applications from self-declared community-based applicants could be looked at together to determine which one best meets the selection criteria.

So, you know, it would be important for any such beauty parade for the criteria to be based on transparent and clear assessment criteria and for the assessment panel to be truly accountable. So that's sort of a bit of background to the concept of a beauty parade.

And, finally, consider developing an entirely different community track which would include applying registry restrictions that would assure that applicants are accountable to their communities and provide real benefit to them and deter purely profit-motivated applicants from pretending to be communities.

So I don't know if any of you are involved with regulatory authorities or governments which have licensed community media, community radio, for example, and community television. This would be a similar process where there would be a separate track for community-based applicants.

And we've developed some ideas around that, but unless you want me to go through them, I'll leave the floor to you for any questions.

MARK CARVELL: It seems everybody has been stunned by how effective the range of recommendations are. Oh, I'm sorry. I should have scanned the top table there. So, Olga, yes, please.

OLGA CAVALLI: Thank You.

Thank you very much for the presentation and for the document which I find extremely useful at this stage of the development of the PDP and the discussions that we're having also within the GAC.

Perhaps you may have heard that we in the GAC have a working group to analyze what happens with geographic names. There was some -- some problems with some geographic names which are not in any lists that brought some objections and some misunderstandings in between the -- some governments and some applicants. So we're working towards finding ways to lower this uncertainty for parties and for the community.

So maybe you could explain a little bit more point number 2, consider whether the model applied for geo names TLDs could offer possibilities for community-based applications.

And just as a -- somehow an anecdote, many, many people came to us with those geographic names after they were presented, and they told us why they were not presented by our countries as community-based applications. And considering the not-so-good outcomes of the community-based applications, we thought maybe it was not a good idea. But perhaps in this new round, that could be good that all this is taken in consideration. It could be a possibility.

EVE SALOMON:

Thank you, Olga. I think the main point here is really to encourage the PDP process to look across the board so community-based applicants probably have lessons to teach geographic names, and geographic names have lessons to teach community-based applicants.

So as you know there were some successful community-based applicants who were really geographic names, like Osaka being one. They got through without contention. There might be a thing for geographic -- something for geographic names to learn from that process.

But I think the -- the specific point that was raised to us about lessons from geographic names was the availability of -- of possible -- of, you know, definitely internationally organized -- internationally recognized organizations to verify the bona fides of a community-based applicant. So, for example, UNESCO might be in a position to -- to confirm that a community-based applicant really did represent a particular ethnic group, for example.

Thank you.

MARK CARVELL:

Okay. Thanks very much, Eve. I don't see any more requests for the floor -- oh, sorry. Wanawit. Palestine. Okay.

Thailand first and then Palestine.

THAILAND:

Wanawit for the record. So there's some few points I'd like to raise. I think some of the aspects you mentioned about the GAC's or ALAC to be able to have the community objections, from what I understood the AGB provides some mechanism like early warnings that the GAC could be having early warnings, which is prior to the objections process. That go through the communities, and I do (indiscernible) the points of Olga and you also raised that it's always the case, the difference between

community and geo. And the applicants are the one who categorize themselves whether they are in communities or community-based applications or geographical application, which require different set of documents to support the applications.

And some of the points you mention about where you find an objection for corresponding governments in terms of geographical. I think that -- that are the cause of the problem in the Application Guidebooks, because the Application Guidebooks advise the applicant that they may consult that, which relevant governments. And, indeed, they could issue the non-objection or support led to the applicants.

We face the case that the Ministry of Education, which has no knowledge about Internet in detail, issued a support on non-objection letters. So it's a legitimate government that relevant to the subjects. That's still something that we need to improve in that. That should be addressed there. And that's really crucial.

And I'd also like to add that when you mention about a specialized international organization that involves especially in the geo name TLD, for a country that non-Romanization, I think one of the ECOSOC United Nations is the United Nations group of experts on geographical names that has been mentioned in IDN fast-track processes but has not been adopted in the Application

Guidebooks of the new gTLD at all. And I've been talking about these several times that when you're dealing with a country that non- -- non- -- non-Roman, that use their own local language, the only source that you can refer to apart from 3166.

So there are some of the issue we need to address to -- from the experience we have. Could we address the issue? Especially we do expect that the new applicant in the next round, we dealing with more complex issue on IDN or the country that do not use English as a standard.

Thank you.

EVE SALOMON:

Thank you.

Palestine.

PALESTINE:

Sorry. I expect that the first point, another time we are addressing the word community. Can we specify and clarify this word "community"? What does it mean?

Second, upon the application process, what is the method of applying? Actually, the mechanism of applying is absolutely different than what happens. In reality, I think application has had to do with the proximity to the gTLDs that the application is

applied for. I just need some clarification about that. Thank you.

