

**ICANN
Transcription
Review of all Rights Protection Mechanisms (RPMs) PDP Working Group
Wednesday, 02 May 2018 at 17:00 UTC**

Note: Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at: <https://audio.icann.org/gnso/gnso-rpm-review-02may18-en.mp3>

Attendance of the call is posted on agenda wiki page: <https://community.icann.org/x/xg4FBQ>

The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page <http://gnso.icann.org/en/group-activities/calendar>

Coordinator: Recording has started.

Terri Agnew: Okay, great. Thank you. Good morning, good afternoon, and good evening. Welcome to the Review of All Rights Protection Mechanisms RPM and all GTLD PDP Working Group call on Wednesday, the 2nd of May 2018. In the interest of time, there will be no roll call. Attendance will be taken by the WebEx room. If you are only on the audio bridge, could you please let yourselves be known now? And I did just give some names. Hearing no more names and seeing no more names, I would like to remind all to please state your name before speaking for transaction purposes and 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, Phil Corwin. Please begin.

Phil Corwin: Okay. Good morning, afternoon, and evening to everybody. Thanks for joining and we've got a crowded agenda today. We're going to get right into it. Anyone have updates or statements of interest? Okay, hearing none, we're going to move onto Item 2, final status of questions, or in one case near final status. I was chairing the provider subteam. Staff can correct me if I'm

wrong but I believe those questions are done and locked down. Is that correct, staff? Anyone want to speak to that?

Ariel Liang: This is Ariel Liang from staff. Just for those providers questions, we have provided the latest redline updates to the subteam and now, we give the subteam to 12:00 UTC tomorrow to review any remaining questions that are still pending subteam's decision of how to word it. So we still have a little bit of time and we have received some feedback from Justine so far.

Phil Corwin: Right, yes, I saw Justine's. So we're very close to the end and they'll be finished and locked down tomorrow. I'm looking here and I don't see Jason Schaeffer on to report on the practitioner's questions. My understanding is that they're basically done but we had some questions submitted very late in the process by Paul Keating, who I don't believe is on today's call. And there's been a spirited discussion on the email list today, and I see Mary's hand up and I think we're going to try to let the practitioner subteam work that out, but quickly. Because we need to get all of this out this week.

Mary, go ahead.

Mary Wong: Thanks, Phil. Hi, everyone. This is Mary from staff. So as I noted in the chat and to follow-up on Ariel's intervention, the aim is to send out all the provider questions to all three providers by this Friday at the latest. And part of the reason for that is that there are some questions that we have been told by the providers already that they will need more time than originally anticipated.

So essentially, the sooner we can get it out to them, the more quickly we can get back maybe initial responses on some of the questions, and of course, final responses for those other questions where they need more time.

Phil Corwin: Thanks, Mary, and my understanding from their responses is that they can get most of the questions answered within 30 days, but some may take 45 or a bit longer. So we're going to ask them to do the quick ones first and then

get the other ones back to us by just before the start of the San Juan -- not the San Juan -- the Panama meeting in June.

So that will be good. So that's the update on that if no one has any other comments on the subteams and the status of those questions. So now, we're up to Item 3, report from the documents subteam. I believe Brian Beckham is going to provide that report. Brian, we've left 20 minutes for your report and questions. Don't feel compelled to use all 20 if you don't need to and are you ready to proceed?

Brian Beckham: I am. Thank you, Phil. This is Brian Beckham for the record and I hope to take you up on that challenge not to use the full 20 minutes. So Berry helpfully provided a summary of the work product of the document subteam, which has been shared to the list on a few occasions. I would recommend that working group members read that. It's relatively brief. It's about 2.5 pages, and it's bulleted out, and it's fairly concise.

A few things that I thought may be useful to highlight for the full working group are there were two questions that we had discussed actually during the previous two working group calls, which we thought would be useful to refer to the other subteam. Those were questions for providers and those have been done, so we consider that to be taken care of.

We looked at an Excel sheet that Berry had provided on the 14 appeals cases. They went - they covered the entire text of the decisions themselves and the appeals decisions themselves, and some other relevant information, for example, the domain names, the content on the page, et cetera. There was one or two cases where we noticed there was some questions about the resolution of the websites related to particular domain names and we again referred that up to the provider subteam.

So I think there are three things to kind of cap this off. One was that we felt on the subteam that from what we could tell that the determinations

themselves and the appeals seemed to be working as intended. In about half of the cases, the party that had prevailed in first instance prevailed on the appeal. In about half of the cases, the opposite was the case and those were obviously due to the specifics of those particular cases.

So we felt that this was a signal that overall that the URS was functioning as intended. And so we wanted to refer to the broader working group as to whether further work would be useful. There were, if you recall, some 250 additional cases that we did not review where a response was filed and in 58 of those 250, the respondent prevailed. And this also relates to some research that Professor Tushnet was undertaking with some of her research assistants. And I believe Mary and Berry have been in contact with her and have offered to share with the full working group a little bit of the state of Rebecca's research.

And two of the recommendations from our subteam for the full working group, and I believe these have been covered in some respects in prior conversations. One was whether it would be useful if the working group would consider it useful to recommend that providers provide to examiners some sort of a guide that captured the bare minimum element that people thought would be necessary to be in a determination or an appeal. So those for example would be the domain name, the trademark, how the website was used.

In a number of cases, people had flagged that there frankly wasn't a lot to go off of in terms of the decision. So it was difficult for someone who wasn't privy to the case file to understand how the examiner reached its determination. So we wanted to flag that for the full working group to see whether that was something that we thought would be useful in terms of a policy recommendation.

And there was another question we wanted to refer up in terms of a possible recommendation, which was as I understand there were different

communications that were sent by the providers depending on whether that was going to a registry or a registrar. And so there was a question whether those communications should be coordinated more holistically so that a registry and a registrar would effectively be receiving if not the identical communication, something that was more or less identical, but tailored to their role as either a registry or a registrar.

