
ICANN Transcription
Review of all Rights Protection Mechanisms (RPMs)
Thursday, 20 August 2020 at 17:00 UTC

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ANDREA GLANDON: Good morning, good afternoon, and good evening. Welcome to the Review of All Rights Protection Mechanisms in All gTLDs PDP Working Group being held on Thursday, the 20th of August 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 transcription purposes and to please keep your phones and microphones on mute when not speaking to avoid any background noise. As a reminder, those who take part in the ICANN multistakeholder process are to comply with the Expected Standards of Behavior. With this, I will turn it over to Kathy Kleiman. Please begin.

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KATHY KLEIMAN:

Terrific. Thank you so much. Welcome, everyone. I hope your end of summer is going well and thank you for joining us today and spending some time with us during this valuable time. Today I will review the agenda quickly, ask for Statements of Interest, and then we'll move quickly into the substance. We are now moving into the URS Recommendations, but we're hoping to cover URS Recommendation 1 Question 1, Recommendations 2 and 3, and then hopefully move on to the EPDP Recommendation 27 Wave 1 Analysis. Isn't that a great name? Julie sent us a document with a table about finalizing PDP recommendations for the URS in light of EPDP Phase 1 recommendations. So that was attached to the agenda for today's call.

Let me check if anyone has anything for Any Other Business. Let me check if anyone has anything, any updates to Statement of Interest. Anybody moving hats/changing hats? Okay. Seeing none, let's go ahead and move to URS Recommendation #1. We'll take a look and see. I am hoping both Paul McGrady and Zak are with us. Excellent.

Here it comes up. Fantastic. Paul, Zak, can I turn this over to you to walk us through the wonderful work that your Sub Group B did on the URS recommendation analysis? Who can I pass it to? If anyone is speaking, I cannot hear you. Paul does not appear to have a microphone on. I don't see a microphone in the Zoom Room.

ANDREA GLANDON:

Yeah. That's correct. I don't either, Kathy. Zak does have – oh, here he comes Here comes Zak.

ZAK MUSCOVITCH: Okay. Here I am. This was one of the ones that Paul was co-chairing on this I recall so I'm not 100% up to speed on it, I'm afraid, Kathy. But I'll take a quick look.

KATHY KLEIMAN: Terrific, Zak. We'll do it together. Take a fast look, everybody. Perhaps take a fast look. Has the chat room – is there a link to the full document?

ZAK MUSCOVITCH: I mean, Kathy, I'm reading the same as I guess everybody else on the call and it looks like the Sub Group B, in their wisdom, recommended that it be maintained as is. That's simple. Okay.

KATHY KLEIMAN: I understand that Paul's microphone is on now. Should we invite him into the discussion? Paul, go ahead.

PAUL MCGRADY: Hi there. Sorry for joining late. Lots going on today. Kathy, do you want me to run through this? Did Zak join? Is he on?

KATHY KLEIMAN: Zak is here. He says that on URS Recommendation #1, he was about to lead us through but he said you were the leader in the sub group on that one.

PAUL MCGRADY:

Yeah. Oh my goodness. Okay. Well, this will be a test of my short-term memory but I'm happy to do it. So Recommendation 1 is "The working group recommends that URS Rule 3(b), and where necessary, a URS Provider's Supplemental Rules be amended to clarify that a complainant must only be required to insert the publicly-available WHOIS/Registration Data Directory Service data for the domain names at issue in its initial complaint. Furthermore, the working group recommends that URS Procedure paragraph 3.3 be amended to allow the complainant to update the complaint within two to three calendar days after the URS provider provides updated registration data related to the disputed domain names."

Everybody that practices or works in the space understands that what may be published publicly is not always and, in fact, often not the actual underlying registrant's information. So basically, this recommendation only requires of complainants at the front end for them to provide what information they can get to through WHOIS or RDDS. And then when the provider goes out to the registrar to certify who the underlying owner is, this gives the complainant a couple of days to update the complaint and give it in.

This one wasn't particularly controversial, I don't believe, when we put it out for public comment. It wasn't terribly controversial in our sub group either if I remember. We are recommending that it be maintained as is. We did give some attention to some tweaks that had been suggested. At the end of the day, we didn't think the public comment raised any new issues and there was no real widespread opposition coming out of the public comment. So,

hopefully this will be one of those easy ones. But that's kind of where this one came out. It came out with "okie-dokie".

KATHY KLEIMAN: Okay. Okie-dokie means maintain as is?

PAUL MCGRADY: Yes. That's a colloquialism from the Midwest. Yes. Maintain as is.

KATHY KLEIMAN: I like that. Can we change "as is" to "okie-dokie"? Sounds good. Paul, thank you so much for the overview. Does anyone want to comment on this either from the sub group or of course now it's before the full working group? Unless anyone has any additional comments, thanks to both Zak and Paul for providing us an overview of this. There is a hand up. For some reason, I can't see it. Julie, is that your hand?

JULIE HEDLUND: Hi. This is Julie Hedlund from Staff. Kathy, as Staff host, I can't raise my hand. But I just had a suggestion for you all to consider. As we go through these recommendations and once we familiarized ourselves with them and with the sub groups deliberations, Staff suggests that perhaps while it's all been fresh in our minds, we could go to the notes from the EPDP Phase 1 Wave 1 Analysis that Staff provided, which we've included as you see here in the document as sort of a side comment and do that where the EPDP Phase 1 Wave 1 Analysis applies. Conversely,

we could go through all the Recs and questions that are on the agenda today and then come back to the EPDP stuff. Just a suggestion. It probably works about the same way either way but I thought we'd mention it.

KATHY KLEIMAN: Okay. Thank you for the suggestion. I think we should go through URS Question 1 before we think about moving to the EPDP table because it's directly related. I think we should hit that before we go on to other things. Unless anybody objects, does this go back to Paul or over to Zak?

PAUL MCGRADY: This is Paul. I don't know the answer to that but I'm happy to keep going if Zak is happy or Zak wants to take it, fine with me.

ZAK MUSCOVITCH: Go ahead, Paul. I'll jump in as required, but go ahead.

PAUL MCGRADY: All right. The questions are somewhat different than recommendations. So they're more about gathering information and ideas. So our URS Question 1 is actually Questions 1a, 1b, and 1c, so three questions. We'll just run through them.

"Should URS Rule 15(a) be amended to clarify that, where a complaint has been updated with registration data provided to the complainant by the URS provider, there must be an option for the determination to be published without the updated registration

data? 1b, if so, when, by whom, and how should this option be triggered? And 1c, are there any operational concerns that will need to also be addressed in triggering this option?"

There were strong differences of opinion on this one and in the public comments which Sub Group B were parsed out. Ultimately, the Sub Group B recommended the full working group revisit these questions and responses to them. But we came up with a proposal which we thought might be a way forward for the larger working group. Here in the box, I believe, "The URS Rule 15(a) should be amended to clarify that, where a complaint has been updated with registration data provided to the complainant by the URS provider, the default position is to publish the underlying respondent data. However, if the complainant is successful, the panelist has the discretion to withhold publication. If the respondent is successful, the respondent may require publication to be withheld."

