

**ICANN
Transcription
Sub Team for Additional Marketplace RPMs
Friday, 01 September 2017 at 16:00 UTC**

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Coordinator: Recording has started.

Woman: Great. Thanks, (Joy). Well good morning, good afternoon and good evening to all and welcome to the Sub Team for Additional Marketplace RPMs call on the 1st of September 2017. In the interest of time there will be no roll call.

Attendance will be taken via the Adobe Connect room, so if you're only on the audio bridge would you please let yourself be known now? And we have Steve Levy on.

Claudio Di Gangi: Hi this is...

((Crosstalk))

Steve Levy: Thank you.

Claudio Di Gangi: ...Claudio. I'm on the audio bridge.

Woman: Great. Thank you. And as a reminder to all participants, please state your name before speaking, 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 Paul McGrady.

Paul McGrady: Thank you very much. Good morning, good afternoon and good evening everyone and welcome to the Marketplace Protections Sub Team call. We have a very limited agenda today and that is good news.

And I don't want to jinx us but if we get through this limited agenda we will have addressed all the questions and I think our work will be done, other than to present the revised list of questions back to the main working group and of course answer any questions the working group might have of us on how we got here.

So I will just jump in here on our agenda and see if we can move through it and who knows? Maybe we will get done. It – this might be our very last call. We'll see.

Okay so Agenda Item Number 1 was discussion of the language proposed by Greg Shatan for Question Number 6. This was on our last call. He proposed, "Which Additional Marketplace RPMs were submitted for RSEP approval, and which Additional Marketplace RPMs were submitted to ICANN for some other form of approval?"

We thought that that – Greg thought that that might capture what the goal of Question 6 was, which was to tease out which of these Additional Marketplace RPMs are finding their way into ICANN one way or the other.

The – I thought there was some general consensus about this rephrasing on our last call but I don't want to presume that so I will open a queue on that. Kristine Dorrain I see your hand's open. Please go ahead.

Kristine Dorrain: Thanks everyone. This is Kristine. I won't belabor the point but I still do object that this question is completely outside of the scope and with sub team

members' PDP I don't think that there's any more – there's no reason to dig in to the how of the – all the Additional Marketplace RPMs.

We're, you know, deciding how, you know, whether or not ICANN need to approve them or not and that we are here to find out about how they work and how they interact with sunrise. Thank you.

Paul McGrady: Thanks Kristine. You are a little bit distorted on your – on how we're hearing you but I think that we – I think everybody captured what you were trying to say, which is a continuing objection to this particular question because it seems to be out of scope of what we were meant to be doing here, which is looking at how Additional Marketplace Protections interact with the other RPMs and with each other rather than exploring the origin of how they came to be.

I see here from the chat Jon Nevett says he agrees with Kristine but not as loudly. I think that was a joke about how we're – maybe how loudly we're hearing Kristine.

And let's see what else, more about Kristine's malfunctioning microphone. Any other comments other than Kristine's or in addition to Kristine's or comments about Kristine's comment regarding this Question Number 6?

I think at some point we have to decide as a group are we keeping it or are we not keeping it, and if we are keeping it is this the right phraseology? Greg I see your hand's up. Please go ahead.

Gregory Shatan: Thanks. This is Greg Shatan. I hope my levels are decent; audio levels that is. I just – I don't want the fact that I suggested this to mean that I'm, you know, in favor of this question per se but trying to see if it is a consensus position that I can contribute to developing.

My sympathies if we were to take a sense of the room is to – is with Kristine on this one. But if we were going to have a question at all it needs to be kind of fact-based and historical, you know, a looking – look back, knowledge-based question, which is what I've tried to fashion here.

But, you know, overall I'm not sure it's a question we need to ask at all but as it was being asked previously was really, you know, from a different script entirely. Thanks.

Paul McGrady: Thanks Greg. Any other comments about this particular Question 6? Kathy I see your hand's up. Please go ahead.

Kathy Kleinman: Hi. Apologies for – to everyone for being late. I've been busy packing up for the weekend. The proposal I guess is to delete this Paul and we've talked a lot about this and kind of the importance of understanding what the approval process is for private rights protection mechanisms because they are adjacent to, you know, consensus rights protection mechanisms.

So I thought we had talked a lot last time about editing this to kind of streamline it but not to delete it altogether. Thanks.

Paul McGrady: Thanks Kathy. Yes and that was how we ended up with Greg's rewrite. Any other comments on this? Jon Nevett I see your hand's up. Please go ahead.

