

**ICANN  
Transcription**  
**Review of all Rights Protection Mechanisms (RPMs)**  
**in all gTLDs PDP Working Group**  
**Wednesday, 10 January 2018 at 18:00 UTC**

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Coordinator: Recording has started.

Terri Agnew: Thank you. Good morning, good afternoon, and good evening and welcome to the Review of All Rights Protection Mechanisms RPM and all GTLDs Working Group call held on the 10th of January 2018. In the interest of time, there will be no roll call as we have quite a few participants. Attendance will be taken by the Adobe Connect Room. If you are only on the audio bridge, if could you please identify yourselves now. And as a side note, we have Brian Beckham noted. Anyone in addition?

Hearing no further names, I would like to remind all to please state your name before speaking for transcription purpose and to please keep your phones and microphones on mute when not speaking to avoid any background noise.

With this, I'll turn it back over to our co-chair, Kathy Kleiman. Please begin.

Kathy Kleiman: Thank you very much, Terri. Good morning, good afternoon, good evening everyone. This is Kathy Kleiman, one of the three co-chairs of this working group, as you well know and I see that my co-chairs, Phil Corwin and J. Scott

Evans are participating in this call as well, as are now 31 participants. So thanks everyone for joining.

So in this new year, people are switching hats and switching jobs and hopefully getting lots of promotions. So let me pause and see if there are any updates to the statement of interest. Okay. Hearing none, and urging everyone to keep their statement of interest up to date.

So now, we go to the -- we continue the work that we've been doing with our review of the questions and the topics we'll be looking at for uniform rapid suspension. So I assume staff is uploading the list of topics for review of the uniform rapid suspension that we've been working through. And we've adopted a special methodology for this section, where we're looking at high level questions that will be applying to high level topics that are high level summaries of charter questions.

So to just remind anyone who might have missed the last few meetings due to the holidays, the high level questions are numbered one through five and again, these are questions to be applied to the topics. And they are, and I'll just read them quickly so everyone has them in front. Hasn't been used, what was the original purpose, and is it being fulfilled, bearing in mind the original purpose, have there been any unintended consequences, what changes could better align the mechanism with the original purpose/facilitate it to carry out its purpose, and how many managed to prevail. So not all of these high level questions are going to apply to all high level topics.

And then we have a draft list under part one of the high level topics, which we are in the process of reviewing. Last week, we looked at -- or I guess the last few weeks, we looked at the complaint, the notice of complaint, the response. Let me ask staff where we ended last week in our discussion. Go ahead, Mary. Thank you.

Mary Wong: Thanks, Kathy, and I believe that we had completed -- at least initially completed the discussion on defenses and we were at remedies.

Kathy Kleiman: Okay. I see this is an open document. Good. So we will continue with remedies and I'm going to move my document -- position my document down to the Part 2 table. You can look at part one or part two. Part two is the draft list of the review topics, really, the high level topics that we're looking at.

Part two is the same topics with the same edits -- thank you staff -- same edits have been put in -- and it looks at it in conjunction with the charter questions that were asked and shows -- it takes the guess work out of it. You can look at both the high level topics and the underlying charter questions from which they were derived. And so I would recommend -- and I will be starting on Page -- Mary is that Page 4 or 5 with remedies on Part 2; is that right?

Okay. I'm not sure Mary heard the question. So the top of Page 5, for the Part 2 table, we're looking at remedies and particularly, number one under -- it's hard to see -- number one, F is remedies, number one under scope of remedies. Is there anything anyone would like to add to the scope of remedies in light of some of the questions that we're looking at from the charter and I think from some other locations as well? Let me open up both one and two, scope of remedies and duration of suspension period. Are those both sufficiently broad and is the coverage sufficiently good for us to move forward.

George, go ahead and then Steve.

George Kirikos: George Kirikos for the transcript. I think this is probably a section that Claudio would want to insert the suggestion that he was talking about in the mailing list, whether the actual remedies are being implemented properly on the URS. I think noted there have been occasions where the domain has been renewed and the original registrant regained control of the domain

name instead of the domain name going through the natural deletion cycle. So it seems as though this would fit into this category although Claudio might want to weigh in as well on that topic. Thank you.

Kathy Kleiman: George, could you reduce that down to just a few words for me, what you're seeking to add?

George Kirikos: Whether the intended remedies are actually being implemented properly.

Kathy Kleiman: Okay. All right. Sounds good to me and there are some questions that we've heard about problems that registries and registrars have had with implementation. So are they being implemented properly? Okay. And that is captured in our notes now. Steve, go ahead please.

Steve Levy: Thank you, Kathy. Steve Levy for the record. Under -- one of the additional remedies that I would suggest, I found this as a party representative, when the domain is suspended following a URS, it's not uncommon of course for the complainant to wish to acquire that domain and in the current practice, its only option is to put in a back order once the domain expires. I wouldn't mind seeing an option perhaps in the rules or otherwise where the parties, the respondent and the complainant, could negotiate a purchase of the domain during the suspension and that the domain could then be unlocked and transferred if the parties are able to reach an agreement during that period.

Thank you.

Kathy Kleiman: A very creative idea. Thank you. And I would suggest to staff, obviously we can't do it in real time but we do have that third column in the table where some of these might be captured not as questions we've all agreed to but questions that are on people's minds in the working group and seems to be lots of open space on the table. So Steve's suggestion about respondent and complainant negotiating a transfer, that's the first time I've heard that. Interesting. Claudio, go ahead please.

Claudio DiGangi: Thank you, Kathy and thanks to George for pointing that out. I guess my point, or my comment, or my question is whether the remedy is merely suspension or was the intended remedy, as George mentioned, is the domain intended to expire once it reaches the expiration date. So it could be that an additional remedy might be cancellation or it could be that it's an issue whether the remedy is being implemented correctly.

So I'm not sure which category it falls in, but as George pointed out, the particular issue is that some of the domains are being renewed and so just want to make sure we capture that. Thank you.

Kathy Kleiman: Okay. So it sounds like -- and I've heard this about the names being -- some issue with the suspension and also with the extension that is allowed under the URS rules. So it sounds like under scope of remedies, as a review team it's very appropriate that we be looking at both is the current mechanism working. Are there problems with implementation as it exists? As George would say, are the remedies being implemented properly? And then a question of are there additional remedies and options to summarize I think what Claudio and Steve just said, are there additional remedies and options that we should be evaluating.

Any objections to adding those two details under remedies, under one scope of remedies? Okay, hearing none, I'd like to ask staff to do that, barring any others. Susan, go ahead please.

Susan Payne: Yes, thanks. It's more a question I have about our process again, and I'm sorry but I know I keep coming back to this but I'm still unclear about what our process is. I'm not objecting to what Steve has suggested, for example, at all. I think it seems a reasonable thing for us to consider but it seems to me that that falls within the scope of the topic scope of the remedies. And so I'm not sure that it needs an addition to this table as such, so much as perhaps

it's a good thing for us to capture so that we remember to talk about it when we're talking about scope of remedies.

Is that what you meant? I just would like to understand whether we're supposed to be identifying all of the topics at a granular level that we think we need to talk about under these high level subject matters. Because certainly, to date, that's not how I've been dealing with this. And so I'm concerned if we should have been doing that and we haven't been.