In other words, ultimately since publication is after a win or a loss, the question really should be answered at the tail end of the process and will depend upon the views of the prevailing party. So that's what was kicked around. It's not that we agreed on this proposal but we agreed to forward it.

So just to walk now through the diverging views, some Sub Group B members could support the proposal with the following amendment: "If the respondent is successful, the respondent may request that publication of their underlying information to be redacted subject to the panelist's discretion to hold otherwise."

Some comments were: GDPR court actions do not redact the names of the parties. GDPR has express carve-outs for publication/disclosure of personal data in the context of a legal proceeding. There may be instances that some successful respondents may want their information published. There may also be instances that despite the request from a respondent, a panel would find appropriate to publish the respondent's information. The URS process is very fast and has low overhead, and most respondents don't respond, which means that the default position would result in publication if the respondent doesn't take an interest in the proceeding and doesn't respond.

I don't mean to be supplementing these because that's not my remit, but I think the follow-on from that is that adding your name published as a loser may not be a risk that they understand on the front end or maybe they would participate. That's commentary by Paul but it's not Sub Group B. Then registrant should not have to ask for nondisclosure. Some people just think that the bottom line is the way it's done now is fine.

That was our deliberation on this. So we're kind of handing this one back to the working group, Kathy, to say what do we do with it? Is this proposal a way forward? Can we get there? Can you guide us as chair to get somewhere on this? Or do we say, at least in relationship to this question, lots of interesting things but we can't get anywhere from here. That's up to the working group and for you to guide us in the call. Sub Group B, we're just sort of reporters so don't blame the people who brought you the news. All right. Thanks.

KATHY KLEIMAN: Don't kill the messenger.

PAUL MCGRADY: Right. Exactly. Yeah.

KATHY KLEIMAN: Paul, thank you for framing the issue so well. I think we issued the question because by adopting Recommendation #1, if I remember correctly, we may change some of the operational background taking place. So if the complaint is amended by the FORUM then it's our understanding, having talked at length to the FORUM on this, that then it would probably go automatically to publication with the decision just the way their system is set up.

So this question kind of expressed concerns. I see there are hands raised, now I'll hand it over. Thank you to the sub group for providing us with this box that we're looking at of kind of a way forward of how to handle this kind of new situation of the GDPR redacted information. Rebecca, go ahead please.

REBECCA TUSHNET: I apologize. I must not have been clear enough in part of what I said in Sub Group B as it didn't make it into the summary, but at the very least, the thing passed on just as incomplete because there is actually a noticeable subset of respondent victories where the respondent defaults. So whatever we're talking about, we should recognize that category of cases and at least figure out what we want done with them, whether the proposal ends up being panelist discretion or don't publish or something else. It is

actually a significant number of the respondent victories are defaults and we should just recognize that in whatever we do. So I just wanted to add that. Thank you.

KATHY KLEIMAN: Rebecca, before you leave, is there some addition to wording that might be useful to incorporate here?

REBECCA TUSHNET: Right. My preference would be if the respondent prevails for whatever reason to leave it out, but I understand there's going to be a divergence of opinion there, I just want to point out that if we don't provide guidance, it's going to be completely unclear what to do in non-trivial number of cases. Thank you.

KATHY KLEIMAN: Okay. Great. Thank you. Griffin, go ahead, please.

GRIFFIN BARNETT: Thanks, Kathy. Personally, I don't think a decision about whether to publish or not publish the names of parties in a URS decision should hinge at all on whether a party wins or loses. The purpose of publishing the names of the party is for accountability and transparency to know who has been involved in the proceedings. It may implicate future proceedings in terms of whether someone can point to previous cases that were brought, whether that be an RDNH case or whether that be sort of – we've had another recommendation I think there being presumption of bad faith, for

example, for previously losing respondent and so forth. I think perhaps we're making this a little more complicated than it needs to be because I don't know that it needs to hinge at all on who wins or who loses the case. I think ultimately what it should come down to, in my opinion, is that the default – again, I agree the default position should always be in favor of publication because I think that's generally the default in terms of litigation and arbitration and all sorts of things for a variety of reasons. But in circumstances where the panel finds that there are reasons for not publishing the identity of a particular party, whether it be a claim that there's been an identity theft or something like that, then I think it should always come down to the panel's discretion about whether or not to publish. And obviously, the parties I think should be free to raise specific reasons if it's applicable in a case as to why something should be published or withheld. But I don't think it helps us to add all these different conditions in terms of if one party is successful, if the other party is successful, because I think to me that's a bit of red herring in terms of what the ultimate kind of issue really is. Thanks.

KATHY KLEIMAN:

Griffin, before you leave, hold on a second. I'm looking at some of the underlying data, and apparently a lot of people supported the idea. 40% of comment to support that there'd be an option for publishing the determination without the updated registration data.

GRIFFIN BARNETT: Yeah. I'm not saying that there shouldn't be an option. I'm just saying that I don't think we should hinge on who wins the proceeding.

KATHY KLEIMAN: Okay. And maybe it shouldn't hinge on what's a default. Default is used in two ways, I can see here. The default position being – we should probably change that word being the recommended position. But if there's default – sorry, I was reading that. Can we go back? Thanks. So if there's a default then it still reverts to the panelist but by your recommendation now. Whatever the condition – the complainant wins, the complainant loses, the respondent wins, the respondent loses, the respondent defaults, the respondent shows up – you'd like it to come down to the panelist. You're recommending that the panelist decide whether to publish the underlying data and be informed by the parties to the extent that they want to participate in that process.

GRIFFIN BARNETT: You know, I think that's right. I think when we talk about default, the default position in terms of whether or not to publish that information I think should always be in favor of publication. With the exception being if there's some special reason for why that information shouldn't be published. Again, I think the obvious circumstance that comes to my mind that we've seen in other context like in the UDRP, for example, where this is done on occasion is if there's reason to believe whether it be through a submission of the respondent or whether it's sort of obvious from the facts of the case itself and that there's been sort of an identity

theft. So the person who is identified as the respondent is clearly has been the subject of false information being presented then. I think that's potentially a basis for withholding that information because it's just simply not the actual identity. I haven't thought about it to a great extent but I'm sure there could be other reasons like that erring in favor of withholding the publication of the actual listed contact information.

So I agree that the default position should be to publish in favor of publication. With that, there should be an option to not publish that respondent or I guess really either party, frankly, but respondent information at the discretion of the panelist given the specific facts of the case and it's again something that could be raised by either party to provide reasons for withholding that information or it could be something raised sua sponte by the panelist if they feel that there's a reason to do so. That's my view. Again, I don't necessarily agree that it should come down to who wins the proceeding because I think that's sort of a different question.

KATHY KLEIMAN:

Okay. First question to Zak and Paul. Can we change the term "the default position"? It's creating ambiguity in our discussion. Can we do that on the fly?