Jon Nevett: Thanks Paul. Can you hear me?

Paul McGrady: Yes you're a little faint and there's also someone who did not put their phone on mute and I hear typing. Thanks Jon. Please go ahead.

Jon Nevett: Jon Nevett.

Paul McGrady: There you go.

Jon Nevett: Thanks. Yes just real, real briefly this might be an important issue about approval processes for additional RPMs and whether it needs the RSEP, but it's not an important issue for this group and in fact it's being discussed right now in the Subsequent Procedures Working Group Work Track 4.

So I think we don't have to rehash the whole argument about what the relevance is to this group, but we're looking at the RPMs that existed in the 2012 round and not how other additional RPMs are approved.

To the extent the other Marketplace RPMs are relevant it's just how they interact with and work with the ones that we're reviewing, and so this is out of scope. Thank you.

Paul McGrady: Thanks Jon. Well this is one of those fun times when you're tiering something like this where you're trying to determine which way the wind is blowing.

And unfortunately we have, you know, opinions on both sides of this one so it's not clear to me anyways how the wind is blowing here. Kathy I see your hand's up. Oh please go ahead.

Kathy Kleinman: Thanks Jon and I'm participating in my individual capacity and – as was Phil Corwin last week and I don't see him here. But he was pretty eloquent on, you know, understanding this question and understanding not the approval process and detail but, you know, basic fact gathering about the approval process so that we understand and - as part of the private rights protection mechanisms.

If indeed it is going on right now in Subsequent Procedures all the better. Why don't we get the data from them? But the idea that we're punting it to them – I think they're looking at different angles of this.

We are focused on the rights protection mechanisms. These are rights protection mechanisms so I don't think we can punt it over there, but we're going on a call and am I the only – goodness, J. Scott is here.

We're going on a call with the Subsequent Procedures co-chairs shortly. We've been trying to schedule that, you know, amidst everyone's busy schedules.

But that is coming up shortly and if we want to put a streamlined question here and then get the answers from, you know, to the extent Subsequent Procedures has them to share we've got perfect timing for doing that.

But the idea of not asking the question at all – and again Phil was very eloquent last week on why we should in his individual capacity. Thank you.

Paul McGrady: Thanks Kathy. I see from the chat Kristine Dorrain says, "No one has indicated why and how these get approved is relevant." That – J. Scott says, "I think I always understood that mandated RPMs were a floor not a ceiling, and that the marketplace would provide additional protections. I tend to agree with Kristine and Greg here."

Kristine Dorrain again. "We are not here to review the additional market – additional mechanisms though Kathy. We are here to get sunrise data." David McAuley says, "I agree that we should take advantage of work that Sub Pro Working Track 4 is doing."

So J. Scott Evans has a good suggestion and one that I was about to suggest myself. Why don't we just take a quick poll here on the Adobe Connect? And if we want to keep this question if you could give me a green checkmark, and if you want to delete this question could you give me a red X?

Claudio Di Gangi: Paul. Paul, hey it's Claudio. I'm not on Adobe but I'm just going to pass on this one. I haven't really given it a lot of thought. Thanks.

Paul McGrady: Okay thank you Claudio. Mary Wong before I count the Xs and checkmarks I see your hand's up. Could you please go ahead?

Mary Wong: Yes thank you Paul. Hi everyone. This is Mary from staff. So just a – more of a question really for Greg and the group. With the rephrasing that Greg has proposed which is a – I think to make it more fact-based as David and others - suggestion last week, we just wanted to ask from the staff perspective who – to whom is this question directed?

Our understanding was that the original question as phrased was meant to be directed at ICANN. As rephrased from the ICANN perspective I don't know that we can actually answer this because we certainly as ICANN do not have a list or definitions for what constitute Additional Marketplace RPMs, much less a rule that these have or have not to be submitted to us in whatever form for approval. Thanks Paul. So just a question.

Paul McGrady: Thanks Mary. Okay well – so it appears that we have it looks like three times as many red checks as we do – or red Xs as we do green checks so I suppose that's the way the wind is blowing.

We have a few folks who did not indicate one way or the other on this particular question. I see that Kathy suggested that we count Phil Corwin as a green checkmark, but Kathy as you can appreciate we don't have a proxy process for these kinds of calls.

So I – and unfortunately Phil can't be here but I don't know that we want to start going down that path. So let's go ahead and go with the way the wind is blowing and we will delete Question 6 and we should then move on.

