

**ICANN
Transcription
Sub Team for Additional Marketplace RPMs
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Julie Bisland: Good morning, good afternoon, and good evening to all and welcome to the Sub-team for Additional Marketplace RPMs call on the 18th of August 2017. In the interest of time, there will be no roll call. We will be taking attendance via the Adobe Connect room, so if you're only on the audio bridge, would you please let yourself be known now? I know we do have Kathy Kleiman and Jon Nevett noted. And also as a reminder to all participants, please state your name before speaking for transcription purposes and please keep your phones and microphones on mute when not speaking to avoid any background noise.

With this, I will hand the meeting back over to Greg Shatan.

Greg Shatan: Thank you. Greg Shatan sitting in for Paul McGrady today as Chair. I am using Adobe Connect through iPad brand tablet so the one problem with that is that it does not put the queue in order. So I'll ask staff if there are multiple hands up to let me know who is first. Other than that, should be seamless one hopes. So we have a brief agenda, roll call, which has already happened, updates to statements of interest. Unless anybody comes forward, I expect we have none. Nobody has gone anywhere new or done anything interesting in that regard.

So that brings us to item two in the agenda, which is to review the updates and more targeted sunrise data collection proposal and that appears to be in the -- is that what we have up in the Adobe Connect?

Mary Wong: Greg, this is Mary. What we have in the Adobe Connect is the updated document for additional marketplace protections.

Greg Shatan: The main document.

Mary Wong: Assume that's what you meant, yes, and this is the update that was sent around to the sub-team a few days ago, and you see the date there, which is the 15th of August. And the only updates that were made by staff were based on this sub-team call last Friday. And so we've tried to capture them regarding questions two, three, and four. And I believe that last week, we ended the call, after having discussed these potential changes, with a note that for the first item of business under the agenda today, although I don't see him on the call, Claudio DiGangi had raised a question about question number five and whether it covered, I believe, an evaluation of the effectiveness of the mechanisms in light of the mandatory and voluntary ones that exist.

So like I said, I don't see Claudio on the call but that is indeed where we stopped and we have of course not yet discussed question six. I hope that helps.

Greg Shatan: Thank you very much, Mary. Much appreciated. Following as a participant does not always prepare one to suddenly become a chair of a particular call. So we've had some opportunity to look at the changes to two, three, and four, which have been pretty well taken care of. I don't know if there are any issues anyone wants to raise on those three. If we don't have Claudio to discuss question five, unless there are any other questions on five, I see that the next thing on the list to discuss was question six, which had been passed over in our first trip through the document because Jon Nevett was not able

to make that call, but we have Jon on this call. So I'll just ask if anybody has anything on two, three, four, or five before we move to question six.

Woman 1: Kathy Kleiman:

Greg Shatan: Yes?

Kathy Kleiman: (Unintelligible).

Greg Shatan: I'm sorry, I'm not able to understand whoever is talking. It sounds like they may be in a very windy place.

Kathy Kleiman: Yes, we're in the car, Greg. This is Kathy Kleiman. Can you hear me?

Greg Shatan: Yes, marginally.

Kathy Kleiman: Okay. It was just a request that you read question six before we start talking about.

Greg Shatan: Oh, absolutely I will do that. Yes, and your sound did improve their toward the end so whatever you did, close the window, put up the top, it worked. I won't ask who's driving in terms of the driving is an issue.

Kathy Kleiman: You know who's driving, Greg, and it's not me.

Greg Shatan: Okay, well, don't want to distract anyone too much. So I see no hands or indications that we need to go anywhere before question six. So as requested, I will read question six. Question six currently it begins with "Proposal to Delete." "What approval process, if any, from ICANN is required to offer these services, RSEP, other, or none?" Then there's a bullet point after that, "Initial review of RSEP requests indicates that some services," and the words "protected marked list" has been inserted before services, "were

submitted for and received RSEP approval, while others did not request approval. What explains this difference?"

Then an informational note, "Section 2.1 of the standard new GTLD registry agreement permits a registry operator to offer registry service that is an approved service but requires it to request approval under the registry service evaluation policy, RSEP, if it wishes to offer any service that is not an approved service or is a material modification of an approved service. It is important for the working group to understand whether a registry offered RPMs, especially those based upon TMCH marked registrations, have been subject to any such approval review and if so, what criteria are utilized in their evaluation."