ZAK MUSCOVITCH:

Kathy, are we referring to the use of the term generally?

KATHY KLEIMAN: Yeah. And this box that we're looking at, "The URS 15(a) be amended to clarify" – and then I'll jump over – "the default position is to publish the underlying respondent data."

ZAK MUSCOVITCH: Isn't that the regular default position, though? Isn't that how it normally works?

KATHY KLEIMAN: Default is also when the registry –

ZAK MUSCOVITCH: Oh right. So you want to avoid that condition. I see.

KATHY KLEIMAN: Use another term. Would that be okay?

ZAK MUSCOVITCH: Yeah.

KATHY KLEIMAN: The recommended position. Thank you, Ariel. Okay, good.

ZAK MUSCOVITCH: It's more like the usual position, right?

KATHY KLEIMAN: I don't think there is a usual position. I think we're changing the status quo on this one. But that's my sense.

GRIFFIN BARNETT: If I can interject quickly? I don't know that recommended position really captures what we're trying to say here. What we're saying is that generally speaking, the respondent data will be published unless there's a specific decision taken to withhold publication. I understand that using the word "default" here could be confusing because we also talk about default in terms of there not being a response filed. But I don't know that the recommended position is to publish, because I believe that's currently the status quo, right? So we're not really recommending that be the case. I don't know.

KATHY KLEIMAN: Okay. Thanks, Griffin. Phil, do you have a way forward for us? Phil, if you're speaking, I cannot hear you. Is there any way to unmute, Phil?

PHILIP CORWIN: I've now double unmuted. I'll remember to do that.

KATHY KLEIMAN: Perfect.

PHILIP CORWIN: I'm not sure I have a way forward. It's more of a way sideways. For this question, it's an interesting topic but I looked at the donut

or the pie chart for the responses and it was very fractionated, there are about eight or nine different opinions there. We've got this from Sub Group B this proposal from a member, not from the sub group, which was based upon who won but I'm not sure that's a majority opinion. But while this discussion is interesting, unless we see a way where this working group is going to coalesce around a specific recommendation – and I'm not sure it's this one – based upon who wins the proceeding, as I placed in the chat, an unjustly accused registrant who has won a URS might well want that to be a matter of public record and not have it withheld. So I don't think we can assume. But I think with that strong majority within the working group for some position based upon the answers to questions which were all over the place, we wind up with the current practice remaining. So I'm not sure it's a way forward but I think the real question here is there a broad much less consensus support but at least broad support within the working group for an answer to this question that can be turned into a recommendation. If not, I think we can go on a few more minutes but if it's not going to lead to a strongly supported recommendation, it's interesting but nothing more. Thank you.

KATHY KLEIMAN:

Thanks, Phil. We're looking for some more comments, if appropriate, about publication. Paul Tattersfield, if you can come on the audio, that would be great because I'm not following your comments in chat because they're editing other chats. So if you can come on, that would be great. And meanwhile, I'll call on Greg. Greg, go ahead, please.

GREG SHATAN:

Thanks. First, I generally agree with Griffin that the who wins, who loses should not be dispositive or even a factor that's baked into the process. I think that if we're trying to avoid the word "default," I would either drop an explanatory footnote or maybe the word "standard" is better than "recommended" because the recommendation is kind of a should but not a must. This is at least a "must except if" type of situation. I would leave it to the panel's discretion and not try to dictate a non-exhaustive list reasons why publication would be withheld because if we think of 10 reasons, the respondents are going to come along with the 11 reasons why it shouldn't be published. But we can leave it to – if the respondent is present or is absent to the sua sponte action of the panelist as they will in any default situation to use their judgment in that regard. I guess the question then is what should the complainant's role, if any, be if the respondent makes a submission or if the respondent is in default, does the complainant gets to say something about why it should be published? Are we creating a second phase that might actually be more complex than the first phase if in fact we go there more than a few times if the standard is being challenged? Thank you.

KATHY KLEIMAN:

Great. Thanks, Greg. What I take away is kind of a more simple streamline. We have a standard position and then we'll leave it to the panel's discretion to decide to withhold publication of the data. Kind of a simple one. And that we shouldn't go into enumeration because that [inaudible] forever is my sense. Is someone on the line?

I was just going to highlight comments in the chat from Griffin, I think, about different types of factors that a panelist might consider – possible identity theft, use of the information of a minor, maybe a political dissent or something like that. What came to mind for me was a battered women shelter that may share a last name because of a donor with a well-known trademark someplace else. They probably wouldn't want their data/name published regardless of the outcome.

Brian, go ahead, please. Guidance from WIPO would be very useful. How do you do it?

BRIAN BECKHAM:

Thank you, Kathy. I suppose I can try to [inaudible] some WIPO-related guidance in terms of relating back to the UDRP but I think it's fundamentally the default position under the URS which is that the information is published. I think the text says something "The decision shall be published in full subject to the panel's discretion to decide otherwise," or something to that effect. But I was actually thinking more from a chair or procedural perspective. I think Phil actually has given us more of a suggested path forward maybe than he alluded to, which is – remember these are the questions that were put out for public comment, and so the task before us is to assess whether any of the feedback we got from the public steers us towards the direction of a recommendation that the working group can coalesce around. I guess my own sense is based on the call that we're having here that seems unlikely but I just wanted to offer that I feel like that that's really sort of the focus of our present inquiry, whether we can, based on the public

comments, come to a recommendation as a working group. I hope that's helpful. Thanks.

KATHY KLEIMAN:

Brian, can I ask you question? Under what circumstances would WIPO redact the information, assuming it was redacted in the first place?

BRIAN BECKHAM:

I know it's a bit of a nit but it's really the panel's discretion, not the provider. So typical scenarios are I think Griffin mentioned claims of identity theft. Those are, I would say, anecdotally usually taken at face value by panels. Someone claims that they're not the registrant; the panel doesn't look behind that claim. And you could go on the WIPO website and search on our UDRP search page for terms like name redacted or something like that, and I'm sure you'd come up with a fair number of cases.

So those claimed identity theft – no other examples are really coming to mind. The truth is, this is really kind of a new area. Historically, this isn't something that has come up during the proceedings. Now, the past few years with the advent of a focus on privacy, whether that's stemming from GDPR or just generally it's on people's minds more, we do see request in this tend to come after the case is actually decided. It could be a year or two after the fact and someone says this is coming up in a search result and it was an innocent registration of mine. One example that comes to mind, somebody had claimed that they were a university student taking a computer sciences course and they

wanted to see how domain names were, and so they didn't feel they should be kind of held against them in the public record. But I think it's really, frankly, still a new area, but I will say that the panelists, at least from what I've seen, tend to treat the request to redact information fairly seriously and tend to take them at face value. The countervailing argument of course is where they feel someone is trying to wipe the record clean on a clear bad act and they think there's more value in a public record remaining that a person was engaged in a certain behavior. That goes of course to the specific conduct and also the criteria of proving a pattern of registrations in bad faith, which can be relevant in future cases.