Let's see here. Next up is Item Number 2, "Agree on whether to move former Question 8, now renumbered as Question 7 following the incorporation of the previous Question 7 into a new bullet point under Question 3, out of the main

text and into the archived portion of the same document, archived under the heading Deleted as Outside the Remit of the Sub Team but Archived for Working Group Information.”

I think that there was a – sort of an agreement to do this last time but I think staff wanted to confirm that, so I will open a queue on Agenda Item Number 2. Rebecca I see your hand. Please go ahead.

Rebecca Tushnet: Hey. Rebecca Tushnet. I actually wanted to register my strong objection to saying that there's a consensus to delete. If you look at the people who weren't sure and were not voting the – plus the people who voted to keep it that actually is more than the people who voted to delete it.

This may be a larger procedural question but it seems to me that you can't say there's a consensus when that is the case. Thank you.

Paul McGrady: Thanks Rebecca. I didn't say there was a consensus. I was actually very careful not to do that because that is a word without a definition in ICANN land, but I was trying to get a sense of which way the wind was blowing.

And unfortunately as a chair of these sorts of things when I'm not trying to put my own personal point of view over the question the best thing that I can do is ask people to raise their hands.

And there were overwhelmingly red Xs and there were two green checkmarks and there were people – others who did not care enough one way or the other to voice a red X or a green checkmark.

So I note your strong objection but I think it's based upon the faulty assumption that I said there was some sort of consensus. There is however nothing keeping anyone -- as we all know these working groups are quite porous -- from reintroducing the concept contained in deleted Question 6 at the working group level if they want to do that.

All right. So back to Agenda Item Number 2. This is whether or not to make this particular - move former Question Number 8. This was Kathy's suggestion on how to deal with this particular question, moving it to the end of the document under a heading Deleted as Outside the Remit of Sub Team but Archived for Working Group Information.

Again like I said there – I – there didn't seem to be much objection to this way of handling this question, and so I will open a queue on objections to the plan to archive this.

Okay seeing no objection I hope that that is the way the wind is blowing so let's do that thing. Hopefully no one has any concerns about me trying to figure out which way the wind was blowing on that one and making a decision.

So that leads us to the remaining questions and let's see if we can get through them. And I believe that is our new – we will begin at our new Question Number 8.

Mary let me – raise your hand or let me know if that's wrong. Let's see, Question Number 8. "What roles do the TMCH providers play in the provision of Additional Marketplace RPMs by registry operators, both the front-end, Deloitte, and the backend, IBM?"

I will open a queue on this question. Any concerns? Any rephrasings? Okay nobody raising a hand. This question seems to have no detractors. Anybody just on the audio bridge any concerns? Going once. Going twice. Oh Mary.

Mary Wong: Paul this is Mary.

Paul McGrady: Sorry. I know I'm terrible about watching further up the food chain. Mary your hand's up. Please go ahead.

Mary Wong: Not at all Paul and I did not mean to interrupt. And essentially I was going to make a comment for the working group to consider but I see that - I think Kristine has made the same comment as a member question in the chat, which is that for this Question 8 and possibly also Question 9 one thing that this group may wish to consider is whether some or all of what this is trying to do may already be captured by Question 3, which as you'll recall we have reworked significantly since its first iteration.

Paul McGrady: Okay so let's take a look at Question 8. "What roles do the TMCH provider play in the provision of Additional Marketplace RPMs by registry operators, both on the front-end, Deloitte, and the backend, IBM?"

And let's go up to Question Number 3. Good suggestion Mary. And Question Number 3, "What are each registry operator's rules for each type of Additional Marketplace RPMs it offers, noting that some new gTLD registry operators offer more than one version of a Protected Marks List service?

Where a trademark holder uses a Protected Mark List service, e.g., blocking service for one or more classes of goods or services are they able to block another rights holder, hold the same trademark but for a different class of goods or services?

What do registry operators impose as a condition for using Protected Marks List, e.g., blocking services? For example, do they all use the same valid SMD file contained in the TMCH database?"

Well this - next was kind of garbled. Let me see if I can zoom in on it and make it less so. What do registry operators – oh yes we're – we did that bullet.

Lastly, “How much/in what manner of use does each registry operator make of data from the TMCH or the trademark holder in providing its Additional Marketplace RPMs?”

Oh I see a note here from Mary and your hand’s up. Sorry. “It may be Question Number 2 that’s more relevant.” I’ll – that’s good because I was a bit confused myself.

