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**ICANN Transcription**  
**The Review of all Rights Protection Mechanisms (RPMs) Sub Team for Trademark**  
**Claims Data Review**  
**Wednesday, 05 June 2019 at 17:00 UTC**

Note: Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at: <https://audio.icann.org/gnso/gnso-rpm-review-trademark-claims-05jun19-en.m4a>

Zoom Recording:

[https://icann.zoom.us/recording/play/h6p4DFrU3GoNH7a0Y38xbquwq28lfovDaj\\_fU3M-w\\_b54fCFxoDNEJKsczBG5SeH \[icann.zoom.us\]](https://icann.zoom.us/recording/play/h6p4DFrU3GoNH7a0Y38xbquwq28lfovDaj_fU3M-w_b54fCFxoDNEJKsczBG5SeH_[icann.zoom.us])

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ANDREA GLANDON:

Good morning, good afternoon, and good evening. Welcome to the RPM Subteam for Trademark Claims Data Review call held on Wednesday, the 5<sup>th</sup> of June 2019 at 17:00 UTC.

In the interest of time, there will be no roll call. Attendance will be taken by the Zoom room. If you are only on the audio bridge, could you please let yourselves be known now? Thank you. Hearing no names, I would like to remind all participants to please state your name before speaking for recording purposes and to please keep you phones and microphones on mute when not speaking to avoid any background noise. With this, I will turn it over to Julie Hedlund. Please begin.

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

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JULIE HEDLUND:

Thank you very much, Andrea, and this is Julie Hedlund from staff. I'll just very brief run through the agenda. I'll turn over to Ariel for a very brief mention of the timeline and work plan, and then we'll move to Item 3.

First is the Statement of Interest. Second item is on timeline and work plan. Third item is discussing proposed answers and preliminary recommendations for Question 4. And Item 4 is Any Other Business.

May I ask if anyone has Any Other Business? Seeing no hands, I'll go back up to Agenda Item 1 and ask if anyone has updates to their Statements of Interest? Seeing no hands, I'm going to turn over to Ariel for our very brief mention of our timeline and work plan. Ariel, please.

ARIEL LIANG:

Thanks, Julie. This Ariel from staff. We have two more meetings before ICANN65, that's including today's meeting. Today's meeting is trying to finish the discussion of Q4 by reviewing the proposed answers, preliminary recommendations, and also the extensive input from the subteam. And pending today's progress, if the subteam can finish Q4 then the next meeting staff plan to share the updated Status Check table that includes the new text that incorporates all the inputs received during the meeting and on the discussion threads. So, that's the plan for next meeting but that's pending today's completion. That's the update I have for now. Thank you.

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JULIE HEDLUND: Thank you very much, Ariel, and this Julie Hedlund again from staff. May I ask whose number is that, the number that just joined ending in 232?

BRIAN BECKHAM: That's me, Brian.

JULIE HEDLUND: Oh hi, Brian. Thank you very much. We appreciate that. Just to switch to the next agenda item which is the discussion of the answers and preliminary recommendations for Question 4, the co-Chairs have a suggestion for how to proceed today. As you all know, there is a Google Doc that has now been closed out as of COB on Monday with quite a number of edits and comments. A number of these focus on background discussion and arguments, in addition to suggested language for proposed answers to the charter questions and sub-questions and also for preliminary recommendations.

The co-Chair's suggestion however for today's meeting is that we use the main document of discussion, the Status Check document rather than the Google Doc. The Google Doc is quite difficult to read. It's got a lot of markups. We can absolutely reference it and we certainly encourage those who commented in the document to summarize their comments as the suggest language to the proposed answers to charter questions and preliminary recommendations. But we'd like to suggest that the subteam focus on the language in the Status Check document and in particular the answers to the questions. And so, questions in Question 4 and preliminary recommendations.

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Let me ask if there are any questions concerning that approach? I'm not seeing any hand raised. So, Ariel, let me ask you to go ahead and put up the Status Check document and there's also a link, a PDF of it, in the chat room. And also we can give you a link to the Google Doc for background, if you would like to be viewing it. As Ariel notes, the Google Doc has been switched back to suggesting mode so you'll be able to see the red lines in it as well.

Thank you. And with this, let me go ahead and turn things over to Martin. Martin, please.

