ICANN
Transcription
Review of all Rights Protection Mechanisms (RPMs) PDP Working Group
Wednesday, 15 August 2018 at 17:00 UTC

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Coordinator: Thank you. The recorded has now started.

Michelle Desmyter: Great. Thanks, (Tom). Well, welcome everyone. Good morning, good afternoon, and good evening. Welcome to the review of all Rights Protection Mechanism in all gTLDs PDP working group call on the 15th of August 2018. In the interest of time today, there will be no roll call. We have quite a few participants online. Attendance will be taken via the Adobe Connect room.

So if you happen to be on the audio bridge only, would you please let yourself be known now? Well, thank you, hearing no 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, you may begin.

Julie Hedlund: Thank you very much, Michelle and this is Julie Hedlund from Staff. So this is a continuation of the discussion that we began at last week's meeting on the 8th of August. And just as a reminder to everyone, we are discussing the super consolidated URS topics table. And we had gotten through page - up to

page 24 during last week's call. We're going to start where we left off on the last call. And what we're going to do is we're going to have staff walk through the documents, in particular focusing on the preliminary finding/issue, that's the second column, and the proposed suggestions.

And just a note that this is the same table that we sent last week. We do appreciate the comments that we received as of COB yesterday with respect to the recommendations in the table as well as any topics that might be missing. We, with the co-chairs, will be looking at how to incorporate those comments. They are not - incorporated them as such in this document. This is the same version of the document that you would have seen last week and that you have been reviewing since last week just to make that clear.

So, we are starting. I'm going to (unsynch) so that you can all - page through the document as you like, and we'll let you know when we're - what pages we're on and what sections we're on. And thank you, George, also for sending the link so that people can view it in their own browsers and that is in the chat room.

So for everybody's reference, we'll start with Section G, the appeal, and that is near the top of page 24. And, I should mention that I've, pardon me, skipped over the agenda, in the top of the agenda was asking if there are any statements of interest. And so let me ask before we go forward if there are any statements of interest changes that anyone wants to raise.

I'm not seeing any hands up. I see David is typing. I'll see if that is pertinent. David McAuley states in the chat, "I made some minor changes in my SOI." Thank you, David. And we'll note that in the notes as well. We appreciate that. I'm not seeing any other hands.

So, then, we'll go ahead and get started with agenda item two which is the continuing to review the super consolidated U.S. topics table, as we just said, starting with G, the appeal, on page two. And the first topic under the appeal is the appeals process. And, also, I'll just note for everybody if you do - please do raise your hand if you have any questions or comments and we'll look for your hand and we can pause at any time to address those. So, please do let us know if you have any questions or comments as we go through this document.

So on the appeals process in the preliminary findings/issues/issue. So from the document sub team, the document sub team reviewed all 14 cases where an appeal was filed. The complainant ultimately prevailed in 12 of the 14 appeals. The complainant had prevailed at the default/final determination stage in eight. Nine appeals were heard by three-member panel, seven appeals related to the .email gTLD with six cases concerning yoyo.email.

The practitioner sub team noted that of the practitioners who use the appellate mechanisms, all characterized their experience as positive. And for the proposed suggestions, the draft recommendation from documents and practitioners sub teams is that the appeals process seems to be working as designed. No need for additional policy work. The documents sub team noted as an administrative/operational issue, develop mandatory template flash form to be used for all determinations.

Purpose is to ensure consistency, and precision, and terminology, and format as well as ensure that all steps in a proceeding are recorded e.g. default appeal. The provider sub team noted regarding mandatory temperate/form for all determinations, additional specific issues may arise from the follow-up with the providers. And you'll see in the fourth column, the data sources for these suggestions.

Let me ask if there are any- anything - anybody wants to raise before we continue? George Kirikos, please go ahead.

George Kirikos: Hi. It's George Kirikos for the transcript. There was an initial document that preceded this and so I don't know if the - now is the right time to point it out. I've pointed it out in my written comments. But the G-1 also covered availability of court proceedings and so in my written comment I've suggested, you know, we make appropriate changes to make sure that the registrant definitely has the ability to access the courts for a review - not a review, but a determination of the matter with regards to the merits. Thanks.

Julie Hedlund: Thank you, George and we'll note that we did also receive your comments on that matter and we will be addressing this as well. So, thank you very much. Anything else from anyone? And moving along to - sorry, I lost my place in the document and scrolling to get there. Sorry about that.

All right, de novo review, and for the findings document sub team - the document sub team reviewed all 29 cases where a de novo review occurred i.e. final determination issued where respondent - I had - actually, I see David McAuley's hand is up. Let me pause. David please.

David McAuley: I'm sorry to interrupt, Julie. I meant to put my hand up for - after you state that, but since I'm on the phone now - by the way, this is David McAuley for the record. I just wanted to mention that I was part of the documents team that looked at the de novo reviews and there - in the third column, it says, "Working group to discuss if substantive policy recommendations are needed, et cetera."

I wanted to put a little more flesh on that bone and simply say what I recommended and saw in some of these was that a respondent who defaults gets three potential examinations. The default does not mean the respondent automatically loses the examiner has to assess the case on the merits of the complaint. And then, under rule 6.4, a defaulter can get a new review within a period of a year. They get a chance to come in and sort of correct the fact they defaulted.

And then that second review itself is subject to appeal whereas somebody who responds and gets in in-time would have an examination and one appeal. And I thought that is what I thought we should review like - so I thought it would be a little bit more substantive than the column. So, anyway, sorry to interrupt. Thank you.

Julie Hedlund: No apologies necessary, David, and thank you very much for your comments. And so back to where we were, so let's see. So the plan on cases where a de novo review occurred which is a final determination issued where a respondent filed a response after default, but before expiry of the six-month permissible period for a response. Respondent prevailed in six and complainant in 23 cases of which two were appeals, 28 final determinations were rendered in English with one in Spanish.

On the practitioner sub team, the sub team did not comment on the practitioner survey results indicating that two respondents believed the de novo review process should be retained and three felt it should be removed. And then under the suggestions and just to move up here, the draft recommendation from the document sub team, and also see Section H. The working group to discuss if substantive policy recommendations are needed in light of current response periods and possible points of determination during a

proceeding, and then we'll also note the further comments that David raised from the sub team review.

And just noting from the chat before we move on, Susan Payne says, "Excellent points, David." David says, "Thanks, Susan. I think we've cleaned up some confusion between rule 6 and 12." George Kirikos says, "Practitioner survey was, of course, unrepresentative tilted towards pro complainant practitioners." And, thank you, George, we've also noted that previously as well.

Moving on to H, potentially overlapping process steps, and this is at the bottom of page 25 for those who are following along. And the first topic is potential overlap concerning duration of respondent appeal, review, and extended reply periods along the URS process timeline. And, I just thought we'll note there's a continuing chat with respect to George's comments. I won't read all of these, but I do note that Georges Nahitchevansky, and I know I'm not pronouncing your name right, George, does disagree. And I see there are some other chats as well.

So it's not to delay us going through this document, I'll let people refer to the chat themselves. And, of course, as you all know the chat room is captured and also is posted in the Wiki. So, preliminary findings/issues and document sub team. Document sub team has completed the data review of appeals, de novo review, and response received cases. For the practitioner sub team, the sub team did not comment. This is the same note as above on the survey results indicating that two survey respondents believed that the de novo review process should be retained and three felt it should be removed.