Okay let’s go up here. Question Number 2. “Are registry operators relying on the results of the TMCH validation services or accessing the TMCH database to provide Additional Marketplace RPMs and if so in what ways?

Is there language in the current adopted TMCH policy or related documents that expressly permits, prohibits or otherwise addresses such use by registry operators?

Are registry operators able to provide the same or similar Additional Marketplace RPMs without relying on the TMCH validation services or access to the TMCH database?

Will there be an increase in costs? If so, what will that be to stakeholders along the value chain, i.e., brand owners, registries, registrars and other registrants?”

Okay. So I guess the question is is Question 8 subsumed within Question 2? So should we keep Question 8 independent? Does Question 2 cover it? If Question 2 doesn’t cover it should we reopen the language of Question 2 to try to find a way forward to get rid of Question Number 8, or should we just leave Question Number 8 alone?

I will open – keeping in mind that when I first read Question 8 there wasn’t any really objection to it substantively I don’t think - just a suggestion that maybe Question 8 is already handled elsewhere.

I will open up the queue on – for anybody that has an opinion on either keeping Question 8 as is because it fits neatly within Question Number 2 already, or modifying Question Number 2 to – I’m sorry, doing away with Question Number 8 because Question Number 2 already handles it, doing away with Question Number 8 based upon modifying Question Number 2 in some way or I guess just hanging on to Question Number 8 the way it is?

Anybody at all? We’ll just open a queue here and see if we get any hands. Okay no passionate out – straight – outspoken folks for doing anything with Question Number 8.

So here’s the deal. Question Number 2 was hard fought and I’m – I understand that we want to have some efficiency in not asking the question – same question over and over again.

I will say that I think if I thought enough about Question Number 2 I might be able to see Question Number 8 in there, but my concern about reopening up Question Number 2 to deal with an uncontroversial question like Question Number 8 probably lacks efficiency for us. Greg Shatan I see your hand’s up. Please go ahead.

Gregory Shatan: Hi. Greg Shatan for the record. I do have some concerns about Question Number 8. You know, it’s very open-ended and ambiguous. Now it’s – and I guess it - I also have to think who is this question being asked to as well, and trying to figure out whether, you know, as we get to Question 9 whether it is just the same question being asked two different ways, servicing versus a provision and whether – what – whether these questions are in essence really about the Additional Marketplace RPMs.

But Question 9 to my mind seems to be setting up perhaps a criticism of the TMCH provider for being too solicitous to Marketplace RPM providers and kind of questioning how this is going on.

You know, it's – just doesn't strike me as very kind of - it has a – seems to be some inherent bias in the question. So I don't want to just kind of let 8 and 9 pass as – with the thought that there's – they're kind of all okay about the way they're phrased. I think they both tend to look like fishing expeditions.

Thanks.

Paul McGrady: Okay thanks Greg. I – I'm hesitant to jump ahead to Question 9 when we're trying to deal with Question Number 8, so we will get to Question Number 9 and I encourage you to bring forward any concerns about Question Number 9 at the time.

For Question Number 8 I see in the chat Kristine Dorrain. "I do think Question 8 is already addressed in Question Number 2." So we have Kristine suggesting that.

We also have staff suggesting that it may well be there handled in Question Number 2. I – oh I see Kathy's hand. Kathy please go ahead.

Kathy Kleinman: Wow. At the start of Labor Day I seem to be the contrarian in the group. Sorry about that guys but I don't see how Question 2 covers Question 8 at all. One is about registry operators.

One is about providers. Providers are very much in our remit. We're the ones who brought the providers in, we being ICANN and ICANN contracts. If we're not reviewing that, you know, that seems core to our mission.

I don't see how the question is biased. It's pretty short, clear data gathering. It's a good question and I don't see how it's covered by Number 2 at all – different groups. Thanks – different groups being with that (unintelligible).

Thank you.

Paul McGrady: Thank you Kathy. David I see your hand's up. Please go ahead.

David McAuley: Thanks. Thanks Paul. David McAuley here. It – listening to Greg and Kathy maybe it – maybe it's just – we could just shove 8 into 2 by saying, “Are there other roles that TMCH providers play?” and just have it as a follow on sentence at the end of Number 2. Thanks.

Paul McGrady: Thank you David. Any reactions to David's suggestion that we move the content of Question 8 and tack it onto the end of Question Number 2? Greg I see your hand's up. Please go ahead.