Again, I would commend to you the very useful summary that Berry put together. It's only 2.5 pages. It covers all of the highlights and again, the overall feeling from the subteam was that the appeals, the URS appeals were working as intended. And before we undertook further work, we wanted guidance from the broader working group on whether it was necessary or useful to delve into the additional cases, whether that's the subset of 250 respondent responded, whether it's the further subset of the 58 where the respondent prevailed or some other sort of random sampling of cases.

So I'd be happy to take questions and also invite other members of the subteam to provide any additional information they thought that I might have missed. Thank.

Phil Corwin: Thanks very much for that quick and comprehensive report, Brian. I think the suggestion for developing a uniform examiner's guide is a particularly good one. I see Rebecca has her hand up for a question. So go ahead, Rebecca.

Rebecca Tushnet: Hi, Rebecca Tushnet. So just a couple of things. I was a little surprised at Brian's characterization of us as having made qualitative conclusions about the functioning of the process. I don't - maybe I missed that but I don't remember us actually having reached a consensus as a subgroup, and of course, we're going to the broader working group on that. I have my own opinions about the process but it's just not clear to me that that characterization reflects our deliberation.

Just in terms of what I have - so my research assistants did an incredible amount of work coding the decisions where there was a response or whether there was a default and across various dimensions of what was available from the decision and the facts surrounding the decision, like what the URL is. So I'm happy to share the full results. We also have some interesting summary tables revealing different things about the characteristics of respondents and the languages in which proceedings are being brought. The characteristics of complainant is quite interesting and I can just circulate the full thing and everyone can take a look for themselves. I'm happy to do that.

I will say probably the most interesting thing to me is that it turns out that in 13% of the cases, roughly, there is not a full English sentence explaining the rationale of the decision. That is we applied the standard that was does the examiner say something like I find that there was knowledge and then attempts to sell the domain name, and therefore the bad element is satisfied. So in 13% of the cases that's not there, which seems like something that a guide to examiners would be really helpful for. But there's a lot of other interesting stuff in there and I'm happy to circulate it. Thank you.

Phil Corwin: Thank you, Rebecca, and speaking personally, I appreciate the 13% figure. That's one out of eight and it seems to me again, just speaking for myself, that it wouldn't be too much of a burden on these examiners to add a sentence or two citing the reasons why they found the burden of proof and the elements to be satisfied. That would be useful to have that in the record of these cases, but we can all get to that as a working group when we're looking at policy issues on URS.

Are there other - Kathy, I see your hand up. Go ahead.

Kathy Kleiman: Hi, yes, Kathy Kleiman. Brian, I have a question for you. It has to do with the appeals. Could you talk a little bit about the distribution of these appellate cases? It looks like seven were related to email and six of those were from accounts receivable respondent, yoyo.email. So question, is yoyo.email - do

we know anything about it, including is English the primary language there? I seem to remember looking at some of those cases and have a question but I was only going through trying to flag who the practitioner was.

Anyway, could you comment a little bit about the distribution of some of these findings? Thanks.

Brian Beckham: Thanks, Kathy. I am not sure exactly what you mean by the distribution but you're right that seven of these appeals were related to the .email top level domain. There was one particular registrant. The company went by the name Yo-Yo and so they registered brand names and they were, to be very frank, I wasn't 100% sure how their proposed service was intended to function. Some sort of an email forwarding function. But they obviously came up on the losing end in a number of cases at first instance. There were also a number of UDRP cases filed against this particular registrant.

And so because they had registered a significant number of domain names and new top level domains, particularly the .email one, they had come up in a number of cases both at first instance, and they had appealed those. And I can't recall the exact jurisdiction but they did in fact - in fact, there may have been two cases that they appealed to court and - but obviously, those don't feature in the summary here because this is focused solely on the URS appeals.

Phil Corwin: Okay. Thanks for that response, Brian. Okay, Rebecca - Kathy is that an old hand? Did Brian satisfy your question?

Kathy Kleiman: An old hand and I'll remind everybody what I forgot, which is you have to hit the hand icon again to take your hand down. Thanks.

Phil Corwin: Yes, it doesn't go down automatically. Rebecca's hand just disappeared as well. Now, it's back up. Did you have a follow-up, Rebecca?

Rebecca Tushnet: Yes, sorry. I took it down because I thought you called on me. This is Rebecca Tushnet and I may be able to say a little bit more about the Yo-Yo email guy. So if I recall correctly, he's Italian and he has a couple of different descriptions of what his service is. He tries to tell it to the examiners. I agree with Brian that it's not really clear that he has a great business model or one that makes a lot of sense, although I think its legitimacy is one as the differing outcomes of the appeals, you can see, suggest one that at least there's some debate about.

But what seems to happen with the appeal is it's this one guy and he basically gets really mad at the procedure over time and his responses kind of shorten as he stops trying to explain himself. So I think it's an interesting anecdotal experience but it's really the experience of one guy. So it's sort of hard to draw broader conclusions from the appeals we have to date. Thank you.

Phil Corwin: Okay. So one angry Italian guy. We'll note that for the record. Berry, I see your hand up.

Berry Cobb: Thank you, Phil. I'd just like to offer up for the working group that while reviewing the summary of findings from the summary report that Brian just went over, also included in the agenda was the Excel spreadsheet, Google doc, or PDF of 14 cases where an appeal was also filed. The intent of that review was to align the original case up next to the appeal case.

Most of the content that was pasted in there is extracted from the case proceeding on the provider site. Mostly what you'll want to pay attention to if you look more in the details is at the bottom of the page. And there's a grey text area, which is basically just trying to highlight who prevailed from the original cases versus the appeal as well as some extra content in there about the domain disposition as it traversed the process from once the case was filed and when name servers were changed, and who ultimately has the domain name as of about two or three weeks ago.

So just kind of carrying onto what Rebecca was stating that if you want to see some of the details, especially around some of these .email cases, you'll be able to find that in there one place. Thank you.