MARTIN SILVA:

Hi, I hope you can all hear me well. Thank you very much, Julie, for the introduction. As Julie mentioned, the idea is based to try to go through the text again of the Question 4 and try to sort out what specific wording could be useful towards an agreement. That's why we thought that it would be better to go back to the actual text and not try to surf the comments, especially if we could have the commenters on the call.

I see we have Kathy, a few others. I'm not seeing Kristine. In any case, of course, Kristine's comments are going to be taken into account. But if Kristine was here, it would be easier to maybe [analyze] the debates of her concerns. In any case, it's okay. Kristine is not here but her comments are in the document and that's what counts.

With all of these, we're going to go read answers to each [sub item] of Question 4. We want to try to see if we have specific comments or if someone wants to add something besides what they said on the document on their comments. Let's see if we can find some common

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ground especially because staff is going to try to put things together and the more angles they can have of these concerns, it's going to be easier for them to understand what is the actual concern or maybe to propose words that will come together with both positions and better.

Worst case scenario – and staff can correct me here – if we don't get an agreement on Question 4, Question 4 is going to go forward the working group saying that the subgroup couldn't come to an agreement. This is the [inaudible] documents of it. This is the debate. So, it's not that we are wasting our time. We are giving the full working group at least something to mumble so that they can come to a more full group agreement. This is also something to take [inaudible]. Even if the full working group cannot come to an agreement on this specific answer – in the moment probably it would be something closer to consensus but I know maybe that's not the mechanism yet to be talking about – we still have a public comments period where we can say, "Okay, the working group cannot come to an agreement on this answer," and we can ask the public comment to give us some feedback, so afterwards we can have a last shot at this.

This is just so you know because it will be also useful to think in these answers, if we are not getting some agreement, what sort of questions we would like to have for the public comment period. Just as part of the work, this could be useful for the full working group to have regarding this matter.

So, let's start with this. We have Question 4. Is the exact match requirement for Trademark Claims serving the intended purposes of the Trademark Claims RPM? In conducting this analysis, recall that IDNs and

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Latin-based words with accents and umlauts are currently not serviced or recognized by many registries. And the proposed answer for the [charter] question is that the subteam has differing opinions on whether the exact match requirement is serving the intended purposes of the Trademark Claims RPMs. If we don't get an agreement, that's sort of what will go forward and something that is just logical. If we don't get an agreement, status quos remain. It means that we're not going to be able to propose a change to the actual policy.

Let's start with Question 1. I don't think that anyone will challenge that we are not in agreement. Q4a, what is the evidence of harm under the existing system? Proposed answer: the subteam has differing opinions on whether there's evidence of harm under the existing system of exact match. Some subteam members believe that the existing system does not have a clear deterrence effect against registration of confusingly similar matches, including typo squat variants and "exact trademarks plus words" domain name application. They believe that this system harms trademark owners' ability to protect their trademarks in a cost-effective manner and increases their curative mechanisms burden after the harm has already taken place (especially the harm from cybersquatters). They also believe it harms prospective registrants who may be unaware that some non-exact matches can be "actionable" under trademark law or dispute resolution mechanisms for trademark infringement. One subteam member does not believe there is evidence of harm under the existing system, but that nevertheless the exact match requirement for Trademark Claims already harms registrants.

I don't want to comment on my own behalf on this, so I'm going to open the queue in case someone has something else to offer besides what –

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if they can summarize their opinion that they put in their homework, better. But if you have something extra to say, please come forward as well.

I see you have Rebecca Tushnet first in the line. Rebecca, the floor is yours.

REBECCA TUSHNET:

Rebecca Tushnet. Thank you. I think, since Kristine is not here, I actually come around to her position on this which is that it's not clear that it's helpful for us to state a bunch of contradictory positions and that's not our answer. As of course, you see in the Google Doc, the description we have in this version I think is not representative of – characterizing it as some members versus one member of the subteam, and so if we kept that, I will have a lot to say. But it seems to me perhaps better to say we didn't agree. Thank you.

MARTIN SILVA:

Thank you very much, Rebecca. Kathy Kleiman is next on the queue. Kathy.

KATHY KLEIMAN:

Yeah. Can you hear me, Martin?

MARTIN SILVA:

Perfect.