So there's also a couple of notes in the margin. Note from the 4th August call, sub-team members on the call agree this is an overarching question for this topic. As such, this question can be marked as such or reordered in the final version of this document. Also, sub-team members on the call agree to discuss -- to defer discussion of this question to the next call, which is now this call. So hopefully that gives everyone including those on the audio a chance to hear what the question says and what various things have been said around the question on the text.

So at this point, I will open the queue. Thankfully, only one person on the queue so I know who is first. Phil Corwin, I see your hand. Please go ahead.

Phil Corwin: Thanks, Greg and Phil Corwin for the record. I'll speak to this since I had a considerable role in drafting this particular question and I'm not sure why it should be controversial or deleted. I think it's just a factual question. Out of my own curiosity several months ago, when the co-chairs were discussing looking at private RPMs, I was just curious to see if DPML had gone through an RSEP process and when I searched the RSEP database, I noted that some of the DPMLs had gone through and some hadn't. And I just think it would be useful as a working group to know whether or not these private

services require or if not require some registry operators thought it was useful to run them through the RSEP process, and what, if any criteria ICANN used to analyze those requests.

And that's the beginning and the end of it. It's just a factual inquiry as to whether DPML services are a registry service that requires some review by ICANN. That's it. Thank you.

Greg Shatan: Thank you, Phil. Are there any other comments? I will turn in particular to Jon Nevett if I see no hands, since this was indicated as being kind of held for the presence of Jon, who I understand is present but on audio only.

Jon Nevett: Greg, can you hear me?

Greg Shatan: Yes, absolutely.

Jon Nevett: I don't think it was just for me, but Phil's curiosity notwithstanding, I think this may be where this conversation is premature because until we know whether we're reviewing these additional RPMs or just gathering information as they relate to the others seems to me I'm not sure the relevance of whether it went through an RSEP, whether it was in the application itself. All of our DPMLs are in our agreement. So to me -- and what ICANN level of review -- why do we care what ICANN's review is if we're not reviewing them and we're just gathering information?

So again, this is an issue that probably relates directly to what our ultimate goal is for this group and whether we're reviewing these additional RPMs, which most of us I think do not think we should be doing, or are we just gathering information about the RPMs as they relate to the others. So the approval process of these would irrelevant if we're just doing the latter.

Thank you.

Greg Shatan: Thank you, Jon. I may have a question for you later but I have hand up from David McAuley so I'll turn to David. Please go ahead.

David McAuley: Great. Thanks. David McAuley here for the record. I think I'm somewhere between Phil and Jon. I agree with what Jon said about -- the verb review is somewhat charged with respect to these DPMLs and I can understand his point. And I do think that there is a roll, however, for information gathering. My sense of it is that when information is gathered about various DPMLs that people may think of in the future or that exist now, there may be some that are identified that could have an impact on DNS that a review by this group or by ICANN would be appropriate. I don't know what that would be.

So it just strikes me that maybe there's a question that if this is deleted could sort of replace it and more accurately capture that notion that not all DPMLs are subject to review. So I largely agree with Jon but I can see Phil's point and maybe there's a place for a question here along those lines. Thank you.

Greg Shatan: Thank you, David. And I think that kind of raises a question and maybe I'll ask Jon whether there is another way that this could be phrased so that it is relevant to a pure fact gathering exercise. So assuming that we were not going to engage in any kind of active review, as we are, of the mandated ICANN created RPM, is there still a way that this could be phrased that perhaps allays some of your concerns?

Jon Nevett: No, indeed not, and David, with all due respect, the charter of this group is to look at the existing RPMs and whether they should be changed, right. So we decided as a group with my -- I agree that we can gather information about additional RPMs and see how those relate to sunrise, trade, sunrise, and claims, and URS , and UDRP. Whether any of us have concerns about the approval process of additional RPMs, that's outside of the charter for this group in my opinion.

