ICANN Transcription

IDNs EPDP Charter Drafting Team Group

Tuesday, 04 May 2021 at 12:00 UTC

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NATHALIE PEREGRINE: Good morning, good afternoon, good evening, everybody. Welcome to the IDNs EPDP drafting team call on Tuesday 4th of May 2021. In the interest of time, attendance will be taken by the Zoom room only. This call is being recorded. Please remember to state your name before speaking for the transcription and to keep your mics and phones on mute when not speaking to avoid any background noise.

As a reminder, those who take part in the ICANN multi-stakeholder process are to comply with the expected standards of behavior. With that, I'll hand it over to Dennis. Please begin.

DENNIS TAN: Thank you, Nathalie. Welcome, everyone. Today, our last, I think, conference call. This is the last stretch. So thank you, everyone,

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for being here and contributing to this work. But today, we have our agenda in front of us. We are going to discuss the final comments on the draft. Pretty close.

I think we have a few comments here, Donna's comments, basically the same thing about the coordination level that needs to exist between the SubPro IRT and this working group and the future IDN EPDP IRT. I responded via e-mail, so just need to make sure that the language is more explicit, I guess. Right? It's not as clear as it is now, so we need to do our work on that.

So that's for item two. For number three—so we'll take next steps. I think I'll point to Steve and Ariel just to walk us through as far as next steps vis-à-vis the work with the GNSO Council, and then we'll open up for Any Other Business.

All right, so I think we can jump to our document now to view the comments that we ... I think there are a few of those, so we can work through those line by line. Ariel just posted the link to the document on the chat box. Okay, so we go to page number three about the coordination just to make sure what's the level of coordination that we want where we expect between the SubPro and this new IDN EPDP just because they overlap as far as the recommendation in relationship with IDNs. So hopefully, that makes sense.

In addition to that—and we'll see below—there are certain questions. Remember that we have questions that—I'm sorry, policy recommendations that [overlap] 100%, meaning that the staff paper and the SubPro agree 100%, and those will not be revisited. The question for the IDN EPDP is whether that

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recommendation can be or could be applicable to the existing TLDs.

And as far as implementation goes, if there is agreement between SubPro recommendation and IDN EPDP recommendation, there needs to be some coordination so that the language the IRT puts together of the different IRT efforts are consistent in nature so that there's only one implementation and not two.

And so just want to see if there are any reactions to that, or comments, observations as far as clarification of what the expected coordination between the two Work Streams. I'm looking at the chat and I have a queue now. I have Edmon and then Maxim. Edmon, go ahead.

EDMON CHUNG: I think it's quite clear on one side, which is this working group would be independent and I guess work independently from the SubPro IRT. I just wonder if there needs to be a description on the IRT [that] also doesn't need to wait for us. I think it should be assumed. I'm not really advocating for that we need to add that, but is there a need for anyone to do that? I think this is fine, and basically to say that we don't need to wait for them. And by the same token, they don't need to wait for us either.

DENNIS TAN: Thank you, Edmon. Yes, I think that's the case. So whoever IRT comes first to the implementation guidance, I think they're just first, they don't need to wait for the other group. But some coordination is expected. I'm not sure whether we have to say

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MAXIM ALZOBA: I wonder why we have here singular, the future Implementation Review Team, for both PDPs. I thought we should have Implementation Review Teams, because if it's the same team, that they will have to wait for deliveries of this working group, and it will create dependency which is not necessary, so I suggest we change text to the future Implementation Review Teams for SubPro and this working group. Thanks.

DENNIS TAN: Thank you, Maxim, for that observation. Yeah, I think the intent is to have each PDP have its own IRT, we're just asking here that there has to be coordination, but not one single IRT, because they are two different monsters, if you will. So each one has its own IRT, but it's a try to coordinate the implementation. So yeah, we'll make that clear.

Yeah, future review team for—yeah, IRTs, yeah, teams. There you go. I think that's what you mean. Yeah, now I think it reads better. Yes, Maxim. The future Implementation Review Teams for SubPro and this working group should coordinate on [inaudible]. Yeah, all right. So thank you, Edmon. Ariel, please go ahead.

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ARIEL LIANG: Thanks, Dennis. I just want to make sure I understood this clearly, because I thought when we talked about coordination, it's between the working group of IDN EPDP and the SubPro IRT, not wait 'til the IRT step for the EPDP IDN, for the coordination, because this working group will already start deliberating on these recommendations and areas that may overlap with the IRT deliberation.

