

**ICANN
Transcription
Review of all Rights Protection Mechanisms (RPMs) in all gTLDs PDP Working
Group call
Wednesday, 24 August 2016 at 21:00 UTC**

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Attendance of the call is posted on agenda wiki page: <https://community.icann.org/x/HQ6sAw>

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Coordinator: Okay, recordings have started.

Terri Agnew: Thank you. Good morning, good afternoon and good evening. Welcome to the Review of All Rights Protection Mechanisms RPM in all gTLD PDP Working Group call, taking place on the 24th of August, 2016.

In the interest of time there will be no roll call as we have quite a few participants. Attendance will be taken via the Adobe Connect room so if you are only on the audio bridge, could you please let yourselves be known now?

Beth Allegretti: Hi. Beth Allegretti on audio.

Terri Agnew: Thank you, Beth. Hearing no further names, I would like to remind everyone to please state your name before speaking for transcription purposes and to

please keep your phones and microphones on mute when not speaking to avoid any background noise.

With this I'll turn it back over to Phil Corwin. Please begin.

Phil Corwin: Yes, well good day to all and let's get right into this. We've got a full schedule as usual. Hope everyone's enjoying these waning days of summer. And staff – I think – have you done the roll call yet, roll call and update to SOIs, call for that?

Terri Agnew: And with that anybody with an update to SOI please make sure you submit them.

Phil Corwin: Okay. All right, and item 2 now, update from staff on follow up with the trademark PDDRP providers and the community survey. So, staff, can we display that and can you take us through it expeditiously? And, Mary, I see your hand up.

Mary Wong: Yes, Phil. I don't know that we actually have the questions readily available. We were just planning on giving a quick update because...

Phil Corwin: Okay.

Mary Wong: ...the questions for both sides have not changed since we sent them out to the working group for final comments to be in by last Friday. So the update from that is that the only change has been made to the community survey questions in response to the registry operator's notes that were sent to the working group mailing list about the lack of completeness inadvertently in one of the questions.

So we've since changed that particular question to more fully reflect the rules of the PDDRP and we have notified all the community chairs to resend the

updated link to their community members so that we can get responses to the survey.

And for the providers we, like I said, have not received any further comments from working group members so we will go ahead and send these out to the three providers hopefully before the end of the week.

Phil Corwin: Okay. All right, thank you for that, Mary. And now unless there's – I don't see any hands up so let's move on to Item 3 where I know we do have a document to display, some information we've received. Okay, and this is the report of the compliance dashboard review subteam. And Part 1 is not all that relevant to our work, it's about reports of registrar suspensions for being actively engaged or abetting cybersquatting. And we're focused here on a remedy that is targeted at registries.

In Item 2, data from compliance investigation of registry operators, much more relevant to our work. You'll note that there have been a number of complaints about the RRDRP. And I'm hearing that echo again. Please mute your speakers or your phones if you're the source of that.

And so we see that we have five complaints about the RRDRP in the second quarter of this year; 15 in the first quarter going up and down some pretty high number of complaints back in 2015 and the second and third quarters. In discussions of the cochairs with staff earlier today, we weren't quite sure what complaints would be generated about registries about the claims service since the claims service is a notice generated by registrars to registrants, but we'll look into that as we approach; that may be relevant to our trademark clearinghouse and claims service work.

And some complaints about the URS and that may also be relevant to work down the road. It could be that registries did not suspend domains found to be in – engaged in know it when you see it cybersquatting even after being

notified of suspension. But we'll sort all that out as we approach those other issues.

I think the key takeaway for me here is that the RRDRP has been used quite extensively as compared to the PDDRP, which as we know, has not been used at all to date. And any comments or questions about this document? Susan, please speak up, Susan Payne.

Susan Payne: Sorry, took a bit of time to get off mute. Can you hear me?

Phil Corwin: Yes, we can.

Susan Payne: Oh good. Lovely. Yes, I was – just wanted to say I'm not sure that they're an indication necessarily that the RRDRP has been used so much as the compliance department has categorized it as being a complaint they received that was relevant to the RRDRP. I think it would be a point worth clarifying with them but I'm just basing that comment on having heard presentations from the compliance team in the past where they've categorized complaints as relating to the PICDRP, for example, and then when queried they were not PICDRP complaints, they were, you know, complaints from third parties about something to do with the PICs.