KATHY KLEIMAN:

Perfect. Thank you, Brian. I really appreciate the background on that. Thank you. So I'll call on Rebecca in a second. Phil says in the chat, "Can we simply agree to recommend that panelist has discretion to withhold publication if respondent makes a request and it is determined to constitute good cause?" Rebecca mentioned earlier default cases as we traditionally use the term. So, Rebecca, I'd love to know your comment overall, as well as any comment to what Phil has listed in the chat. Go ahead, Rebecca. Thank you.

REBECCA TUSHNET:

Thank you. I would assume that we want URS panelists to have at least as much discretion as UDRP panels. I actually did have a question. So if we do nothing, do we know what happens? Is it automatic publication of everything? Or is it provider by provider, they get to make their own rules because it's now discretionary?

I think that might influence whether we want to settle on something. In some sense, I think Phil's proposal is the absolute bare minimum. I actually would support saying if there's obvious problems, the panelist can also make a determination on their own. But maybe we should leave it for further development since this is a new thing. But it would be nice to know what do we think happens if we don't say anything. Thank you.

KATHY KLEIMAN:

Okay. Question to Phil. Would you accept the amendment? Renee I know is on the call as well and she may be able to answer the question posed by ... Let me pause, actually, to see if Renee can tell us what happens under current circumstances. Renee? Greg, Brian, Paul, and Paul, I hope it's okay to get our facts straight, and then go back to the queue. If you object, yell loudly. Renee, go ahead, please.

RENEE FOSSEN:

Pausing and waiting for any yelling. I don't hear anything. Okay. So I think you can see what's published based on our decisions online, which are published now. Yes, Griffin's right. It will just be the name, maybe the city and state depending on the territory, but no other information. Right now you'll see that the majority of the cases that are published are redacted for privacy because we haven't gotten that information from the Registry and there's no amendment. So the majority of the cases now just say whatever the redacted information are the privacy information as listed as the respondent on most cases. So it's not a lot of information. It will show up in the case caption and then as you can see in the

decisions that respondent name, respondent representative, and that's pretty much it. I hope that helps.

KATHY KLEIMAN: That does help, Renee. Thank you so much and thanks for being on the call with us. Greg, Paul M, Paul T. Greg, go ahead, please. Greg, if you're speaking, I can't hear you. Could you be double muted?

ANDREA GLANDON: Greg, this is Andrea. I think you are double muted. I'm going to try to unmute you on my side.

KATHY KLEIMAN: And if you hear weird noises in the background, somebody has decided to shred a tree in the house next to me. Lovely. Greg? While you're getting unmuted, should we go to Paul McGrady? Paul, in the interest of time, Paul McGrady, could you go ahead, please?

PAUL MCGRADY: Sure. Up a bit in the chat, I put in some proposed language that I think might help us, and I'm wondering if we can all get behind this. Basically, perhaps we just say publication is up to the panel's discretion but there is a right for either party to ask the panel to either publish or not publish. So that way, either party can ask and explain why.

Marie had suggested adding a reason to request – I think that if a request has no supporting reasons or is unreasonable, the panel will identify that. I'm not opposed to putting reason to request but I think it's extra language, because we don't expect panelist to do something unreasonable here. So I'm wondering if everybody can just say the default position is publication at the panel's discretion or not publication and the parties can ask the panel to do one thing or the other. And maybe that's just probably good and move on. Or maybe not but I thought I'd throw it out there. Thanks.

KATHY KLEIMAN:

Okay. And I just reposted it because the chat's getting crowded. Panel's discretion and the right for either party to ask the panel to presumably do one thing or the other. Thanks, Paul. That makes sense to me. Greg, go ahead, please. Can we hear you now? I am sorry you're having such trouble today. Maybe we can do a dial up to Greg? Paul Tattersfield, go ahead, please. Paul Tattersfield, can you come off mute and join us?

ANDREA GLANDON:

I'm also trying to unmute Paul but it's –

KATHY KLEIMAN:

You love technology.

PAUL TATTERSFIELD:

Sorry about that. Double unmute.

ANDREA GLANDON: There we go.

KATHY KLEIMAN: We can hear you. Thank you.

PAUL TATTERSFIELD: Brilliant. I agree the panelist should have discretion. I mean, that's the most important thing. But it would be good if we could also say that a successful respondent has the option to prevent publishing purely on the grounds that it returns them back to the position they're in before the claim was brought. That was it, really. Thank you.

KATHY KLEIMAN: Fantastic. Could you just quickly put that last piece into chat? And then we can look at it right underneath Paul's proposal, which kind of builds. I'm seeing some convergence. Greg, tell me, have we converged and can we hear you?

GREG SHATAN: Sorry. I was triple muted, which means I was double muted and I walked away. If you could briefly restate the question for me?

KATHY KLEIMAN: Okay. The current version as I understand it may be Paul McGrady's or at least he submitted that redaction may take place or publication is at the panel's discretion with the right for either party to ask the panel to do one thing or another. With Paul

Tattersfield's addition that the successful respondent has the option of requiring that publication be withheld because it puts them back in the position they were before.

GREG SHATAN:

I'm thinking about that. I support the base question. I'm having some trouble with supporting Paul's additional position on that. I think again that should be not a requirement but the panel discretion on that. I think they can take the fact that they won as a factor. But I wouldn't say that it's an absolute requirement for that last purpose.

I guess one other thing I would say is that if neither the complainant nor the respondent asks that it be withheld, the panel can raise the question but they don't have to respond to the question in every case because the standard position or default position that would be published. I just don't want there to be a required phase where the panelist has to actually actively support the status quo or the default. Those are my thoughts on that. I'm not sure if that brings us to convergence or still something is lost in that. Thanks.

KATHY KLEIMAN:

Okay. Greg, before you leave, that sounds like support for the panel's discretion and the right for either party to ask the panel to do one thing or another.

GREG SHATAN:

Yeah, I support that.

KATHY KLEIMAN: Okay. So I'm seeing a convergence but I have to admit I have not read all the chat. I see Paul Tattersfield and then Brian, and then let's try to draw a line under this. Paul Tattersfield, go ahead, please.

PAUL TATTERSFIELD: I think it would be better to do something rather than nothing. So we can go with Greg's approach if that's what you wish to do. Thanks.

KATHY KLEIMAN: Paul, thank you. So a support for Greg's approach, which is also Paul McGrady's approach. Brian, what do you think? Are we done here?

BRIAN BECKHAM: Yeah. Thank you, Kathy. I think so. I think Paul's suggestion, basically, let's say it takes the status quo, which is, it's the panel has discretion sua sponte to do this and it merely adds a possibility for a party to positively request this. So that seems quite reasonable and hopefully that addresses some of the concerns that were raised in the comments. That sounds like it could, at least in my view, form the basis of a recommendation.