So I'm still kind of ... not completely clear which level of coordination we're talking about. It's only on the IRT levels where it's between the SubPro IRT and the EPDP working group. So I just want to make sure we can clarify that.

DENNIS TAN: Okay. Thank you, Ariel, for bringing a different perspective to it. So the SubPro PDP is over, it's completed, they issued the final report, so the next step for that PDP is only an IRT.

For the IDN EPDP, there is the working group that is going to deliberate on the policy considerations, they will take into account the SubPro recommendation as policy, basically, so they will not relitigate those issues, they will only look at all of the gaps that we found and the applicability to new TLDs. And follow up on that effort, there's the IRT, the implementation of it.

So what we want this working group to coordinate, for one that's clear to me, is the implementation layer, because if there is agreement between the policy considerations of the applicability of existing TLDs, and there is agreement in what SubPro recommendations or policy considerations are going to be, there

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needs to be coordination at the IRT level. I think that clear, because that's when you talk about the implementation guidance, how the policy will be effectuated.

Now, the timing of those IRTs are going to be potentially very different because of this IDN PDP with more focus, less topics to be dealt with. Unlike the SubPro IRT, we have all different aspects of it. So I think what I'm picking up, Ariel, is because of the timing, that coordination might not be efficient or because of the timing's not going to be done efficiently, I guess, unless the SubPro IRT finds a way to break out different working groups to look at the different issues and what have you.

So, is that the main concern here? It's clear that both IRTs need some coordination, right? Especially there's agreement in the policy recommendations. The concern is the timing of it or something different? Yes, Steve, go ahead.

STEVE CHAN: Thanks, Dennis. I can try. It's a little earlier, let's see if my brain's working properly. I think the original reason why this coordination element came up was because I believe Jeff had suggested that most of it could be left to the SubPro IRT, but I guess based on maybe just circumstances and timing, It's possible that the IDNs EPDP might get to the issue faster. So I thought the original concept was to allow the group that gets to the questions earlier to actually work on it.

I think it doesn't hurt to add the element that you are now discussing, that if the two IRTs actually overlap, in that case, they

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also need to overlap. But at least from what I understand, the original reason was because the EPDP and the IRT of SubPro might overlap. Thanks. But yeah, I guess just to reiterate, the new wrinkle that's I believe being added is to also include coordination between the two IRTs if they also overlap.

DENNIS TAN: Ariel, please go ahead.

ARIEL LIANG: Thanks, Dennis and Steve. Same comment as Steve, and also just a concrete example is for example, this working group has a charter question about what to use to identify the same registrant as the same entity on the second level, and what is the right mechanism? So that kind of applies to both future and existing gTLDs, so this is an area of the potential overlap because the SubPro IRT will figure this out for the future gTLDs second level. And then this one will kind of tackle both future and existing. So whichever group gets to this question first and then put forward a recommendation with the right mechanism should inform the other group. So it's not just staying at the IRT level, it actually already starts in the working group level for the EPDP IDNs.

So I guess just to summarize, this coordination is probably twofold. One is between the EPDP IDNs and SubPro IRT, and then the other is the EPDP IDN IRT and SubPro IRT. So I guess we probably can clarify that here.

Thank you, Ariel. Yeah, I think I agree with that. So that is clear, the two different levels of coordination. I have Edmon.

EDMON CHUNG:	I agree with, I guess, both Steve and Ariel, but just one thing. I don't think we need to make it complicated here. Honestly, the fact is that the coordination should be there throughout, all the way to completion of implementation. And I think if the IDN EPDP IRT needs to be coordinated, the IDN EPDP report could talk about that. We don't have to cross that bridge right now. I think we can just keep it simple and not complicate the matter too much.

But the core of it is that there are overlaps, and there is need for coordination, and neither side is supposed to try to—or not even try to, but neither side is supposed to stop the others from progressing, and that's the core of the—I guess that's the principle.

DENNIS TAN:	Agree here. So, can we make this more clear, or is it not clear? We're not saying—and I think there's no precedent of different PDP ever having single IRT, so I don't think that should be a problem. Edmon, is that a new hand?

EDMON CHUNG:	It's not, but I typed it in also. I think right now, it's [actually fine,] especially with the clarification that was just put forward, the understanding. And if this is brought to the Council for their consideration, I think what is here is already fine. But if you want to add a few words just to make sure, I'm not against that either. My point is just to keep it simple.

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DENNIS TAN: Okay. Thank you. So we'll review this. Let me see, the future [inaudible] and this working group ... I don't know if that makes it ... Hopefully that addresses everybody's concern there. All right, any final thoughts on the coordination language here?