So with respect to the draft recommendation, the document sub team suggests that the working group could discuss policy questions around the number of

instances where a de novo examination can occur in cases involving a defaulting respondent, and the duration of response periods for de novo review and appeal. And let me pause there and see if there are any comments. I'm not seeing any hands, so I'm going to move along to page 26, Section I; cost.

And the first topic there is cost allocation model and on the preliminary finding/issue, provider sub team. Two out of three providers do not support a loser pays model, noting likely implementation problems. One-third is not opposed to it, but prefers a better escrow payment system. Forum has a flat fee for late response, ADNDRC, and (MFSD) have fees based on the number of domains and/or the types - type of respondents involved.

On the practitioner sub team, the sub team did not comment on the survey results that eight practitioners out of 12 who responded either agreed or strongly agreed the filing fee for a complaint is adequate with two disagreeing. With respect to the proposed suggestion, the provider sub team noted that the working group could discuss whether any of the late response fees create a burden for the respondent. Are there any comments? George Kirikos, please go ahead.

George Kirikos: George Kirikos for the transcript. In my own comments on the list and also I think John McElwaine in his comments, he's actually is in the chat room, I'm sorry, in the Adobe, so he might want to weigh in. But I don't think we should necessarily not talk about the loser pays model as a proposed solution probably in minority amongst those representing registrants or the registrant's perspective. But I do actually support a loser pay system assuming that we could make the rest of the process fair. Thank you.

Julie Hedlund: Thank you, George. Any comments from anyone else? And I noticed that (Bill) has in the chat some comments about the de novo review, personal view noting in regard to availability of statutory law provided a de novo judicial review of URS decision. Well, ICANN has no ability to ensure that there is such law in the nation in which a registrant resides. Registrant can always assure such availability by utilizing a registrar located in that national jurisdiction with such a law.

For example, any registrant regardless of location can utilize a U.S.-based registrar and thereby gain ability to file a judicial appeal under a CPA as this court would have one - would be one of mutual jurisdiction under UDRP URS policy. And then, David McAuley is asking, "Have we ever said what loser pays - what that supposed to mean?" And then, we have some comments relating back to the practitioner survey.

And, again, I won't take time to read all of that in the chat, but please do reference it, and let me ask if there's any further comments on this topic. Otherwise, we'll move to the next topic which is J, topic J, and this is on page 27. So, topic J, Section J is language issues. And the subtopic is including current requirements or complaint, notice of complaint, response, and determination.

And under the preliminary finding/issue, from the provider sub team, ADNDRC communicates in English only, form in (MFSD) communicate to the respondent, and the language of the respondent with translations provided for the notice of complaint, notice of default, emails, template documents, and determinations. Form in (MSFG) check WHOIS us as well as information from the registrar to determine respondent's dominant language different from form in (MFSD) language skills of the examiners do not seem to be a factor in the assignment and rotation of the examiners or - of (AD) - in ADNDRC.

And ADNDRC does receive inquiries especially from the respondent regarding the language of the proceedings. All of ADNDRC's assigned examiners are fluent in the non-English language of the respondent.

And from the document sub team, there's a review of the 29 cases where a de novo review occurred indicating a response with filed after default showed a few cases where respondents were located in China or in a European country, but no indication on the record that English was an issue. Only one out of the 29 cases saw a final determination issued in Spanish. Rebecca Tushnet's coding, research shows several cases where examiners noted a respondent might have had possible issues with language. Staff is reviewing those cases to identify possible policy issues.

Working group member observation that the current practice is the provider's original notice to a registry operator is sent in English but that notices to registrars may be in both English as well as the registrant's language if not English. But note that ADNDRC inform - do not think it would be feasible to mandate sending registry and registrar notices in the same languages. Document sub team noted the possible need to clarify which notices this observation related to.

And with respect to the proposed suggestions and there are several here. The first is an action item, sub team to ask ADNDRC how their examiner's language skills are used and how they handle the situation if any that the respondent did not have the capability of understanding English. Sub team to ask (MFSD) for a direct response whether they think it would be feasible to mandate sending registry and registrar notices in the same languages. And these questions have indeed gone to the providers. They were sent at the beginning of last week I think with the response requested in a couple of

weeks. And so - and I think those responses are coming in 20th of August that the responses are expected.

And so, suggested operational fix from the provider sub team, based on responses from ADNDRC to the follow-up question working group to consider recommending ICANN to enforce the URS rules with respect to providers communicating with the registrant in the language of the registrant e.g. ADNDRC to change their operational rules to comply with URS procedure 4.2 and deliver notice of complaint also translated by the provider into the predominant language used in the registrant's county or territory.

And then, draft recommendations, first from the document sub team working group consider whether in light of ADNDRC and forum feedback that it may not be feasible to mandate the sending of registree and registrar notices in the same languages. Additional policy work is needed on this topic. Working group to consider creating guidance for examiner system was deciding what language to use in going ahead with the URS proceeding and determination. And from the provider sub team working group to consider whether in light of form in (MSFD) feedback on use of WHOIS to help determine respondent language policy recommendations should be developed to handle language and related GDRP concerns.

And I'll pause there and ask if there are any comments. I am not seeing any hands up. There we are. Martin Silva Valent, please.

Martin Pablo Silva Valent: Yes. Hello. Thank you very much for the call. This is Martin Silva and I do believe there were some public languages that were not being used. I know that we think of this before that - in most cases outside of the U.S., that U.S. language is a huge variance in order for the bank to do the work. But (unintelligible) wants to comment on this as well.

Julie Hedlund: Thank you, Martin. I think that we actually had difficulty understanding what you were saying. You're a little bit faint. I don't know if you might be able to type in the chat room in case we missed your points. And also Kathy Kleiman, you have your hand up.

Kathy Kleiman: Yes. Can you hear me, Julie? This is Kathy Kleiman.

Julie Hedlund: I hear you loud and clear. Thank you.

Kathy Kleiman: Terrific. Thanks. And, yes, Martin I also couldn't hear what you said, so if you can type it in the chat that would be great. I just wanted to comment that we're seeing some language issues in addition to kind of the policy issues of the requirements. We're seeing some language issues play out among registrars in the practitioners' survey. Maybe (Jason) joined us, but I don't know and anyone in the practitioner subgroup please comment.

Practitioner survey, there's at least one comment if not more that some of the registrars. And, as you know, the registrees get the initial notice to put - it's the registrees that have been - the main communication with the providers, but the registrars come in at the end particularly if there's an extension of suspension or there's a comment kind of out there that there might be a negotiated transfer that some people have talked about might be something good to add and that's communication directly with the registrar.

And apparently there's a problem with registrars. It was mentioned in China, but maybe in other places as well. Understanding what was coming to them. So, there's an education and language problem that appears with some registrars. I just wanted to share that as an ongoing theme that we're seeing in other areas.

Julie Hedlund: Thank you, Kathy. Does anyone have any other comments? And thank you Martin. Yes, so he's - Martin Silva Valent was saying in the chat, "I said that there were issues with published languages being used." And also noted, "Thank you for Kathy's comments."