Phil Corwin: Well, Susan, just let me intervene.

((Crosstalk))

Phil Corwin: You'll notice that on the first reference to the RRDRP for the most recent quarter of 2016 there's a footnote 5 and footnote 5 says the subteam is including numbers for complaints under the registry restrictions dispute resolution procedure. So that would seem to indicate, unless there's something to the contrary that there have been actual complaints under the RRDP.

Susan Payne: Well, maybe we could ask someone from the subteam to clarify. But as I say, my understanding is – of what the subteam has done is that they've looked at the compliance department dashboard and I think the compliance department dashboard is not very precise in how they classify things. But I think that's a really good question for someone who was on that team, which I was not.

Phil Corwin: Okay. Well if there's anyone on that team, I'm going to take Mary's intervention and then move on to Kristine Dorrain. Mary. And thank you, Susan.

Mary Wong: Thanks, Phil, and thanks Susan. This is Mary from staff. I actually saw that Caroline Chicoine, who is – was actually on the subteam had her hand raised so perhaps it was in response to Susan's question. If it was, Caroline, would you like to go ahead?

Caroline Chicoine: Sure. Can you hear me?

Mary Wong: Yes.

Phil Corwin: Yes.

Caroline Chicoine: Hello?

Phil Corwin: Go ahead, Caroline.

Caroline Chicoine: Oh okay. I agree with you, Susan, that I don't think it is very clear necessarily, you know, whether, you know, officially complaints were filed or if that first came in that way and then what happens with it afterwards. And I think that's kind of what our note on the last page of the report suggests that what compliance provides publicly is really lacking in a lot of detail that might be more meaningful to us in our review of its PDDRP.

So all we can go on is by what they listed there. And as we've seen like they have other, you know, they have no idea what falls into that category.

Phil Corwin: Okay. Caroline, is there any opportunity for the subteam to make further inquiry of ICANN compliance to figure out if these all represent actual complaints filed or something else? And if not maybe we can have staff undertake that task.

Caroline Chicoine: I'm happy to do it and – or to work with staff to try and accomplish that in terms of (unintelligible) for that information.

Phil Corwin: Yes, that would be great because I think we're all trying to figure out whether it's actually been used as many times as this would seem to indicate or whether this is noting some other – something else that's related to the RRDRP but not actual formal complaints. I think we need to sort that out. It doesn't change the fact that the PDDRP hasn't been used, but it would still be useful information.

Kristine, you've been very patient. Let me call on you.

Kristine Dorrain: Thanks. Kristine from Amazon Registry Services. Just to highlight two points. First, remember the PDDRP is specifically in this working group because it's trademark related and therefore it's related to rights protection mechanisms. The RRDRP is related to registry restrictions so restrictions that the registries have imposed on their own TLDs and then not maintaining in the way that they promised.

So if you look at the RRDRP I put it in the chat or in the chat area, but one of the requirements of the RRDRP is that the complainant in an RRDRP can't file an RRDRP against a registry unless they have first lodged a formal complaint with ICANN by using their RRPRS service.

And I think if we want to send a task back to find out more about that you would want to ask, is this RRDRP, is that a reference to that formal service indicating sort of that preliminary step because I don't think any of the providers, to my knowledge, have had a formal RRDRP complaint make it all the way to them. So to the extent that we are – this is kind of a red herring in that it's not a policy that we're looking at, if you're just interested generally in complaints about the registry I would suspect that it's this RRPRS service that that compliance notice is referring to.

Phil Corwin: Okay well thank you for that clarification. That sounds like a more likely explanation, the fact that you have to do something formal to even lay the groundwork for bringing a formal complaint and I'm just guessing that just be interesting to know, it's not relevant to our work, whether those pre-complaints, filings with compliance, are from parties who feel they've been unfairly excluded from a registry, from getting a domain or domains there, or third parties who feel that folks have been let in who weren't properly qualified to be registrants. There might be some mix of that. But again, not directly related to our work.

Maxim, I see your hand up. Please go ahead.