Phil Corwin: Okay. Thanks for that, Berry. I did something to my screen and I've got it - I just got it back where I can see both the chat and the participants. So I don't see any other hands raised. I noticed that some people were noting that if they're on a web version of WebEx you can't raise a hand. So if you're one of those people or if you're just on audio and you want to ask a question or make a statement, you'll have to indicate that in chat if you can or else just speak up and we'll get to you.

So was there anything further on this report from Brian on the document subteam?

Brian Beckham: Yes, Phil, I was just going to add one additional thing. I myself, as I went through the spreadsheet that Berry provided, I kind of jotted notes and so I'm just kind of flicking through the first page and it says my note here to myself was that this was a failing of evidence on the complainant's part, so on and so forth. Not to go into the details of why particular cases won or lost at first instance or on appeal, but just to recall that there was a question at some point raised about whether there should be some sort of not a guidance, as you mentioned earlier, to the examiners, but some sort of an overview of decisions for URS cases.

And what I wanted to say on that was that it seems to be a little bit too early to tell. We've only had 14 appeals. Not all of them obviously went the same way and that can be because there were different facts and circumstances in the cases or you might have different interpretations of how the rules should play out by different examiners. And so I wanted to just say that this may be something that in our report we recommend that we look at this at some point down the road once we have more experience under our belt, and we may be

able to draw more firm conclusions about the URS generally and how the appeals process is working when we have a little bit more behind us in terms of case volume.

Thanks.

Phil Corwin: Okay. Thanks for that, Brian, and well, I've got - I see Mary's hand up. Brian, you said there were another group of cases that you wanted some feedback from the working group as to whether we should be looking at them. What were those again/

Brian Beckham: Yes, that's right. So there were 250 cases and it might have grown a little bit by now, where the respondent filed a response but those weren't appealed. And there were 58 of those cases where the respondent prevailed. And I believe those were the cases that Rebecca looked at. I'm not sure if she looked at the cases behind those 250 or it was limited to those.

So the question from us on the subteam was whether based on the exercise that we've undertaken so far if the working group feels it would be useful to go into those further buckets of cases to see if we might be able to draw some information out in terms of how the URS is functioning generally.

Phil Corwin: I see you're in the chat. Rebecca said that she and the folks working with her looked at the entire universe of over 800 cases. And I think my suggestion, others may disagree, is that we wait for her report on her data before deciding whether the group you are with needs to take a deeper dive into those cases where a response was filed.

From what you said, out of the 250, almost 60 prevailed. The respondent prevailed. So where a response was provided, it came close to about 25% success rate for the respondents, I gather. Let me go to you, Mary, and see what you had to say.

Mary Wong: Thank you, Phil. And it was really to follow-up on what you and Brian have just said. So I won't repeat it but Rebecca has been kind enough to share her research initially with the staff, and as I think some folks on this call know, we have looked at the data and the columns that they've used, and the Excel work that they've done. And as Rebecca has said, that has been a tremendous amount of work by her and her two research assistants. So we thank her for that.

She has also said a couple of times, including on this call, that she would be happy to share that research with the rest of the group. And from the staff perspective, in terms of presenting that research, it really should be Rebecca because that is her research, done with her research assistants. So we have not felt that we have been able to share any part of that because it will also be inappropriate for us to break out the research when it's one huge project.

But that said, for purposes specifically, say, to help with the provider subteam, we have found the data very useful in terms of figuring out which questions on that subteam that they wanted to send to the providers have already been answered. And for the document subteam, I think as both Phil and Brian have said, we do have a little bit of time. So for the two categories that Brian has noted, the category where responses were filed is about 250. And within that, the subcategory where the respondents prevailed, that is something that we can come back to and provide guidance to the document subteam as we go on and as the group has a chance to look at what Rebecca has done.

So that would be the staff recommendation in terms of present status for the document subteam. And finally, just to note that when we talk about sample size, it is important to note that we only had 14 appeals. So that wasn't a sample. That was the entirety of the universe. And when we're talking about 58 respondent prevail cases that is too the entirety of the universe at least as of December 2017.

So hopefully, that's helpful, Phil and Brian, and that reflects what you've said as well.

Phil Corwin: Yes, Mary, so what I hear you saying is that Professor Tushnet's research has already been helpful to staff and that from your perspective would make more sense to have a presentation on that research before asking the document subteam to do anything further? Is that correct?

Mary Wong: That's absolutely correct, Phil, and speaking as a former research myself, I think that would be the appropriate path to pursue. Since it was research done by her and her team, it would not be appropriate for staff to either present it or to break it up in any way.

Phil Corwin: Okay. Thank you. And Brian, I see your hand up.

Brian Beckham: Thanks, Phil. I just wanted to build on the comment I made in the chat and other people are commenting along these lines, which is if Rebecca wants to present her research that would be welcome, I think, by the working group. And in terms of where to go from there, I think it would be probably fair and appropriate if these are - this is a subset of cases where the respondent responded and then a further subset where the respondent prevailed, it may be useful to also look at some sort of random sampling of other cases where there wasn't a response, whether the respondent prevailed or not.

In other words, to avoid only looking at specific subsets of cases and drawing conclusions, we may want to look at other subsets of cases, and it may be necessary - I know Martin in the chat suggested looking at all 256. It took us a little while to get through 14 and I can say from my own efforts looking at UDRP cases to produce the (WIPO Juris Prudential) overview, we looked at quite a number of cases and 256 is an awfully large number of cases. And if we even were to look at different subsets even on a random sampling basis that could take a significant amount of time.

So I guess my point is that we may want to have some sort of a thoughtful approach to look at a sufficient set of data to be able to draw some conclusions without going down the path of reviewing upwards of 1,500 URS cases. Thanks.

Phil Corwin: Okay. Thanks. Let me just say the co-chairs are aware of the status of Professor Tushnet's research and are hoping to sometime soon get some of that distributed at an appropriate time and have a call devoted to discussing that and then circling back to see what that might extend in further analysis.