And so moving ahead, let me just see if I caught all of these. I just want to make sure. Yes, indeed. Okay. So, moving ahead to Section K, abuse of process. And Section K is on page, for those of you following separately, 29. And under Section K, there are three topics. One is being used in the process including by trademark owners, registrants, and "repeat offenders," topic two is (swarm) shopping and topic three as other document abuses.

And under the preliminary finding/issue, the provider sub team notes that forum's handled cases where the respondent alleged an abusive process by the complainant with forum review in 20 cases for the provider sub team. But no abuse is found by the examiner and the practitioner sub team did not comment on the survey results indicating that 11 out of 13 survey respondents either agreed or strongly agreed that the URS is being used for clear-cut cases as intended.

Then, moving to the proposed suggestion. The document sub team, no additional data collection needed at the moment. All providers are currently required to submit cases where abuse was found to an abuse case database. None has been found to date. However, working group may revisit this question depending on results of review of the remaining cases where the respondent prevailed, a review of cases where the respondent prevailed after filing a response has been completed.

And for the provider sub team, the working group may consider potential recommendations on the incorporation of penalties for the abuse of the process by the respondent in URS rules. The abuse of what "needs to be clarified." And then, there is a question, document sub team to the providers and practitioners sub teams should sanctions for abuse by respondent be added may depend on whether the case analysis reveals this to have happened.

And I will pause there and look for any comments or questions. I'm not seeing any hands up. Susan Payne, please go ahead.

Susan Payne: Yes. Hi, thanks. I just wanted to just flag something which I'm sure everyone is already aware of. But, you know, there's already a provision in the rules that is there to address the kind of abuse by the trademark owner, the scenario. And so this, I think, has come about. Some were suggesting that that was somewhat unbalanced and that, you know, how come there's this sanction on the trademark owner for - if held to be abusive in multiple occasions, but there's not the same kind of sanction on registrants who perhaps were found to be serial cybersquatters.

I'm not expressing views on whether we should do anything about that or not. I'm just flagging that to make sure everyone is aware of the distinction and how this came about and why this is in the table.

Julie Hedlund: Thank you very much, Susan. Anybody have any other comments? And I'm not seeing any hands up. So we can move ahead to education training on page 30. And the topic is responsibility for education training of complainants, registrants, registry operators, and registrars. And under the preliminary finding/issue, document sub team forum provides regular reports to ICANN that lists the languages used in cases occurring during the reporting period. Provider sub team, forum is aware that some respondents did not file a

response as they did not know how to proceed. There are general complaints regarding forms online filing portal, forms case coordinator assists respondents on an individual basis via phone or email.

Review of ICANN's and providers' websites show that the URS procedure and rules can be downloaded from ICANN and provider websites in all six official UN languages from ICANN in English from the providers. Each provider's supplemental rules can be downloaded from its website in English. The notice of complaint sent by providers' information regarding the procedure and timeline of the URS proceeding is included. Provider's online complaint and respondent forms contain instructions on the complaint and response process, though not all providers published the same level of details.

And under the proposed suggestions, I see Michael Karanicolas have your hand up. Please go ahead, Michael.

Michael Karanicolas: Yes. Just to note that it might be a good idea to consider that education training should be done in languages other than English. Thank you.

Julie Hedlund: Thank you very much, Michael. And I see that Martin Silva Valent has also said in the chat that education training should be in other languages. On the proposed suggestions and action item is the sub team to request all three providers to provide a copy of the notice of complaint they send to the respondent. Sub team to ask ADNDRC to provide a copy of their response form and appeal form and sub team working group to review the notice of complaint and providers online forms/instructions before considering whether any recommendation should be made.

And then, and those - all those that the questions or requests I think have all been made in the further inquiries to the providers. Again, with a due - the

deadline in the 20th of August. And then, draft recommendation from the provider sub team and I see that - I see Michael Karanicolas, your hand is still up, is that a new hand or an old hand? And if not we have Philip Corwin.

Michael Karanicolas: I'm sorry, an old hand.

Julie Hedlund: Thank you. Phil, please.

Philip Corwin: Yes. Hi, Julie. Phil for the record. I just want to ask a general question as we approach the period where we're going to complete this review, this super consolidated document and decide whether to act on recommendations and action items from it as well as suggestion submitted by workgroup members. So, let's use this one as an example. This really appoint an information question.

Here in - the action item is - take the first one, sub team to request all three providers to provide a copy of the notice of complaint they sent to respondent. Just as - you know, I was on the provider sub team not running it but as the co-chair most involved with it. Has that been done, have we received all of those documents if there's a need to look at them as we get to the decisional point?

Julie Hedlund: And I - Phil this is Julie Hedlund from Staff. Yes, we have received that information from (MFSD). We are waiting for forum and ADNDRC to provide the information.

Philip Corwin: Okay. So I would suggest as we suggest the decisional period on URS, we make sure the action items have been completed so that we have the information available. And the other question I had, let's take the first providers, (ST) draft recommendation workgroup to discuss whether to

recommend ICANN should develop an easy-to-understand multilingual and linkable guidance basic FAQs for both the complainant and the respondent.

I assume that when we get to the decisional period, we'll discuss whether - we'll see whether it is a significant consensus within the working group to recommend that in the initial report. But we don't have a specific proposal for that yet. So, I think we just be discussing the general concept and if it - there is consensus and if against community support in the initial report comment phase, then the actual work of designing such a guide would be left for the implementation period. Am I correct on that? Again, I'm just trying to flesh out these basic informational questions as we prepare to move forward on some decisions.

Julie Hedlund: Thank you, Phil. This is Julie Hedlund from Staff. The Staff is understanding that something like the actual development of such a guide or guidance would be an implementation detail.

Philip Corwin: Okay. That's what I thought, but I just wanted to confirm those two points on this specific section. But I'm assuming the answers would apply generally to the various items in the document. Thank you very much.

Julie Hedlund: Thank you, Phil. And David McAuley, please.

David McAuley: Thanks, Julie. It's David McAuley, again, speaking for the record. And it's a question that's related somewhat to Phil's and that is in light of John McElwaine's email I think of yesterday or the day before, is there a time within which we're supposed to be making specific proposals, you know, that would - I'm just curious for what the process is and the example I'll use is the issue that I noticed in de novo reviews. That's the issue that I mentioned earlier about how many examinations should someone who defaults get

relative to someone who doesn't default. Is it - do we have a program in place or a schedule in place for when we need to have specific proposals on the table? Thank you.

Julie Hedlund: Thank you very much, David. And I'm going to defer to the co-chairs on that question and I see Philip Corwin, Phil Corwin has his hand up. Please, Phil.

Philip Corwin: Yes. Thanks for the question, David. And in fact the co-chairs will be holding a call tomorrow morning to discuss putting forth a specific proposed procedure for uniform handling of all proposed operational changes, policy changes, whatever the sub teams have come up with whatever individual members may wish to propose. So we're going to be discussing that tomorrow and certainly, you know, a time period by which all proposals have to be received would be part of that.

And the purpose of this is to assure a fair and uniform treatment of all policy and operational proposals as well as to put forward a proposal which is best possible keeps us moving along on our timeline, so we meet our goals for filing of an initial report. But, we'll be getting back to the entire working group with more details on that after we hold that discussion tomorrow.