KATHY KLEIMAN: Terrific. Thanks. So I think we're sticking with Paul McGrady's proposal unless there are other hands. Panel's discretion and a

right for either party to ask the panel to do one thing or another. Any other hands? Brian, I'm assuming that's an old hand. Staff, have you captured that? It looks like it. Staff, have you captured this language from Paul McGrady as the going forward language of the recommendation that will then go to consensus? I'm not seeing any hands. I'm not seeing the language in our report. Julie, can I ask if this has been captured? Ariel says, "We'll clean up the note after the call." Okay. Since I still have it in my cut and paste, I'll just put it back in. Terrific. Thank you very much for finishing up, for walking us through that discussion. It's nice to reach convergence.

Staff, I understand the pending recommendation to move to the EPDP, but I still think that some of these recommendations may have something to do with what's in the EPDP. I think Notice is still an issue there. So it may be worth going through URS Recommendations 2 and 3, especially since we're on a roll and then move over to the EPDP as was in the agenda. Unless anybody objects, that's what we would do. URS Recommendation #2. Zak or Paul, would you like to take us through it? Or I'm happy to read this as well.

ZAK MUSCOVITCH: Why don't you go ahead, Kathy, while we catch up with you there?

KATHY KLEIMAN: Okay. But you can lead us through the summary maybe, Zak, if you want to. "URS Recommendation #2: The working group recommends that URS providers send notices to the respondent

by the required methods after the Registry or Registrar has forwarded the relevant WHOIS/RDDS data, including contact details of the registered name holder, to the URS providers.”

It seems like the sub group agreed that this be maintained as is. But noted that further clarification may be required in terms of what the URS provider should do when the Registry or Registrar does not timely provide the WHOIS/RDDS data of the registrant. The point of clarification stemmed from IPC’s comment, which the Sub Group B understood.

Actually, let me turn this over to Paul or Zak for whatever kind of material from the summary they want to include. Because otherwise, I’ll just be reading this verbatim and I know we all have in front of us. Zak or Paul, would you like to comment on this? I’ll note while we’re waiting for a hand to go up that Sub Group B learned from the FORUM that Registries/Registrars rarely delayed in providing the registrant contact information. When it happened, the FORUM contacted ICANN Org to get in touch with the Registry/Registrar to acquire the information. I believe we have other recommendations to try to speed up that process. If the Registry/Registrar failed to respond after several attempts, historically the complainant gave the FORUM the permission to hold off on commencing the case until the information was obtained.

Let me just go back to the IPC’s comment above. Sub Group B understood that this comment intends to make explicit the process followed by the URS providers – kind of the current process – when the Registry/Registrar does not timely provide the WHOIS/RDDS data to URS providers. So then, Renee, in the next

paragraph provides information. Should we look a little farther? This practice seems to be consistent with that of WIPO as a UDRP provider. Phil notes in the chat that the proposal had 75% support and 2% opposition. It should be accepted as is IMHO.

Let that be the prevailing comment for the moment. Paul McGrady, go ahead, please.

PAUL MCGRADY: Thanks, Kathy. I agree with Phil here. This was not controversial and it just sort of makes sense. So basically, if I distill the deliberations of the sub group, if I recall them correctly, is that this one seems solid and there wasn't a lot of angst over it all.

KATHY KLEIMAN: Terrific. Thank you very much. I'd love to hear that there's not angst. Zak?

ZAK MUSCOVITCH: Yeah. That's right. If you look at the summary towards the end, Sub Group B agreed that the public comments have not raised any new or material perspectives, facts, or solutions which the working group had not considered. So I think this is an easy one we can move on.

KATHY KLEIMAN: Does anybody want to comment on this? Or should we thank Sub Group B and its co-chairs and Staff for such an excellent summary

and continue on? Excellent. So this recommendation moves forward. Let's look at URS Recommendation #3.

"The working group recommends that URS providers must comply with URS Procedure paragraph 4.2 and 4.3 and transmit the Notice of Complaint to the respondent, with translation in the predominant language of the respondent, via e-mail, fax, and postal mail."

Zak, Paul, do you want to take us through your deliberation summary?

ZAK MUSCOVITCH: All right, this is Zak.

KATHY KLEIMAN: Thanks, Zak.

ZAK MUSCOVITCH: You're welcome, Kathy. You know, I'm just not able to do it now. I'm sorry.

KATHY KLEIMAN: Okay. That's fair. It's summer. We're in also different locations. Two days ago I was hiking in the mountain. They didn't even have a computer. Paul, unless you want to do it, I will give this a shot.

PAUL MCGRADY: Kathy, this is Paul.

KATHY KLEIMAN: Go ahead.

PAUL MCGRADY: I'm happy to walk through it. Basing with the recommendation, it was very brief, the working group recommends that URS providers must comply with URS Procedure paragraph 4.2 and 4.3 and transmit the Notice of Complaint to the respondent, with translation in the predominant language of the respondent, via e-mail, fax, and postal mail. There were several public comments noting that this URS recommendation does not accurately reflect the language in the URS Procedure paragraph 4.2, which it means to reference that says, "The Notice shall be in English and transmitted by the provider into the predominant language used in the registrant's country or territory, not the predominant language of the respondent."

So we thought maybe we should correct that language to make the language match. I don't recall the examples but the Sub Group B folks, I believe, came up with examples of how the language of the predominant language used in the registrant's country or territory may not be the predominant language of the respondent. The more I talk, the more of these are coming back. So, for example, somebody pointed out that in the other hundreds of languages and one of those languages may only be spoken by a few hundred thousand people where the predominant language is some other language. So instead of having to do research and find out which of the hundreds of languages in India a respondent

predominantly uses, it would be okay to simply send this in Hindi. So that was an example.

KATHY KLEIMAN:

Paul, would it be appropriate to stop there and just see if anybody objects to that change? Was that change recommended by the sub group, the change to correspond to the language of paragraph 4.2 of the URS Procedure and change the predominant language of the respondent to predominant language used in the registrant's country of territory? Actually, you probably weren't making a recommendation. You were just pointing this out to us, right?

PAUL MCGRADY:

Yeah. Now we're really diving into the depths of an old man's memory from a couple of months ago. But the report just says that Sub Group B agreed. I don't know if that means all of Sub Group B or just some of us. The first paragraph has to do with the factual thing, right, that the recommendation doesn't near exactly the language of the URS Procedure that we're referencing. So what we do with that is a question but it looks like Sub Group B agreed that "correcommending" – that's when you correct the recommendation – that correcting the recommendation to make the language reflect correctly that Sub Group B was for that.

KATHY KLEIMAN:

I didn't mean to stop your summary. So go ahead and finish that up, if you would. Thanks.

PAUL MCGRADY:

All right. “Sub Group B noted (not agreed) that there were several public comments suggested that the Notice of Complaint shall be translated by the provider into the language of the Registration Agreement. Sub Group B agreed that this suggestion is a new/material perspective or solution raised by public comments, which may result in the amendment to URS Procedure paragraph 4.2 should it be adopted.” I guess that’s a talking point that we should have.