And so the approval of additional RPMs is something that I don't care how we phrase the question, it's irrelevant information. Yes, I'm sure everyone is curious and we could set up a new working group if we want, start a PDP on additional RPMs if you want to try to go down that road, but for the purposes of this, unless we're trying to delay this process, reviewing these additional RPMs is just a waste of time and a rabbit hole. And our role is not to satisfy people's curiosity. Thanks.

Greg Shatan: Thank you, Jon. Just let me read the chat for those on audio and then I see I have Phil followed by Kathy. J. Scott Evans responds, I disagree. I think we should know whether there is or is not an approval process. That is just information. Kathy Kleiman is now online, now, hopefully not driving if you are on Adobe. Plus one, David, Phil, J. Scott. So I'll take the hands that I have. Phil Corwin, please go ahead.

Phil Corwin: Thanks, and I'll be brief in my response, and I understand and respect Jon's position. I think David made a useful comment in terms of possibly reformatting this question so it's strictly focused on data gathering and again, the question wasn't raised with the intent to require RSEP review for any particular private protection or to change the terms of RSEP review. It was simply raised to gather a point of information, which would seem to be a basic point as to whether or not any or all of private DPML offerings required or at least the registry operator said it was advisable to get RSEP review. It's just background information.

So that's it. I don't have anything further to say on this.

Greg Shatan: Thank you, Phil. Can you clarify, Phil, are you speaking in your role as co-chair or in your individual capacity?

Phil Corwin: I'm speaking now, to be clear, I'm speaking in personal position. The co-chairs, I don't think it would be appropriate for co-chairs in a co-chair position to take a position for or against a particular question or how it would be

framed. And my personal position, I think it's just trying to get a data point and if there's a way to narrow the question so it's strictly focused on raising the question of whether or not ICANN review was required for any or all of these DPMLs that's just what I'm trying to get at to understand the process.

Jon Nevett: Could I ask Phil a question there, Greg?

Greg Shatan: Sure, Jon.

Jon Nevett: Clarification, yes. So I understand and J. Scott put it in the chat, it sounds like. Obviously, it's information gathering but to what end? What's the relevance of the information and what could this group use it towards? Again, we still have that question of are we reviewing these RPMs or are we just reviewing the other ones and just using that information? But what relevance -- assuming the latter -- what relevance of whether every registry went through either an RSEP or it's in every one of our contracts, if we want to look at 198 contracts, you'll find a DPML in every one of ours. But what's the relevance? That's the clarification I'm asking.

Phil Corwin: I think the relevance is just to give the working group a better understanding of what process related to the registry operator's relationship with ICANN was followed in offering the DPML. And it may be -- you're saying some of it was in the application and that's a point of understanding that may explain why RSEP request wasn't made in those cases. I think it's just to provide understanding to the working group of what process registry operators followed or would follow in offering DPML or other types of private services.

And I'm just not sure what the sensitivity is on understanding that aspect of the registry operator relationship to ICANN.

Greg Shatan: Thanks, Phil. I've got Kathy. I'm going to read a couple of items in chat for Jon's benefit but first, I wonder whether one of the particular items of friction in the current phrasing of the question may be the word required and for a

pure fact gathering exercise, maybe the fact of whether or not the RSEP process was followed by one registry and not by another is the question and a fact gathering level we may want to go to, and not whether it was required because that in a sense goes to an issue of contractual interpretation and beyond just the issue of kind of just the facts dragnet style.

So I see in the chat, Kathy Kleiman survived the driving lesson. J. Scott says we could make a recommendation that an approval process should be put in place. I'll note that seems to me something that goes beyond the fact gathering or information gathering role. Obviously, we've not fully decided what the role we have, but that would seem to me to be part of the larger suggested role of the group rather than the smaller suggested role of the group. Rebecca Tushnet responds plus one J. Scott given the interaction with the required RPMs. So I will now turn to Kathy Kleiman. Kathy, please go ahead.

Kathy Kleiman: Can you hear me, Greg?

Greg Shatan: Yes, please go ahead.

Kathy Kleiman: So I think that it's really the last sentence that encapsulates the answer to Jon's question, which is what's the relevance here. And the last sentence, and I'll read it, "It's important for the working group to understand whether the registry offered RPMs, especially those based upon the trademark clearinghouse mark registration, have been subject to any such approval review and if so, what criteria were utilized in their evaluation."