Gregory Shatan: Just to respond more to what Kathy said I think that Question 8 and Question 2 are kind of mirror images of each other or kind of asking about – but yet the same transaction if you will from the point of view of one end and then the other end kind of like, you know, what sandwich did you buy?

What sandwich did you sell? It's the same sandwich so that's why I think that there's a high degree of overlap between the two of them. And again if we haven't identified who we're asking, if the – at – intent is to ask the operator on the one hand and the registries on the other hand or, you know, registry service providers on the other hand then maybe it makes sense for it to be a separate question.

But a lot of this is getting – is kind of nebulous. I think putting Question 8 in Question 2 and trying to make it a little bit more vigorous and focused would be, you know, a way to go to kind of achieve, you know, some consensus and try to – if there is just some missing information here and understanding, you know, how Additional Marketplace RPMs work then, you know, we should know the facts about that. Thanks.

Paul McGrady: Thank you Greg. Kathy I see your hand's up. Please go ahead.

Kathy Kleinman: Yes. Question 2 is such a long question. I could see why David would want to add 8 to it but let me suggest – and I could see why Mary – I’m going to kind of rephrase her question and Mary tell me if I got it all wrong.

But Question 2/Question 8 are related but I don’t think they’re the same questions so what do, you know, the reordering might be kind of the concept, that we bring the Question 8 and 9 questions up under Question 2.

But I think we’re going to find 8 and 9 have a lot more in common. Greg would – hinted at that so – and we have a spent a lot of time on 2 and Number 2, I mean, it’s a big, long question and 8 and 9 have a slightly different emphasis and certainly a different focus.

So Paul the suggestion’s on the table, and I know we haven’t gotten to 9 yet, that we move 8 up under 2, not as part of 2 but as, you know, as a continuation of kind of the thought of what we’re looking at and probably 8 and 9 will probably merge. That’s the suggestion. Thank you.

Paul McGrady: Okay thank you Kathy. Okay. Any other comments on this? We have – I see in the chat – oh Mary said – reminds me the staff is just suggesting what seem to be an overlap for consideration and discussion by the group.

They don’t have an opinion. Thanks Mary. I didn’t mean to imply that you did, just that you saw some overlap there. I just wanted to note that. And then Kristine Dorrain says, “The first sentence of Q2 says, ‘Are O - ROs relying on the results of TMCH validation services?’

That is – explains the relatedness here. Obviously if registry operators are relying on TMCH providers then that means that they’re playing some role.” Kathy says, “How about Question 8 follows Number 2?”

So Question 8 would follow Question Number 2 – I guess would become our new Question 3. That's Kathy's suggestion. We have a suggestion earlier. I think it was from – David I'm sorry.

I thought it was from you that we tack on Question Number 8 to the end of Question Number 2 and make it part of Question Number 2. And then of course we have the suggestion that Question 8's already been – this is Kristine Dorrain that Question 8's already been addressed by Question Number 2.

Thank you David for confirming that that was the – that was your suggestion to tack it onto Question Number 2. Okay. Well with fear and trepidation I think that I'd like to have another wind – testing the wind exercise here and let's see how many Adobe things that we can do here.

So for those who would like to tack Question 8 on to Question Number 2, please give me a green checkmark. For those who would like Question 8 to become a new question directly after Question Number 2, can you give me a – the red X of disagreement?

And for those of you who would like to keep Question 8 just the way it is and a – Question 2 just the way it is, can you please give me a step away? All right.

Well we have one from David saying, "Make it part of Question Number 2." Kathy says a lot. So we have agree, disagree and step away in the dropdown menu after raise hand.

All right. Not getting any responses other than David. Staff, are you seeing the responses other than David? I'm a little concerned.

Mary Wong: Paul this is Mary from the staff. We are also only seeing a green checkmark from David but we – Greg has asked for the options to be restated.

Paul McGrady: Oh okay. So if you would like for Question Number 8 to be tacked on to the end of Question Number 2 and it will say, "What other roles do the TMCH provider play in the provision of Additional Marketplace RPMs by registry operators, both the front-end, Deloitte, and the backend, IBM?" that would be a green checkmark of agreement.

If you want that modified Question Number 8 to be its own standalone question after number – Question Number 2 – actually I don't think that we even need to modify Question Number 8.

I think it just become its own new Question Number 3. That would be an X for disagreement. I know that, you know, unfortunately we don't have Camp A, Camp 2, you know, so that would be an X for disagreement.

Then if you just think Question Number 8 and Question Number 2 are just wonderful the way they are, there's an option here that says Step Away and if - you can check on Step Away.