Kathy Kleiman: I will respond with my co-chair's hat on but also others can respond as well. It's always a good question, Susan, since we are engaged in this special methodology that I know a number of us have been wrestling with for a while. It is my understanding that we have been reviewing the high level topics to see if there are some high level sub-points, so under complaints for example we had standing to file, grounds for filing, and we added limiting filing period.

For notice, we added notice itself and then the sub-topics of receipt by registrant and effect on registry operator. So here, under remedies, it would seem consistent with the high level topic to be looking at both the implementation, are there problems with the implementation, which hearsay would say there are some problems with implementation as the rules currently exist, in which case, can we fix them. And then there are additional remedies that might be considered.

Susan, if you're still on the call, you're welcome to comment. Otherwise, it would seem consistent to have these sub-topics to our high level topics.

Susan Payne: I'm still on the call. Back to what I was saying, though, the one about implementation, I agree that seems like a new point three, if you like. I don't know whether it comes after duration of the suspension period, but the one about should there be additional remedy, doesn't that fall within scope of the remedies? That's all I'm asking. So if -- or should we be getting to that granular level of detail where we want to be identifying the fact that we think

scope of remedies includes additional remedies? It seems to me that it already does. I just want to be clear what we're doing.

Kathy Kleiman: Do you have an opinion?

Susan Payne: Yes, I just said I think proposing additional remedies falls squarely within scope of remedies and therefore, I wouldn't have expected to need to capture it, although I think it's good if stuff comes up in the course of the conversation for us to remember that we want to talk about this in future. J. Scott has got his hand up. Maybe we should refer to him.

Kathy Kleiman: Okay, and I like the idea that there is under remedies F, there is a proposal for a number three implementation or review of implementation. J. Scott, go ahead please.

J. Scott Evans: Sorry, I was on mute. This is J. Scott Evans for the record. I sort of see two points here. One, I agree with the implementation issue. That should go as a sub-point under remedies because that's a different topic, right. And then I would say there might be thoughts that fall within something that's already there that we're not going to put a sub-point, but we just want to remember. And maybe we just put that in our notes and I'm fine if it's in the chart, that just says noted, this type of remedy was mentioned and we should remember to discuss, or something to that effect.

It doesn't necessarily say that we're going to consider another bucket of issues. It's just when we consider the bucket of scope of remedies, we want to remember that one grain of sand in that bucket is this point and we document it somewhere so it's remembered when we get there. That's sort of how I would do it. It's sort of a little of both. You're right, some issues will fall as another topic. Others will be just thoughts that need to be explored when the general topic is concerned and that would go in sort of a note area.

That would be my suggestion just to keep it clear and to assist us in retaining memory as we get -- because we're going to have to loop back to this at some point, and that could be a couple of weeks from now. And people -- their memories may not be what they should be.

Kathy Kleiman: J. Scott, while you're still on the line, any -- I don't know if you're looking at the Part 2 table, Page 5 -- how do you feel about using that empty space? Maybe it's not what the column heading was for, using that empty space for some of the notes of the kind of things we're talking about so we keep it all in one place.

J. Scott Evans: I have no concern about where it's documented but I do think it needs to be incorporated in this short stack of documents that we will use at our working document rather than just in the meeting notes or just on the transcript. Because I think having to go back and look at all the -- try to recall the calls that led up to creating this working document is, one, overly ambitious and hugely problematic.

I think assimilating it all into five or six pages where we have all the information is fine. If we want to use that Table 2 as our discussion topic notes, I'm fine with that. I don't have a thought one way or another.

Kathy Kleiman: Terrific. Thanks for your comments and as you can tell, I'm a big fan of the at a glance kind of looks but the idea that they're all in the same document so that people don't have to reference a meeting transcript or separate notes, great idea. Okay, any other comments on remedies? It looks like we've got both ideas for scope of remedies as well as addition of the three, which probably should be a one, on implementation of current remedies because we probably want to look at implementation of current remedies first and then how that's working and what additions might be needed.

But anyway, any other comments on the high level topics that we're looking at of remedies right now? Okay. Appeal. Again, not discussing appeal itself

but the appeal process, which is currently G, which only has one topic in it now, the appeal process. Phil and then George. Phil, please.

Phil Corwin: Thank you, Kathy. Phil for the record and before commenting on this, in reference to your last question, I think whatever information we can capture in one place is a good idea so we don't have to refer to multiple sources. On this question as currently posed, I think it needs to be rendered more neutral. By asking how can the appeals process of the URS be re-expanded and improved, it presumes that some expansion is justified and that there's deficiencies that require improvement.

I think the question has to be much more neutral, something like should the appeals process been modified and then for this particular question, the five over-arching inquiries on Page 1 work very well. If we just made it a neutral question about should there be any modification of the appeals process then we could ask has the appeals process been used? How many people managed to prevail in the appeals process? What was the original purpose of the process? Is it being fulfilled? Have there been unintended consequences and what changes would better align it with the original purpose.

So I think we need a more neutral posing of the question and then that overarching template I think for this particular question would work quite well in giving us relevant answers on which we could make a fully informed and objective decision about whether anything about the appeals process needs to be modified. Thank you.

Kathy Kleiman: Phil, hold on. Don't get off yet. So the charter question, which may well be biased, is kind of the guidelines for which we created the high level topic, the appeal and the appeal process. And staff has captured your detailed questions, which belong for further evaluation definitely. But is there anything you would add under the high level topic, the appeal process? Is there anything else you want to add there? I'm looking...

Phil Corwin: Not at this time. I really think we just render the base question more neutral and objective and then ask objective questions to analyze the actual operation of the appeals process we'll get the right answer.

Kathy Kleiman: Okay. So analyze the way it works now and then see what changes are needed.

Phil Corwin: Yes, see if it's working. Has it been used? Has it been useful? Any unexpected developments that were unforeseen in what was created that would require or argue for some modification.

Kathy Kleiman: Terrific. Thank you. And happily, our high level questions at the beginning of paragraph 2 at Page 1, the number one is has it been used, exactly the question that Phil just raised. So it looks like it's okay as written. George, go ahead please.

George Kirikos: I think in this Section Go for the appeal, we have to differentiate between two different types of appeal. There's the internal appeal mechanism within the URS where the domain registrant can revise the (unintelligible) so to speak within I think, what is it, a six month period or whatever. That's internal to the URS. But then there's also external appeal where either side might want to go to the courts and so that raises the issue of the availability of court proceedings, whether that assumption in the URS is actually valid and that's the topic that I brought up to the mailing list before with the example of the (yoyo dot) email and the other similar kind of cases, Lufthansa.

And so it seems it would go into that section right now. If that assumption is incorrect, then obviously the process should need to be adjusted so there's no inference with those fundamental rights of registrants. The other point I wanted to bring up was mediation. I don't know whether it should go into this appeal step or somewhere in a different part of the process but we had a presentation by (Nominet) where one of the striking statistic -- this is in the

IGO PDP -- where apparently 30% of disputes were handled successfully simply through mediation. And so that would tend to lower the burden on the entire system if a lot of those cases were simply handled via mediation. So that's something to put in somewhere on this chart. I'm not sure if G is the appropriate part.