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KATHY KLEIMAN:

Okay, great. It's always good to test first if it's fine. Hi, everybody. I hope your summer is going well so far. I agree with Rebecca but also I'm a little concerned because I'm looking at the underlying document and two major paragraphs have not been included in this proposed answer. So if we're going forward to the proposed answer – I'll just read you a little bit of it, Martin. And these are edited back and forth. You'll see Kristine and Rebecca and probably me, we're editing it.

The beginning one of the second paragraphs is, other subteam members believe it's relevant that none of the subteam members in the paragraph above identified specific data, e.g., surveys or studies that showed harm and argued that day-to-day experience should not be considered data. Further, they pointed out that the exact match requirement for Trademark Claims or any potentially harm some applicants by potentially discouraging the registration trademark words that may have non-trademark uses and be in otherwise legal usage.

And so there's lot of materials – I don't understand what was taken and what wasn't, but there is kind of heavily developed and edited additional material, two large paragraphs that belong here as well that have the other side. So if we're going to go both sides, I think we have to include that. But if we're going to go not have this discussion then I guess we don't need it. Thanks, Martin.

JULIE HEDLUND:

Hey, Martin, this is Julie Hedlund. May I comment briefly?

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MARTIN SILVA: Of course.

JULIE HEDLUND: Thank you very much for that, Kathy, and one thing that we should explain at the beginning of the call is that the co-Chair suggestion that the detailed discussion on deliberations not be included in the Status Check document. First of all, noting that this is a version from 17 May, so it is not an updated version. It's not reflective of the material that's in the Google Doc. In fact, also that means that the description that you see that it says subteam members say this and so on and so forth, it's also not up to date and should be discarded. It does not reflect the latest information that's in the Google Doc. And staff did not feel that it was helpful to try to summarize what in the Google Doc and bring it into this document since it's very simply stated in the Google Doc and can be captured there. So, that will be the background, so to speak, for this document, and so we suggest that you focus simply on the proposed answer text as opposed to the summary of deliberations or discussions which is not up to date in the Status doc. Thank you very much.

MARTIN SILVA: Thank you very much, Julie. Kathy, is that a new hand or an old?

KATHY KLEIMAN: It is a new hand.

MARTIN SILVA: Perfect. Kathy, you have the floor.

KATHY KLEIMAN:

I'm confused, because again the proposed answer in the – Julie, I appreciate the answer but as a participant and as someone who's now been in the Google Doc a lot, with Kristine going back and forth, I don't understand the proposed answer here is still only a partial answer of what is in the Google Doc. So are we deleting this second paragraph starting subteam members or are we adding two more paragraphs that starts similarly, some subteam members, and give both sides of the discussion? Martin, that may be a question for you.

JULIE HEDLUND:

Martin, if I may? This is Julie Hedlund from staff. I'm sorry not to be clear. What we're suggesting is that the subteam members focus on what they think is the proposed answer, not what is in this document which is not up to date, not the second paragraph where it is a summary of what was the discussion at the time of the 17<sup>th</sup> of May, but to suggest on answer to the proposed answer based on the discussions you've had in the Google Doc. Staff is reluctant to take and try to summarize that discussion and try to extract an answer based on that discussion into this document because there were differing viewpoints, we felt we could not do that. We're asking if those who commented on the Google Doc could work together to suggest a proposed answer, so the language that you think should be there that would replace what's there now – unless you think what's there now is correct. I hope that's clear but thank you very much.

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MARTIN SILVA: Thank you very much, Julie, for the clarification. Kathy, is that okay or you want to react something?

KATHY KLEIMAN: Interesting. I'd love to hear what Kristine thinks and Rebecca – everybody who's worked on the Google Doc because it's hard to envision language – I mean we worked hard on that language. Thanks. I'll listen.

MARTIN SILVA: Thank you, Kathy. And it's okay – I mean the idea is we didn't want to work directly the [attachment] because the amount of edits in colors and inputs is so raw that it would be just sort of confusing for everyone, even for the people that merely commented to maybe follow our discussion up to it. So, maybe a blank page was something more fresh to start commenting, but you can use that document to summarize or to guide yourself to what you have in mind. If it's more useful for the members to have that document up, we can bring it up. It's just a matter of how you feel more comfortable with. Kristine, you are next, would you? Go ahead.