So thank everyone for their good work. Kathy, you had a comment on this?

Kathy Kleiman: Yes, Kathy Kleiman. I was going to do the same thing, to thank the subteam for their work and I wanted to clarify what the action items are going forward for the subteam. To Brian and the other members of the documents subteam. Here's what I'm hearing and I want to clarify, and in part because some of the other subteams have asked for the data to come back through them. So the practitioner's subteam will be in the loop as the - not to analyze the data but to help compile it as the practitioner's questions come back in. I think ditto for the provider's subteam but I don't want to speak for them.

So here's what I'm hearing and tell me if this is what you're thinking. That there are 256 cases in which the respondent, the registrant did respond, and of that, there is a handful of cases, I think it was in the 50s, where the respondent prevailed and you're suggesting those might be good buckets to look at, although - and then also a statistical sample of some of the other cases, which makes sense as well.

So one, two, three buckets. Would you like to see that data come back through the document subteam and if not how might those buckets be reviewed? Thanks.

Phil Corwin: Okay, thanks Kathy and a reminder to drop your hand. And unless there's further discussion on this, we're going to move on. Mary, go ahead.

Mary Wong: Apologies, Phil. I didn't mean to cut you off.

Phil Corwin: No need to apologize.

Mary Wong: I'm not sure if Brian also wanted to respond but just seeing a question from Paul McGrady in the chat about how long does each bucket take. And just speaking from our personal experience, Berry and I have looked at the 14 cases. We did actually start looking at some of the other cases, simply because had, as you may recall from I think it was Abu Dhabi or San Juan, he had pulled all the cases into a huge spreadsheet.

It does take time to look at each case and obviously, the way that we have done it as staff is different from the way Rebecca and her team have done it. And they have looked at the entire universe of URS cases. So to the extent that there is going to be further case review to be decided following discussions with Rebecca and once you've had a chance to look at what she's done. I would say that from the staff perspective, it is something that you would need a small group of volunteers to do to divide amongst themselves on the understanding that it does take time.

On the further understanding that they should be using the same results template so that everyone is reporting on the same type of data. Further, I believe that the document subteam at its last meeting had said that at least for the 58 response prevailed and possibly the 250 response filed cases, they would be willing to take that on perhaps additional volunteers.

So that is my recollection from the document subteam. So that decision remains to be made, but the staff advice would be to understand that it does take time and we definitely would recommend that everyone use the same

template and we can produce that template for you from the staff side. Thank you.

Phil Corwin: Okay. Thank you, Mary. And to speak for myself here except to the working group but noting the comments from the council liaison to this working group, that impact on timeline, we're very well aware, the co-chairs, of the timeline and the need to stick to it if at all humanly possible. I think on all of these further explorations there's got to be some kind of cost benefit and cost effectiveness analysis that is cost and time, where what further insights or data a particular analysis might yield, whether it's worth the additional time and work by members of the working group.

But we're not going to decide that on this call and that is a good segue to our next subject and the main topic for today's call, and that is the proposal to move part or all of the URS analysis and policy recommendation discussion to phase two of this working group, which would require a change in our charter to be made and approved by the GNSO Council. And just let me ask before - I see John is now an attendee. Is that John McElwaine?

John McElwaine: Hey, Phil, it's John, yes, McElwaine. I just got on.

Phil Corwin: Okay yes. The co-chairs were at, John, at a speaking engagement and was going to joining about now and I'm going to just do a slight intro and then let him present his proposal and then we can have people speak in support or opposition, or anything else they want to say about it, or alternatives to what he suggested. And we do believe we'll have time if we don't complete that discussion today and noting it's unlikely we'll reach a decision today to return to this subject on next week's call.

We've had some inquiries about what level of support versus what level of opposition would be looked to forward a request to council, and we've asked staff to look into this. There's no standard in the GNSO working group guidelines for the level of support required for such a request. It's a fairly rare

occurrence and in the few times it's happened, there's been pretty broad consensus but there's not a requirement for consensus or near consensus as there is for policy recommendations.

And the co-chairs thought it best to let the discussion of the merits happen first and see what parts of this there might be strong support for, what parts there might be less support for before getting into the question of whether we should send anything to the council and ask them to devote time to studying that request and deciding what to do with it. So just teeing things up for John and then I'm going to turn it over for his presentation.

When the co-chairs looked at this when we sent an email back on April 6 about this, we perceived five separate issues being raised by John's proposal, all of which would require amendments of the working group charter, the first to move the URS review and recommendations to phase two, the second define issues that must, may, or may not be addressed by this working group in regard to URS, the third to provide additional guidance on the scope of the URS and UDRP review, the fourth would be an adjustment of the working group leadership structure for phase two, which we anticipate kicking off in mid 2019.

Just speaking personally, I'm not sure we need a charter directive on that. I think the working group is always free to determine the leadership structure for itself. And finally there was a suggestion for a potential pause in the start of phase two key to the impact of GDPR on the dispute resolution process.

As working group members are aware, there's a draft letter to GNSO Council and certain of the stakeholder groups conveying some information about the requirements in the UDRP and URS rules and procedures relating to registering data required for the administration of those process gathered from Whois and the importance of maintaining that so we can have full and fair administration of these DRPs, and that letter's just about complete.

There was one email between Brian and I shortly before the call but I think we're going to have a final draft of that to share with the working group and get, unless there are objections, to send it off to council this week and we can decide whether that really is an issue that should delay the very start of phase two as opposed to the content of phase two.

So I've said enough and with that I'm going to turn it over to Mr. McElwaine to make a presentation on what he proposed back in April, and then when he's done we can get into a full discussion among participants in today's call about what they think of that proposal. So take it away, John.

John McElwaine: Okay. So John McElwaine. So in full disclosure, I did not prepare for this nor do I have access to WebEx to kind of see what's up on any screen. So with that, I'll start off by saying that the genesis to the idea is wholly not mine, I just kind of cobbled it together from points that were being made by the community really, not just, you know, by the intellectual property community but the community in general at the San Juan meeting.