And then just to go back to a step with regards to the (yo-yo dot) email. The availability of court isn't only at play for that scenario but also for the key to the sovereign immunity that we've been discussing in the IGO PDP, also tribal immunity, sovereign immunity in general, anything where a case doesn't get handled -- doesn't get decided on the merits in the courts. That's something we'd want to discuss. Thank you.

Kathy Kleiman: Complicated issues. Let me see if I can parse this out for the appeal high level topic that we're looking at. For the appeal process, I think here we're probably talking about the URS appeal process. There's also a de novo review, which a default registrant can engage in, not an appeal process, a de novo review, and then there's an appeal if someone is upset with the outcome of a URS decision. And then there is the de novo review of the court that can take place if it has jurisdiction outside the URS.

So we should be capturing -- and in fact, we're going to get to a lot of this potential in the next section H, potentially overlapping process steps. So I think we should make a note about both the appeal and the URS, and the -- I'm going to put it in quotes, the appeal, because it's not a traditional arbitration appeal and external courts, courts within the jurisdiction of -- we'll just call it external courts. So we should make a note of that to come back to.

Mediation, staff has captured. I'm not sure where it goes. That would take some time and I think the de novo review is going to be covered in potentially overlapping steps in the next section. And it's interesting about (Nominet) having mediation steps.

Okay. So it looks like the appeal is going to stay abroad, the appeal process generally. Susan, go ahead please.

Susan Payne: Thanks. I'm not saying we shouldn't have at least some consideration of the notion of mediation. I'm not sure it comes within appeal. It's an earlier stage of the process. I don't personally care really where it sits, but I'm not sure it sits in appeals. But I think we need to bear in mind when we have that conversation and I think it ought to be quite a quick discussion that this process is meant to be a kind of -- a quick one for slam dunk cases and obviously, the remedy is not a transfer of the name, whereas of course in the case of the (Nominet) proceeding, the remedy would generally involve the transfer of the name away from the registrant.

So it's a very different process and having a kind of mediation stage, which takes a number of weeks, doesn't seem to fit at all within the URS's fundamental requirements to be a kind of quick proceeding for slam dunk cases. So I don't object to us having a conversation about it, but I think we need to all be bearing that in mind when we have that conversation and let's not spend months talking about this in relation to the URS.

Kathy Kleiman: Thanks, Susan. I think there is a general agreement that mediation doesn't belong in the appeal process section. But happily, I've looked across the table and it looks like there's a place under N, alternative processes. N1 currently says, and we'll hopefully get there later, during this call, possibly alternatives to the URS and there's already one option. Mediation might be something to throw in there as a placeholder should we choose to have that conversation. So let me propose that, that it goes at the very end of the table.

Okay. Does anyone else have anything to say about appeal?

Brian Beckham: This is Brian, Kathy. Could I make a quick observation?

Kathy Kleiman: Please.

Brian Beckham: Thank you. Brian Beckham for the record. I don't know exactly where this fits but I think it's worth raising when we talk about things like mediation or different aspects of the procedure, especially when we make reference to (Nominet) or other CCTLDs to bear in mind that often, these processes are subsidized by the registry. And so it's worth bearing in mind when we're thinking about different add-ons to a process, where the costs for that might lie.

Kathy Kleiman: That is a very good point and worth keeping, especially as the URS is designed to be a very low cost, very low overhead as well set of processes. Okay. H, moving onto H, which is in the middle of Page 5 if you're looking at the table on Part 2. Potentially overlapping process steps and here, we get into some really fun stuff because there's a potential overlap, and here I'm just reading, concerning duration of the respondent appeal, review and extended reply periods along the URS process timeline.

And so I think the question -- my personal opinion is that the summary -- the high level topic summary probably says -- summarizes it well but I will certainly look for other opinions. This is something that we have to look at. It's a little bit complicated between a de novo review of a default judgment and even whether it's been used. And one of our things like the others is how has this been implemented, is it being used, and then are there changes we want to make. It seems to me that might all be captured in the way it's phrased right now.

But I pause for other comments and urge people to look at the charter questions in the table from which this has come and some of the other issues that were raised in Abu Dhabi, which is just that there are various mechanisms involved here for additional reviews and appeals. Okay. So it looks like that remains unchanged barring anything we might hear on the list. I, bottom of Page 5, I, cost, and this is looking at the cost allocation model

and there's a question that came in the charter. Is a cost allocation model for the URS appropriate and justifiable. And there are other questions in the charter as well, but the high level question is cost and the cost allocation model, and our analysis of the cost allocation model.

Does anyone want to add or change this high level topic, which has only this one sub-part. Claudio, go ahead please.

Claudio DiGangi: Thanks, Kathy. The only other thought I had here was this could be combined with fees. I think fees is currently described as response fee and it could be just labeled fees and might capture both of these issues, or we could leave it out. There's probably no harm in having it as a separate topic. Thanks.

Kathy Kleiman: Certainly, a note should be made that there is an issue under response fee three is the response and response fee. I think that's what Claudio is referring to. So probably a reference to that note regarding response. If anyone doesn't have any objection, it may be worth just keeping the table as is to go-forward unless you strenuously object, Claudio, with that reference so that we can (unintelligible).

Claudio DiGangi: No, that's fine.

Kathy Kleiman: Okay. Terrific. Anything else on cost? Okay. Moving onto Page 6, language. J...

Phil Corwin: Kathy, Phil here. I put my hand up on cost.

Kathy Kleiman: Phil and George are in the queue. Okay. Go ahead please.

Phil Corwin: In regard to the last question, how can cost be lowered so end users can easily access (unintelligible). Again, I'd like a more neutral formulation, something like can cost be lowered and what would be the impact of doing

so. I'm not against lower costs if they're achievable and that would facilitate greater access to this RPM, but I think you also have to look at how that might impact the quality of decisions. It's already at \$500 considering administrative costs and use of experts and intellectual property. I'm not sure how much more room there is for lower costs, but I think if you're going to look at that, you have to look at would that adversely affect the quality of the process. So that was my comment there.

Kathy Kleiman: So Phil, would a broader question be should costs be lowered?

Phil Corwin: Could be or just can costs be lowered and what would be the effects, but something that looks at more than just end user accessibility. Obviously, if ICANN subsidized the cost, that would be fine but that has other impacts. It just has to take into consideration more than one effect of lower cost.

Kathy Kleiman: And it looks like staff is capturing that. Thank you. And David McAuley has phrased as well are costs appropriate. Thanks, Phil. J. Scott, go ahead please.

J. Scott Evans: This is J. Scott Evans for the record. A couple of things. One, I think there's a difference between how fees should be split and are they appropriate and that kind of stuff. But I think it's very difficult and we found in the RRT is you can have all the opinion you want about cost, but that's a business decision that's based on the provider and what the costs are. We suggested it should be low cost. I think we originally said \$250 or something like that but you can't set cost. So I wonder if that's not a waste of time and we should move on from lesson learned.