Julie Hedlund: Thank you very much, Phil. Anybody have any more - any other comments or questions before we return to the table? I'm not seeing any hands. So then as Phil had already mentioned the draft recommendation there for the working group to consider whether there should be a recommendation for ICANN to develop easy understand multilingual and linkable guidance for both URS parties. Also the working group to discuss whether providers should develop additional material specific to their service practice website, et cetera, and the document sub team supports the creation of a basic multilingual FAQ for complainants and respondents.

And that brings us to the end of that topic and moving along then to page 31 and Section M, URS providers. And, the topic there is evaluation of URS providers and their respective processes including training of panelists. The provider sub team ADNDRC and forum do not seem to publish all of their examiner's CVs which may be contrary to URS rule 6A. Each provider shall maintain and publish a publicly available list of examiners and their qualifications.

ADNDRC publishes examiner's CVs/resumes subject to the examiner's consent on how much information can be made public. This seems to be at odds with URS rules 6A and forum does not obtain the CVs of panelists -- hang on, this document just jumped ahead for me -- CVs and panelist from other providers. Providers also gave feedback about handling examiner conflicts and removal.

ADNDRC will not appoint an examiner who renders determinations not adhering to the standards or qualities of URS awards, represented a complainant in a URS or UDRP proceeding where there was a finding of reverse domain name hijacking. Forum may remove an examiner for reasons including failing to comply with deadlines, failure to understand the policy and rules repeatedly being unavailable rules repeating - repeatedly being unavailable to take a case due to schedule or conflicts of interest.

(MFSD) would disqualify/flash bar an examiner for reasons including non-declaration of conflict of interest, repeated non-participation at trainings, rendering determinations contrary to the policies and rules or with insufficient analogical reasoning. ADNDRC indicates that panel section training processes must be flexible and not rigorous as domain name dispute is a niche, a new area in Asia.

(MFSD)'s examiners have drawn inferences per us rule 12S. ADNDRC has indicated difficulties complying with the URS technical requirements as it is migrating to a new website. All three providers maintain regular communications with ICANN form an (MFSD) provided details of their communications. And then, moving back up to propose suggestions and I'm noting in the chat that David McAuley is saying, "GDRP could I suppose have an impact on the CV issue, although seeking that examiner consent to show seems reasonable." Although Martin Silva Valent says, "It really shouldn't."

And then Mary Wong is following up on Phil's response, while there's a substantial amount of detail in each of the sub teams reports, it may be helpful for working group members who've not been following the sub team reports closely to review those documents as we develop suggestions and potential recommendations to be proposed to the full working group for its consideration. Staff has included links to all three sub teams' reports at the top of the document.

Then, to the proposed suggestions. Oh, yes, and Brian Beckham is noting that those reports were presented two weeks ago. Thank you, Brian. From the provider sub team draft recommendations for the working group to consider if there is a need to include any explicit standard for removal of examiners based on particular background and factors such as their record, e.g. representing serial cybersquatters. And a suggested operational fix provider sub team, the working group to discuss whether providers' non-compliance with URS rule 6A is an issue and whether any operational fix recommendation should be proposed.

ADNDRC in particular should list the backgrounds of all of their examiner's complainants and respondents to check for conflicts of interest. Based on

ADNDRC's responses to follow-up questions the working group to discuss whether ADNDRC's non-compliance with the technical requirements is an issue and whether any operational fix recommendation should be proposed. And then the action items are from the provider sub team. Sub team to ask ADNDRC to elaborate on their panel selection process.

Sub team/working group to examine (MFSD) dispute number 8422F178 that link here and also the link to 8429EC571 also the link - sub team to ask ADNDRC to provide details in order to understand whether ADNDRC has been out of compliance with technical requirements. Sub team to ask ADNDRC to provide details on the information or data that ICANN communicate with them and sub team to ask all three providers to provide specific examples of their examiner training and education program/materials for the working group to determine whether further deliberation is needed.

And, again, those questions have gone out. The deadline for responses of the 20th of August and I know that some responses have already been received. Any questions or comments, please. Martin Silva Valent, please go ahead.

Martin Pablo Silva Valent: Can you hear me better this time?

Julie Hedlund: Yes, you are clear. Thank you.

Woman: Yes.

Martin Pablo Silva Valent: Okay. Thank you very much. Again, I will (pay sort of prerogatives) if you kind of review the background of the examiners, you then kind of challenge a conflict of interest especially when there's a short period of time to run. So I have - I do think this is something crucial to have a due process in the system.

Julie Hedlund: Thank you very much, Martin. Anybody else? And moving along to -- let's see -- the next topic which is conflict of interest. And I guess that's correct, conflict of interest which is at the bottom of page 33. And from the practitioner sub team no practitioner indicated having an experience with an examiner having an ask for a potential conflict of interest in a URS proceeding. From the provider sub team both form and (MFSDs) examiners have voluntarily disclose conflict of interest, but no instance of a conflict presenting itself after an examiner has accepted a case.

ADNDRC did not provide a direct answer. Providers have inconsistent methods seeking confirmation from examiners on their impartiality or independence. Forum, for instance, has a neutral oath. (MFSD) email and checkbox on a determination form and ADNDRC email.

And then moving to the proposed suggestion. There's actually just an action item and that is that the - from the provider sub team, sub team to ask ADNDRC to confirm whether any of their examiners voluntarily disclosed any conflicts of interest. And, again, (Matt) message has - that request for response has gone out. And, Martin, I see your hand is still up, is that a new hand or an old hand?

Martin Pablo Silva Valent: It's a new hand. I want to have - something else to the conflict of interest. (Unintelligible)...

Julie Hedlund: Thank you very much, Martin. Please go ahead.

Martin Pablo Silva Valent: For countries - some countries is a case for at least for Argentina, some of the top lawyers of domain name issues, especially the well-paid ones, are also arbiters in this new (WIPO) or other forms. So conflict of interest is

actually a sort of common because of this. The pool of (adjectives) is very low and maybe it's not always something that is problematic, but it's something that should be known by the people that are contending it.

Julie Hedlund: Thank you, Martin. And, Greg Shatan, please go ahead.

Gregory Shatan: It's Greg Shatan for the record. Just following on Martin's comment. What he describes is not actually a conflict of interest under the conflict of interest rules nor what I say is a conflict of interest to - in any definition. If we want to review what does constitute a conflict of interest, we can certainly do that, but we refer to things that aren't conflicts of interest as if they were. That creates a critical due process problem or something like that, since that always sounds - that makes people really concerned when people say that. So in any case, let's try to stick to the facts. Thanks.

Julie Hedlund: Thank you, Greg. And I think we got that, but your sound did get very faint towards the end. So I don't know if you want to try typing in the chat as well about - so in queue I have Susan Payne and Martin Silva Valent again. Susan, please.

Susan Payne: Yes. Thanks. Just a quick question and it's because really my understanding of what Martin was saying was different from Greg's. So in a way Martin has his hands up and he probably is going to answer this. But I had understood Martin to be saying that there it's a practical matter because people sometimes have -- in the course of their practice -- there's a small pool of people and they often wear different hats in different circumstances. But it's -- as a practical matter -- quite frequent people do perhaps for a panelist to be appointed and for them in - on a practical matter you have previously, you know, acted for or against one of the parties.