In particular, Heather Forrest's presentation about improving the PDP process was - really resonated with me and a lot of the ideas and suggestions that were developed in Kathy Kleiman and Steve DelBianco's breakout session those aren't my ideas, those are ideas that the group had come up with, suggestions on what might make for a better way to make policy.

People will recall that what was discussed is that there is really within the ICANN structure no incentives to compromise and particularly when you get legitimate but differing opinions on both sides of an issue, it's hard to find consensus when there's no incentives to come together. So a lot of those ideas are still being kicked around at a level much higher than me, and I understand that I think the GNSO Council will have a report on the PDP process.

And I also have to say that part of it not only just was coming from the GNSO Council or from that working group but I thought the staff's report on it was also very enlightening. So I cobbled together a lot of ideas on that aspect, how can we improve upon the charter that we're currently operating under.

Secondly, at that same meeting, we were discussing all of the - GDPR obviously was everybody's mind and we were discussing how that was going to impact the URS and the UDRP both in process and in substance. And so I don't have, like I said I didn't prepare, but, you know, just off the top of my head we in this group have talked about making sure that registrants get notice, proper notice. Well if there's no address information that's provided to the providers let alone the complainants, how we are going to ensure that there's proper notice. That comes in several veins throughout the URS and the UDRP.

Substance wise you have issues such as not being able to tell who registered the domain name and whether their acts are truly malicious and have been so over time. You know, personally speaking, there's been time where clients have contacted me to do a, you know, try to recover a domain name and it turns out it was registered by the, you know, cousin of the business unit. So not having that type of information is going to impact things substantively.

So the concept was let's redefine the charter. We need to take a break because of GDPR, I think, both procedurally and substantively, but see how that turns out, how does the committee decide what's going on there. And then the next step would be to have, or while it's going on, the charter relooked at and see if we can put together a going-forward plan for a landscape that is likely to be much different after May 25.

So with that, Phil, I think as I mentioned I might not be able to make it, my opinion's probably the least relevant on this call, so I've got no dog in the fight. I'd just love to hear what people have to say about it.

Phil Corwin: Okay. Yes, thank you, John. And just before getting into this just to help out a little because you're not in a place where you can see what's in the WebEx, we do have the text of your original proposal that you sent with all of the background information on the genesis of this working group and the discussion on reform of the PDP process in San Juan, the potential impact of GDPR, though I'm happy to say that there's been some reassuring posts regarding GDPR. There seems to be a fairly high level of confidence, which I hope is justified, that registrars and registries will still be able to convey the basic administration required by the dispute resolution providers after May 25 and beyond.

But what I want to read now, just so we all know what we're talking about and then I'm going to open it up, and I do see one hand up already, the specifics of your recommendation are, one, the RPM working group finishes its already well advanced work, issues and initial report on PDDRP, trademark clearinghouse, sunrise and trademark claims notice for public comment. That of course -- this is my insert -- would take place after we receive back our survey data, which will be in - we anticipate that in August and analyze that.

Recommendation two, after comments have been analyzed for those elements the RPM working group finishes its work and issues its final report on the same issues. Three, the RPM working group issues a request through its appointed working group liaison, which is currently Mr. McGrady, to the council to amend the RPM working group charter as follows.

One, shift the work related to the URS to phase two and, if necessary, pause starting phase two until after the permanent impact of GDPR on URS and UDRP are known. My insert again, personally hopefully we'll know that very soon. Number two, provide clear guidance to the working group on the issues that must, may, and may not be addressed.

Three, provide clear guidance on the scope of the review of the URS and UDRP. It's also - and then it says although a separate issue, it's also

recommended that phase two working group has one chairperson with appropriate neutrality and experience in PDP consensus building and parliamentary procedures. Let me scroll over. Assistance to the chair can be provided by utilizing the vice chairs and well structured sub teams.

And I wanted to note that John has made clear since issuing this proposal that this last part was not - should not in any way be read as belief on his part that any of the current chairs and I assume the prospective co-chair, who may be joining us soon, don't have appropriate neutrality and expertise in working with PDPs.

So the one comment I would make -- this is a personal comment -- is in terms of the timing I think if we were going to contemplate issuing an initial and then final report that didn't cover URS, we would need that charter change before doing that, not to accompany that final report. But we can get into that if there's sufficient support for making any or all of these changes.

And with that I'm going to call on Jeff Neuman, who's been waiting patiently with his hand up. Jeff?

Jeff Neuman: Yes. Thanks, Phil, and thanks, John. I'm going to address I guess one aspect of the proposal, which is moving the URS to phase two. And I think there's two broad reasons or two broad grouping of why I favor that switch, one as a co-chair of the subsequent procedures PDP and then one overall grouping just as a personal capacity.

So as far as in my role as the sub pro - one of the sub pro PDP co-chairs, we've had a discussion on this very topic with the council and with our liaisons and before on a number of occasions. And one of the things that in my mind helps differentiate why everything but the URS that's currently in phase one, is in phase one is that things like the trademark clearinghouse, the sunrise process claims, those elements, and the PDDRP to some extent,

those elements can and do have a significant impact on an applicant for a TLD's business model.

They could affect things like, you know, if you did something, and I'm not all proposing this, but let's say we were to require a year sunrise period, again, just an extreme example. That could have a significant impact on an applicant's business model and that kind of thing would need to be worked out prior to having an application round because registries should know what they're getting into.

Unlike those elements, sunrise claims, the - implementing the URS and the UDRP are fairly minor on a registry or an applicant's business model. For the UDRP there's almost nothing that the registry has to do, but for the URS it's limited to locking a name down and then implementing the decision by pointing, if it's in the complainant's favor, by pointing it to a live site that's got some fixed material on it and allowing the registration for an additional year.