KRISTINE DORRAIN: Hi. Thanks, everyone. This is Kristine, and again I apologize for being late and I may have jumped in right in the middle of this, so I apologize that I'm restating things that have already been said. We're doing a couple of things here. One of them is blowing to the questions and answering them. In this particular instance, and the way I went through the Google

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Doc was to say question, answer. In this case, I'm referring to the Google like I'm actually reading from it right now.

The answer is, the subteam has differing opinions on whether there's evidence of harm under the existing system of exact match. That is the only answer we have at this point. Everything under that is a back-and-forth debate. Now, it's my personal view that the debate doesn't belong anywhere in the document because it's just everyone in the community has capable of forming their own thoughts is unlikely to learn much from our back and forth like sort of wingeing at one another and it's just that they're not going to read it. It's walls and walls of text. We're going to have hundreds and hundreds of pages, people are going to skim that. So, we need to have question, answer, to the extent that we don't have an answer because we don't agree, we have to say, "We don't have an answer, we don't agree." And then we have to follow that up with an ask. This is at the very bottom of the Google Doc, which I apologize for. Not the bottom of the Google Doc but just Q4a. I observed that we literally have a full page of rambly, nonsensical text where I have my opinion and other people have their opinions. And we don't even have a call out. Why did we ramble? What are we asking the community to do?

So in my opinion, we need to have question, short answer – yes, no if possible or one sentence or two sentences of what the answer is. And if the answer is, "We don't agree," we have to say we don't agree, and then the follow-up. Because we don't agree, we need X. That is our response. I personally don't think the discussion or a heavy discussion belongs in this doc. I'm willing to concede I might lose that argument. I'm still fighting it but I'm willing to concede it. In which case, that's why there's that discussion section that I think should be refined because

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there's nothing else that helps us refine how we think. It might help us come to some sort of a resolution.

Looking at the SubPro procedures initial report, they basically have a deliberation section or they talk about key issues and points of view or somebody summarizes as neutrally as possible, some people believe this, some people believe that, but you can skip all that. You can literally go just to the questions and the answers. Then where there's proposals, there's benefits and drawbacks section. So I think we've got multiple things going here. Some of us are working ahead on sort of this discussion section. Some people are thinking about the questions and answers but I don't think they should be intermingled and maybe part of the problem is the fact that we're looking at one combined that doc that doesn't clearly differentiate those sections. That's my thought. Thanks.

MARTIN SILVA:

Thank you very much, Kristine. Of course, I cannot speak for the whole Chairs, staff, especially because we're [inaudible], we also try to coordinate with other people. Yes, I understand your point of having a separate discussion of what the debate is and a separate one for what the actual wording is. I think in this case, we have the debate because we don't have a text. Or at least we don't have an agreement text. We just [have a text] that we don't agree. So having the debate there is at least in this preliminary draft stage is maybe a way to help us understand what things are not being agreed on. I don't think specifically at this stage at least is something problematic. I could agree with you for the final word in going ahead of the working group. In that

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case, of course, yes. We don't have an actual proposal. Just opinions are not something we can move forward with.

And they will be recorded as well. It's not just one sentence that is going forward. The whole documents are going forward for everyone to review why we didn't agree on. But I think I get what you say. I cannot give you a proper answer to that without actually going back to discussing that.

So far as now, again I encourage you to summarize for us, for everyone what your opinion is on these questions. Maybe you can find something new that wasn't there when you were trying to debate through the Google Docs but you can debate in this [inaudible]. Thank you very much. We do appreciate of course everyone's opinion on a better way to handle this because again there's no process – or this process here. It's just process we are trained to create and improve. Rebecca Tushnet, you're next.

REBECCA TUSHNET:

Rebecca Tushnet. Thank you. I agree with basically 90% of what Kristine said. It seems to be completely reasonable to say we couldn't agree, that's where we are. I think it's actually biased and misleading to say therefore, we need to collect more data on this specific thing where there's one constituency that wanted more. I don't think that's consistent with the rest of the document or the rest of the treatment. I don't think we're really ready for another data-gathering exercise that would negate the past year of work. So I completely support Kristine's

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suggestions to make it short and sweet that therefore we have these questions for you seem to be completely inappropriate. Thank you.