Let's try again on our exercise here. If you guys could do that for me. Kristine says, "I'm going to suggest that since it's a repeated question it doesn't matter where it goes."

I got Rebecca with a step away, which means leaving it where it's at. Got some agnostics.

Gregory Shatan: Paul sorry, this is Greg Shatan. Which option is vote to delete Question 8?

Paul McGrady: Well I don't know that we have an option to delete Question 8 in its entirety. I – the crapshoot of put the – out there but we've not had anybody speak so strongly against Question 8 in that way but we certainly could add that.

So we'll have a fourth option, which is the turtle, slow down. All right, we've got two for – two slowdowns, which means delete it altogether. Kristine Dorrain delete.

Jon Nevett was delete. Now he's not. Greg Shatan delete. David McAuley – okay I'm beginning to see the limits of this here because we – Kristine Dorrain was delete. Now she's not.

Jon Nevett's delete. Now he's not and Greg Shatan – okay. I think this is – I'm not sure that we're holding our votes here long enough for me to develop any sense of where the team is on this one. Okay.

Mary Wong: Paul?

Paul McGrady: Mary your hand's up.

Mary Wong: This is Mary from...

Paul McGrady: Keep testing me. Yes.

Mary Wong: I think one problem is that some of these options - when you click on them they don't stay clicked on. At least they don't...

Paul McGrady: Okay.

Mary Wong: ...stay illuminated so you may want to do it again and have people hit their – whichever mark they want to hit as quickly as possible.

Paul McGrady: I think it's probably more complex at this point because we only have three options: agree, disagree and step away and there appear to be four options. So if I could just – maybe we'll just do this in the chat instead.

So if I could have people write either delete entire – delete Question 8, move Question 8 to its own Question Number 3...

Mary Wong: And what...

Paul McGrady: ...or amend Question Number 2 to include Question 8. Are those our three options or am I missing one? (Brian) your hand's up.

((Crosstalk))

Paul McGrady: Please go ahead (Brian). Maybe you'll have a suggestion of how I figure out how to do this. Thanks.

(Brian): Thanks Paul. Yes there seem to be quite a few people with the turtles showing up and then quickly disappearing. Maybe we needed just the threshold question of the agree or disagree mark and just say, "Do we want it to – and if there's a majority in favor of deleting we can move on.

And if people want to keep it then we can do a separate poll as to where to place it." But I think maybe really decide whether or not the group wants it to stay or how the wind is blowing.

Paul McGrady: Okay. All right. Thank you (Brian). Let's do that. So let's first ask the question should we delete Question Number 8? If you would like to delete Question Number 8 please give me a green checkmark.

If you want to keep Question Number 8 please give me a red X. Okay I see some folks. Not everybody has given an opinion one way or the other yet. Those on the line do you have – can you say a green check or red X?

Claudio Di Gangi: No strong feelings on this one either Paul. Thanks.

Paul McGrady: Okay thank you Claudio. He remains neutral. Okay so let's...

Steve Levy: This is Steve. I'll vote delete.

Paul McGrady: Okay Steve votes delete. All right, so again we have the – it looks like three or four times the number of deletes as we do keep. All right. So let's do that. Question Number 8 deleted.

All right. Let's move on then to Question Number 9 and I know there's – Question Number 9 has already raised some concerns even though we've not gotten there yet.

So I will read the question and then I will open the queue. Number 9. "What role does the TMCH provider, front-end, play in servicing the Additional Marketplace RPMs?"

For example, what Web site and Webinar services in the TMCH provider – what – I'm sorry. What Web site and Webinar services is the TMCH provider providing?

What support to TM owners and registrants is the TMCH provider providing? Are these services separated from the ICANN-mandated and supported services and if so how, and are these services supported by the ICANN contract and fees?"

Okay. That's a chunky question. Greg had some issues that he mentioned before. He didn't go into detail. I know others may also so we'll open a queue.

Okay any concerns with Question Number 9 as written? Greg Shatan please go ahead and Mary then I see your hand is up so right after Greg we'll hear from you.

Gregory Shatan: Thanks. This is Greg Shatan again and to kind of to some extent restate my earlier concerns that it seems to be a - kind of a broad fishing question and really goes, you know, not to understanding how the Additional Marketplace RPMs work but it kind of at least has an implicit – seems we have an implicit theory that somehow the TMCH provider is being overly supportive of Additional Marketplace RB – RPMs.