All right. Seeing none, let's move on to the next item here. We are now on page six. Donna's comment on whether there's the working group [inaudible] independent, and we answered yes. So I think having already discussed what type of coordination we're expecting between working groups, I think this is already addressed here. Okay, Edmon, thumbs up. All right. So moving on, Donna asks here, which I think we already addressed too, in the case that the question is not answered in an affirmative or positive manner what's next, we added the provision for, okay, what happens if not, in terms of whether the working group agrees or doesn't agree with that. So I think that's already addressed too.

I don't see any more hands here. Let's move on. Page eight, same question about the coordination, so that's already answered. Let's keep moving here. That's coming from Sarmad. So on C2, this is a question about the same entity and the implications with current contract language or RSEP language here, and he's asking whether there will be a need for a comprehensive survey of second-level registry policies. If so, such study should be budgeted.

So the question pertains to the language of the RSEP and the contract, and that's basically what the working group is asked for, to assess what was the changes or deviation that the contracts

need to or how the new policy about same entity—sorry, let me step back. So the implications of having the registrant as the same entity, how does that impact the current contracts where it states that it's at the registrar level that the same entity needs to happen or relationship between variant domain names as opposed to the registrant?

So it's at the contract level and not necessarily registry policy. I would imagine the registry policy will be consistent with the contract and not so much with the new recommendation of same entity. So I agree with Ariel, there is no comprehensive [survey condition] here, and maybe useful, but the question here is the impact to the contract language, the status quo.

Sarmad, if you want to add something or clarify maybe the question, rationale, maybe that will be helpful if you're inclined to do so.

SARMAD HUSSAIN: Thank you, Dennis. No, I just didn't understand that correctly. Thank you for explaining. I'm good. Thank you.

DENNIS TAN: Okay. Thank you, Sarmad, for that. Moving on, another comment on C4A about the definition of behavior here. I think we used the term "behavior" because the SubPro used behavior, and I think Ariel also ... Yeah, there you go. I think that clarifies the meaning here. I think SubPro use the term "behavior" to explain the allocatable—or the disposition, basically, of variant space on IDN table rules. So yes, the answer to your question is yes, behavior

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means disposition. And Edmon agrees to have both there, so that's clear. All right, so let's do that.

Next comment from Donna, yeah, the work independent, we answered that question, so it's clear that this effort, the working group is going to work independently. So keep moving.

We have a parking lot question on page 19, but that's for the GNSO Council consideration. So, how do we intend—and Ariel, maybe asking to you, are we going to add them on the cover letter when we send the initiation request? Or how do we intend to address this or bring this to attention to the Council?

ARIEL LIANG: Thanks, Dennis. I haven't thought through the best approach with regards to this question, although I'm doing some consultation within the GNSO support team for the RPM PDP and seeing what their feedback would be. So I think if this drafting team do believe this is some question outside the remit of this working group, then we should highlight this to the Council in the cover letter or some other way.

We will figure out some among the support team and with you, Dennis, what's the best approach to bring this to their attention. But we'll get back to you on that. I don't have a concrete answer at this point. But the consultation with the RPM support team is ongoing and I would follow up with them and see whether they think this is something that can fit in phase two for the RPM PDP or something else. We'll probably take this offline and we'll get

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DENNIS TAN: Thank you, Ariel, for that. Go ahead, Maxim.

MAXIM ALZOBA: First of all, I do not think that charter of RPM phase two allows for additional work on IDN PDPs, issue of same entity. And I don't understand why we think we will not have enough persons with expertise here, because in preliminary conversations with the IPC, when I told them that quite interesting development might be ahead which will require understanding of legal issues, in particular same entity for different domains which are variants of the same thing, they told me that they're interested and at least someone will be there. So I suggest talking to Council or sending note to Council to check if all constituencies are going to attend, to send someone to this PDP to ensure that the legal issues will be properly covered is the thing to do. Thanks.

MAXIM ALZOBA: Thank you, Maxim. Just reading Steve's note on chat. Yeah, I don't think the best way is to at this point—well, let me take that back. Maxim, I think I agree with you. There is no way they can know about IDNs or the same entity, because that's still not implemented, so it's hard. But I think we need to find a way to alert the Council that there is some dependencies or will be or might be some dependencies or some adjustment in order to implement the same entity behavior, if you will.