So there's the link is that the trademark clearinghouse is an ICANN created process pursuant to the consensus policy recommendations that we made so many years ago. And so it seems a very legitimate query to kind of find out how these mechanisms that we created and that we're now reviewing are being used, and this is just part of that query. Thank you.

Jon Nevett: So Kathy, could I ask you a question?

Greg Shatan: Jon, go ahead.

Jon Nevett: So then I would take it that you would only care about those additional RPMs that used the trademark clearinghouse information; is that fair?

Kathy Kleiman: I would think that's largely the focus, both the trademark clearinghouse mechanism that (unintelligible) anything related to that process. That's what we're looking at here, right, is (unintelligible) and the trademark clearinghouse. I don't want to (unintelligible) everyone and it's certainly in my personal capacity.

Jon Nevett: Sure. No, that's a helpful clarification that we're only looking at additional RPMs that utilize the trademark clearinghouse.

Kathy Kleiman: Anything involving either the two providers, the S&D file, anything created through the process. Right.

Jon Nevett: Thank you.

Greg Shatan: Thank you, both. Kathy, is that an old hand? Okay, Kathy is now completed. So I see just a couple more -- one more item in the chat from Mary Wong. In this context, DPML and other services using the TMCH services is J. Scott's last comment also related to question eight, which also has been proposed for deletion.

Question eight is, "Given the decision that ICANN should not provide a globally protected marks list as a mandatory RPM, should the offering of protected marks list services, e.g. blocking services, be viewed as inconsistent with that decision, or as an expected and beneficial marketplace supplement? What options for the working group might exist and how might they be pursued?" So the question for the group, is this -- I guess I could ask

J. Scott in particular is how does this comment relate to question eight, if at all? Or if anybody else has any thoughts on that particular point.

Mary, your hand is up. Please go ahead.

Mary Wong: Yes, and just to say that I didn't mean to throw everybody off course since we were on question six and we still have question seven, but nothing that J. Scott had made the comment earlier and I had thought that that was in response to the question if we were to gather the information on RSEP or approval processes, what would be the relevance of that information. And J. Scott had said that we, meaning the working group, could make a recommendation that an approval process should be put in place.

And so extrapolating from that, I think I was just trying to put in a placeholder for the group that when we get to question eight, whether that is a similar consideration as well. Sorry for confusing anyone, Greg.

Greg Shatan: No problem. I think there is definitely a relationship in my mind but not sure how to answer the question, plus not my role to answer. In the chat, Phil Corwin says I have to think about it, but, and this is a personal view, I'm not sure that the WG has any authority beyond noting the existence, to look into private protections that don't use the mandatory RPMs. J. Scott says, I am sorry, I'm not sure I understand the question. Then after Mary's clarification says thanks, Mary.

And I'll look and see if I have any hands. I have a hand from Brian Cimboric. Brian, please go ahead.

Brian Cimboric: Thanks, Greg. Can you hear me okay?

Greg Shatan: Yes.

Brian Cimboric: Great. So Brian Cimboric for the record. So just to jump to what Mary and J. Scott together were touching on in J. Scott's comment to question six, some sort of formal recommendation that an approval process be in place. I think that that, and this sits on what you were mentioning earlier, Greg, I think that falls well outside the scope and purview of our information gathering. We are not here to pass judgment on whether or not any individual or marketplace RPM is within or out of compliance. That is appropriately a matter for ICANN compliance. We're here to gather information. We're not here to pass judgment and say these services went through the appropriate process, these services did not. That's a matter between ICANN and the contracted party involved, the registry. Thanks.

Greg Shatan: Thanks, Brian. I'll play devil's advocate a little bit and ask whether you think there should be an approval process for the use of TMCH information, including SMD files, if they're used in marketplace recommendations. And if so, does that also implicate a review of the RPM itself that's the private marketplace RPM that's going to use the TMCH data?