You know, it's asking about Web site and Webinar services and the like and some – just find myself kind of concerned that this is, A, you know, not something that understanding the R – the Additional Marketplace RPMs needed; and B, that it's kind of trying to build a case rather than merely search for data, especially the way the questions are being asked.

And, you know, some of these are, you know, it's kind of ambiguous in the sense that - for instance C, "Are these services separated from the ICANN-mandated and supported services?" and it's not clear what separated means.

I understand that there is, you know, in the – I – in the contract or whatever that underlies the relationship that, you know, the idea that they can run other services but they need to keep them separated.

I suppose that's what this is getting at. The last question, "Are these services supported by the ICANN contract and fees?" – that one seems completely – I can't understand that one at all other than in kind of the when did you stop beating your wife sort of context.

I know it would need to be supported by the ICANN contract, and supported by the ICANN fees is getting to kind of some sort of a accounting question as to, you know, how they're – whether they are in - somehow accounting for ICANN fees as only supporting certain aspects of the business and – or not.

And maybe the answer we'll get is, "We don't track the money separately. What are you getting at here?" But again, you know, this just seems to be

underlying there's a certain skepticism about the role that the TMCH should be playing which really, you know, is not part of the Additional Marketplace RPMs mandate at all to my mind. Thanks.

Paul McGrady: Thanks Greg. Any other comments on Question Number 9? Kathy please go ahead.

Kathy Kleinman: Oh excuse me, Mary's hand was raised first.

Paul McGrady: I'm sorry Kathy?

Kathy Kleinman: Wasn't - Mary's hand has been raised for some time and I came in afterwards.

Paul McGrady: Oh I'm sorry. I did promise. Kathy I – thank you for reminding me. I did promise that we would go back to Mary after we heard from Greg. Mary please go ahead.

Mary Wong: Paul no worries. Hi all. This is Mary from staff. I just wanted to highlight that staff had a comment in the document that we had put in some time ago, and Greg did allude to this and this is in respect of Bullet Point C and to some extent Bullet Point D as well.

We just wanted to get some clarification as to what the phrase or the word supported means, if it means ICANN supported and similarly in D the services supported by the ICANN contract.

And the reason we ask is the – ICANN does not support the Additional Marketplace RPMs and the ICANN contract with the TMCH providers do not refer to these Additional Marketplace RPMs, so we just thought we'd raise that for clarity. Thank you.

Paul McGrady: Thank you Mary. Good – that’s a good point and one - as you mentioned Greg already mentioned the ambiguity around that. Kathy thank you for your patience. Please go ahead.

Kathy Kleinman: Sorry. Delayed coming off mute. I won’t keep the how long are you beating your wife either. These are pretty direct questions. That’s why the co-chairs sent them to you.

I’d support David McAuley’s idea of keeping 2, 8 and 9 in one effort or adjacent to each other because this is all part of the legitimate questions that were asking about the role of the providers.

We’ve asked similar questions as have been noted repeatedly about the registry operators. Now we’re asking about the role of the TMCH providers and if indeed there’s no role then the answer’s no, whereas indeed ICANN contracts are not supporting any of this then simple answer.

But we’ve always said to the sub team that simple answers don’t mean we don’t ask the questions or share the answers with the working group. So to the extent anything’s deleted I do think it should be archived so that the working group knows what we’ve recommended not moving forward with.

But I am again supporting David’s idea of merging or combining or making adjacent 2, 8 and 9. Thank you. Thank you.

Paul McGrady: Thanks Kathy. Any other comments on this especially on how we might clarify C and D about the phrase supported? Is it simply just are these services separated, you know, are the charges for these services separated on the books from the charges for the ICANN-mandated services and if so how?

Are these services supported in – financially by the ICANN contract and fees? Is that what this question was meant to be getting at? Anybody have

any questions and – any comments or responses to that idea that we're asking a financial question?

What is it that we're trying to ask in Question Number C and D so we hopefully we can get them clarified? Kathy your hand's raised. Please go ahead.

Kathy Kleinman: Yes I wish Phil were on the call because he was the primary drafter of many of these. So D, are these service – 9d, "Are these services supported by the ICANN contract and fees?"

So I think there is a question. Is any of – is any ICANN money flowing to these? If there's an easy answer great. (Unintelligible). A, "What Web site and Webinar services is the TMCH provider providing?"

That's more, you know, a question of services and what's being done. So I think the question is designed to kind of hit both, you know, all the different things you were saying, you know, services, financial support, et cetera and again easy answer is great. Thanks.