MARTIN SILVA:

I think you're seeing [inaudible] answer to use from the chat, Rebecca. I don't think we need to ask for that at all but we are soliciting comments and inputs so we need to be clear about the type of input we want.

I have Greg Shatan next in the queue. Greg, go ahead.

GREG SHATAN:

Thanks. Greg Shatan for the record. I tend to agree with Kristine that all this back and forth doesn't belong in the answer section of the document. And as far as the subteam goes, I don't think this our initial draft. This is our only draft as far as I'm concerned and may turn into the [inaudible] preliminary report when sent out by the full working group. But as far as we're doing, I think after this we're done. And so therefore, I think the idea that we're going to put in the whole deliberation as a substitute for an answer is one that I would disagree with. I think we can, again, reflect it somewhere in the deliberations of the records of what we're doing and don't have to lose it completely. But right now, we just have a back and forth and we're trying to poke holes in other people's arguments and as bad as it is now, it could probably get three times worse and we really have to reflect all the marginal comments as well as the changes in the text if you want a full sense of who's saying what about what.

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So I actually think it's more of a boxing match than it is an answer to a question. I don't know how useful it is. It's certainly not useful as an answer. If we could try to find an answer then we can find an answer. But I think the only answer we have is that we can't agree on an answer. If there's any input that we think we could get, that would help us come to an answer then we should ask for that. I don't think it's inappropriate to ask in a request for public comment to make a request that's more specific than, "Please comment on our lack of an answer." So if we have something that we think would ask, if there's one constituency that's "wants more" and there's one constituency that "wants less," that's clearly where we are generally speaking anyway that there's some disagreement among units.

So, either way, if there's information – I'm not going to call it data; in my mind, that terms is starting to be a weapon rather than a useful tool – then we should try to get the information that would help us. So if there's information that would help us and we're just permanently stuck in our initial position, then I think we've probably collectively violated the rules of behavior in the sense of we're supposed to try to get towards consensus and consider other people's positions and look beyond ourselves. And I'm not saying that I'm any less guilty than the next person of that but somehow we have to figure out if there's any way that the multi-stakeholder model and desire for consensus can get us out of our current state of paralysis. Thank you.

MARTIN SILVA:

Thank you, Greg. I don't know to call it a "state of paralysis" per se but I understand your point. Thank you very much for the words. I was

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supposed to try to get you guys to talk specifically about your possible answer if there was a better wording for this. So far, all we're getting is that we should be fine with we're not agreeing. We should not include the debate. That's it. You don't have a specific wording that could potentially bring the positions closer. Just to be sure, you guys are on track with the goal of this call besides of course the useful comments on all the other things. Philip Corwin, you're next.

PHILIP CORWIN:

Yeah. Thank you, Martin. I'm speaking on a personal capacity. I agree mostly with what Kristine just said. When we issue an initial report, I'm not sure that the proposed answer should just be one sentence that we couldn't agree that we had a variety of opinions. I think it would be useful but I think the answer should be as short as possible, just really hitting the high points of what factors were discussed by members of the subteam. I mean we've got the infamous 94% non-complete statistic but we have complete disagreement on whether that's significant or what it means.

I think for a record of what we looked at and for the purpose of any future review, if there is one of these RPMs, it would be useful to have some document that has more than a single sentence, but I don't think even for those historic purposes having a long multi-paragraph answer is particularly useful or that debating each of those paragraphs is a productive use of our time that what we're going to be asking the community for comment on are preliminary recommendations. Is there support, opposition or suggestions for modifying them? That's the main purpose of the initial report. The rest is just background information. So

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where we had a specific proposal for a expansion of the matching criteria such as Claudio's span the dot. It ought to be mentioned but if we don't have a recommendation – and we don't have a recommendation for expanding the exact match requirement that got strong support – that's pretty much the end of it for the community comment purposes. So I think our proposed answer should be short, useful for historic review and understand the process, but not paragraph after paragraph that are not going to be looked at by the community when we put out the report. Nobody is going to comment saying, "Oh, I think your proposed answer to Question 4.a should be modified. People are going to comment on the recommendations that we put out. That's what our main focus should be. Thank you.

MARTIN SILVA: Thank you very much, Philip, and I agree with you. Kristine, you're next.

KRISTINE DORRAIN: Thanks. I'm going to lower my hand because I might have said everything in the chat. Thanks.