And, Greg obviously understood that in a different manner, so I was typing something that said that was really good feedback. But I was interested in understanding whether if that's the circumstance that Martin was talking about, whilst I would completely agree that therefore it's important - that parties are able to determine who the panelists is and what their background is and so on.

But nonetheless, you know, is this actually - is it also a problem in practice in Argentina that panelists would not self-identify that they've got a conflict and would recuse themselves. It would seem to me to be absolutely essential that they do so and I would think it's more of an issue if that doesn't happen.

Julie Hedlund: Thank you very much Susan. And, Martin, please go ahead.

Martin Pablo Silva Valent: Martin Silva for the record. I don't - I won't quote a specific case. Definitely my (unintelligible) is as Susan cleared out, it's not an instant conflict of interest, it's just very useful to have that background when you have very small pool of people going around the same issues. And, again, I'm not going to call the specific case where an arbitrator should have (unintelligible), but let's just say that it's a normal practice that big firms have several clients.

And, again, it's a number of issue, when you have very small pool of people, it's not instantly easy to know whose on what or who is working with who. So it makes sense to have a CV to check out. And, again, Greg, it's not in some conflict of interest. It's just useful information to find out conflict of interest in a process that is very fast and very far away from the normal process of (court) and a very specific issue in commercial life.

Julie Hedlund: Thank you very much, Martin. Greg Shatan, please.

Gregory Shatan: Thank you. Greg Shatan, again. Can you hear me better now?

Julie Hedlund: Yes, that does seem better.

Gregory Shatan: Okay, thank you. I think we still need to be careful about what we're referring to as a conflict of interest. Either we're talking about something is a conflict of interest or it isn't something that is "useful information" and we talked about it in the same breadth as a conflict of interest that seems to be an attempt to create an atmosphere of concern or lack of concern about propriety.

So we either (zero) a problem or there's not and it may - if there's a problem, that problem might be conflict of interests or it might not be. So I think we need to be very clear about what constitutes "conflict of interest." Susan described it, you know, one possibility where the panelist represented one of the parties before him or her. Another might be where one panelist represented the - or rather where one of the complainants or respondents lawyer represented the other party at some point in time.

Beyond that, the fact that there's a small bar in Argentina which I'm sure this is true in quite a number of countries and frankly if you get down to those who spend a fair amount of time on domains, there's no place that has a huge bar. The fact that there's a small bar and people may know each other or might have worked together or maybe went to the same law school, none of those things are conflicts of interest. But notice, these are problems, unless we want to discuss whether those are problems and then we have to start that discussion from scratch and not create dispersions or an atmosphere.

I know if you read the domain or press, you can see articles about references and people with their hair on fire about what they consider to be "conflicts"

showing up. But then, again, if you read the domain or press, all you think the domain in UDRPs consisted of words reverse domain name hijacking cases and cases involving conflict of interest or bad decisions. The only time you read about a case that seems to have been rightly decided for the complainant is when the complainant is a domainer, I'm sorry, domain investor.

So, I think we need to try to be as neutral as possible or at least - and as well-informed as possible when discussing this. Thanks.

Julie Hedlund: Thank you very much, Greg. And just noting a couple of relevant points in the chat. Susan Payne says, "I think we would all probably agree that Martin has flagged a good reason to have access to the CVs in order to assist in identifying if there's a conflict as opposed to there being a fundamental conflict of sometimes wearing different hats." And then Martin is saying, "Greg, what about working in the same firm?" And, (Mary) note, "Greg, you're describing the bar in my home country." Anybody have any other comments on that section? I'm not seeing any hands up.

So we'll move along to an alternative processes and we are at the bottom of page 34 and the subject is possible alternatives to the URS (EG) summary procedure in the UDRP. There are no preliminary findings/issues and I'll pause there. I see that George Kirikos has his hand up. Please go ahead, George.

George Kirikos: Yes. George Kirikos for the transcript. As I've noted in my written comments, I think there are two possible issues that could fall into this category, namely the addition of a mediation step in the process, because I think as I've seen from the nominate experience that's a way to reduce the number of cases that need to actually be determined by a substantial percentage. I think in their case it was like 30% and actually it's also of

desirability for the complainant because they can perhaps get their transfer option within that mediation period, which is something that couldn't actually be determined within the URS procedure itself.

And the second topic under this category would be a possible integration with the - sorry - with UDRP as having one process instead of two processes. In which case, this could be considered one of the steps. There could be, for example, a notice of dispute which would be a very lightweight procedure and then branching into different kinds of procedures depending on a non-response and response and so on. Thank you.

Julie Hedlund: Thank you, George. Susan Payne, please.

Susan Payne: Yes. Thank you. Hi. I raised my hand just because I, again, I'm still - as many are sort of a bit unsure of when is the time for the discussion, but I can see that George is raising some points and he would like them to be part of the discussion, but it seemed to me that in raising them he was always quite deep into the merits of why he thinks that his view is the correct one. I think the mediation option is in particular is one which does rather fundamentally change the notion of the URS and the reasoning and rationale for having that particular proceeding which is meant to be quick and speedy in various other words that mean the same thing.

And putting in a mediation step just fundamentally flies in the face of that. So, I mean, I'm not really sure that I don't think this is the point for the discussion of that on the merits, but as I say I just think that George's original proposal got quite deep into the merits, so I wanted to account for that. Thanks.

Julie Hedlund: Thank you, Susan, and I have Phil Corwin. Phil, please.

Philip Corwin: Yes, thanks. Phil for the record. On this possible alternative of the URS, because there are charter that requires us to deal with all the new TLD RPMs in phase one and then the UDRP in phase two which will be starting the middle of next year, creating a summary procedure under the umbrella of the UDRP isn't really in order until we get to phase two. So, we kind of - at this point, we have to deal with the URS as promulgated as a separate supplementary procedure to the UDRP rather than as a sub part of the UDRP, a subtle but important distinction.

And we've also discussed the fact that under our charter some URS issues may be so intertwined with UDRP policy questions that we have latitude to defer them to phase two. So I just wanted to note that for the record I don't have any personal view on doing away with URS and creating something similar under the umbrella of the UDRP. At this point in time I just want to note the kind of procedural steps that we are obliged to follow under the charter. Thank you.

Julie Hedlund: Thank you, Phil. And there are - also, just to bring back the issue that Susan Payne noted to the co-chairs, again, and that is the question of when to address these additional comments that people have made, George, Rebecca, and John all sent comments in - prior to last night's deadline. I'll just note that we will finish through going through this table here and we'll address that question as well and at that point, I'll defer that question to the co-chairs.

So looking again at the table with finished and alternative processes, and then we'll just note that there's some additional sub team note from the document sub team we have - that there is an action item for staff originally proposed by John McElwaine to find out if decoding software is available that can read the

coded courses of an SMD file or if this is possible only using the specific key from the TMCH, and we have a comment - comments from the co-chairs.

First, do not think this is about the coding but what is actually in the SMD file it seems clear that the relevant info is simply not there. And there's a link and then much sub team spent on how to pass the full trademark information to examiners and if not SMD how else - and then, additional notes from the practitioner sub team that overall the practitioner survey indicates the practitioners have a positive view of URS and find the URS to be an effective RPM and that references pages 32 and 35 of the survey.