Brian Cimboric: Thanks, Greg. I think that that too comes down to a question of whether or not what the existing contract says and whether or not that use falls outside the scope of the already implemented registry service. So admittedly, we don't offer anything like this so I haven't put much thought into it. But there are RPMs that would fall outside of the RSEP process, in my opinion. Now, whether or not TMCH-centric RPMs necessarily might fall within the RSEP category, I'm not sure.

But I don't think there is "an approval process." I think that there could be marketplace RPMs that are implemented that fall completely within the scope of already implemented registry services and therefore would not require further RSEP or further approval from ICANN.

Greg Shatan: Thank you, Brian. I think that's helpful in trying to pick apart the issues here. I see J. Scott in the chat has the following -- there is judgment in making a

statement that all additional RPMs that registries -- sorry -- there is no judgment in making a statement that all additional RPMs that registries want to put in place need to go through some sort of formal approval process. J. Scott responds, and I'll add that he's stepping away for two minutes. Mary Wong adds a staff clarification just in case. We're not opining on the working group charter scope or the advisability of these questions. Was just noticing a possible relationship between question six and question eight for the sub-team's consideration.

So as the moment, we have no hands. David McAuley responds, thanks, Mary and I agree with Jon that we need to keep charter in view and I think Brian also would fall into the category of highlighting the charter and remit. David also says, but information gathering seems okay as we stated before. So David seems to suggest a middle path that perhaps could be accomplished through revising the question so that we're not necessarily getting into judgments about what should have happened or why things happened, but merely what in fact what happened. And perhaps there's a middle path there.

And if we are in fact a fact gathering group, trying to avoid the implication that we have need for information that would go to making recommendations on actually reviewing the marketplace RPMs. So there's probably at least three positions on this question that take it out entirely, keep it largely the way it is, and to revise it in some fashion, including perhaps the fashion that limits it to a fact gathering of a purely surface nature and not getting into what should have happened, or what was required, or what judgments were made, and the like.

So I don't want to keep talking because things are bad when the chair talks too much, but let's see if there's any other comments from folks on this or anybody who hasn't spoken up yet who has a thought about which perhaps of those three paths they might support or if they've supported one of the paths, if they could support another, perhaps the middle path. And if anybody

has any suggestions on language that might change what might be seen as a wide reaching question. I'm trying to avoid the word over reaching, which is a value judgment.

I don't see any hands. I do see a plus one from Kathy, probably to the good summary, Greg comment from David. So perhaps we've reached the end of the discussion of this particular moment, for the moment. But I think that it would be fruitful to explore some alternate language that might gain broader support than either deletion or keeping it as is would. And perhaps we can do that on the list between now and the next call if people are amenable to that.

I'll take the silence as a lack of opposition. So let's kind of put that on as an action item is to think about rephrasing question six, including the bullet point section of that. So we're at 12:37 and in honor of it being 12:37, we can move to question seven, which I will read out as soon as I can make it large enough on the tablet. Shorter question. "How much and what manner of use does each registry operator make of proprietary data, whether derived from the TMCH or the trademark holder? And in addition, in providing its protected marks list service, e.g. a blocking service."

And then there's a comment attached to this. "The trademark holder is the party who seeks DPML, so what is the relevance of asking whether their proprietary data is used for the purpose? Could whoever drafted this question please clarify what relevance it has to our work?" That comment from SP8. Not sure who that is. So do we have any comments on this, on the suggested addition of language that's in red or the marginal question in the margin about the relevance of asking for use of trademark proprietary data? SP is Susan Payne, I believe. Susan unfortunately is not with us on this call. Any comments on this question of any sort? Is there anybody who believes that this question needs to be changed, or explained, revised in any way? And I don't know if we need to approve the added language or not. I wonder with regard to the added language whether the RPMs we're dealing

with are only protected marks list type RPMs or if there are other additional marketplace RPMs, which somehow either should be included in the question or not.

Jon Nevett: Greg, could you say what the added language is again?

Greg Shatan: The original question said, "How much and what manner of use does each registry operator make of proprietary data, whether derived from the TMCH or the trademark holder." Added language, "in providing its protected marks list service, e.g.a, blocking service."