“Sub Group B members noted that there were significant voices expressed for changing the URS Procedures 4.2 to require URS providers translating the Notice of Complaint into the language of the Registry Agreement. Nevertheless, there was no widespread agreement on the proposal.” Then we list some diverging views here. The bullets having those are all worth reading. So we decided to agree to flag the public comments to the full working group for reconsideration of its recommendation.

“Sub Group B noted that several scattered public comments suggest changes to the method of URS Providers transmitting the Notice of Complaint to the respondent, but agreed that the method of notification should be maintained as is.” So e-mail facts. That kind of thing stands out more procedural.

So Question #1 is – well, Kathy, I don’t want to take over for you but it seems to me that Question #1 is should the recommendation be amended to reflect the actual language in the URS Procedures as opposed to what the language in the recommendation said, and it’s a substantive change so it’s a real question, right? Then

secondly, do we want to scrap our recommendation and instead say that the Notice should be translated into the language contained in the Registration Agreement, which is also a significant change? So, there we are. Thanks, Kathy.

KATHY KLEIMAN:

Terrific, Paul. I know that Susan had her hand raised. So, Susan, you're first in the queue if you want to be. Thank you for your patience. I just wanted to read the one bullet point about the FORUM as a factual one. "FORUM does not have significant issues identifying the predominant language of the registrant's country/territory, although it has to conduct research/analysis/interpretation to determine such predominant language but not significant issue."

So the two questions on the table, do we change to the language of 4.2 or do we go further to the language of the Registration Agreement? I'd love to know what people think. Susan then Renee. Susan, go ahead, please.

SUSAN PAYNE:

Thank you. I put it in the chat but I thought it was worth putting my hand back up. I feel that in Sub Group B we certainly firmly were recommending that we should be correcting the looseness of language. Bearing in mind that this is a recommendation that the URS providers comply with their obligations, and so in requiring them to comply with their obligations, we clearly expect them to comply with the actual obligations rather than a paraphrase of their obligations which is factually incorrect. So frankly, I don't feel

that there was any question about that. So I think really the only question is whether as a group, we feel that that recommendation needs to be changed to the language of the Registration Agreement, which is not a clear recommendation that the URS providers comply with what currently exists but actually changing what they should be doing.

In the past I've been quite in favor of this. I think it mirrors some things somewhere else probably in the UDRP or something like that, but I was just thinking about this as Paul was talking and I think there is an issue here because of the way the URS operates compared to the UDRP, where the URS is a procedure in which the registrar is not particularly involved. So the party that knows what the language of the Registration Agreement is is the registrar but we've set up a URS system to work that largely leaves the registrar out of things. So I think there's a real issue with trying to propose a change to the language of the Registration Agreement when we're not involving the registrar in this dispute process, except insofar as obviously now GDPR has required their involvement. I think at some point I've been quite sort of persuaded that this was a path forward, but actually I've just been reflecting on it and I think it doesn't work because that information is not available in the context of the dispute.

KATHY KLEIMAN:

Susan, thank you. Thank you so much for walking us through both what the sub group thought in terms of tightening up the looseness of the language, going back to the language of 4.2, as well as taking us forward to the other proposal, changing to the language of the Registration Agreement, and some of the real

concerns that might raise because the provider might not know. But here we have our expert provider to join us, a URS provider. Renee, we welcome your comments.

RENEE FOSSEN:

Thanks, Kathy. I'm just going to echo what Susan said with regard to the Registration Agreement. I think the intent behind the URS was that to reach out to more of the registrants so that they can understand what they're faced with and if you go with the Registration Agreement, I'm not necessarily sure that that's true, just depending on availability in certain areas. I just wanted to agree with Susan on that.

Then the other issue is the language that's written in the rules right now we're supposed to translate it in the language as seen in the WHOIS. And obviously, we're going to get to that with this EPDP recommendation as part of our discussion today, but we have been using the information that we've gotten from the Registry for the language. So it's not just the WHOIS that we're using, we're actually using the information that we're getting from the Registry as to the actual location of the registrant. I just wanted to just point that out. Thanks.

KATHY KLEIMAN:

Renee, before you leave, so would you support the change to the predominant language used in the registrant's country or territory as a good tightening language for our working group recommendation?

RENEE FOSSEN: Yes, I would.

KATHY KLEIMAN: Terrific. Thank you. Phil, last comment to you I think.

PHILIP CORWIN: Thank you, Kathy. Phil Corwin in his personal capacity. Of course, I'm really not sure that we have the ability to go back to the current language in the URS. This was a broadly supported recommendation from the working group. It went out for public comment, there was absolutely no opposition in the public comment, it was all supportive. There was a small but significant percentage that wanted further change. So to abandon the recommendation now and go back to the current language of the URS rules, I think we're past that point. No one ever says to do that in the public comment.

I would say that the language I would offer if it would work would be to add something which says that the language – it should be presumed that the predominant language of the respondent is that used in the Registration Agreement because that's the best evidence of what language they understand. If they're in India and there's multiple languages and they did in a particular language, that would certainly constitute evidence that they understand that language because they registered the domain using that language. But I'm cognizant of the problem that Susan pointed out which is that the registrar is not involved so it can be difficult to get that. So I'm not sure that adding that would be helpful if the Registration Agreement is not going to be available. But really,

based on the public comments, unless we can agree upon some clarifying language that will work in practice but to abandon the recommendation at this point and return to the current language of the URS rules, I'm not sure that would be procedurally proper for us to do at this point in time. Thank you.

KATHY KLEIMAN:

Phil, before you leave, language of the Registration Agreement has certainly raised questions and concerns both procedurally and substantively. But what would you feel about dropping a footnote that absent other information or whatever that nice language that you provided, that the language of the respondent should be presumed to be the predominant language used in the registrant's country or territory? What would you think of that? Because we have to give something because it's hard to know the language of the respondent. And that's the current –

PHILIP CORWIN:

You know, I'll leave that to the rest of the group. That's almost going back to the current language. There is a small difference, but I wouldn't object to it if the group wants to agree on that. I've kind of said my piece on this one. Thank you.

KATHY KLEIMAN:

Terrific. Thank you. Susan and Paul McGrady. Susan, go ahead, please.

SUSAN PAYNE:

Thank you. With apologies for just wholeheartedly disagreeing with you, but the recommendation – I am not proposing that we abandon the recommendation. Quite the reverse. The recommendation is that the URS providers must comply. Because the issue that came up and that we identified way, way back, was that there was a feeling that some providers were not following to the letter exactly what paragraph 4.2 and 4.3 required of them. And so we made a recommendation, albeit I would argue unnecessarily, that we wanted the URS providers to comply with their obligations. That is what we've said. We want them to comply with paragraph 4.2 and 4.3. But unfortunately, what we then did was we then paraphrased what paragraph 4.2 actually said. So instead of using the actual language, we wrongly paraphrased it and we paraphrased it incorrectly. But we never had any intention of changing the URS provider's obligations. We, in fact, intended them to meet their obligations and follow them. And so we have made a factual error by using loosey-goosey language which we ought to clear up, as a number of our commenters have pointed out, in order not to build in an uncertainty that we never anticipated or intended.