So, that brings us to the end of this document and I'm just going to pause there and see if there are further comments or questions and knowing that there's a continuing conversation in the chat that I won't read out, but will be captured or the Wiki. And Susan Payne, please.

Susan Payne: Hi. Yes, thank you. It's Susan. I just wanted to come back to this comment from the co-chair thing on the SMD file. We did have a - some discussion about this last week and I thought the whole point of the SMD file in the context of the URS was that it was a way of demonstrating of those views as in - I've demonstrated the Trademark Clearinghouse that I'm using my mark by virtue of the fact, you know, might - the way I'm proving to you that I've demonstrated to them that I'm using the mark is because I can give you (a sample).

The SMD file is not meant to be being used to demonstrate my trademark rights per se, so I don't think there's an issue here. I don't understand why we keep talking about the SMD file. I'd love to understand where we are. But I think it's only ever intended in the context of the URS to be something that allows you to demonstrate that you've proved used to someone.

Julie Hedlund: Thank you, Susan. And, I see Martin Silva Valent has his hand up and I'll just note too to your question, Susan...

Susan Payne: Oh, I'm sorry, yes.

Julie Hedlund: ...if the sub team - the co-chairs, I'm sorry, if the co-chairs since these were coming from the co-chairs to have any comments to your - response to your question. Please go ahead.

Martin Pablo Silva Valent: Yes, Martin Silva for the record.

Julie Hedlund: Please go ahead, Martin.

Martin Pablo Silva Valent: (Unintelligible) SMD file also a way of demonstrating the trademark jurisdiction date categories...

Julie Hedlund: Martin, you seem to be fading in and out. We're having a hard time hearing you.

Martin Pablo Silva Valent: What about now?

Julie Hedlund: That is better. Please go ahead.

Martin Pablo Silva Valent: Yes. Isn't the SMD file a way of demonstrating the trademark jurisdiction, the date, the category or class? Because if that's the case, I think it's relevant.

Julie Hedlund: Thank you, Martin. I have Greg Shatan. Greg, please.

Gregory Shatan: Hi. It's Greg Shatan for the record. As I've explained in detail in the chat, no, no, no, no, it's not. It's only supposed to show that the trademark Clearinghouse has validated your use of specimen when it was presented to the Trademark Clearinghouse. It is not supposed to provide metadata or any data. Think of it as a token. Think of it as a chip. Think of it as a check box. It is not, in any way or case or shape or form intended to convey the vital statistics of the trademark in the Trademark Clearinghouse.

Now, maybe we need to look at how the panelist is supposed to know that or anybody involved in case and - but the SMD file is not. This is a red herring that's been thrown down a rabbit hole and I would like it very much if we could throw dirt on this rabbit hole, and cover it up, and never think that the SMD file is filled with information that is going to be used in the case. It is only an indication. It is a proxy for the fact that the use specimen has been validated by the Trademark Clearinghouse, nothing more. Thank you.

Julie Hedlund: Thank you, Greg. And I'll just note in the at that Mary Wong has given a link to what's in the SMD file. Michael Karanicolas says, "It sounds like for me there's conflicting opinions on this, so we should be examining role - examining the role of the SMD file." And Mary Wong notes that it is used to demonstrate use for purposes of sunrise and filing a URS complaint.

And at this point since we've reached the end of the table, then I'd like to go ahead and turn the meeting back over to the co-chairs and Kathy Kleiman has agreed to take over. But, Greg, I see your hand is still up, is that a new hand or you have another comment or if that old?

Gregory Shatan: A follow on, Michael Karanicolas says it sounds to me there are conflicting opinions on this. So (Lisa) should be examining the role of the SMD file. No. There are no conflicting opinions. There are people who know the facts and

they're people who have a mistaken idea of the fact. If anybody can show me another set of facts about this, that would be really, really nice to know. I see what Martin has quoted there, but none of those are - show up in the SMD file itself. So somebody must really want that red herring at the bottom of the rabbit hole. I'm not sure otherwise why we're discussing this.

Julie Hedlund: Thank you much - thank you very much, Greg. And I see the chat is continuing and at this point I'm going to go ahead and turn the meeting over to Kathy Kleiman. Kathy, please go ahead.

Kathy Kleiman: Terrific. We've just - this is Kathy Kleiman and I wanted to thank Julie for the last two sessions of taking us through this 35-page document, actually thirty four and a half pages, and thank all of Staff for putting together this super consolidated table. It was a tour de force and we've now finished our initial review. So what I'm going to do now is summarize kind of where we are where we're going and how we're going to do it and then Staff is going to take us through a timeframe and I think we'll be able to give you back about 15 minutes of your day at the end of it.

So where we are, we've just gone through our initial review of the super consolidated table and we've closed it. The purpose of the last two sessions was really to make sure that the working group as a whole considered this to be a good representation and encapsulation of the excellent work of the three URS data sub teams. A lot of what you're seeing here is literally cut and paste from the data sub teams themselves and what they presented two weeks ago, what the code - what the chairs of the sub teams presented two weeks ago.

So we've gotten suggestions from George Kirikos and Rebecca Tushnet of changes that should be in this document. To the best of my knowledge, we've received no other changes although John McElwaine, and George, and maybe

Rebecca have given - have proposed suggestions, kind of broader suggestions. So let me - so that - so now we begin kind of phase two. We're closing kind of the initial review of the super consolidated URS topics. It appears to be with the exception of these changes that were offered last week and on the list which we need to add and which will be added in some kind of highlighted form that we're still working on. This is a good representation, so I'll stop there and see if anyone disagrees. Susan, go ahead please.

Susan Payne: Yes. Thanks, Kathy. Well, so I have a kind of question or request for clarification. Because it seems to me that those are two different things. One is does the super consolidation table capture the work of the data subs and I think yes. And then two is some people have made some other suggestions and I don't think any of those other suggestions although I - please, can they correct me, because I'm, you know, I can't recall exactly what those suggestions from everyone has been. But I think those additional suggestions haven't generally been stuff that's within - that has come out of the data sub teams and has been missing from the super consolidated table. It's extra stuff that people think should be in there but hasn't been discussed by the sub teams. So I think those are two different things.

And I'm not saying it shouldn't go in the table necessarily, but if that's exercise we're doing then many people might have other suggestions to go in the table. I don't think George or Rebecca, and please they can correct me if I've got them wrong, we're suggesting things that they think that the sub teams are missing.

Kathy Kleiman: Okay.

Rebecca Tushnet: Hey, this is Rebecca. I'm on audio only. Is it okay if I get on the queue?

Susan Payne: Go ahead, please.

Rebecca Tushnet: So mine is literally taken from the sub teams. I just want it moved to the appropriate place. So I understand there's other stuff, but I'm going to defend mine as having been discussed in detail by the sub team just - place perhaps not in the most appropriate place. Thank you.

Kathy Kleiman: So Susan I'm going to agree with you, two different processes and that's why I was about to go on to number two and outline the next process. But it was my understanding that George's suggestions in part and I don't remember - like you, I don't remember all of the details and Rebecca's suggestions had something to do with the conveyance of sub team recommendations, ideas, proposal of data to the table itself, and we closed that at close of business yesterday, so - and Rebecca has now commented on that.