Maxim Alzoba: Maxim Alzoba for the record. Do you hear me?

J. Scott Evans: Yes, you can be heard.

Maxim Alzoba: Thanks. Could we ask ICANN Compliance how many cases out of these numbers we see in the documents were dismissed (unintelligible) because of like lack of grounds to open complaints, etcetera. So we see the real numbers of cases where something bad happened and not the cases where someone filed a case because he didn't understand the nature of compliance, etcetera, etcetera. Thanks.

Phil Corwin: Okay, yes, I think as Caroline works with staff to try to shed some light on what these numbers mean we can get that. Having said that, I don't think we want to spend a huge amount of time because while it's interesting, it's not directly related to – that's not a trademark protection RPM and whatever we learn about it I think it'd only be relevant if it turns out these were all formal complaints that went to adjudication but it's something less than that it's not that relevant to whatever we're going to do or not do about the PDDRP.

Is there any more discussion of this subteam report? If not we'll move on to Item 4, which I know there's some interest in. Mary, I see your hand up. Is that from before or is that something new?

Mary Wong: It actually is a further observation about this report. And actually I think Caroline has her hand up as well so I'll just quickly...

((Crosstalk))

Phil Corwin: Oh, yes, that just came up.

Mary Wong: Yes. So the follow up comment from the staff side partly in response to Maxim's question is that not just about the RRDRP but about all the numbers here. As Caroline said earlier as well that these are simply the numbers that were reported on the dashboard. We have no way based on just these numbers to go behind them to know exactly what complaint Number 4 might have meant versus complaint Number 5 in any three-month period.

So similarly, in terms of Maxim's question, what we haven't put here in the document but which the metrics do show is that there are some complaints which are logged when they're filed so you see there are seven complaints about sunrise or whatever, but that it's also a fairly large-ish number of complaints that were dismissed without full investigation.

Again, those are just numbers. We don't know what conclusion we can draw from an example where say you've got seven complaints and four were withdrawn or dismissed, those are just numbers. But we just wanted to highlight that for the group as well that there are some cases that proceed to full investigation and enforcement and quite a few, apparently, that do not. Thank you.

Phil Corwin: Yes, thanks, Mary. And I do note that in any given reporting quarter Other was the largest category of reported filings, pretty much outweighing the total of all the other ones in every quarter, so that's interesting. Caroline, further comment?

Caroline Chicoine: Yes, I would just quickly say that (unintelligible) highlight so perhaps – and I know it's not our working group but that this information could be made more meaningful or useful to the public at large if it did have a certain, you know, more level of detail then it might be something that we wanted to think about in terms of being able, as we go through these reviews, that it's very difficult if every time we need to really get to the details we have to go through this mickey mouse back and forth trying to understand what these high level numbers mean.

Phil Corwin: Okay. Good observation. And I'd ask you and staff as you go back to compliance, rather than leaving it for later, and as long as we're talking to them now, try to get some more detail about both the claims service complaints and the sunrise complaints and the URS complaints. All of those are coming up...

Caroline Chicoine: Will do.

Phil Corwin: ...for this working group in Phase 1 of our work. And we might as well try to figure out what these notations means, you know, in some basic sense and whether it's relevant to what we're going to be looking at for each of those separate RPMs. Okay.

I don't see any further hands up so I'm going to move on to Item 4. Item 4 there's been some discussion on the working group list this week. As I understand it the subteam, there's a subteam right now looking into the question of how a voluntary medication program within the context of the PDDRP might be structured.

So far as I and the other cochairs are concerned, this does not – this investigation of practical structuring does not indicate any prejudice one way or the other toward making a decision to recommend adding encouragement of voluntary mediation to the PDDRP rather it's to help inform members of the working group as to what that would really entail and help decide whether that's something we should be recommending.

Having said that to introduce the subject, I'd first ask anyone on the subteam who wants to further illuminate what they believe their mission is, their timeframe and what they're doing to speak to that, and then to hear those who are – expressed concerns to express those concerns. I see Jeff and Paul McGrady have hands up. Is either one of you a member of this subteam? I'd like to get some input from the subteam before we hear from others if there's someone here from the subteam who's willing to speak to this.

Jeff Neuman: So, Phil, this is Jeff Neuman.