Now, it's a different question if we want to ask the questions whether we think ICANN should subsidize something and how that might affect cost. But I don't think -- I wonder if we're wasting our time having a discussion that was thoroughly vetted before, and at the end of the day, it's a business

determination by the provider and we're not going to have any effect on that business determination.

Now, we can say it should continue to be low cost, but I just think it's very difficult and you're just going to spend a lot of time talking about something where I think it will have very little effect. I note that Jeff is agreeing with me because he was in those RRT meetings when we went round, and round, and round on this and trust me, the constituency that I represented at the time, the intellectual property constituency, was most interested in it being as low cost as possible.

So I'm just saying that even with that interest, I think that focusing in on that could be time not well spent when we're up against a deadline. The addition of whether there should be fee shifting or that kind of thing, regardless of what that fee would be, is a different issue and that certainly could be explored because you're not talking about the amount. You're just talking about allocation.

So just wanted to raise that as a bit of history for those on the call.

Kathy Kleiman: Thank you, J. Scott. As you know, I think history is always important. So fee shifting, fee setting, and not going back into discussions that were decided long ago may make sense and also just implementation. How is it working out? What fees have been set, and how is the cost recovery, and perhaps even are we getting the panelist that we need on this. So just broad. Thanks for the background.

George, you keep shifting down. I don't know if that's a new hand or an old hand but I've seen your hand up for a while. And Susan's hand is up as well. I'm going to go in the current order that I see, which is Susan and George. But George, if there's a problem with the room, let me know. Susan?

Susan Payne: Thanks. I'll be really quick. I agree with what J. Scott was just saying around that lowering of cost and obviously, the need for the providers to be running this -- they are running it as a commercial enterprise. And so we can't be setting a fee. But I think if we're talking about this section on costs overall that obviously, there are other topics within that overarching topic that are still worth considering and they, as Claudio said, kind of somewhat go into the question about response fee. It's about the cost allocation model.

I'm keen we don't lose the consideration of the cost allocation model because we don't want to talk about what the level of costs should be. So I think that's a really long winded, sorry, of saying I think we still do need this section on cost but I agree with what J. Scott is saying about we shouldn't be looking at the level of the cost if you know what I mean.

Kathy Kleiman: Great. Thank you for the comments, Susan. I'm going to note that Mary wrote that staff when consulting with Heather about the topic listing assumed that all of these points will be raised and discussed under the actual topic of "cost allocation" in this case. But staff is further capturing the notes of this discussion for different issues and items we should be looking at in more detail when we get to these high level topics.

Thanks, Susan. George, go ahead please.

George Kirikos: Sorry for raising my hand and lowering it a few times. I was changing my mind depending on who was speaking. Wanted to add input. Two points I wanted to make. First, the costs seem to be focused only on registrants or ICANN subsidizing the model. Conceivably, the registry operators and/or registrars might be parties that we could look to for costs. The reasoning being that we want to likely focus the costs on -- sorry -- focus recovery of the costs on the parties that are most responsible for generating the costs.

So you can conceive of scenarios where certain registrars or certain registries have an above average number of abuse claims and so it might

make sense that those parties are somewhat responsible for the fees involved. I'm not going to name any names but we can probably think of that. It's a bit controversial obviously. And Susan says they'll pass it onto their customer, but that's good then because if there's higher costs for those customers that are causing abuse then that's self-policing.

The other point I wanted to make was that the contract with the TMCH providers apparently allowed ICANN to audit the accounts of the TMCH provider in order to see if the profits that they're generating are excessively high. And I think I've already asked for a copy of the TMCH contract to see whether ICANN has ever actually implemented such an audit. I don't think they have but that's obviously gone unanswered by ICANN staff and this (APM) might have to do a (DIDP) request.

But assuming that that clause actually exists then conceivably that kind of clause could be inserted into the providers of the URS and/or UDRP giving ICANN some oversight into looking at their books to make sure that they're not making excessive profits from being the providers. Thank you.

Kathy Kleiman: Hold on, George. Let me see because it looks like we need a note to be captured on the right side. So you're looking at -- you're raising a question of -- which may or may not be appropriate in this section -- but what's the oversight if any of the providers by ICANN?

George Kirikos: No, I think ICANN had the right to audit the TMCH provider. I think it was mentioned in Fadi Chehade's...

Kathy Kleiman: No, URS providers.

George Kirikos: This is the TMCH providers. And so one could apply similar logic to the URS and/or the UDRP that they would have the right to do a similar analysis to make sure that there's no...

Kathy Kleiman: I'm not sure that's the case because ICANN has contracts with the TMCH providers but you want to raise the -- is this right that you want to raise the general question, what is the oversight, if any, by ICANN of the URS providers. I'm not sure we know what it is.

George Kirikos: It could broadly go into that but I think they specifically had a clause in the TMCH that they were allowed to audit the TMCH provider.

Kathy Kleiman: They can audit the TMCH provider.

George Kirikos: To make sure the profits were not excessive. It's not clear that they've actually ever done so, but I think it was in the blog post by Fadi Chehade back when the current TMCH provider was given the contract.

Kathy Kleiman: Okay. Mary has noted that the MOUs with the URS providers are published and she's also captured a question that we think probably covers the important issue that you just raised or important question you just raised. Thanks, George.

Okay. Cost allocation model, probably done with that. We go onto language, something that we spent a lot of time looking at. J, language, and we are now on Page 6. Let me move my, I'm working with multiple documents here. So alto of questions about language, English oriented, barriers to access to the proceeding. You can see them in the charter if you're looking at the Part 2 table. They've been encapsulated into J1, language issues, including current requirements for complaint, notice of complaint, response, determination. So that high level overview of what -- where language might come into play, what's currently happening, or as the first high level question says, has it been used, what's happening, and then broadly, what we might want to do.

Does anyone want to add or change J1 as it exists in the table right now as a high level topic? Okay. I think it captures both the notes of the last meeting

and a lot of the discussion that we've been having. Okay. I'll pause for a second. K, abuse of process, and there's three sub-points that have been captured as part of the high level discussion. One, misuse of the process including by trademark owners, registrants, and "repeat offenders." Two, forum shopping, and three, other documented abuses.

So this is a broad question. Abuse of the process was an issue with the drafting of the URS. A lot of people gave a lot of thought to it, to try to see if we could prevent abuse of process by all participants and keep this as the narrowly focused, what Susan said, clear cases of abuse. Does this high level question and its sub points cover broadly the issues that we want to look at?

Okay. It looks broadly like it does and we'll wait to see if other people and others including people on this list want to comment on the list once the edited table comes out. Okay. Moving onto L, education and training, which has one sub-topic, responsibility for education and training of complainants, registrants, registry operators, and registrars. By way of background, others have noted that the URS is different than the UDRP. This is a mechanism implemented by the registries not the registrars. Through hearsay, there seems to be some issue of concerns and problems in education in that area and we've also heard about registrant and complainant issues of education as well.

Does anybody want to add anything? I'll pause as people look at some of the charter questions from which this high level topic was extracted. George, go ahead please.