But other than there's no impact on the application process for new TLDs or on the business model when someone proposes a TDL. So that's why I think the others could proceed, and should proceed, a little bit more quickly so that we can also line up the timelines between the sub pro process and the claims and RPMs that are related to the business models of registries.

The second reason -- this is more of a personal one -- is it just makes sense when you look at the issues that you're going to face when dealing with the UDRP and the URS, most of those issues are going to be exactly the same. In fact many people when they comment on the URS are commenting based on their concerns about the UDRP applying in the URS.

And even if you read something like the ICA paper, which is really good, the Internet Commerce Association, there are 15 areas in which they have proposals. Twelve of those areas apply both in the UDRP and the URS, things like accountability, the RP compliance framework, certified panelist,

predictability, you know, rosters, publishing rosters, concern about forum shopping, panelist appointment, you know, and on and on.

Two of those I think I'm not sure whether they apply in both, but I think they could, and those are the staggered fees and the allowance of additional submissions. I'm not sure if those relate to URS as well. And only one I think of the areas of the 15 talk about the - is it really unique to UDRP, and that's the fact the UDRP hasn't been reviewed in 20 years.

So overall 12 of the 15 are definitely in common with the URS and the UDRP, two may be, I just don't know enough facts about that, and one isn't. And just looking at that, that shows you that we can't really separate the evaluation the URS from the UDRP no matter what we try because it's just going to be the same things. Why tackle it twice? Let's just tackle it one. Thanks. Sorry I was so long. I just wanted to be detailed. Thanks.

Phil Corwin: No, thank you, Jeff. Appreciate the remarks. So the gist of it is you're saying that the URS and UDRP are two - pretty much two sides of the same coin and ought to be considered collectively rather than separately, I gather, just summarizing what I heard.

Can staff guide me? I see three other hands up now, my co-chairs, Mr. Kirikos and Mr. McAuley. I'm not sure what order they came up in. Do you have any idea?

Kurt Pritz: Hi, Phil. This is Kurt on the phone too so if you could - Kurt Pritz so if you could put me in the queue, that would be great.

Phil Corwin: Okay. Well I'm going to give - does staff have any guidance? I see David, George, Kathy, Kurt. So David, go ahead. Mr. McAuley.

David McAuley: Hi it's David McAuley speaking for the record. Hello everyone. And I put my - I have personal serious reservations about moving the URS as John has

proposed, and I put my comments on the list on April 20, and to be fair Jeff responded on April 20. I thought my comments there were reasonable and I thought his response was reasonable. And so I would ask people to go back and take a look. I thought it was a decent discussion, along with others such as Kurt and others who have weighed in.

I want to add just one or two things and not necessarily go too much into what I put in the mail. And I understand what Jeff is saying. I disagree in a sense. It seems to me that if the new RPMs are going to be made consensus policy and we have to understand what the entails and come to grips with it, that ought to be done holistically. And then secondly, it seems to me that as a new RPM, the URS should be treated up front as it was designed in the charter.

But the things I'll add are there's been an assumption I think that while we go for a charter amendment we can continue to work in the background. I believe that's true to a point but I also am a veteran of the multi-stakeholder process enough to know that certain issue can backfire and can get groups wrapped around the axle. And I expect this could be one of those. It happens in surprising instances. And when groups get wrapped around the axle they get wrapped very seriously. So I think that's a real risk here.

Secondly, I'll just mention two things that John just mentioned. One is Heather's comments about improving the PDP process. Now I haven't seen Heather's comments in that respect. I've heard about them but I haven't seen them myself. And what I would say there is they're comment but improving the PDP process should not be done at risk of the substance and the substantive coherence of the PDP, as it might in this case.

And then finally with respect to taking a break while the impact of the GDPR shakes out, I think the reverse conclusion would make sense. That is GDPR is going to have an impact May 25. It might - it seems to me to be best to come to grips with it as quickly as we can. In that respect I think UDRP is

actually in worse shape in this respect. So those are my comments, I tried to keep them brief, and I have reservations about the move. Thank you.

Phil Corwin: Okay. Thank you for that David. I believe George Kirikos is next in line.

George Kirikos: Thanks. George Kirikos here. Yes, I agree with much of what David said. I'm opposed to the proposal, as I mentioned on the mailing list for the various reasons already outline, but in particular the idea that we summarily remove various topics, calling them out of scope. I disagree that, you know, these important issues for registrants and I don't see any basis for removing them.

One of the examples cited on the list by John McElwaine was the removal of geographical places, the question of whether they were adequately protected, and we know from experience like Barcelona.com that, you know, (unintelligible) arose where the UDRP made the wrong decision and had to go to court, and he himself actually represented the city of Myrtle Beach in a losing UDRP for the myrtlebeach.com domain name.

So we have these examples where registrants of geographic names that, you know, 100% protected or at least, you know, 99.9% protected, unless it's something like Philadelphia and somebody's putting cheese all over the website. But - and so I disagree with the idea that we would simply remove these topics from consideration before all the evidence is in and not even collecting the data to make such a conclusion. Thank you.

Phil Corwin: Okay. Thanks, George. And I believe Kathy is next and then Kurt and then Martin. David, your hand is still up. I think it's an old hand. But, Kathy, go ahead.

Kathy Kleiman: Great. Thank you, Phil. Kathy Kleiman. And I'm intervening really to provide some background on the discussion that John referenced as well as some history to the charter itself. So the background is that the session on Sunday

morning of the San Juan meeting on March 11 was what I understood to be a brainstorming session.

We were asked by the GNSO Council, and the PDP co-chairs were there and vice chairs were there of all the PDP working groups, and we kind of split up into kind of top-of-mind issues. And it was really a session about planning going forward. And the reason I can say that is that two hours later, Phil and I were on the hot seat in front of the same GNSO Council for how we were going to stay on our timeline for fulfilling phase one and all of its parts in front of Council.

And we talked about the timeline and committed to the timeline, and in fact we're moving very, very well on that timeline. So one was really a future planning session and one was - and then the latter session that we had the GNSO Council was about sticking with our charter and keeping with our timeline. So that's how I see it.