Phil Corwin: Yes, Jeff.

Jeff Neuman: I think all that went out at this point was a call for people to be on the subteam.

Phil Corwin: Okay.

Jeff Neuman: I don't think there's been anything further than that. And that's what I did want to talk about, but if I'm wrong and anyone else has something to add I believe I just saw a call for it and that's where I objected.

Phil Corwin: Okay, let me just ask Mary, have we constituted this subteam yet or is there simply a call out for potential members? I know I've seen some people volunteer the past week. Mary.

Mary Wong: Hi, Phil, Jeff and everyone. Yes, there's been a call for volunteers and we have had I think slightly more than half a dozen folks put their name forward. We had intended to set up a mailing list for the group and perhaps suggest an initial meeting, but given the recent traffic on the list we've held off for the time being.

Phil Corwin: Okay, okay thanks, Mary. So I was mistaken in thinking that this subteam has begun any work. I'm going to get right back to you, Jeff. I just want to say that on a call earlier today the cochairs, not just in regard to this subteam, but to our subteam experience to date, are of the view that subteams are very useful to our work, particularly for information gathering and for teeing up conceptually some issues.

But that as we move forward particularly into more difficult and complicated areas, that we should be extremely precise about defining the scope and the goal for subteams and at least one or more of the cochairs working with staff should be actively monitoring their work.

So with that interjection, Jeff, why don't you go ahead and speak to this and then Paul.

Jeff Neuman: Yes, thanks.

((Crosstalk))

Phil Corwin: ...anyone else who wants to speak.

Jeff Neuman: Thanks. So this is Jeff Neuman. Yes, my objection still stands. I don't know how subteams are constituted in this working group. I don't know whose idea it was to constitute a subteam. But I think before we waste time and energy on creating subteams there really should be a groundswell within the working group itself that such a subteam be created on a subject that, as you said, the scope is well thought out in advance of creating this subteam.

Because right now, first of all, there's two aspects of the subteam that I object to. One is the whole notion of a mediation program to begin with when there's no evidence that there's ever been any facts or circumstances that could have led at this point to a PDDRP complaint since that's what we're talking about, just a mediation program. But it's an online mediation program.

Which, again, has a whole other level of complexity presupposes the type of mediation, even if mediation were warranted in some sort of way. I just – I really object and I want to hear from the rest of the group before we go down the path of setting up a subteam, opening up an area for which there's been no evidence presented on a need for that, I just fear not just for the PDDRP, but for every single subject that this RPM working group is going to tackle is to create issues where no issues actually exist.

And if that's going to happen, I mean, forget finishing this first part by 2018 and certainly, you know, if that happens with the UDRP review, I mean, this is just – it's crazy. So, again, I want to stick to the point of we should not be addressing issues until there's demonstrable evidence that such an issue actually exists and the creation of a subteam to explore an issue without any evidence that such issue exists is putting the cart before the horse. Thanks.

Phil Corwin: Yes, thank you, Jeff. I think let's just let everybody speak to this and then I'll have some comments. But Paul McGrady is next.

Paul McGrady: So Paul McGrady here. I am quite a bit less passionate about this than Jeff is. But so I signed up for the subteam but I thought that was because there'd already been an umbrella decision that, you know, mediation was a good idea and that was going to move forward and I thought, well, I should be on that subteam then if we're going to build a mediation program.

But it sounds like that that's not what's actually been decided. And so, you know, I for one have plenty of other things to do besides building a mediation program that may or may not be, you know, needed or wanted or adopted. So I agree that we need to settle the bigger issue of whether or not tacking mediation onto this particular policy is a good idea. And then if it is, great, subteam; if it isn't, great, everybody can get their Christmas cards out early. Thanks.

Phil Corwin: Okay. Thank you for that, Paul. Reg Levy, please speak up.

Reg Levy: Thanks. I'm with Jeff on this. I really don't think that there's any need for it. And I don't really understand how we ended up here. But given that there hasn't been an issue thus far I don't think that we should spend our time looking into this.

Phil Corwin: Okay, thank you. Next is Brian.