George Kirikos: I just wanted to note for the record that I posted information regarding the UT dispute resolution procedure for the DMCA and had some useful insights into how they conduct education. They have a copyright school that people could take a course on, actually forced to take a course on, if there's a complaint against them. So we could perhaps learn a little bit from there in terms of

their learning management system and might want to implement some of that either for the pre-dispute training or in some cases post-dispute training. If somebody was found to have abused the process, for example, then education might be required before they can file another dispute. Thanks.

Kathy Kleiman: Sure, George. Thank you for posting it in the list and using our list for discussion, which is great. Staff has captured it. We may want to capture other models as well. Are there other models of education that we should be looking at without going too far down that path. Do other things easily come to mind that would serve as good models.

Okay. Anything else on education? Zak, go ahead please.

Zak Muscovitch: Yes, thank you. Zak Muscovitch for the record. I'm wondering whether under this section it would be appropriate to also reference training for panelists or guidance about policy interpretation for panelists. I mean we could capture it under the general description of education training of course, but perhaps it's worth a mention as well. Something like a consensus view could be discussed ultimately under that heading. Thank you.

Kathy Kleiman: Sorry, Zak, stay on the line. I was with you until you said consensus view. What are you referring to there? I definitely understand the (unintelligible) training issue.

Zak Muscovitch: Okay. So for example, the education and training questions as they're listed now under that heading, is ICANN doing its job, are the providers trading both complaints and response. I don't see any specific reference to training of panelists and as we know in the UDRP, WIPO conducts regular training sessions for panelists. It also writes and publishes the WIPO consensus view on issues, UDRP interpretation issues. And so there is potentially an opportunity to investigate that for the URS as well.

Kathy Kleiman: Terrific. Thank you. Great suggestion. Training for panelists, which may fit here to it may fit in the next section. But something absolutely to be held because we want to make sure everyone is trained across the board with this process. Thanks, Zak. Important contribution.

Anyone else want to comment on education and training before we move forward to what may now be an overlapping topic with the URS providers. Okay. We can certainly come back to education and training. Onto M, URS providers, and it is -- has one sub-point, evaluation of URS providers and their respective processes. And I'm pausing because we have both charter questions as well as a co-chair's memo. So Phil, would this be an appropriate time for us to jump to the co-chair's memo or would you like to wait to discuss it later?

Phil Corwin: Kathy, can you hear me? I'm off mute. I think the co-chairs' proposal was meant to take these questions and get to some of the same inquiries in a more objective and databased fashion. But just as an administrative matter, it might be best to just look at these now, finish this chart, we're near the end here, and then go to the -- I'd hate to jump to the co-chair's memo and not complete what we're doing here.

Kathy Kleiman: Okay. Terrific. So okay, so then continuing along the line, we've got -- this is our third to last point. So M, URS providers, sub-point one, evaluation of URS providers and their respective processes. If you look at the table, there is a question of the backgrounds of URS providers and their preparations, are the processes being adopted by the providers fair and reasonable? Are they consistent with the rules? What changes need to be made to ensure that they're consistent with ICANN policy, et cetera.

So these were abstracted to a high level topic and sub-point, any changes that people want to propose. George, go ahead please.

George Kirikos: I'm not sure if it belongs in this section or somewhere else, but the way I look at it is that the URS providers serve a more administrative role. What's more important is actually the role of the panelists. And so if we consider the panelists to be akin to judges, who are the panelists actually accountable to and how are problematic panelists dealt with. Is that going to be part of our -- we have oversight over the providers but don't have -- and they only have the oversight over the panelists. Or should ICANN be taking a more direct approach with the panelists. So I don't know whether it should go into this M or whether it should go somewhere else. But if there are problematic panelists that needs to be part of the conversation. Thank you.

Kathy Kleiman: Thanks, George. No, that seems like an appropriate comment for this section, URS providers, and accountability of the panelists and oversight of the panelists. So that's been captured by staff. Anything else to add broadly to the URS provider review at the high level? Had Kristine notes, providers are required to train panelists. They are not required to train complainants and respondents. Peter notes that there are yearly meetings with both URS and UDRP panelists with updates, education, et cetera on cases and policies.

Okay. So and actually, happily, I miscounted and we are on the last item, which is N, alternative processes, and we have one sub-point, possible alternative or alternatives to the URS, e.g. summary procedure in the UDRP and this is probably where we might add the mediation section that was on alternative processes. And this seems to arise from a question that came I think in Abu Dhabi. The more general question, should there be some kind of alternative to the URS such as the summary procedure in the UDRP.

Any other sub-points for the alternative processes? Then I think we have made it at least for this group and this meeting, subject to review of our much larger membership online, through the list of topics for review of the uniform rapid suspension system, with thanks to staff for working through this, and J. Scott, and Phil, and this is a lot of work to kind of review and abstract these

high level topics out of the more detailed material that we were given in the charter.

Claudio, go ahead please.

Claudio DiGangi: Thanks, Kathy. Sorry, I should have jumped in earlier. Two additional topics that I thought of that might not be captured here. One is the way the default procedures work. I'm not sure if we have that as a separate topic and also the administrative review that is -- I believe the providers conduct an administrative review. So that might fall under one of the existing areas. But I was just brainstorming and those were the two that came to mind.

Kathy Kleiman: Sorry, the administrative review?

Claudio DiGangi: Of the complaint.

Kathy Kleiman: You mean the first pass review?

Claudio DiGangi: Yes.

Kathy Kleiman: The one that gets to the provider.

Claudio DiGangi: Exactly. And the other one was the way the default procedures are structured.

Kathy Kleiman: The administrative review, that may be a comment -- stay on the phone if you would, Claudio. Suggested topic, A, the complaint, would seem to have -- would seem to be the place for the administrative review of the complaint. Does that make sense, all the way up at the top of the table/

Claudio DiGangi: No, I think you're right. That could fall under -- maybe we just note it as a note and for default procedures, where do you think that one falls?

Kathy Kleiman: That's a good question. Let's raise that to the group as well, including to those who have studies this table closely and memorized it because I'm sure there are people in the group with that. I think it would probably fall under response, C, the response. Currently, C2, other issues related to the response.

Claudio DiGangi: Okay.

Kathy Kleiman: If anybody disagrees. So in this case, it's a non-response.

Claudio DiGangi: Yes.

Kathy Kleiman: But I think it's important. Let's make -- staff could make a note about this, that default procedures and where the closer inquiry would go and whether a note should go into C2 about defaults in that section where we're holding notes about -- so in addition to the response.

Okay. Thank you, Claudio. Terrific. Okay. So we've wrapped up the table for the moment at least. We might revisit it, but it gives us a framework for our upcoming discussion and data gathering on the URS. Terrific. Congratulations and thank you.

Now, I'm going to go briefly through the other general charter questions. I'll just read them because I'm not sure how much -- the question will be how we incorporate them and I'm not sure how much we want to debate them now. But we have a half hour to talk about the co-chair statement on URS review that we've been asked several times to talk about. So I'm glad we have half an hour to do it.

So let me briefly read the other general charter questions, which is -- I'm on Page 8 of Part 2 -- some things that didn't seem to quite fall within the main table and the main high level topics. Do the RPMs adequately address issues of registrant protection such as freedom of expression and fair use?

Will and if so to what extent changes to one RPM will need -- there's a problem there -- will need to be offset by concomitant changes to the others. So percolation issue.