And we were brainstorming about how to make charters better. But certainly, as the person leading that breakout session, I was thinking future, certainly not thinking revising our charter in real time.

The other thing I wanted to add is that the question of the order of the URS and the UDRP was hotly debated when the charter was being evaluated. And the idea was that since it is part of the new gTLD rights protection mechanism, it would be put in phase one and that nothing would be added to the new gTLD applicant guidebook for future rounds until it had been reviewed as fit for purpose, and we're well on the way in that evaluation.

So I just wanted to share that background of what that session was from my understanding as one of the leaders of it in San Juan and also kind of that this is in some ways the issues that we're talking about were often answered with the original charter that we were given. Thanks so much.

Phil Corwin: Thank you, Kathy. And I believe now we go to Kurt Pritz, who's been waiting patiently just on audio. Kurt?

Kurt Pritz: Yes. Thank, Phil. So I think we should bifurcate this a bit and just consider the issue of whether we should put this RPM into phase two and then consider the other charter issues that have been raised separately. And I do this because, as already been said on this call and elsewhere, is some of those charter issues are complicated and, as David mentioned, we might get wrapped up around the axle in some way around these issues. And - but I think they are important questions.

And so I think it's a simpler discussion to say, you know, putting off this discussion to phase two can be done and the question of the charter questions and the degree consensus required to change that, that can all - could all come later.

My second point is that I, you know, I don't see any reason for keeping URS in this phase unless it affects the applicant guidebook, the process by which applicants apply for new gTLDs or their business decisions on whether to apply for new gTLDs. So. And I'd like to, you know, I'd like to take some questions on that because I, you know, I've listened to this conversation and read all the emails and I really think the only bonafide reason for keeping it in phase one is if it affected one of those two things.

Phil Corwin: Okay, Kurt. Thanks for those thoughts. Good thoughts. I want to say I'm very happy with the high degree of thought that's going into these comments and the civil tone that everyone's keeping. And I believe next is -- let me just check -- next will be Martin Silva, then Paul McGrady and then circling back to Jeff Neuman. So, Martin, you're up next. Martin, are you able to join us? Are you on mute?

Martin Silva: Hello? Can you hear me?

Phil Corwin: We can hear you now.

Martin Silva: Oh great. Okay. I don't want to repeat all the things I did on the email list, I'm just going to comment on the things that people brought up here. We've all been receptive to what other people said in any case, yes as it relates on the new PDP or PDP 3.0 or the (GSO) discussions on new gTLDs, whatever you want to come them, is the council looking forward on how they're going to manage PDPs from the new era of PDPs.

It was not about how could we change current PDPs or much less how we could change RPMs. We did not relay that. We did not ask for ideas on how to change specifically RPMs or what were the RPM's problems we need to address. That was a brainstorming session on how can we make better PDP processes in the future.

Just to be clear, there was no consensus or support from the council to specific charter changes in this working group or any other working group during that discussion. It was not about that. It was just ideas, and Kathy wasn't the only one on that, co-chairs, co-councils, we all gave ideas. None of those ideas had in mind be applied on a specific working group, much less this one.

So that's - I mean maybe you can say I went to that meeting and, you know, something sparked my mind and now I want to propose something new but we cannot say that this idea came specifically from the intentions or the debates of that session. It was not like that.

Second of all, I think as one aspect would be the consensus we would need to present the charters or these URS based proposal to council. I'm here. Of course I don't have the final wording, but I think it's a very strong consensus we're looking for, at least we need the full consensus of the constituencies. Even if we don't have full consensus of every and one of each members, we do need all constituencies to agree that they want this at council level,

because that's the thing, things to the council they have to reach that manner of consensus. That's what we are for.

We could only go to council asking for a very strong intervention if the whole working group was (unintelligible) and we couldn't anything agree on.

But this is not the case. This is a proposal. We are debating it. And I was talking about this with someone else in a (unintelligible) conversation. I welcome this proposal. I think it's good that we have continuity as to share (unintelligible).

So the fact that I am against this, don't take it in a personal way. I think it's a good proposal. It's just that I don't have to agree on the final arguments on it. I welcome the proposal itself.

Second, we're talking URS and (URP) together that we have to put them together because they are two faces of the same coin. I disagree on that. I think they are a different mechanisms which each of them has its own process. If we would have a new DRP with the possibility of probably not suspension sentence instead of having a transfer sentence.

And then we are thinking of merging the processes, then okay. I would say it makes sense of course, to have them together. But we're keeping two separate mechanisms with two separate ends, two separates cost, two separate impact.

So even if we do have similarities and we can make an analogy between one thing and the other -- at the end of the day we need to do a separate (unintelligible) on what we decide on each one of them.

So having them separately is by nature how they are. Putting them together such a necessity as - It may look, because they are similar.

I think the recent GDPR or the new (gTLD) (unintelligible) are reasons to make the URS faster and (unintelligible) before (GDRP) and not after that.

I've seen a lot of chat in - messages in the chat, I can't read them while I speak, so I'll read them later in case they are commenting on something I said.

Also part of the proposal was if we put this in phase two or in phase two we should have only one chair instead of three co-chairs. I think this is wrong approach, because of the workload.

Beyond what I could think I think the workload is so big that having only one chair for (UDRP) is going to set us back enormously. And I (unintelligible) that only own have to take that work.

And if you (unintelligible) the neutrality comment, again, I think that we with neutrality in the case of one chair or three co-chairs. I don't put a less (unintelligible) of neutrality when it comes to the space or to these co-chairs. So I don't think neutrality is to be a reason to have only one chair in the second phase.

At the ending I want to do a clause or something. I think the (unintelligible) or the risk of going to this more deep. Having this charter changed and the base around this could seriously damage the timeline as we are so worried about.

This is - this will not improve our timeline. It would probably present some very rigorous or - you know, just spinning out into different debates instead of moving forward with URS, which we are doing by the way. This is just a specific proposal being commented.