Brian Cimboric: Yes, thanks, Phil. Brian Cimboric, PIR. Just to really echo Reg and Jeff here. I think Jeff hit the nail on the head, to use another idiom, we're putting the cart before the horse. I think we need to decide the threshold question of whether or not mediation solves for anything, whether or not mediation would be useful before a – and fundamentally if there's actually a need for mediation in this process.

And so far, there's nothing been put forward that's been actually – is needed, that it fix something or that it's beneficial. So I think we should decide the

issue of mediation soon and I think that my opinion here is that it is not a needed process.

Phil Corwin: Okay. Thank you, Brian. And George. George Kirikos, please speak up.

George Kirikos: Hi. George Kirikos. Sorry, I had – my mic muted. I just wanted to point out that our charter actually did mention mediation explicitly in the context of the UDRP. So it's not a big stretch that we would consider it for the PDDRP and other dispute resolution programs.

Phil Corwin: Yes. Thank you, George. And Susan Payne, I see your hand up.

Susan Payne: Yes, thank you. I just wanted to disagree with George in relation to it's not a bit stretch. I mean, I think it actually is quite a big stretch. They're very different processes. Just because the charter talks about considering mediation in relation to the UDRP, even that isn't saying you shall go forth and create a mediation program.

It's back to the original point of is there a need for one and is there a need for one here. And the fact that it's mentioned in relation to a different RPM as a possible thing that the workgroup could consider doesn't mean we should be considering it here unless we've identified a need for it.

Phil Corwin: Okay. All right thank you, Susan. I'm going to say something now which is if you note in the chat room Mary posted something reminding us that in earlier discussions about this there were quite a few working group members who seemed to think it – voluntary mediation was at least worth exploration, that was also indicated by the Doodle poll we put out to working group members on issues deserving some further exploration and that was the only one that got significant support for further explanation.

And my understanding is that in the call last week that J. Scott Evans chaired, he had kind of suggested maybe exploring this with a subteam. And I see his

hand up so I'll welcome his speaking to this. And there were no objections at that time.

Having said that, because this has become a point of contention now, and because how we handle this and how we set up subteams is going to have precedential effect for our work – the way we work through more difficult issues that are coming up, I think let's let everybody continue speaking to this but I think I don't feel in a position to make a decision one way or the other on this call. I think the cochairs are going to have to consult among themselves with staff and decide what to do about this particular mediation issue and also about a set procedure for establishing subteams for our working group from this point forward.

With that I'm going to call on J. Scott because he hasn't spoken yet and then get back to Susan and Jeff if that's okay. J. Scott.

J. Scott Evans: Okay, a couple of things. First of all, Jeff Neuman did raise concerns and said that he didn't think we should move forward. He made an overarching argument, not just with regard to mediation but with regard to anything that if we couldn't show a hard either some sort of statistic or factual basis for a problem that needed to be fixed, we shouldn't take any action at all. That was sort of his threshold thing for every issue. And he specifically addressed this issue as well.

I, as chair, noted that there had been discussion that on several occasions that it was also raised with some of the providers had mentioned it, and that the Doodle poll that we had sent out indicated it was the only area that they thought that there might be the need for a proposal. And with that information I felt like we had enough of an impetus to at least explore what it would look like and then have the whole group decide that here's the proposal, is this worth pursuing or something that we would recommend.

Now, that's how we ended up where we are today. So I don't think that takes away any of Jeff's concerns, but it does show how, in my opinion, at least from my recollection, and Mary correct me if I'm wrong, you were on the call as well, how we ended up where we are here today and how I was the one that suggested to staff that we put out a call for a working group, volunteers to make a proposal to the full working group for consideration against (Jeff's) overall objection.

Phil Corwin: I appreciate that background information J. Scott and that was consistent with what I thought had happened. But having the details is very useful. Jeff, you may get the last word on this for today. Go ahead.

Jeff Neuman: Thanks. This is Jeff Neuman for the transcript. Yes, thanks J. Scott. I did object and, you know, one of the objections was on the Doodle Poll itself. It was kind of like this laundry list of hey, should we explore this issue? Should we explore that issue?

I think had the Doodle Poll actually been crafted in a more, much more useful way. It would have asked a question first of is there a need, has there been a demonstrated need for an online mediation or any kind of mediation program. In this case it was online.