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We already have questions around those in terms of for example the transfers, which potentially will or perhaps will have some impacts to the transfer policy that's currently underway about how the transfer is happening in UDRP and so on and so forth. So we'll find a way to alert the Council that they need to be aware of these dependencies, and at some point, something needs to be done so that everything, or to the extent possible, policy recommendations and action are consistent to each other.

Okay. So we'll keep this just for us to keep in mind that we need to—perhaps in the initiation request or some other vehicle, we make the council aware of this so that they have it top of mind, if you will, during deliberations. Yeah, agreed, Maxim.

All right, so let's keep moving.

ARIEL LIANG: Dennis, I'm sorry, I have my hand up. I just want to add that—so this is tied to item three in the agenda about next steps. As we know, the council will consider the charter and initiation request in the May meeting. Just among staff and Dennis, we have discussed the possibility to include a brief kind of presentation or a briefing about the charter before the Council starts to vote. So this will provide opportunity to highlight what is in the charter and what type of questions we include and what expertise this working group may need, and in that time, we could highlight there are some RPM-related questions and we need people from IPC or people with knowledge and expertise in intellectual property-trademark protection [inaudible] as well. So just want to add that, and we will be able to do that in our segment.

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DENNIS TAN: Good idea, Ariel. Let's do that. Yes, Edmon, I think we were discussing whether I can go a ten-minute presentation. Yeah, that's in the plan. All right, let's keep moving. 21, add clarification about the rights or prerogative that the working group might have. That is not here in the charter specifically as far as getting data metrics. So just clarification, just passing here for a second, see if there's any reactions here, observations. Okay, seeing none, let's keep moving.

I think that's it. All right, so we went through that. There are no outstanding comments here, so I think this is it. What I would like to do, because of all the members that were not here—can we walk through the timeline here and maybe go to next steps and talk about the timing? I know there is a—is May 10 the deadline for submitting the package to the Council?

ARIEL LIANG: Thanks, Dennis. Yes, that's correct. So that's Monday, which is the documentation deadline. We need to submit the charter and also the initiation request. And perhaps we're already at item 3, next steps, and Dennis, would you like staff to talk about what to expect, or any other remaining comment for the charter?

DENNIS TAN: No. I was going to suggest, because we have other people that were not here today, just give them until end of day today or maybe 24 hours give and take time zone differences, and start getting ready for the package. But before that, let me see, so May

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10 is the Monday, so we need to submit all the papers, right? All the package. Yeah. Exactly right, Edmon. Just want to make sure we have—it's either 24 or 48. So we have a meeting. Ariel, can I turn to you to explain next steps and what needs to happen between today and May 10 and see what the last call would look like, 24-48 hours?

ARIEL LIANG: Thanks, Dennis. So staff also agree with Edmon's suggestion, maybe we can do a 48-hour last call, perhaps until EOB Thursday to give the drafting team members a last opportunity to provide any comments, suggestions, clarifying questions, and then please, perhaps we can do that on the mailing list so that everybody can see other people's comments, and just go through the clean charter again, and also the clean version of the initiation request. So after that, perhaps Dennis, you can get together with staff on Friday and then we can go through all these last comments, questions and try to resolve them on Friday and then produce the final version for circulation before EOB Friday to the drafting team, and then basically, that should just be the stable or final document and then we submit that on Monday to the Council. So perhaps that's the suggested next steps. And I want to add one thing about this initiation request. So after last week's meeting, we already cleaned up this initiation request by incorporating everybody's comment. There is one part that's still pending which is item E, we need an opinion from ICANN general counsel regarding whether it's within the remit of ICANN's mission and GNSO's role.

So we have heard back from the legal team that they don't have any concerns with regards to this question and they have already

produced a draft response, it's just at the level with John Jeffrey because if we need to include general counsel's opinion, so he's the general counsel and he just wants to confirm all the content is okay. So we may wait a couple of days, but I already informed them about it's the latest Thursday you'll be, so I trust they will get back to us before that deadline.

And then once they provide that content, I will put this into this document and then the drafting team can look at what they wrote. So just a heads up on that. That's all from me.

DENNIS TAN: Okay. Thank you. So with that, I'm just looking at my calendar to see how we fit everything together. So we can do then a 48-hour last call, and the last call, we will just send the e-mail at the end of this meeting, and the last call will end Thursday May 6th at 10:00 AM Eastern time, and we'll do it via e-mail, so we will log the documents so that there is no more suggestions, edits on the document, everything is going to be via e-mail. So staff and I, we have a meeting on Thursday 11:00, so we'll review any additional observations that were sent via e-mail during the last call, incorporate legal's piece on the initiation request and prepare the package between Thursday and Friday so that we can easily send that on Monday. Does that sound like a good plan here?