So we're going to find a place to put that in, in highlights so everyone can take a look at that. Now, we begin a new part of the process. The start of proposals which Susan, as you pointed out, has already somewhat started. The start of proposals to review, modify, fix, and edit the URS proposals, drawing from our data, drawing from our experiences, drawing from our discussions.

So in part, John McElwaine and George Kirikos have kicked this off for us. We're not discussing their proposals today and the floor is still open for additional proposals. As Phil mentioned, the co-chairs are meeting tomorrow with Staff. We think the deadline that we're going to propose is Tuesday, August 28th, so approximately two weeks from today, for the close of these submissions. But, you know, we're definitely willing to listen. George or Greg I'm going to finish up and then open this.

And we're also working on a framework for helping the working group. We, the coaches and staff, are working and tomorrow we'll be working hard on a framework for helping the working group review and evaluate the proposals as rapidly as possible. We're in a very short and tight timeframe. So we're also working on ways to capture those proposals as they come in because some of them may relate directly to things already in the super consolidated table. Some of them may bring together items that are in different parts of the table so that they may need a different place and some of them may be off the table completely in kind of a different policy framework or in a different place.

So how we're going to be able to present those easily and capture them is something we're still working on as well as the timeframe for accepting these proposals and as well as the framework for evaluating them. Greg, go ahead please.

Gregory Shatan: Thank you, Kathy. That's very helpful. Just so I understand them, the kind of more general proposals or submissions that are not clarifications or corrections to the way the subcommittee - the subgroup reports were made are going to be part of this process. So, for instance, what George Kirikos submitted would then be rolled forward into this process since - as he indicated in the chat. There was not - it's stuff that he thinks that the subgroups missed, not stuff - not a clarification of the work of the subgroups as Rebecca's clarification was.

So please understand where this goes, and if this is now the time essentially for a kind of the last best time to put in the kitchen sink of proposals and things that we are all - might think are missing or might have been done, but that are not, you know, related or attempting to bootstrap onto the work of those subgroups.

Kathy Kleiman: Okay. We don't have George's information in front of us and we're not discussing it, so Staff will be working since they're the experts on the super consolidated table, and since George's suggestions came in, in a timely manner and were presented last week. In other words, you know, is it a subgroup recommendation? Is he saying something was missing from the subgroup evaluation? Is it a new proposal? Chances are that that's going to Staff to kind of help us through that process. You're right, there may be some ambiguity there.

But now is - I wouldn't throw in the kitchen sink. We don't have time. We've got one month. In fact, I'm going to ask Staff to go through the timeline. But we basically got the month of September to evaluate this and we're missing one week in September because the Wednesday meeting falls on the same days as Yom Kippur. And for those who are celebrating, we traditionally have - we traditionally do not meet on major holidays.

So we won't have much time, so please don't throw in the kitchen sink. If you have well-thought-out proposals and as Mary said earlier drawn - and draw as much as possible from the data, from the hard work of the sub teams to review, modify, fix or edit the URS proposals, this is the time. But if people throw in the kitchen sink, we will be here forever and the community won't have a chance to timely evaluate, and we'll be waylaid on all of our deadlines.

Let me see if anyone else has - is that an old hand or a new hand, Greg?

Gregory Shatan: (Unintelligible) my screen...

Kathy Kleiman: Okay. Feel free to keep thinking about this and raising hands. Let me turn this back to Julie, I think, to go through the timeframe as it kind of currently

exists in front of us, so you can see - just share with us kind of the sense of just how tight it is and our reporting to the GNSO Council. Julie, would you be taking us through this?

Julie Hedlund: I'm - so, Kathy, this is Julie Hedlund from Staff. I think perhaps your Adobe Connect room needs to be refreshed, because we have Phil has his hand up and then also Brian and then George. So, perhaps I should let them go ahead before I...

Kathy Kleiman: Yes, please. You're right. It's frozen. Okay. Go ahead, Phil.

Julie Hedlund: Phil, please.

Philip Corwin: Yes. Phil for the record and just to respond briefly, again, the co-chairs are going to discuss a specific procedural plan on a call tomorrow morning. But the, you know, what the sub teams have recommended does not limit working group members. If it's not a recommendation there and you feel strongly about it, you can recommend it. You can propose an operational or procedural change in the URS. With that said, we would hope that working group members exercise some discretion and if you know that your proposal is going to be extremely controversial, and unlikely to gain consensus which is the ultimate test for making changes through a working group, you might want to think about whether you really want to put it on the table, so that we're not still debating URS proposals the week before Christmas.

We want to come up with a procedure which is fair, which is uniform, and which very quickly can determine whether a proposal has significant support at the outset, and also whether it's something that's so intertwined with UDRP that it might be better considered in phase two of our work. But we'll be coming back with much more detail, I think, later this week or first thing next

week with how we would hope the process would work so that it is efficient, but comprehensive. And I'll stop there and we'll be getting back with details shortly. Thanks.

Kathy Kleiman: Thanks, Phil, and our third co-chair, Brian, go ahead please.

Brian Beckham: Thanks, Kathy. I just want to make sure you guys can hear me since I (unintelligible) last time.

Kathy Kleiman: Yes. We can hear you.

Brian Beckham: Good. So I - sorry for the pylon, but I want to just make this a trifecta. I wanted to fully echo Kathy's comments in replied to Greg's question. Please everyone this is not an invitation to throw in the kitchen sink. As Phil said, try to bear in mind that, of course, it's not (just center) people but we do want to aim for consensus.

So feel free to go over the transcripts, the recordings from the presentations from the sub teams. Feel free to reach out to the sub teams if you think there are issues that aren't discussed. Maybe they can shed some light on the discussions that they had and that can help, you know, you understand why something did make the cut.

But, again, just to echo what Phil and Kathy had said that it's an invitation to make sure we haven't missed anything but not an invitation for a complete free-for-all. Thanks.

Kathy Kleiman: Thank you so much, Brian. I appreciate it. And I just want to note before I call on George and whoever else maybe in the queue if my screen is frozen again that were not suspending - I should mention this earlier, we're not

suspending our meetings until August 28th. We will continue - even as we're accepting kind of proposals for discussion for submission of URS policy or operational modifications, we do have proposals on the table that have come from the sub teams themselves. That's the third column for operational fixes, for policy recommendations.

So that's - I'm not quite sure what the structure is yet, but that's where the co-chairs and Staff are thinking that we start again next week is moving down that third column of the table working off of what the sub teams have already thought through and decided to provide to the working group. That's really a good place to start. It's not the end, just a starting point. So we will be meeting next week and continuing to meet as we go through this evaluation process. George, go ahead please.

George Kirikos: George Kirikos for the transcript. I just want to make two points. First, when we're talking about during the consensus process, one of the important inputs on that is the public comment period. So, it's important that if we're going to have topics that they're not going to delete it or pruned or self-answered at this point in the PDP, the public deserves a chance to know all of the available topics under consideration and weigh in on that and we shouldn't necessarily think that just because some people think that a consensus might not be possible at this time, but based on, you know, input for the public, that can certainly have a big impact on what the final consensus is which is actually the result of a consensus call formal process.