But had there been a need, I think people would have answered that first question as no. The way the Doodle Poll is structured it was hey, which of these areas should we look into? And then people were like, hey, online mediation sounds pretty cool. All right, check it off.

I don't think people thought about it in the sense of whether there's a need for it. It was just kind of like, okay, it will be cool to look into this thing. Then I think if you talk to most of the people that answered yes, I think there were only a few people that objected.

I know I objected to it at that point and I think maybe (Christine Duraine) objected as well. So I think if you ask the people why they answered that question, I think that answer you're going to get as opposed to there's a need for it and we should look at it. Thanks.

Phil Corwin: Okay. Well I see more hands going up. Let me interject here. I see in the chatter room Statton has now moved that we adopt a Neuman rule. We're not going to be voting on a Newman rule today but I will say personally taking off my co-chair hat, I'm not completely of the view that we have to in everything we're looking at, and I may regret this statement down the road in a specific context. I realize that find a significant problem and (unintelligible) ourselves from saying well, there's a way that this particular RPM could be made, improved that there's not a huge problem but still it could be made better and I think it's within our charge to make recommendation from that.

I'm ready personally at this point to adopt a, to be in favor or an overarching rule that everything we may recommend for consideration had to be a response to a significant problem. That's a personal view. And again, I may regret it on a specific issue down the road but I don't think we should ourselves in that quite a straightjacket in this point in our procedures.

Mr. Maher, please go ahead David.

David Maher: I just want to say I agree with Jeff. And also I was one of the ones who checked the box on mediation and it was a mistake, I now realize.

Jeff Neuman: Thanks.

Phil Corwin: Okay. All right. Again, we've had a very good discussion for about a quarter of an hour here on this subject. I don't feel as one of the three coaches in a position to make a decision either that we shouldn't have a sub-team or that we should or exactly how its mission should be defined, if there's going to be one.

I'd like to be able to consult with the other coaches and then we can all get back collectively to the working group in the next few days on this issue. And in the course of this, we can, I think think about some clear procedures for establishing sub-teams of any kind as we move forward with other work. Is that acceptable to the working group at this point in time as a way to address this issue responsibly? I see one checkmark. I thank you Carolyn.

All right. Let's table this for now and I think (Greg) and your co-chairs will consult and get back to the entire working group on the issue of whether or not there should be a sub-team to look at the mediation, the actual structuring of the mediation process and whether that would inform the working group to make an actual decision on whether mediation, encouragement of voluntary mediation is something that should be added to the PDDRP.

Next, I believe, next topic, overview of trademarks – sub-team discussion with the analysis group. And I believe that Susan Payne is going to lead this discussion. Am I correct on that?

Susan Payne: Yes, thanks. It's Susan here.

Phil Corwin: I'm turning it over to you now Susan.

Susan Payne: Thank you. Okay. I think this will be quite quick. Hopefully people had plenty of opportunity to read the report that was prepared a few weeks ago which was a sort of general report on our activities at that time and included, I think it starts on page two with a sort of summary of the meeting that we had with the analysis group who, for those who, don't recall, are the consultants who were appointed by ICANN to conduct the independent review of the trademark clearing house.

And when we were starting our data gathering exercise for the work on the trademark clearing house which will be coming on hopefully shortly, the

subgroup that we're starting were aware that the analysis report was imminently published and then in fact was very quickly published after we convened.

And we felt it would be a useful exercise to speak to members of the analysis group. And just to be clear, our purpose in speaking with them was not to specifically delve into the detail of their reports or start the work of this working group on looking at the trademark clearing house.

It was basically to try to determine what data they had gathered in the course of their review. And what, if anything we could make of that data. So in particular we were asking them if there was any data that they had asked the TMCH for but that the TMCH had not provided them with or had refused to provide them with. And they said no.

We said did they gather any data in the course of their work that they found they needed to use for the purposes of their report and they said no. We asked them, could we have access to their underlying data if we thought it would be useful and that was a kind of to be confirmed question. And then staff and (Alison's) group were, are following that up to determine to what extent they are able to provide us with the kind of underlying data that they were provided with.