Paul McGrady: Terrific. Okay so are these services – are the – so it's – there's payments but there's payments from the – from registry operators in theory that they've collected from their registrants, but that's not really I think the question.

Or I think the question is is ICANN – are these services being subsidized in any manner by ICANN either through the ICANN-mandated services or otherwise, something along those lines?

I think that may be – are we talking about as subsidies and those could be financial or those could in theory be personnel? So for example, if you have a full-time employee that you hired to perform the ICANN-mandated services but they only have 4/5 of a job and 1/5 of their job is to do these other things,

I guess in theory that's a means of subsidizing these. David your hand's up. Please go ahead.

David McAuley: Thanks Paul. It's David McAuley for the record. I just want – I think I'm confusing folks with my votes and comments. I just wanted to mention that I think I'm struggling.

I think maybe we've bogged down a little bit. I'm struggling from this perspective. I'm looking at the questions with two filters. One is an ICANN permission filter, and I tend to think ICANN permission is not something that we're talking about or that we had in focus and I would agree with that.

I don't, you know, and – but the other filter is an information filter to how do additional RPMs affect the DNS security/stability/resiliency, and there I think that's a legitimate question.

And if those questions are answered ever in such a way that something could impact adversely the DNS then I would say, "Well maybe those cases do get into the ICANN permission bucket."

But looking at it that way I'm just struggling with some of the questions because maybe I'm taking a lawyer's approach. It's just – they're sort of in the middle and it's just very hard for me to vote so if I'm confusing folks I'm sorry. I'm just struggling with how the whole thing is framed. Thanks very much.

Paul McGrady: Thank you David. I appreciate that comment. Well guys guess what? We're running out of time so I don't think we're going to get across the finish line today as hoped, because we simply don't have time to deal with the other remaining issues and to get a cleaned up set together in time.

So we'll have at least one more call next Friday. In the meantime maybe staff can put Question 9 out on the list to see if folks can suggest and X to clean up Subpart C and D.

I think we're trying to capture the idea of subsidizing here and we need to figure out how to ask that in a way that – straightforward enough and doesn't come off as loaded.

So if we could do that as an action item – the other thing from the list that a couple of folks have mentioned is what to do with Questions 6 and 8 which, you know, under our very informal trying to decide which way the wind is blowing the wind blew towards deletion.

But some folks have suggest that those be archived at the bottom along with Question Number 7, and so if we could add that to our list of action items to discuss on the list should we archive those – that – those two deleted questions the way that we archived deleted Question Number 7.

There are of course, you know, the working group is very porous so any of those issues can be raised on the working group. Of course just because we choose not to ask those questions doesn't mean they can't be raised in other forum.

But of course archiving them at the bottom is the way to keep track of them, and so let's put that out there as something to discuss on our list during the week.

And I think that if we can get Question 9c and 9d under control and answer the question about archiving the deleted questions, that will leave us with mostly technical things to do on our next call.

So I do encourage robust participation during the week on the list and let's see what we can accomplish before the next call. Staff anything else, maybe

an announcement about when the next call will be, all that good stuff before we go?

Claudio Di Gangi: Hey. Hey Paul can I mention...

Paul McGrady: Sure.

Claudio Di Gangi: ...one thing real quick?

Paul McGrady: Yes Claudio please go ahead. Thank you.

Claudio Di Gangi: Thank you. Yes but I had missed one of the last calls and I just – I had a suggested refinement on Question 5. But if you want me to do that over the list I could send a – the suggested text for that.

Paul McGrady: That would be great Claudio if you could do that on the list and staff will watch for it and capture it. And if we don't solve it fully on the list before our next call they'll help me make sure to remember to put that into the agenda so we can discuss it.

Claudio Di Gangi: Okay great. Thanks.

Paul McGrady: Thank you. Staff any last things to say before we go?

Mary Wong: Hi Paul, this is Mary from staff. So just to note that we had retained the comment from Claudio from - previously about Question 5, and what we've noted for today is that there is an action item for Claudio to send some language to the list.

And with respect to the other items that you requested we will follow up with the list as well and finally, in terms of the next call we assume it'll be the same day, same time so that would be next Friday at 16:00 UTC.

Paul McGrady: Perfect. Okay thank you all very much and please enjoy the Labor Day weekend if you happen to be residing in the U.S., and for those of you that don't have Monday off please be a little bit jealous of us who do. Okay thanks so much. We'll to you guys next week. Bye-bye.

Claudio Di Gangi: Thank you.

END