Do the RPMs collectively fulfill the objectives to their creation. In other words, have all RPMs in the aggregate been sufficient to meet their objectives or do new or additional mechanisms or changes to existing RPMs need to be developed. So a high level question that came in from the charter. Should any of the new GTLD program RPMs, such as URS, like the UDRP, be consensus policies, applicable to all GTLDs? And if so, what are the transitional issues that would have to be dealt with for the consequence? We'll definitely be looking at that.

Are recent and strong ICANN work seeking to understand and incorporate human rights into the policy considerations of ICANN relevant to the UDRP or any of the RPMs. Broad level questions. I'm not sure we have to argue about them now, but things that we've agreed to keep in mind and keep within our table.

Anybody wants to comment? I'll pause.

Brian Beckham: This is Brian. I have a comment.

Kathy Kleiman: Sure. Go ahead.

Brian Beckham: I must say, I'm not entirely clear what the purpose of this statement is. To me, all of the editorials and questions that are raised are already captured in the various charter questions, high level questions, what have you. So I think it's pretty uncontroversial, but I guess I'm just struggling to see what it adds that's not already on the table.

Kathy Kleiman: Interesting. Does anyone want to -- that's a good question. Does anyone want to comment on that? Phil, go ahead please.

Phil Corwin: Kathy, could you just clarify, the statement Brian just made, what is he referencing? Is that the general charter questions or the co-chair's statement?

Kathy Kleiman: I think he's referencing the general charter questions.

Brian Beckham: No, I'm talking about this co-chair's statement. In other words, I believe that the charter questions already capture these questions that are in this co-chair's statement. So I guess my question is, if that's right, if our charter questions already capture these questions, I guess it's just not clear to me what this is meant to add in our deliberation.

Kathy Kleiman: My apologies, Brian. I thought you were commenting on what I just read. If you're commenting on the co-chair's statement, if you don't mind, let's do that in order. Let's ask Phil if that's okay to present the co-chair's statement and then we can talk about whether it belongs there, it's duplicative. But I think maybe we should present it first and discuss what it is.

Phil Corwin: Okay, Kathy, I think you just volunteered me to present it but I don't have a problem with that. But I'd like to respond generally to Brian first on his question of what's the purpose. I think there's -- to my mind, I'm speaking personally now because other co-chairs may have different views on this or additional views -- when you look at the questions regarding in Section M, on Page 7, URS providers, evaluation of URS providers. Number one, the co-chair's proposal is meant to likely substitute for these questions, which I find personally these questions to be subjective, somewhat biased, and not leading to clear answers. When you look at are the processes being fair and reasonable. Fair and reasonable are subjective terms. Are there fair and equitable in the next question. What changes needs to be made to ensure. That starts with an assumption that changes need to be made and also that procedures adopted providers are consistent. So there's an inherent assumption that they're doing things that are inconsistent.

They may or may not be, but the questions have biases built in, providers exceeding the scope of their authority. Now, the authority is in the procedures. The rule is in the MOU. So it's better to start there and seeing if they're adhering to it. And then the last question, what remedies exist or should exist to allow questions about new policies, that in a way assumes that there's new policies being adopted ad hoc by providers.

So -- and before we go through the actual proposal from the co-chairs, a major purpose is to take all those subjective questions and substitute instead very objective questions, saying we have, for the providers, for this new RPM, we have rules, we have procedures published by ICANN for implementation of the rules and we have an MOU, which is a rudimentary contract, which levies other requirements on them. And these run the gamut from expertise of panelists to things at their website.

And let's just see if they're compliant with that, and then we can decide, one, are we compliant. That's a very objective inquiry. It's not starting with some bias. It's starting with the fact that the rules reflect the consensus reached when the program -- when this RPM was created. The procedures were adopted to implement those rules and the MOU is out there. It's a fact that the three providers have all agreed to adhere to that MOU.

So let's start with what the requirements are and see if the providers are adhering to them. Now, I think we'll find to the large part they are and to where they're not that there are ready fixes for that. But let's have an objective criteria before we go wandering off into subjective areas. Second, this inquiry is extremely relevant to the general charter question about should any of the new TLD program RPMs such as URS, be consensus policies applicable to all GLTs. Actually, not just applicable but required to be implemented and followed by all GTLDs, including legacy GTLDs that existed long before the new TLD program.

We could have complete agreement on the policy of the URS but when you talk about applying this policy, taking a policy that's been applied -- and we're really just talking about the URS and the DRP that we reviewed early on. Obviously, sunrise and trademark claims is not relevant to legacy TLDs. We could all be in agreement on the elements of the policy but if you're talking about applying it to 150 million, 160 million legacy domains, you want to also, particularly if you're a legacy registry operator, want to be assured that the policy is being followed by the people administering it.

And finally, not to jump ahead, but we do know that one of the questions before us in the UDRP review is whether they should be -- UDRP providers should be subject to some standard agreement. Well, here we have RPM providers subject to a standard agreement in the form of an MOU. So looking at their compliance or non-compliance with that and whether that works as a way to get them uniformly, the administration would inform that aspect of a UDRP inquiry when we start getting to that next year.

So I'll stop there. That's just an overview. I think I see a lot of hands up. So I think before getting into the actual specific elements of what the co-chairs have proposed, I should stop there with that general overview. But again, the main point is to substitute for the subjective questions that we have now much more objective questions based on compliance with the actual requirements for providers, which will -- and then based on the answers to those questions, we'd be in a better position to judge whether the URS should be a consensus policy applicable to legacy TLDs. And we'd also know more about the use of an MOU or some type of standard agreement with UDRP providers.

So I'll stop there and look forward to hearing from those who have raised their hands.

Brian Beckham: I know there's a queue but I'm only on audio so could I just put myself in the back of the queue. Brian.

Kathy Kleiman: Terrific, Brian. Thank you. I'll put you after Claudio. Okay. This is Kathy of course and Phil, thank you for the overview. We did not point to where the document was. This is a document that runs the bottom of Page 8, if you're looking at the materials online, all of Page 9, and then there's a bit on the top of 10. And so -- and this is looking at the URS providers. And as people said by way of background, the URS providers were -- the idea was to have a closer relationship with the URS providers than we created about 20 years ago with the UDRP providers. It's an interesting question, is that working out.

John, go ahead please.

John McElwaine: Thanks, John McElwaine for the record. So I was going back and looking at the working group charter and the first bullet point of the other general charter questions, and the last bullet point are not contained in that. I don't necessarily have a huge problem with it, but I just wanted to point that out since it's being referred to as...

Kathy Kleiman: The first bullet point and the last bullet point.

John McElwaine: Do the RPMs adequately address the issue of registrant protection and then our recent and strong ICANN work seeking to understand, incorporate human rights. Those are not contained, at least the version I'm looking at from our working group charter. So just point that out but my main question is what are we -- what are you asking us to do with other general charter questions? Just sort of putting a pin in keeping these topics in mind when we go over the more specific ones? I just wasn't clear on, A, why extra bullets points were added, and B, what we were supposed to do with these. And I'll listen for a response. Thanks.