Jon Nevett: This is Jon. I would -- I don't think the additional language is necessary. Why limit it? And also, I would delete the part where we're talking about the proprietary information from the trademark holder. If we're looking at only RPMs that deal with trademark clearinghouse then it should just stop at trademark clearinghouse and not the proprietary information of each and every trademark holder. Thank you.

Greg Shatan: Thank you, Jon, and if staff could note those as comments to this question that would be helpful. I see a note in the chat from Rebecca Tushnet. One question that may be part of this is whether there is a more public aspect. Rebecca, would you like to expand on that if you have audio?

Rebecca Tushnet: Sorry, I'm in a bad place to talk. I don't know how good my connection is so please speak up if you can't hear me.

Greg Shatan: You sound good.

Rebecca Tushnet: Okay So I guess one of the -- the only thing that I really wonder about is to what extent can we get public lists of protected marks and so on, which may be relevant to things like the ability to access the database to the extent that people are using their TMCH designation to then get access to these other

things. But I don't know if that's included in this question or is already covered elsewhere. Thanks.

Greg Shatan: Thank you, Rebecca. I do have a couple of other hands, David McAuley and Mary Wong. I'm not sure whose hand came up first.

Mary Wong: Greg, David's hand was up first.

Greg Shatan: Okay, David, please go ahead.

David McAuley: Thank you, Greg. David McAuley for the record. Just a quick statement. I put my hand up to say I think I agree with Susan Payne's comment about the trademark holder. Also, Jon made the same comment basically. I'm not sure why that's in this question so I would just go along with those comments. Thank you.

Greg Shatan: Thank you, David. Mary, please go ahead.

Mary Wong: Thanks, Greg. This is Mary from staff and it was just to provide a brief explanation of the additional language in red in this document, and for Jon and others' benefit in audio, this is the language that talks about providing the protected marks list service, such as a blocking service. This was actually not so much added but that in the original question, it actually just said in providing the DPML services. So this was actually a change that was made following a suggestion from an earlier call where every time in the questions there was an original reference to DPML or the like that we should do a global change and replace that reference with this one, which is protected marks list service, e.g. a blocking service. So hopefully that's helpful. I note also that Jon had also suggested perhaps not including this language but I thought the explanation might provide some background. Thanks, Greg.

Greg Shatan: Thank you, Mary. That's helpful. I wonder if we want to make it more generic and just say in providing its additional marketplace RPMs and not refer

specifically to protected marks list. That's just a suggestion to throw out to the group. That avoids kind of honing in and perhaps leaving out certain types of RPMs. So if that could just be noted as a potential suggestion. If anybody wants to second that or object to that, happy to hear it. Mary is that a new hand or continuing hand?

Mary Wong: Just to note, Greg, that there's a couple of questions in the chat and Kathy had asked whether we should try to define proprietary data and I think she had also followed up on your suggestion, subsequently, about phrasing the change, which I think you had said just make the reference to additional marketplace RPMs. To her question about defining proprietary data, David McAuley did note that it's probably a good idea. So just noting for your benefit, Greg, in case you missed it.

Greg Shatan: Thank you. Appreciate that, Mary. I did. We'll see if anybody has any comments on whether we should define proprietary data, noting that some -- there has been suggestions about deleting the reference to proprietary data of the trademark holder but not with regard to that derived from the TMCH. So I guess the question -- if we do eliminate the reference to the trademark holder, I think we certainly would need to clarify, either use a different term or clarify what we mean by proprietary data derived from the TMCH. Either way, we need to do it.

So if anybody has any suggestions on what they believe was intended by the term proprietary data, that would be helpful. Not seeing any hands on this but I think it would be helpful either way we identify this to either try to define the term proprietary data or use a different term, especially if we're just referring to TMCH derived data. Rebecca Tushnet suggests the possibly definition data that are kept confidential as between the trademark owner and the provider. That is one possible definition. Another definition would just be maybe this is recursive data that is proprietary to the trademark owner. But especially if it's coming from the TMCH, we kind of have a limited universe of

what that data would be. It's the SMD file or perhaps some other pieces of information as well.