EVE SALOMON: specifically about the -- bespoke the distinct process that ICANN has developed for communities whereby if you apply as a -- a community-based applicant, you get priority over a generic applicant. So that's what we're talking about here.

I know the word "community" is so confusing, but it's a very specific process that gives priority to applicants who can prove that they -- they represent a community.

MARK CARVELL: Okay. Brazil, please.

BRAZIL: Thank you. I'd like to make a general comment in regard to the whole report.

I'd like to thank you for the report and congratulate you because I think this is the -- the kind of reflection that is needed. When we are trying to devise the rules and the -- that will apply to the next gTLD round, I think, which is very important. You have give us a lot of food for thought in regard to ways to balance public

interest, community-based interest, as opposed to purely commercial interest.

So I -- I think many of the issues should -- I not maybe think the GAC as a whole would be in a position as of now to fully endorse, but certainly I would encourage everyone, including myself and my team, to engage in those discussions, have in mind the very important ideas you have brought to us.

I think when we were discussing in the previous part of this discussion, gTLD, next gTLD round, my intervention was exactly trying to call attention to the needs to further reflect on things that should be embedded in the process to make sure that the public interest in the end will be achieved. I think it's not enough to start everything in the prejudgment or preconsidered idea that the mere expansion of gTLDs, per se, will serve the public interest. I think it's important to investigate and dig deeper into some issues. And I really thank you for bringing to our attention many aspect that should be better dealt with in these next gTLD rounds.

Thank you.

EVE SALOMON: Thank you very much. And that's precisely the point. We're not -
- we're not providing all the solutions, but we're saying these are
the things that we think should be looked at. Yeah.

MARK CARVELL: Okay. I saw Russia wanting to take the floor.

RUSSIAN FEDERATION: One more question. First of all, thank you very much for your
report. I read it, and it's really good and valuable insight in this
report. But I want to ask you about your expectation.

You presented to us, to GAC, this report, and from practical point
of view, what next step you see? Is it only for information to
enrich our knowledge about processes? To, how to say, to
engage us with your ideas? Or you expect some practical steps
and next steps from GAC?

MARK CARVELL: Yes, thank you very much. And that's a very helpful question to
wrap up the session, unless there is another question we can
squeeze in, maybe.

But this is really the opportunity, using the in-depth research
and analysis that the Council of Europe commissioned when
they appointed these independent experts, including Eve, to

undertake the work, to inform the community. And the feedback we've had since the report first became available just before the Hyderabad meeting has been very positive from other parts of the community. And also from the community of applicants who fit into this -- who have a direct interest, if you like, in the recommendations.

So the feedback has been very good. We have the opportunity to say to the PDP, as the GAC, that we've had the opportunity to review the recommendations in the report. It's been available since Hyderabad. We said in Hyderabad that we would look at the report and its recommendations. Many of you have done that in the intervening period, and we're now at the stage of being able to say this is the outcome of a very comprehensive, in-depth analysis by a GAC observer. Now over to you in the PDP to take account of these recommendations based on the wealth of research and analysis that was undertaken to produce those recommendations.

So the next step is really for the PDP. And we all have the opportunity to help that process by contributing to the discussions, some of which will be hopefully focused specifically on these recommendations.

So that's how I see the way forward and the next steps. I don't know if any of my colleagues or Thomas might want to say something to that effect.

Iran, sorry. I missed you.

IRAN:

Yes. And the report once again we appreciate for the insight and appreciate for this research, but I think we should be mindful what we do about this. One way would be that the GAC suggest its member that it take -- consider, not take -- consider these questions and take necessary action with respect to them when the PDP is put for public comments. This is one way.

The other way, if you want, if we can agree, say that GAC received this and felt that it may be good that the working group consider them and take them in actions if they're deemed appropriate and necessary. That is the maximum we can do. And we cannot say take it into account, because of them is quite difficult. You cannot ask GAC and ALAC to have objections or anything with that. You cannot ask an international intergovernmental organization to talk about the use of the DNS which is gTLD, so we may contradict the basic principles on which the whole process is based.

So we should be quite careful and not going beyond consideration of that, and actions were deemed appropriate. But we can suggest the membership to consider them and to raise them where they wish appropriate or they meet the appropriate stage of the public comments.

So we should be quite practical and look at something, and say that we have carefully considered them. Maybe some people, yes, but we have not considered them at all. We didn't have any time. We were very busy with the transitions. We never look at this document at all, and many people -- I don't know, if you ask those people at this meeting, have raised the hand that has carefully read this document, apart from the 47 countries which may have seen or have not seen.

So we could not say that the GAC has carefully considered this document. So it may be view of some and not view of others. So we should do quite careful in qualification that we make.

Thank you.

EVE SALOMON:

Yes, your point is exactly what I made at the beginning when I introduced the report. Exactly that; that we're not asking the GAC to endorse the recommendations at all, but just that they should be considered by PDP. Exactly right.