And so, we don't have a consensus call until, you know, if we put this calendar out and probably way into 2019. The second thing was - and I put that in my comments, written comments, is that if we're going to have a list of some items that are deferred to stage two, we should make sure that they're a very explicit list. Because, for example, the access to courts which was my,

you know, main concern, point number nine in my email. That could - that have some overlap with the UDRP, obviously, so we might consciously want to put that into stage two, and there are other topics that also fall to the same boat.

So, we should definitely have a separate list of those topics that we are consciously deferring and not just - have them disappear into the black hole and be forgotten when stage two arrives. Thank you.

Kathy Kleiman: Hi, George. I'm going to agree and then disagree. So, I agree we don't want anything to go into a black hole and the process for how we're going to defer something to stage two hasn't been determined yet. If someone has something that they think belongs more in stage two than stage one, that might be a very good suggestion to include as you circulate the proposal for a policy change or an operational fix to the full working group. That would be a very good idea to put that in, you know, likely for consideration in phase two, and maybe why you think that - why it's more appropriate in phase two.

But in terms of the initial report that we put out, I would argue, and this is my personal opinion that we should not include every idea. That it's not a time for the kitchen sink to use the phrase that's been kicking around. That it is a time for well-thought-out proposals and ideas that have achieved - it's not consensus certainly support among the working group. We don't want to throw everything at the public.

We - I would think we want to throw well-chosen ideas, operational fixes of policy changes, but I'm certainly open to what other people think, and again that is my personal opinion. Julie, could you tell me if my screen is frozen and there are still people in the queue?

Julie Hedlund: There are. We have Brian Beckham and Greg Shatan. Actually Brian's hand is down I think now, so we have Greg Shatan.

Kathy Kleiman: Greg, go ahead please.

Gregory Shatan: Thanks. Greg Shatan for the record. Kathy, I agree with you about what the preliminary report is supposed to represent and I don't think that's your personal opinion. I think that is - I don't have the charter in front of me, but I think that's what the charter says. Certainly, what the PDP rules generally expect is that the initial report does reflect the consensus at the time of its publication by - of the working group.

The subsequent procedure's initial report is a little bit different, because it's what took Staff directly from the subgroups and published it. And so - but that's the - that's an exception and that exception was discussed at - quite some length in that working group. So, you know, typically, and I've done a bunch of these over the last decade or so, the preliminary report to the final report, you know, does obviously involve, and I agree with George on this, it involves consideration of the public comments and sometimes the public comments change the consensus which is, you know, only to be expected.

But, you know, essentially giving them the - I think that the - if there is a - I hate to say it is, because it does open the barn door to the kitchen sink, not to mix my metaphors. But if there is any place for things that didn't make the cut within the group as a whole, it would be a minority statement and that assumes that we are in a proper posture at that time for a minority statement. But this is not supposed to be the menu. We haven't spent two and a half years or more not coming to a decision. Thank you.

Kathy Kleiman: Greg, I'm going to remember that the barn door to the kitchen sink. And I'm going to agree that, you know, as we've done it in the past, it's - and so many times of the phase one report has kind of reflected general ideas if not active consensus. Julie, could you confirm it's Brian in the queue and is there anyone else?

Julie Hedlund: Thank you, Kathy. Yes, Brian is in the queue and there are - there's no one else in the queue.

Kathy Kleiman: Okay. And after Brian speaks maybe you could read some of the comments that are in the chat there - that are going through quickly. Brian, go ahead please.

Brian Beckham: Thanks, Kathy. And, Beckham for the record. I just wanted to remind everybody that in Panama, of course, we had a session I think Thursday morning where we covered, you know, how we saw the best way or a good way to bring together the initial reports could work and there seemed to be agreement on that. And so, what I wanted to ask and certainly we'll discuss this tomorrow on our co-chairs call and I know we're running short on time was I personally would find it very useful to see if Staff who's had a lot of experience in bringing together reports of different working groups over the years might be able to help us thread this needle a little bit in terms of, you know, kind of being inclusive, but also, you know, not going around in circles and having endless conversations. Thank you.

Kathy Kleiman: That's a good idea, Brian. (I think Staff) will support that. I (thank Staff) for some guidance on this. What the rules state and kind of how past practice has been done, that's something staff will take on. We would appreciate it. Julie, is there anyone else in the queue? And if not, could you summarize the chat

briefly and then take us briefly into the time line and, sorry guys, I don't get to give you back any time.

Julie Hedlund: Thank you so much, Kathy. And I just - this is Julie Hedlund from Staff. I just wanted to note with respect to the request that Brian just had, staff did include in the procedural, the meeting at ICANN 62 on the procedural discussion, some slides about how the, you know, development of an initial report takes place. And I think there also was - there were details in there about how the consensus process works as well with respect to the final report, but we're happy to take that action on as well as a reminder to everyone from the working group guidelines.

Noting we only have three minutes left and we did want to kind of go through the timeline. The chat is fairly luminous and I'm just wondering - I mean, you know, there are issues concerning, you know, how - you know, conversation about how to include proposals and there's discussion about how consensus is developed, and whether or not consensus call applies to an initial report which it - which does not, but it does to the final report, what minority statements might be.

I think all of these kind of relate to how the, you know, initial report will be developed, what - how we defer things to phase two and then how the consensus call happens with respect to what goes into the final report, and Staff has noted that we got that presentation which we can also recirculate. So I hope that sufficient for a summary of the chat, but the chat notes will be posted in the Wiki if people want to read through them as well.

Kathy Kleiman: Great. Thanks, Julie, and thanks for recirculating the Panama City slides. Well, I'll take a look at them again. Thank you. In the context of today's discussion, thanks.

Julie Hedlund: And, thank you very much, Kathy, and then just quickly on to the timeline that you see before you, this is an update. There was a timeline produced for ICANN 61. There's been quite a bit of shift in the timeline. And, because of that, as Kathy previously noted, this is extremely tight, and this is really just a very, very best case scenario. And there is quite likely to be further slippage and so please keep that in mind.

This is why we're trying to facilitate the discussion on the recommendations. You'll see that we hope to complete the URS review in September so that we can then move along to - I'm looking at the survey results from the Sunrise and Claims surveys. And then complete those reviews and then begin to complete to - begin to develop the preliminary recommendations on November and January, and then would be then quite tight to be able to publish a phase one report by the end of the first quarter and submit a final phase one report to council by the end of the second quarter.

So there's been some shifting there and we will do staff, you know, and the co-chairs I'm sure as well will do everything they can to help move the working group along as expeditiously as possible.

Kathy Kleiman: Great. Thank you, Julie. And now, everybody can see and share kind of co-chair and Staff's concern about the timeline and about our promised report both to the GNSO Council and to the community of the phase one report for public comment which is George and others have created, you know, noted is very - a very important part of our process taking what we've done out to the public. And for those who haven't gone through that process, it's an interesting process and I think as Greg noted sometimes you get surprised to what you hear.

Anything further? Okay. (Mary) note that the slide was prepared before today's discussion of the August 28 deadline, so we'll be doing that. And, again, we'll be starting next week with returning to the super consolidated table to look at the third column, the proposed suggestions, recommendations, and operational fixes as our starting point. Thank you everyone for today's discussion. Thank you, Julie, for leading us through the end of this long document and see you next week. Bye-bye.

Julie Hedlund: Thanks, everyone. Thank you so much for joining and we hope you have a good morning, afternoon or evening.

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