KATHY KLEIMAN:

Thank you, Susan. Paul, kick us out of here. What do you think, based on chat, which hopefully you can see, and the discussion?

PAUL MCGRADY: Thank you. Thanks, Kathy. I agree with Susan that we shouldn't stick with a recommendation that's inaccurate. I also very gently want to disagree with Phil that we've somehow done something to avoid public comment or public input on this by putting in the corrected language that actually tracks the URS rules that we were talking about. I think this is exactly the role of public comment, where the public comes back and says, "Hey, guys, you've made a technical error here and you need to fix it." I don't think we are hiding anything from the public. Instead, I think we're getting input from the public and we're fixing a mistake before it is carved in stone.

So I definitely think we should fix the mistake in the text of the recommendation. I agree with the general sentiment that at this late date trying to change it all to language of the Registration Agreement, interesting idea about six months too late. Thanks.

KATHY KLEIMAN: Paul, before you leave, take us out with a version that you would like or let me give it a shot. So it's my understanding, you're suggesting that we substitute the language into the recommendation, not drop a footnote. Is that right?

PAUL MCGRADY: I think that's right. So it would read, "The working group recommends the URS providers must comply with the URS Procedure paragraph 4.2 and paragraph 4.3 and transmit the Notice of the Complaint to the respondent with translation in the

predominant language used in the registrant's country or territory via e-mail, fax, and postal mail." Period.

KATHY KLEIMAN:

And to Phil's question – so that's the modified version we're considering really based on what Susan said, and also my recollection, with that emphasis, thou shalt do this. Certainly the FORUM does, but other providers didn't provide the translation based on some of our data gathering. So does anyone object to the version as read by Paul just now? Objections? Going once, going twice. We have our –

PHILIP CORWIN:

Kathy, Phil here. I'm not necessarily objecting, but I'd like to see it in writing. I would like to see what the final proposed text of URS Recommendation #3 is going to be.

KATHY KLEIMAN:

It's going to be with translation – instead of "in the predominant language of the respondent," it's with translation "the predominant language used in registrant's country or territory, via email, fax, and postal mail."

PHILIP CORWIN:

Okay, no objection.

KATHY KLEIMAN:

Terrific. Thank you for asking. Everyone should know what the recommendation is or the revised recommendation. So your URS Recommendation #3 as revised, going once, going twice. Thank you to Staff for capturing it.

Now, we go on to the next part of our agenda. We leave the URS recommendations and go into a document that incorporates. And this is the EPDP, which everyone knows is the Expedited Policy Development Process that just reported its final recommendations, as I understand. But this goes back to the Phase 1 recommendations, where we're trying to create consistency for the EPDP, for the new systems of redaction of the WHOIS, now called the RDDS information, and make it consistent with the URS.

That is a terrible introduction. So let me ask Staff, probably Mary, I would think, to do a better introduction of the document we're looking at and our role in evaluating it. Mary, are you with us?

JULIE HEDLUND:

Hi, this is Julie Hedlund from Staff. Mary is not with us today, she had a conflicting meeting. So I will be a very poor substitute for Mary and I would say that I'm definitely not an expert on this document because Mary was the one who compiled it. But we believe it's been done as clearly and succinctly as it can be.

So as noted here, there was the EPDP Phase 1, Recommendation 27, Wave 1 Report that had several recommendations. In analyzing that report, Staff here in this fourth column has made some suggestions for how the

recommendations in the Wave 1 Report could be addressed in this working group, with some implementation guidance and possible recommendations.

Kathy, would you like me to just start from the top here as it relates to the URS? I'll just note too that Staff has taken this fourth column, and we've put that text into Public Comment Analysis Summary document side by side with the relevant recommendation/question. So that's another way we could show it as well, or otherwise people can toggle between the two documents if you like.

KATHY KLEIMAN: We'd prefer not to toggle. Toggle between which two documents, Julie?

JULIE HEDLUND: Well, this text here on the fourth column, a Staff has actually put it into the summary document that we were just in and put it in as a comment as a sidebar right next to the relevant recommendation. So Recommendation 1, Question 1 and Recommendations 2 and 3. So this text is duplicated there. And then you can see the recommendation and this text side by side. Because really this –

KATHY KLEIMAN: Just finalize some recommendations and change the language a bit. So should we wait then to review the other table, it sounds like, when it's been updated?

JULIE HEDLUND: Well, what we may find is that in the recommendations and the new proposed recommendation in response to Question 2 already addresses some of the recommendations that Staff has suggested in this column four. Some of the discussion you've been having today then does lead into and I think addresses some of the suggested approaches here in this fourth column.

KATHY KLEIMAN: I think so too, but it may be hard to review without kind of finalized that. If you could, why don't you provide an overview, if you would? It's been pointed out by Marie that John McElwaine may have some additional insights. John, whenever you want to raise your hand, go ahead. Julie, why don't you go ahead and at least start guiding us through it? Also, tell us what you need from us. So one thing I can already note in column four is that there are references to Recommendations 1, 2 and 3, but we need to probably add Question 1 in that list as well. Is that what you're looking for? Is it consistency? Is it kind of factual corrections? What can the working group do to help with this table? I think he just said it, but let's zero it down.

Let me try it. In light of the recommendations as we have finalized them, subject to consensus call of course, we're trying to make sure if there are changes that have now been met – actually, I'm not going to phrase it very well so let me hand it back to you. What should we do?

JULIE HEDLUND: Thank you very much, Kathy. I don't think I will phrase it any better. There's a couple of things here. So if you look at the first bit of text here, some of the work can be done in an IRT. Either the EPDP Phase 1 IRT or the RPM Phase 1 IRT, perhaps with a decision made by GDD, depending on the timing of the IRTs. And these are terminology changes only. So they are just operational changes that make sense to take place in the Implementation Review Team phase. I'm sorry if there's a big truck going by. I hope that didn't get into the sound here. Oops, that went way too fast. Sorry, let me go back up.

So that's what this first one is about. And to be clear, this terminology change would still require implementation guidance. So what Staff could suggest is drafting the implementation guidance for the working group to consider that would address the terminology changes here relating to Recommendations 1, 2 and 3.

KATHY KLEIMAN: The terminology being is referred to the WHOIS, changing references to the WHOIS and the URS to RDS and RDDS?

JULIE HEDLUND: Right. So what you see, the types of changes required in this column two. The recommendation is for the consistency of terminology. So that means that where there is WHOIS, then we need to update those references. And there's more detail here as far as specifically what that terminology would be.

John McElwaine is saying, "The Wave 1 Rec 27 was simply to update terminology to match the new SSAD model." Thank you very much, John.

KATHY KLEIMAN: John, is this all Wave 1 Recommendation 27? Everything we're looking at? Because it seems to go a little farther than terminology.