MARK CARVELL: Okay. Thank you, Iran. We will circulate some draft text for the
communique but your suggestions are very helpful. Appreciate
it.

I think EBU, Giacomo wanted to take the floor again?

EUROPEAN BROADCASTING UNION: Yes, very briefly. I want to just draw your attention on
certain points.

I really believe that the community and the geo names TLD are
the ones that make sense in the future. So we are discussing
about something that will be probably the future of the TLDs. It
doesn't make any sense to have other 20 website with address,
fancy address. But if I live in Paris, probably I will get an
address.PARIS. Or if I'm a member of community like rugby, I
would like to be part of that.

So we are discussing about something that will -- needs to be
crucial for the future of the industry, but at the same time will
cross with the civic interest and a lot of other things that need to
be considered. And I think that the GAC, because we represent
the public interest in the large sense, is the first place where this
kind of consideration need to be done.

Then there was some confusion about what could be the role of the international organization. I make you a very silly example to explain what meant the study.

In the current process, when the Federation of Rugby applied for something .RUGBY, they have to bring in the current process the letter of endorsement as sustained to the candidacy from all the federation of the world. While if you go to IOC and you ask who represent the rugby in the world, and the International Olympic Committee say the World Federation of Rugby. So there is no reason for having 180 letter of support for a candidacy.

So this is the idea of having geo names similarity. You go first to the IOC and you say we represent the rugby, we represent this kind of community. We have, in the real world, this kind of thing. There is no need to reinvent the world because we are talking of online world and that is different from the real world.

And the last point I want to say is that the simple -- simplest solution would be to say that the community has to be for nonprofit.

If you eliminate the fact that you make money out of it and the money is made by auction mainly, if you eliminate this, then there would be no more interest by the real community to apply for the TLDs as community. While the money comes from

making competition between different interests that are trying to find the same brand or the same name, et cetera, et cetera

So, if you go for a community and you ask simply and you engage yourself to do this just for the cost not for making a huge amount of money, then the fakeness of some applicants that want to make -- to sneak in in the process using the fake community scheme will be resolved. This is for further consideration.

MARK CARVELL:

Thank you, Giacomo. That was a very helpful comment. We have one last comment from Spain, and then we have to wrap up. Thank you, Gema, please.

SPAIN:

Very briefly. Thank you very much for this presentation. I would like to say that it's a pity that the GAC cannot endorse -- I know you're not asking for endorsement. But we've been told this afternoon that the working group on some subsequent gTLD rounds would like to have more down to earth, more practical, more detailed advice sometimes from the GAC.

We find that the Council of Europe has done this job for us. They have commissioned an independent expert who has made an

excellent job, very thorough investigation on the issue and has come up with very pointed and sharp recommendations.

I'm just expressing my sorrow that the GAC cannot get simply endorse this as a group because that would give the recommendations much more strength in the process. Thank you.

MARK CARVELL:

Thank you, Gema.

We'll wrap up there.

But I think, Eve, you deserve a round of applause from us all for going through the recommendations so well.

[Applause.]

CHAIR SCHNEIDER:

Thank you. And thank you from my side as well to Eve for this very interesting work. First of all, this report has been out since last November. If all the documents would be there for four months before we could go into discussion, I think our life would be a lot easier.

Speaking on the substance, I think, as it has been proposed, it's -
- endorsing it is not necessarily the point here. The point is that these are elements that are useful for the discussion in the PDP.

And we can always at a later stage, when we're invited to make comments, for instance, use elements of this report. And this is what I would recommend the GAC members that they can use, not just the GAC members and observers, but also others that they use this. Because this is, as a whole, is, I think, a very important work. And, at this stage, if the GAC has proposed this could consider recommending or sending this text formally to the PDP as an input as something to consider as food for thought and so on. This is not making a judgment on each individual recommendation, but giving this as a welcomed input, as we've heard from the co-chairs this morning, a substantive input into the discussion that helps or is intended to support the review of the existing community mechanisms. And also with a reference to the repeated dissatisfaction expressed by the GAC on the way that the community mechanisms have been turned out to be implemented. I think it's a logical consequence that we try to come in to the GNSO with some ideas that are substantive. So it would make sense.

But I think it's difficult to endorse the text as a whole with all the set of recommendations, because we would actually need to go through them one by one. As I said, I don't think it's necessary. But it's an important signal, a substantive contribution. And I think this is very useful. And thanks to the Council of Europe for this, and thanks to Mark for also raising this. We have to stop

here because the Public Safety Working Group is already waiting. So we have another session on the gTLDs where we, if you want, can continue the discussion. So thank you very much, and let's leave the room to the Public Safety Working Group.

And don't forget at 9:00 there is some warm cheese and cool wine from my country waiting for all of you. Thank you. Sorry. 1900 is minus 12 is 7:00. Sorry for that. Thank you.

[END OF TRANSCRIPTION]