Kathy Kleiman: I will give you my response, although this does -- and we've actually got two conversations now on the table. One is the question of the URS and how we're looking at the providers with the co-chair statement and the other is

looking at other general charter questions, which I really had read because it was in our materials and because I didn't want to skip over it before we got to the provider's discussion. But Mary has -- it looks like she has an answer to the question. Thank you, Mary. I'm glad you do.

Mary Wong: Thanks very much, Kathy and thanks to John for raising the question because maybe we needed to clarify before now. So you're correct that in the charter, in the early part of the charter questions, there is a set of three bullet points labeled general and that includes the question of the objectives, whether they're fulfilled collectively and whether any of the Phase 1 RPMs should be consensus policies and so forth.

That's then followed by a listing of specific issues, specific to particular RPMs. And at the very end, there is a section that is called additional questions and issues. This is the -- I guess a residual category of questions that were brought up by the community, and again, none of these questions in the charter were edited in any way. But these did not necessarily fit for charter purposes either within an overarching issue, as in the first three bullet points in the general section. And of course, they also were applicable to more than one RPM. So for purposes of the charter, those were put into a separate section at the end called additional questions.

For purposes of this review of the URS for compiling this table, rather than have two separate general sections, what we simply did was to combine the overarching questions with the additional general questions and that's what you see as the five or six bullet points at the bottom of this page following the table in Part 2.

So we haven't added anything that wasn't in the charter. We actually also haven't taken out anything that was in the charter that was a general question.

Kathy Kleiman: John, I'm going to pause a second in case you want to come back on and follow-up.

John McElwaine: So I wouldn't focus so much on whether it was contained somewhere else because I think it certainly is topics we've been raising, but I'm just wondering what are we supposed to do with the other general charter questions. Are we adding them or is this staff identifying these are issues that weren't identified in the URS analysis that they're suggesting that we add? I'm just trying to figure that out.

Kathy Kleiman: I think to summarize what Mary said -- Mary, is that a new hand?

Mary Wong: Yes, it is but please go ahead, Kathy.

Kathy Kleiman: Okay. I think and me personally, I think what Mary said is that we're trying not to drop anything, that the staff created a special place for things that didn't fall directly into the chart, but appeared to be applicable for the charter to the URS discussion even if they didn't mention the URS directly. So I think it's a holding area, things to keep in mind to make sure they don't get lost at the end of the day. But I turn to Mary because I was trying to summarize her words.

Mary Wong: Thanks, Kathy and that's exactly right. And the point being that for some of the other RPMs in the TMCH are part of it, or possibly sunrise or claims, there were some questions in the charter that had been moved around because they were found to belong more properly to another section other than what was listed. So as Kathy says, we just didn't want anything to be missed. It's not for staff to suggest that this should be added to the URS. It did occur to us that these questions are more general in nature in the sense that they're applicable to more than one RPM.

So in considering any particular RPM, either during its consideration or as the staff suggested, perhaps after you're done with all the RPMs, remembering

that the URS is the last RPM for Phase 1, it would be good to look at these remaining general questions to see if anything has been missed and if anything else needs to be done. Thanks, Kathy.

Kathy Kleiman: Terrific. Thank you, Mary. We'll go onto George, Susan, Claudio, and Brian. George, go ahead please and if people could speak quickly. We are in our last few minutes. Thank you.

George Kirikos: My question relates to what John was saying. In terms of our work plan, we decided to divide the work into Phase 1 and Phase 2. And if the URS falls into Phase 1, some of the issues related to the URS are interrelated to the UDRP. So I'm not clear, are we planning to have preliminary recommendations with an asterisk that are subject to review after we do the UDRP Phase 2 work? Because for example, if we look at end on Page 8, whether there should be some kind of alternative to the URS, which is perhaps a merger of the URS and the UDRP into a single DRP, if that happens would we do the UDRP review and then circle back to the URS review for a second round? I'm not exactly sure how it all works in our work plan. Thanks.

Kathy Kleiman: It's a good question, George and I'm going to answer it as an individual and people can feel free to contradict. Phase 1 definitely closes with the URS because we have to get the URS, the sunrise, trademark claims, trademark clearinghouse out to subsequent procedures working group, co-chaired by Jeff Neuman, so that we can work on the new applicant guidebook.

So my guess would be that if there are recommendations from the URS to the UDRP, those will be recommendations we take up in Phase 2 as we do the full UDRP review, that they might be deemed as suggestions or strong recommendations, however we might choose to phrase it. But two different phases have a break line between them because of our need to report to the subsequent procedures working group. People should feel free to contradict me if they don't agree.

Claudio, and then Brian. Claudio please.

Claudio DiGangi: Kathy, I'll be quick. I know we're getting towards the end of the call. So I think some of the points in this co-chair's statement I think are helpful and I understand where the co-chairs were coming from with some of this, particularly the first couple of bullet points. But I think along the same lines of what George just mentioned, I wonder if this -- because there's a line here that says these are among the major questions to be dealt with during the conclusion of Phase 1. And I wonder if questions such as do the RPMs collectively fulfill their objectives, if that's something that should be done towards the end of our work.

So that was just a question I had there.

Kathy Kleiman: You're talking about towards the end of Phase 2?

Claudio DiGangi: Correct.

Kathy Kleiman: Three years from now or 15 years from now, or whenever we get there.

Claudio DiGangi: Right, because this bullet point says if they're collectively fulfilling their objectives. And so I'm just assuming that that's a question that's going to incorporate the review of all of the RPMs. So I'm just not sure if we can answer that at the end of Phase 1.

And then as you get towards the bottom, some of the bullet points there about the URS providers seem much more specific and they seem like points that could be raised on the URS provider section that we have in the chart. And I think one of the questions -- I just have a sort of question about or one of the bullet points I have a question about whether it would be in scope, the third bullet point, about have the URS decisions been limited to cases, meaning the clearing convincing standard and been properly explained.

Kathy Kleiman: What page are you on, Claudio?

Claudio DiGangi: The third bullet point at the end of the co-chair's statement.

Kathy Kleiman: Okay. So Page 9.

Claudio DiGangi: Yes.

Kathy Kleiman: And I'm sorry, now that I'm looking at it, that we're all looking at it, could you raise the question again?

Claudio DiGangi: Sure. The question was whether that type of analysis is in scope of our review. I'm not sure exactly. I think this bullet point would need to be flushed out a little more. I'm not exactly sure what that's getting to there or how we would answer that specific question. But again, basically all the bullet points at the end, I just feel like these could be included in the chart under the provider section. Thank you.

Kathy Kleiman: Terrific. Thank you for that comment and Phil is in the queue but not next because it's Brian. So thank you for the comments and the inclusion of these into I believe it's section M for provider. Brian, go ahead please.

Brian Beckham: Thanks, Kathy. I think I have a lot to say, frankly, on Phil's summary of these questions but maybe I'll just ask one question, which I think is probably most pertinent to the path forward for this working group, which is certainly I and I know other working group members have been proceeding on the understanding that the fact that this is a working group that has been formally convened through a GNSO resolution, any work product that comes out of this would result in a consensus policy.