It may be that they can't, if it was provided to them on the non-disclosure agreement from the TMCH which would not necessarily mean that we could not get that data ourselves from the TMCH but it may be that analysis group would feel themselves unable to give it to us. So that is something that is still kind of a live issue.

And then we were asking them things like, was there anything that they identified that they thought might be useful to their task but they didn't (unintelligible). One class of data that came up during the course of that conversation was that they felt that data from registrars around the number of

claims, registrations that proceeded. And so the impact of claims notices was something that they thought would have been useful and was not something that they had time to request in order to put their report out when they did.

And that seemed to us in the working group as quite a key point because the report does make some assumptions about all registrar (things) to the TMCH making attempts to register the main name. But they're not able to confirm that. They're having to use, you know, make an assumption in their work that that's the case.

And they also didn't have any data on the number of registrants, who having received a claims notice, then proceeded to go on and register. And consequently, in their report, they're unable to determine whether there's any kind of deterrent effect or a chilling effect on legitimate registrations for the whole claims notice process.

So again, that was the sort of area where we felt there might be more data out there that might, that isn't something the analysis group had but might be data that we might want to seek. I think that's probably my headlines. So ultimately, you know, within the subgroup we felt there was some useful data so that we might seek elsewhere which were weren't going to be able to get from analysis group including kind of some information from registrars and registrees which might be useful and more granular.

And we also as part of our discussions, we felt that information from about the use of commercial monetary businesses could well be very pertinent information which we within our subgroup thought that analysis group might have found useful and did not have. And I think that's basically my summary. There's more detail in the report that people have had for a while now. So hopefully people have read that.

Otherwise, happy to take any questions.

Phil Corwin: Yes. Thank you very much Susan. That was very useful. I'm going to open it up now for members of the working group to direct any questions comments they might have to Susan regarding what she just shared with us. And apparently, you've answered every question and potential curiosity.

Beth Allegretti: It's Beth Allegretti. I do have one question, Susan. I think, what was the last bit of information that the analysis group had hoped that they could have?

Susan Payne: Do you mean the very last thing I said? Or ...

Beth Allegretti: Yes, I just didn't hear what that information was.

Susan Payne: We just, within the subgroup we felt that they might have had, they might have been able to get useful, additional information if they had had some data about the use of commercial monitoring services that (unintelligible) has used which might have helped to inform some of their assumptions where they had to make assumptions about what people were doing and the impact of (unintelligible) than we thought.

We thought the kind of commercial monitoring services might well have sort of valuable data which could have help that or indeed, you know, could help our work.

Beth Allegretti: Okay. Thanks.

Phil Corwin: Hey Susan. May I ask, what is the status of the TMCH sub team now? What, have you wrapped up? Are you engaged in further work? Where does things stand right now for my information and that of the other member of the working group?

Susan Payne: Yes. I just may need (unintelligible) and remind me as well when I forget something pertinent. But we are, we haven't wrapped up our work yet. We have (unintelligible) in the prices of, they've been putting together information

that's readily available into a sort of, into a kind of one document that they've got of data that we've already got.

So there's now becoming quite a substantial document and we've been working, you know, kind of reviewing that during our calls and discussing what more might be useful. And then we've been identifying, as I said, various kinds of other information that we think it would be potentially useful to seek.

And then there's the question of whether it's within our remit to go in and seem that. I think all feel that it is. But certainly it was a question at one time. But then there's also a question about when is the right time to do that.

Say for example, in terms of seeking information from registrars or registries, you know, there was a sort of caution that we wanted to try to avoid bombarding the same people with queries every kind of five minutes from different parts of this working group.

And so there might need to be a bit of coordination in terms of timing on this kind of queries. And we did have a conversation about on the last call about the, about the block services, (DPMR) blocks. And certainly a number of us on the subgroup feel that that data at the moment isn't available to us. It wasn't available to analysis group.

But it's a class of users of the trademark clearing house where data isn't being gathered but is, we feel quite relevant to the solution of whether to use a TMCH and also what the data gets used for when it's in there. And, for example, if you have a (DPL0) block across say all of the (unintelligible) registries. Well then you wouldn't really be expected to be acquiring names in the (sunrise).