Maybe one thing that we need to clarify is what data comes from the TMCH and is used by the -- or another way to phrase this -- this is asking how much and in what manner does each registry operator make use of proprietary data, whether derived from the TMCH. Maybe what we really just need to ask is what the use the registry operator makes of data coming from the TMCH in offering an additional marketplace RPM and kind of avoid the proprietary data definitional question entirely, since it might be useful to know what non-proprietary data, if there is such a thing depending on our definition, is used as well.

So in this case, maybe broaden the question and just ask how much and what manner of use does each registry operator make of data from the TMCH, and then at least in brackets until we decide it's in there, or from the trademark holder. Just a suggestion. Kathy Kleiman says agreed. I personally think that's an improvement so maybe we can mark this in the next draft as a suggested change. Any other comments on question seven? That might help straighten that question out a little bit, noting that I think we'll need to come to a decision on whether the trademark holder data is included or not.

So it's 12:49. I don't know whether in this group here -- I don't think we can really come to that decision. There are people who are not participating today who should be allowed the opportunity to weigh in, so I think maybe what we should do is bracket the, "or the trademark holder," and put a comment on the side that this has been suggested for deletion based on the idea that we're pursuing uses of TMCH data only. Not expressing an opinion on whether that's right or wrong. Just that seems to be the basis for the suggestion.

Kathy Kleiman: Greg, this is Kathy. I'm in the queue.

Greg Shatan: Please go ahead, Kathy.

Kathy Kleiman: Great, thanks. In terms of the deletion of or the trademark holder, I thought about why it might be there actually and why we might not want to delete it. It has to do with the word drive and we're all -- so many of us are lawyers and we keep having to define these terms. So I'm going to go back to the full question, how much and what manner of use does each registry operator make of data, I'll skip proprietary based on your suggestion, data whether derived from the TMCH or the trademark holder.

I think the purpose of that phrase here is -- and a lot of it might -- if we define derived, we might get there -- but what's the source of the data. And in some cases, it appears to be the TMCH and in some cases, term insurance appears to be the trademark holder passing data that comes from the TMCH. So the source of the data may indeed be the trademark holder, not the TMCH directly and so it comes down to what derived means. Thanks.

Greg Shatan: And maybe in terms of the word derived, maybe the word received might be more straightforward than derived because derived is a word that can get unpacked to involve processing, if you will, of the (unintelligible).

Kathy Kleiman: That's just it, Greg, received, I'm not sure the data is being received from the TMCH directly. I think derived from the TMCH but received from the trademark holder.

Greg Shatan: Well, maybe we need to think about the verb or unpacking that a little bit more so that we understand both the origin of the data and the method by which it gets to the provider. Because that in essence, there's kind of two questions there, which is where does the data come from and how did the provider get it. But I think the derived, there's no actual derivation there in the concept of derivative works or deriving something from something else. So I think the word derived may create a -- may be more trouble than it's worth.

But I think it would be helpful to rephrase the question so that we get at both the origin of the data and how the provider of the marketplace RPM got it.

Does that make sense to people? Kathy Kleiman says precisely so it appears that I have made sense for at least a minute. A new record. And David McAuley also says yes. So perhaps we can work on rephrasing this question so it gets at those two questions, where did the data come from and who provided it to the provider of the marketplace RPM.

In the interest of time, we'll not try to engage in the wordsmithing there, although I think the concepts and the words to stay away from to get toward clarity have been discussed. Any other comments on this question seven? Or if anybody wants to attempt wordsmithing on the fly in the seven minutes we have left. I'll ask if staff has any questions as I'm depending on them to make note of this in the document, which is a very demanding thing I know, but I have faith.

And of course, Mary Wong returns that faith with we're taking notes. Steve Bannon out as White House as chief strategist just reported. Breaking news. J. Scott says he's going to have to leave early. Kathy Kleiman says thanks for chairing, Greg. I'll have to leave to take on my new job as chief strategist in the White House so I may leave a bit early as well. That is just a joke. I am not in consideration for that, nor would I ever be. We have about six minutes left.