MARTIN SILVA: Okay. Staff does it anyway, but please check the chat. I've been reading also.

KATHY KLEIMAN: Martin, did you just call me? This is Kathy.

MARTIN SILVA: You had your hand up. Is that an old hand?

KATHY KLEIMAN: No. It's a new hand.

MARTIN SILVA: Alright, just go ahead.

KATHY KLEIMAN: It must have noise online. Okay, so this is Kathy speaking in my individual capacity of course. I'm going to disagree. This is not overtime in a sports game where we're resetting the clock, and I feel that's what happens if we destroy the discussion. Also, it's hard, Martin, to come up with language on the fly. Actually, that's not what we knew we're supposed to be doing and I don't think we did. We've worked this document and there's a discussion section Kristine added long parts to it that are very valuable. They have now been commented on and edited to reflect the full range of opinion.

The ICANN community is very diverse. We are speaking in this initial report, not just to the IPC but of course to the non-commercial community, to registries and registrars. We have an extensive discussion where we lay out what we have found, what we haven't found, what we think of what we found, what we haven't. You may call it an extensive discussion but it's truly just a few paragraphs that very tightly summarize several years of work, the work that we did before

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the URS and the work that we've done now. I think we should be looking at it because I think that's what's really before us.

The conclusion is that we don't have but if we're going to put out questions then yes, we have to give them the discussion because that's the background of where we've come. We're not resetting the clock and we don't start with a clean slate. We've got material to share with them. We've done a lot of work in this area. I think we have to include the discussion topics. I think, frankly, we're looking at the wrong document. We should be looking at the PDF that was circulated with all the edits. Thanks.

MARTIN SILVA: Thank you. [Inaudible].

JULIE HEDLUND: Hey, Martin, this is [Julie] from staff. If I could quickly comment on that. I think there might be a slight need for clarification here for Phil and Kathy's comments. What you see here is what we're calling the Status Check document but will just be a very high-level document that will go to just the full working group to have the proposed answers, preliminary recommendations and the case where we identify them, suggested questions that would be included in the initial report for community comment really only when there's not been any preliminary recommendation.

So, we're getting a little ahead of ourselves. This is not the initial report. The initial report has a deliberation section. And, Kathy, to your point,

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all of the deliberations will be included there for context. Very much exactly the same as the SubPro format of the SubPro initial report which Kristine has put in to a link. So that would be the format. So none of the deliberations are lost and, in fact, it's important, and I think part of the transparency to include them and also to reference transcripts and wikis and so on. That will be there for context. For this document, the idea is to just give the answers and the preliminary recommendations and possible questions for the working group to consider. So this is not the initial report and that's why we're suggesting that this does not contain all of the deliberations and discussions, but those can be linked for working group reference in the Summary document. I hope that's helpful. Thank you.

KATHY KLEIMAN: Can I ask a follow-up question, Martin?

MARTIN SILVA: Yes, of course.

KATHY KLEIMAN: Julie, this is Kathy. Let me double-check. Are we talking about Appendices or are we talking about – it's hard to visualize what's not in front of us. I remember the SubPro initial report, there was kind of a question or topic, a background section, and then specific questions. So you're saying that the discussion is developed in the PDF – I'll call it the PDF – will be under deliberations and then be immediately followed by our recommendations and any follow-up questions?

JULIE HEDLUND: Thank you, Kathy. It's Julie Hedlund from staff. Staff has brought up the initial report for the SubPro so you can see that there's a deliberation section. And, Ariel, if you want to scroll down. The way the format is for the SubPro and we'll follow the same format. It's actually recommendations are at the top. I think then there's questions and then I think there's deliberations. So all of these follow one after the other. So the context should be pretty easy to follow. It did seem to be a good format for SubPro and it is actually a template, in fact, that we use for initial reports, so it's not something that we made up necessarily for SubPro either. I hope that's helpful.

MARTIN SILVA: Kathy, was it helpful?

JULIE HEDLUND: Thank you, Kathy. I see your "thanks" in the chat.

KATHY KLEIMAN: Thanks, Julie.