So it also has impact on some of the other data. So we didn't reach a conclusion I think on whether we should be reaching out to (Donuts) yet but

certainly some of us felt that it would be useful for us to at least, you know, see if perhaps (Donuts) would be interested in having a call with us as a starting point and to enlist whether they'd be willing to share that kind of data with us because obviously we have no way to compel that data.

Phil Corwin: Yes, I might ask, does (Donuts) require a mark to be registered in the clearing house to be eligible for their protected marks list?

Susan Payne: Yes.

Phil Corwin: Okay. So that's the relationship to the clearing house. Okay.

Susan Payne: Yes, absolutely.

Phil Corwin: Okay. Any other questions for Susan from any member of the working group? Okay, well thank you very much Susan. That was a valuable contribution. We're now 11 minutes before the top of the hour. We do have an item six noted, if time permits.

Working group identification of specific issues or concerns arising from member review of the analysis group's draft report in the trademark clearing house. And the comment period, we're not going to do, of course, a comment from this working group on that report.

But there is an open comment period which closes shortly for anyone who wants to comment on it. Really quick recap of what the analysis group recommended was essentially the status quo, they recommended against expanding the type of marks or other terms that could be registered in the clearing house.

They registered against extending the time in which trademark claims notices would be generated. And they, what was the last one? I just had it and I'm

blinking out. Ah, well let me stop there. It will come to me as soon as I stop talking.

But essentially they recommended not making any significant changes in the clearing house rules based upon their evaluation that the cost benefit ratio was not positive for any of those changes. And, does anyone start a discussion on that today?

We can do so for maybe about five minutes just to begin a discussion but clearly we don't have enough time left for a full discussion? Or should we put that off for the next call next week to start that discussion in light of the fact that we just have about five minutes to devote to it?

Can I have a quick show of agree marks for those who want to start talking about this now? I'm seeing hands up. All right. J. Scott is saying, I think disagree. Susan and J. Scott, do you have something to say on this? Or Susan, is that hand up from the discussion we just concluded?

Susan Payne: It's a quick hand.

Phil Corwin: Sure.

Susan Payne: Just to say the deadline for comment is September 3 so if anyone is interested in this topic, I'm not sure how much time there is to, I mean I think if we have a conversation next week, it's either past the deadline or extremely close to it. So I think anyone who is interested in this topic should read the report is I guess what I was going to say.

Phil Corwin: Sure. Yes, thanks for giving that date out. And again this is not a policy recommendation. This I not something where I'm not quite sure what the common, the purpose of the common period is other than for people to get on the record of how they feel about the report.

And of course that report is not going to determine in any way what we're going to consider the data and the conclusions in that report. It's not going to dictate in any way what this working group is going to recommend in regard of the clearing house.

So we're going to make our own independent determination but it's not as if the analysis group is going to probably change their recommendation on the basis of comments. I think it's a way for people to comment on the quality of their work and conclusions. J. Scott, did you have something to say or just indicating that we shouldn't start the discussions?

J. Scott Evans: I just think that we should wait until next week.

Phil Corwin: Okay. Yes, I'm inclined that way too. It's such a short time. You hate to get into something for just five minutes and then cut it off and leave everybody to get back to it in a week. So saying that, I think I'm going to give the next seven minutes of your life back to you as soon as staff reminds us when the next meeting is which I believe is one week from today at 1600 UTC. Is that correct staff?

Terri Agnew: This is Terri. That is correct, August 31 at 1600 UTC.

Phil Corwin: Okay. Well thank you staff and thanks to everyone who joined today's call. I thought it was a good discussion on the mediation topic as discussed. The co-chairs will huddle on that and we'll get back to the working group in the next few days with an indication of our thinking on that issue.

And next week we'll kick off with a group discussion of how members of this working group feel about the analysis group report on the clearing house, about its findings and its recommendations. So with that, I bid you a good morning, afternoon or evening, depending on where you are and we'll see you all next week hopefully.

J. Scott Evans: All right. Thank you.

Phil Corwin: Bye-bye.

Beth Allegretti: Thanks Phil. Bye all.

Terri Agnew: Once again, the meeting has been adjourned. (Mary), the operator, if you can please disconnect all recording lines and have a ...

END