Should we take a few minutes to take a look at question eight? Let me read that out and so we can kind of get that at least teed up, if not for now, for next week. Question eight, which is also marked proposal to delete, "Given the decision that ICANN should not provide a globally protected marks list as a mandatory RPM, should the offering of," and this is added, "Protected marks list services, e.g. blocking services, be viewed as inconsistent with that decision, or as an expected and beneficial marketplace supplement? What options for the working group might exist and how might they be pursued?"

And there are no real marginal notes attached to this other than private DPML was deleted and protected marks list services, e.g. blocking services, was put in its place. And since this question is limited to globally protected marks lists, perhaps in this case protected marks list services rather than all RPM services would be proper subject for the question.

I think the bigger question is whether this question is a proper subject for this subgroup and ultimately for the working group.

Jon Nevett: Greg, it's Jon. Can I get in the queue?

Greg Shatan: Jon, you are the queue. Please go ahead.

Jon Nevett: I don't know if Kathy left or not, but I think in a prior call, she kind of walked away from this question as well but let's confirm with her to see if anyone really is still pushing to have this question in there or not.

Greg Shatan: Thank you, Jon. Kathy is still here and Kathy, your hand is up so I will turn to you. Please go ahead.

Kathy Kleiman: Thanks. We've only got four minutes so I think -- I don't remember why or what I said about it but I think it's an important question to ask. I see a possibility for some significant rephrasing but it is the question everyone is asking so -- and we're hearing it in the working group and as a sub-team, I think we should be helping people ask it too. It's a key question. It's the 800 pound gorilla in the room. Thanks.

Greg Shatan: Kathy, is that your personal or co-chair view?

Kathy Kleiman: Turning off the teapot in the background, all of this -- Greg, we participate in our personal capacities in the sub-teams. That's why you're chairing Thank you. Bye-bye.

Greg Shatan: Thank you. Happy to clarify that. So I won't ask each time. So we'll note that. Any other comments on -- I see a hand from Phil Corwin in his personal capacity as noted by Kathy Kleiman.

Phil Corwin: In a very personal capacity, and good luck on getting that Bannon slot, Greg.

Greg Shatan: I'll be right behind you on that one.

Phil Corwin: I won't be in front of you. I assure you. Yes, on this one, again, personal opinion, I'm going to differ from my co-chair, and again, the co-chairs haven't yet discussed the consensus view from us on what the role of this sub-team is, though it's clearly primarily data gathering.

It seems to me there's no request for data in this question. I don't know what data could be gathered on this question. It's really a policy question and it probably doesn't belong in anything that this sub-team should be looking at, and that decision to remove it here doesn't prevent any member of the full working group from raising that issue when the data comes back from this sub-team. But there's no search for data in this question. It probably doesn't belong within the purview of this sub-team, which is focused on informing the full working group about what's being offered in the private sector and if what information, if any, is available upon the use of the mandatory RPMs in offering those services, or in impacting the use of the RPMs because these services are available.

So in my personal role, I have no objection to this question being deleted from something this sub-team should be looking at.

Greg Shatan: Thank you. And in my neutral co-chair role, I'll ask whether there is any version of this question that could be a data gathering question or data that could be asked for now that might answer this question if it's asked at a later point in our work, if that question is within our purview. So think about

whether there is a data gathering question buried in here somewhere. So I'll pose that for next time.

We have just a couple of minutes left so we should end with a Cimbolic thought and I'll turn to Brian Cimbolic.

Brian Cimbolic: Thanks, Greg. Still hit the nail on the head for me. I think that in theory, could there be an iteration of this question that is more data gathering? Maybe. I don't know what that looks like because it seems the entire essence of the question is passing judgment on these DPML services and again, I think that that's pretty well outside of what we're doing in this group. So my inkling is certainly deletion. If there's reasonable and reasoned changes circulated on the list, I'm happy to look at them but as it stands, this question is more of an argument than a genuine search for information.

Greg Shatan: Thank you, Brian. Well noted. Phil, is that a new hand? Phil's hand is down and the big hand is on the 12 and the little hand is on the 1, so brings us, for me at least, to the end of our call. I think we should duly note these points made about question number eight and would suggest to the real chair of this group that the next call start with picking up on question eight and suggest to all that it would be fruitful to have some discussion of that on the list.

So with that, I think we will call this meeting adjourned.

END