So for me, the question of whether the URS would become a consensus policy if it were recommended by this working group, the answer is a fairly

obvious yes. But maybe before we get too far down the road, it would be worth asking the staff if there's some clear guidance on whether that assumption is correct. Because that may impact people's participation and views in the working group. Thanks.

Kathy Kleiman: Okay. I will wait for Mary to raise her hand because it is a staff question that you directed. But Brian, I just wanted to say that it's my understanding that it's a separate evaluation as we look through the mechanisms, Phase 1 is about the mechanisms created for new GTLDs and that at the end of this, one of the questions is, is it our advice to go-forward with these for all GTLDs versus, say, the next round of new GTLDs.

There would be historic -- there are historic issues on this one. Mary, go ahead please.

Mary Wong: Thanks, Kathy and thanks, Brian. We just wanted on the staff side to clarify what Brian's exact question was. We gather that it was about the URS and consensus policy but we apologize that we didn't actually get the specifics. So if he wouldn't mind repeating it, we'll try to answer it.

Brian Beckham: The question is if this working group recommends that the URS become a consensus policy applicable to all top level domains, is there anything additional that would be required? Perhaps I'm misunderstanding the way that Phil had characterized the co-chair statement. But I understood that there seemed to be some kind of a question lingering as to whether this working group's recommendations would result in a consensus policy. I appreciate your history that the URS was developed specifically for the new GTLD program. But that is history and as I've understood the work of this working group is directed towards producing recommendations that would become consensus policies applicable to all top level domains. So the fact that the URS was initially developed as an implementation tool for new GTLDs is in a sense neither here nor there.

But again, term insurance seems to me that there's a question as to whether that's correct or -- in other words, the way I understood Phil's summary was that even if this working group recommends that the URS would be applicable to all TLDs because it's a consensus policy, that there would still be some additional, I don't know, requirement or an additional working group to be convened, or something. I don't know if that helps clarify.

Kathy Kleiman: That does, Brian. Happily, Phil is also in the queue next. Mary, did you want to respond and then Phil or vice-versa?

Mary Wong: So just really quickly, Kathy, so the answer -- Brian is correct obviously that we are looking at consensus policies in a PDP and one specific potential outcome from this particular PDP is the possibility that the URS and any other of the Phase 1 RPMs could be recommended to become a consensus policy applicable to all GTLDs, including legacies.

So specifically what would happen then, assuming that the Council and then the Board accepts that at the moment hypothetical recommendation, an implementation team will have to be formed, which is comprised of community members working with our GDD colleagues. So what could happen at that point would be there may need to be considerations as to when the policy would be considered effective, whether there's additional work that would need to be undertaken with legacy registry operators versus new GTLD registry operators since some legacies have the URS as a contractual requirement right now, but not as a consensus policy, and others have neither. So that would be the next phase of the work if that helps.

Thanks, Kathy.

Kathy Kleiman: Mary, thanks and to whoever is writing the notes, if you could label -- the question came from Brian. The answer came from staff so it might be worth noting where the answer starts and that this is a staff answer. That might be useful to people who are going to be reading the notes in the future. Thanks. Phil, go ahead please.

Phil Corwin: Thanks, Kathy. I'll be brief in view of the late time here. Just to address, Brian, to the extent -- I'm a little confused by his question but my understanding is that the tasks before this working group, not some other working group, is to evaluate the URS, whether it's working as intended, whether it needs to be changed in any way, and then the question of whether it should be -- we would recommend that it become a consensus policy and therefore a requirement for legacy TLDs is a separate question before this working group that will probably be addressed by the conclusion of Phase 1 of our work.

So there's no presumption that it will become consensus policy or that it won't. It's a question before this working group based in significant part upon our evaluation of its effectiveness and any issues we find with it. The reason I jumped into the queue originally was the question George has raised, which is the relationship of our work on URS to any expedited rapid form of the UDRP that we might consider in Phase 2 of our work, the UDRP review. I'm not the sole authority on this. I think it's up to the working group, but I think from my point of view, personally, the only way it can work is that we review the URS now, propose any changes we think are required, decide the consensus policy question, and then when we get to the UDRP, substantially informed by our review of this rapid response mechanism, we can decide whether something similar should be made part of the UDRP to either supplement the URS or it could substitute for the URS based on further considerations. And that of course would be a consensus policy, any change in the UDRP.

Others may have a different view. That was my answer on that question and I'll get out of the way so Susan can speak before we hit the end of the time. Thank you.

Kathy Kleiman: Terrific, Phil. Thank you for responding to both sets of questions. Susan, the last word is yours.

Susan Payne: Thank you. It's more of a question I'm afraid and it's a question that shows my ignorance. But I've always assumed that the reference to consent in this policy was to how the policy was developed as opposed to something that's consensus policy automatically applies to every registry, for example. But a lot of people here are much older hands at this than I am.

So the reason I'm asking that is because it seems to me like that there might actually be -- we might be talking sort of cross purposes. Are we talking about should this become consensus policy, which implies that at the moment, the development of the URS has something less than a policy status or should the URS apply to legacy TLDs, which may be a slightly different question. And just to explain a bit more what I mean, the policy relation to new GTLD talks about the need for the introductions of new GTLDs, not to infringe the rights of their parties and that was the policy.

And then there was obviously a lot of work then done in relation to that policy involving an enormous amount of community efforts, extensive, and extensive public comments and so on. And so whilst the URS may not have a kind of formal status of consensus policy, I don't think there's any doubt that it went through a very rigorous development process involving multiple comment periods.

So I'm just trying to understand whether the use of the word consensus policy here is actually causing some confusion and making things more difficult for people than is necessary. But I'm hoping someone can clarify for me and help me understand.

Kathy Kleiman: Phil writes in the chat, right now, the URS is an implementation detail of the new GTLD program and does not apply to legacy TLDs as a mandate. That's the current status, neither does this (unintelligible) trademark claims or the trademark clearing house. They don't apply to legacy TLDs. But the question you raise and we've now heard it several times is a really important

one. So may I suggest and especially, we're at 2:32, but also this is not a question that should be answered standing on one foot.

May I suggest to the co-chairs, so if you have an objection, yell please, that we work with staff to come up with a historical timeline of what happened and what's consensus policy versus -- where these things stand. These are all important phrases and not used as much in the old days as we do now. So the legacy, the time, let's put together a page summary so that we can talk about it together. I think that might be the best way to do this because there is history here and we do need to sit down and talk. The questions are great.

Any objections to that? Then thank you everyone for staying on for this very long call. Excellent discussion as we went through the rest of the material in this document. Thank you to staff for capturing the notes and for the future edits that will come through on the document. Look forward to talking with everyone next week. Staff, could you tell us what time our call is next week?

Terri Agnew: Hi, Kathy. It's Terri. I also put it in the chat as well. It will be on Wednesday, the 17th, at 18:00 UTC for 90 minutes.

Kathy Kleiman: Terrific. So same time as this week and that puts our late night meeting, our Asia friendly meeting at the end of the month where it normally goes. Thank you very much everyone. Thanks for a great call. Bye-bye.

Terri Agnew: Thank you everyone. Once again the meeting has been adjourned. Please remember to disconnect all remaining lines and have a wonderful rest of your day. Operator Harvey, if you could please stop all recordings.

END