Okay, I see no reactions to that, so I guess we're good. So again, 48-hour last call ending May 6, 10:00 AM Eastern, and [inaudible] via e-mail. May 6, we'd receive the legal input that we need for the initiation request, and between Thursday and Friday, staff and I finalize the package for the Council that we send no later than

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Monday May 10th. So I think that's as far as next steps. Am I missing anything, Ariel, Steve?

ARIEL LIANG:

Not missing because I haven't mentioned this yet. When the Council needs to vote on the charter initiation request, we will need to prepare a motion for this. Actually, Steve and I were discussing this internally. We thought maybe it's good to have two versions, one for the initiation request, the other is the charter, but still, we were kind of discussing whether to have one to tackle both or have two for each.

And then with regards to the motion, we do need the proposer for the motion who usually needs to be a councilor, and also a seconder for the motion also needs to be a councilor. So perhaps someone on the drafting team can be the proposer on the motion, because we have several councilors in the team. So just a heads up on that. And yeah, I guess we just need to call for a volunteer to be the proposer of the motion among the councilors in this team. And also, staff will prepare for the draft text for the motion. So I think this is something we probably also should circulate with the team to check the language, but it should be pretty straightforward, really. So yeah. We do have Maxim, and then Tomslin and Juan, all three of them are councilors. So we have several choices.

DENNIS TAN:

Sounds good. And when do we want to circulate these motion, draft, language, Ariel so that the team is aware?

ARIEL LIANG: I think we can do that at the same time as when we circulate the clean or final version of the charter and initiation request. It's going to be a one-page thing, really kind of short, and it should be controversial at all. We have standard templates for how to initiate a PDP, how to approve the charter. So we just reference the language there. The question is, we just need to get who's going to be the motion proposer and who's going to be the seconder. That's all we need, basically.

DENNIS TAN: Okay, sounds good. Looking at the chat, it looks like Maxim will be the first to speak. All right. Anything else, Ariel?

ARIEL LIANG: I guess maybe the last thing, which is not an immediate next step, it's more like—and I see—thanks, Tomslin, to second. Thank you. So it's not immediate next step, but jus a heads up for the charter drafting team is that we have proposed a session in ICANN 71 to be a community outreach session on EPDPs on IDNs, and it's tentatively scheduled on Monday, I think, 18th of June—let me double check the date and time. Just one moment. Sorry, 14th of June, and it's a 14:30 UTC for a one-hour session. So it's going to be kind of similar to the transfer policy outreach session in ICANN 70, it's just an opportunity for the community to learn about this EPDP and it will be within a period that we're likely going to solicit volunteers among SOs and ACs. And definitely, as Edmon said,

it's an opportunity to recruit participants and members for this PDP.

So we have put forward that kind of session, and it will be in the schedule, but we will probably need to get in touch with the drafting team in terms of how to organize that and whether to involve the separate members in the drafting team to talk about the charter, talk about the composition and answer questions from the community to make it interactive. So this is something kind of on the agenda. But not immediately we need to tackle this, but within the month of May, we will start organizing this and get this session planned properly. So just a heads up on this item.

And yes, as to what Maxim said, if the Council has approved the launch of the EPDP and the charter, then the following [inaudible] will be [preferable, and here's to] SO/ACs and GNSOs, SGs and Cs and also, we need to send out the call for EOI of the chair position. So yeah, that will all be done according to the procedure, but then this community outreach session will be an additional opportunity to make it interactive and then raise awareness of this EPDP among the community.

DENNIS TAN: All right. Anything else, Ariel, Steve? So I think that goes as far as next steps, so, thank you, Ariel, Steve. Let's open up for Any Other Business at this point. Seeing none, I'm happy to give you a few minutes back to your day. Yeah, Edmon, I agree, looking forward to the next phase, getting closer and closer to this long-anticipated work product. And just as a personal note, thank you, everyone, for joining every single week for the last four plus

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months to finalize this work. It's been my pleasure to work with you, and good work, and again, looking forward to the next phase.

You're welcome, Edmon. It was my pleasure. All right, so with that, I'll give you 11 minutes back to your day, and keep looking. We are done but not done-done. So look out for that e-mail on the 48-hour last call, next steps, and the final work product, and then we can celebrate virtually. All right. Thank you, everyone. Have a great rest of the day and week.

NATHALIE PEREGRINE: Thank you all for joining. This concludes today's call. You may now disconnect your lines. Have an excellent rest of your days and evenings. Take care, everyone.

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