JOHN MCELWAINE: Hey, this is John McElwaine. I don't know if you can hear me. Good, good. Wave 1 Rec 27 was simply to update terminology. The question that we all had is whether there is going to be if by updating any terminology that was going to change anything other than just the words. So, Kathy, that's a good point, we want to make sure that consistency with procedures and policies remains. And it's why we need to talk about how is this going to be presented so that we can all, as a group, get comfortable that it really is just changes in the words. But I have not seen anything yet that changes policy. That being said, I haven't studied it either. So that's what we need to do as a working group. Thanks.

KATHY KLEIMAN: Julie, with our nine minutes left, would it make sense to go through this? John, also, would it make sense to go through this in more detail? It looks like we may be continuing this on the next call because this excellent background that you provide to Julie may help people dive more easily into the document. It's a pretty dense document. Or should we put out a call to see if people have

read it and they want to flag that there are some issues? If the goal is to change language, are there any issues that might be raised in the text? And just kind of flag it so that we know what to deep dive into as we review it for next week. Julie, go ahead, please.

JULIE HEDLUND:

There is actually more to this than just terminology and some that we indicate is covered by some recommendations that already exist. So I'm looking here at this next one. If you look at how this is organized, here, items 1, 2, and 8, those are the ones that deal with terminology. So that would be these numberings, 1, 2, and then 8. Then items 3 and 4. So here where URS section 1.2 provides a service provider make space in the complaint form for the numerated information associated with this URS complaint. Per the EPDP Phase 1 Recommendation 23, this provision may be updated to clarify that a complainant will not be deemed administrative deficient for failure to provide the name of the respondent and all other relevant contact information. Then if you look down at 4, then there are further recommendations. EPDP Phase 1 Recommendation 21: Consider whether there is a need to update existing requirements or clarify that a complainant must only be required to insert the publicly available RDDS data for the domain names that issue its initial complaint. And upon receiving updated RDDS data, if any, the complainant must be given the opportunity to file an amended complaint.

Then if you look over here, addressing 3 and 4, Staff is suggesting those are addressed by the working group's proposed recommendation that the working group recommends that URS

Rule 3(b), and where necessary, a URS Provider's Supplemental Rules be amended to clarify that a complainant must only be required to insert the publicly-available WHOIS/Registration Data Directory Service data for the domain names at issue in its initial complaint. Furthermore, the working group recommends that URS Procedure paragraph 3.3 be amended to allow the complainant to update the complaint within two to three calendar days after the URS provider provides updated registration data related to the disputed domain names.

That is something that from Staff point of view seems to be addressed but then we're noting with 5 and 6. So paragraph 5 and 6 are not specifically addressed, and so we're suggesting the implementation guidance that was referred to in point one, that is clarifying that provider's obligation is limited to what is in the public RDDS, except for where the relevant information has been provided to it by the Registry or Registrar is applicable and clarify what information may not be changed by registrant, i.e. public and non-public elements.

Then also consideration of URS proposal. Number one, to take into account – and I'll just push down here. Hold on. Take on a proposal recommendation to be consistent with –

KATHY KLEIMAN:

Julie, as we go through, I'll just flag that. I think there may be inconsistency in this section versus what we just adopted. So maybe we're kind of double-checking that as people review it. Hold on.

To Paul McGrady's question, "If our report is adopted last by the Board, doesn't our language choice govern over the EPDP?"

Let me speculate on that as an individual and then Julie, John – particularly John – please comment. My sense is, Paul McGrady, that the EPDP is asking for input, so that they'll probably go with what we're suggesting. I think they're deferring to us as the experts but they want the input. I could be wrong about that.

JULIE HEDLUND:

Kathy, I think that is correct. Yes, I mean, specifically coming out of the Wave 1 Report were this request for this working group to consider how to address the recommendations. So, for instance, the changes in terminology, for instance, as implementation guidance or recommendations and so forth.

KATHY KLEIMAN:

Julie, you note, the work in column four here under seven, I remember being confused as I read this. That the working group, I assume that's us, not the EPDP, the working group should consider relevant of Purpose 6-PA5 to the proposal of Sub Group B member in response to URS Question #1, that may already be a done deal. But one thing I had trouble finding was Purpose 6-PA5.

Bye, Maxim, thanks for joining us.

So I wonder if that is something we could see because it's referenced several times. I know we have three minutes. So the background here would be great. And then before we leave, I do want to flag that we will not be continuing this discussion on

Tuesday but probably next Thursday. We'll discuss why just before we leave.

JULIE HEDLUND: Thank you, Kathy. Actually, that language is here in the comments. I just am not finding it at the moment. It's on Question 1 and for some reason I'm just personally not seeing it. There it is.

KATHY KLEIMAN: I think we've gone one step forward in today's discussion so I'm really glad we'll be reviewing the table after the next round of updates to the Public Comment Analysis with the working group deliberations because Staff had to prepare the table before we had done URS Recommendations 1, 2, and 3. Now we have that along with the Q1 smaller recommendation. So once we have that final language, I think it'll be easier to review the table, but that's just my personal opinion.

Does anyone have questions about the table that we can ask Julie and Ariel, because we'll be continuing it? And Phil says, "We should be making relevant aspects of URS consistent with EPDP 1. I don't see how our charter lets us reconsider and change its recommendations."

But again, Phil, I thought that they were asking for our expert input on areas that were, in many cases, beyond their expertise. I know people have come to me formally and informally just to understand better the URS. So I don't think we're trying to contradict the EPDP. I think our job is to help them and make sure that we're as consistent as possible. Last thing we want to do is

report out things that we could have fixed or clarified or helped make consistent language and then didn't do it and that creates inadvertent problems. So I think Maxim said something similar in the comments.

Julie, do I take it, we will be continuing with this table but probably on Thursday?

JULIE HEDLUND:

Thanks, Kathy. Yes, we'll go ahead and put it on the schedule for next Thursday, and next Tuesday will be for overarching Question #2.

KATHY KLEIMAN:

Right. So again, let me ask quickly if anyone has any questions for Julie or Ariel on this table. Then yes, Any Other Business. Phil warns us, "We should be careful to clarify not create conflict or contradict." Absolutely. And that should be our goal. Now that we've clarified it, that should be our goal as we read through the table in preparation for next Thursday.

Next Tuesday is kind of an interrupt where we go back to the last piece of the comments that we haven't reviewed yet. That we've reviewed everything else, we're much more advanced on everything else. But overarching Question #2 takes us back to the question, should the URS become consensus policy? And we are dedicating next Tuesday's meeting, the early meeting, to that question. As Phil said in an e-mail recently, please review materials and come prepared for an active discussion about that.

Again, interrupt for Tuesday and then continuing where we are on Thursday.

Thank you for a great meeting and active discussion and moving forward with a number of recommendations. Thanks so much. Have a good weekend and we'll see you on Tuesday. Take care.

JULIE HEDLUND: Thank you very much, Kathy, for chairing and thank you, everyone, for joining today. This meeting is adjourned.

KATHY KLEIMAN: Thank you, Julie. Thank you, Ariel.

[END OF TRANSCRIPTION]