MARTIN SILVA: Thank you very much, both. I have Cyntia next on the line. I do would like to remind you that we had a goal of trying to get all the comments we put in Question 4. So, I'm not going to ask you to wait until Question a, b, c, or, d. If you have a comment on Question 4 that will help us

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move forward to an actual text based on the debate we had on the Google Doc, please speak now. It would be very, very useful. And don't let yourself get [railed away from our] debate. That's also what's being debated here. Thank you.

CYNTIA KING:

Hi. I'm going to be really quick. I pulled up the Google Doc the last couple of days in order to review it for the homework and whatnot, and I was really struck when I first took a look at it at how bickerish – I'm not sure if that's a word – but it sounded very bickery. I, for one, would really like for us to have something that's a little bit more professional and we all know what that is because we've all had to take different points of view and combine that into some kind of a report.

Speaking of the document itself, what staff has pulled up seems eminently reasonable. Most reports that would go out to a professional organization would have an executive summary which should be what we're doing right now, the executive summary, and then the rest of the information, all of the debate and the major issues, captured in the detail below. But we should really be cognizant of the fact that we are producing a professional report that goes out to folks and we should be producing recommendations and then we should be asking people succinctly for their input, and then if people want to dig down into what we've already discussed so that they're not covering new grounds, whatever they can go down and they can dig in to the report. But there should be an executive summary that doesn't sound like there are two or three groups of people that were just bickering back and forth, this person said that, this group had a different thought. You could easily say

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something like, “One point of view was this. Another point that was brought up was this.” It doesn’t have to sound like we are endlessly bickering.

So I suggest that we take a more neutral tone. I agree with that, Rebecca, that all of these should be more neutral and that we build the executive summary, understanding that all of the detail is going to be contained in the body of the report per staff. Thank you.

MARTIN SILVA:

Thank you very much, Cyntia. I think at least for what I heard so far, what you said is absolutely agreeable. Kristine, you're next in the queue.

KRISTINE DORRAIN:

Thanks. Ariel, can you go to page 13 please? I think we’re coming to the point I’ve been trying to make and apparently very inartfully and I apologize for that. And Cyntia’s comment – I do agree that we need a professional executive summary. I think the difference is we can’t write a summary unless we know what we’re summarizing. So it’s kind of to Kathy’s point – the discussion, the bickering, the wingeing, whatever we want to call it – it is serving a function. As long as it doesn’t make its way into the doc as written, right?

But if you look at the bottom of page 13, if you see the SubPro did not have a group of sort of Q&A charter questions to answer, it started with recommendations. So what are our recommendations? And they come with – if you look at the bottom of 13, “What’s the relevant policy implementation guidance,” and then scroll to the top of page 15, how is

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it implemented. Those things may or may not be relevant for us but that would be a place to put the background. And then what is our recommendation? Our recommendation could be – I’m going to throw this out there, we don’t have to debate it – but the recommendation is the claims service does not appear to be or there’s disagreement about whether or not it’s causing any harm, so we’re going to recommend it’s the status quo. Or maybe the recommendation is the status quo because it doesn’t appear to [cause harm] or that people don’t think there’s enough data to support that or whatever the recommendation is. Or if there’s going to be a change, we recommend a change for the following reason. What are the options excluding associated benefits and drawbacks? Then what specific questions are the PDP Working Group seeking feedback on?

If you scroll to the bottom of the Google Doc actually – and, Ariel, you don’t have to do that now – but basically, that’s where we talk about there are some benefits and drawbacks. There’s a little table talking about, “We’re not sure. Here are some pluses and minuses.” Then that’s what happens when you’re writing the comment. As a stakeholder group, you stop at C and E and you write, okay, “For 2.2.1.c.1, answer,” “For 2.2.1.e.1, answer.” And you might look at the deliberation section or you might not but it’s going to be worded by staff to hopefully be very neutral and collect everybody’s opinion. But we’re still developing what we would call our C and E is what my understanding is.

The reason I’m saying all these is that I think and of this group some of us have in our head that we’re writing C. Some of us have in our head that we’re writing E. Some of us have in our head that we’re writing F. Ariel, if you can just show page 14 so that people know what I’m talking

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about with C, E, and F? If we're not speaking the same language about what it is we're writing, then we're just never going to agree on what you're going in the section.

I know, Martin, that we have been sucking up this entire 47 minutes talking about this, but until we all agree in what section we're drafting and in what order to draft them, we're never going to get there. For many of us, we have to hash out the deliberation details before we can get to the actual C and E rather than trying to work on them all separately, and work on sort of the executive summary first or the answer first. We got to think about how we're going to get to the answer, and so I think that's where our problem is. I don't know if identifying that as a problem is helpful to anybody but it's always helpful to me to think about where are the disconnect. I think this is our communication disconnect is understanding what we're writing and in what order. Thanks.

MARTIN SILVA:

Thank you very much, Kristine. Of course, I agree with most of what you said. We will have to try to come up with some sort of way that helps you to [analyze] correctly which things are being discussed [separately] and not have that all together in that amorphous way. Of course, I don't have a specific answer right now but it's something we have to discuss later with Chairs or staff to come up with something slightly different. I have next Greg Shatan on the list.

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GREG SHATAN:

Thanks. Kristine, I think that's very helpful and to look at C, D, and F and also E specific questions is really helpful in terms of thinking how we could be structuring our answers. The problem is instead of having this kind of template, we're stuck with these questions, some of which are inartfully drafted. Then what we have so far here is, at best it's as deliberation, and I think what makes it seem so bickerish to adopt a new word, which I'll be trademarking shortly – the problem is that it's not just some people say X and some people say Y. That's what is going on in the SubPro document. It's then the people who said Y think the people who said X are full of stuff, and the people who said Y – basically, there's the counterarguments or the undercutting and why the other argument is worthless or worth less.

That's really where the bickering comes in. I mean we could, in essence, have each group state their own position however outlandish it is and then just try to edit it so maybe it's not quite stated in outlandish absolute terms but maybe more relative terms given that we are not functioning with perfect knowledge. But I think that having all of the oppositional part of this in here is deliberation is really what makes this tough to read as a potential document for circulation. Thanks.

MARTIN SILVA:

Thank you very much, Greg, for the input. Again, Kristine, let's go back and try to figure out something that can put this together. Of course, we have only five minutes to the top of the hour. [Inaudible] going to get Question 4. Before I give you the floor, Kathy, let me just say that we're probably going to have to see with staff if we have enough with Question 4. We will need some time in the next call to go over it. The

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original [inaudible] was in the next call. We're going to look at the Status Check Question 2 and 5. So we could finalize 2 and 5 in Marrakesh but probably we're going to have to change to see if we're going to have some document change in [the middle]. Nothing. I'm just thinking out loud. Kathy, go ahead. We have four minutes to wrap up.

KATHY KLEIMAN:

Thanks, Martin. I will try not to use all of our four minutes. I will agree with Kristine's call for C, D, and E. I'm now speaking with my hat on as a SubPro member. I just want to note that SubPro issued its initial report much earlier in its process. Then they've taken back the answers and they're really percolating and sorting through it and working through them. We don't have that time. So we really should be through all the calls from Kristine [and others] to issue our initial report. That's really what we're doing. Our initial report is really traditionally timed initial report. We should be issuing our initial recommendations and then getting the feedback on them because we're supposed to be wrapping up Phase I shortly, and the different timing of the different reports, we should be getting our C, D, and E language now agree with Kristine. Thanks, Martin.

MARTIN SILVA:

Thank you very much, Kathy. We have three minutes more. Does anyone have any other comments? Staff maybe wants to put a liner or something before we end?

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JULIE HEDLUND: I'm so sorry. I was on mute, Martin. Sorry about that. There was no Any Other Business that anyone suggested. We do need to wrap up to allow time for folks to transition to the next meeting. We'll have to consult with the subteam co-Chairs as far as what will be on the schedule for next week's call, but we definitely have a call next week at the same time. Then following that call, we'll be able to advise you as to what we'll be doing at ICANN65 as well.

If there's nothing further – I don't see any hands or anything further – let me suggest then that we go ahead and adjourn this call and we'll be back to you with some guidance as far as what we'll be doing on the next call. But likely we'll be looking at perhaps for the work on Q4 and now that we've had this helpful discussion on process. Thank you all. Thank you very much, Martin for chairing.

MARTIN SILVA: Thank you very much, Julie. Thank you all. See you on the next call or the next week.

JULIE HEDLUND: Thanks, everyone. Bye-bye.

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

**[END OF TRANSCRIPTION]**