So I haven't read anything of the chat, in case someone put something there, thank you very much for listening.

Phil Corwin: Okay. Thank you, Martin, for those thoughts and we now turn to another member of council and also the liaison to this working group from council, Mr. Paul McGrady. Go ahead, Paul.

Susan Payne: Hello.

Paul McGrady: Thank you, Phil.

Susan Payne: It's Susan here. Could I get in the queue also after the person you have listed if there's time.

Phil Corwin: Okay. Yes. Susan after Paul. I've got Jeff Newman again...

Susan Payne: Okay.

Phil Corwin: ...and (Michael), (Karen Oculus) and then you. Okay?

Mary Wong: Perfect. Thank you.

Phil Corwin: And Cyntia King just joined, so we've got a full queue here and 28 minutes left on the call. Go ahead, Paul.

Paul McGrady: All right. Thank you, Phil.

So -- first of all -- I wanted to echo what Phil said, this has been a great call. I think that the discussion of all of the topics that we've been on has been in a very high level and very professional and so I'd like to thank everybody for that.

I want to give just a little additional, additional background. Kathy gave some additional background on the brainstorming session. I wanted to get some additional background of how we ended up there.

We had a council development session back in January where basically council took a look at all the PDPs and essentially are looking at everything from a - our role as traffic cop. Are things moving along at the right pace? Will the outcomes be timely delivered? Will they be fit for purpose? What are the dynamics at each PDP? Those kinds of things.

That come from -- I think -- a sense that maybe some PDPs are not getting across the finish line soon enough. Certainly I think it - an argument could be made that all of our efforts on who is didn't get across the line soon enough, because that line was GDPR implementation date. That's just one example. I don't mean to be critical of those other PDPs, but - so that's part it.

Also part of it is a sense from some PDPs of frustration on process and essentially how things are going in general. So from that then came the brainstorming session that Kathy talked about and that (John) talked about.

So that's how we ended up there. I agree that the brainstorming session wasn't directed to any one particular PDP. The concerns about how GDPR will effect a complainant's ability to gain access to all the various elements of the (EDRP) and (URS) may have which our shared is, you know, independent of a brainstorming session that's -- and (John)'s done a good job here -- about lining the kinds of issues on implementing the (URS) (unintelligible) practically by a complainant. How that GDPR will affect that. So I won't get into that.

But in the event -- yes -- the brainstorming session wasn't about that.

With regard to consensus Martin I think was being aspirational rather than procedural when he said that we need a strong consensus, if not among working group members then among the constituencies in order to make a charter change. I think there's two things there.

One, in the event it goes to a council vote then -- yes -- we'll need appropriate voting thresholds. But when it comes to consensus here at the working group level -- as far as I know -- there's no particular mechanism or procedure where we have to have a consensus. But obviously -- if there is a consensus one way or the other -- that's more useful. If there isn't consensus then the report to council will be that, you know, there were people for him, there were people against him, there's no consensus.

So at - in terms of consensus and that idea I think it's a bit more fluid here just because, you know, there's not a lot in the manual about how to change a charter. Although charters, you know, have changed from time to time especially if there are intervening circumstances and I think GDPR certainly is an intervening circumstance that matters.

So all that to say this. I would love to hear some reaction to Kurt's question. Kurt asked a great question and we've not, you know, we've not had a chance really to hear people react to that. So that would be great if we could. Thank you.

Phil Corwin: Okay. Thanks, Paul. And I believe - I just want to check here. (Steph), correct me if I'm wrong, I think the order of speakers coming up is (Michael) followed by Jeff, followed by Susan -- who's waiting on audio -- followed by Cyntia followed by Mary and then I put myself last in the queue for some wrap up.

Thoughts - we're at 17 past the hour. I know we've had - there's a lot to say about this and given the time we have left I'm going to ask remaining speakers to try to keep it to two minutes noting that - two minutes each noting that we're going to have more time to discuss this on next week's call. Today isn't the end of the discussion.

So, (Michael), you're next. (Michael), can you join us? Are you on mute? I see (Michael)'s little X going red in - but I'm not hearing him. (Michael), I'm

going to skip to Jeff for a short comment and then if you're able to get online just we'll get back to you next. But we don't - we got a little time left.

(Jeff), go ahead.

Jeff Newman: Yes. Thanks. I'll try to be brief.

I don't believe that we have to change the charter. Circumstances change and there's a lot of flexibility -- I think as Paul said -- in the operating guidelines.

So -- for example -- in the sub-pro PDP when it became evident that we needed to take the geographic issue and handle it a little bit differently we created a new work track. We created new work team leaders to lead that and we informed the council that we would have two different initial reports that we would do.

One that covers four tracks, one through four and a later one that will cover work track five. And then we would try to combine them at the end, but there was no requirement. That did not require a charter of change.

Similarly it could be done here and it's not - it wouldn't even necessarily result in a delay of anything. You would say that we're going to come out, an initial report of the clearinghouse of claims of sunrise. We'll come out at initial report. Then we'll come out with an initial report on the (URS). Maybe we can combine the two in a final report. But if it turns out that one's done before the other we'll come out with a final - separate final report.

The PDP is incredibly flexible without actually having to change the charter and you could still call it phase one, phase two, just phase 1-A, phase 1-B, doesn't matter. So there's a lot of discretion that you guys have without a need to change the charter.

Phil Corwin: Okay. Jeff, I'm going to check back with staff on that. I think our charter is particularly specific about what needs to be done and delivered before we move on to (UDRP), but we're going to have staff take another look at that and tell us whether they think a charter change is required.

If it isn't then we still need to discuss what level of support is required within the group to move things around, but we'll deal with that - let's deal with the charter issue first.

(Michael), are you able to speak now? I don't see a red X by you, so maybe someone can call out to (Michael) and we can hear him. That way I'm going to skip on to Susan Payne for a short comment and then on to Cyntia and then Mary and then myself and (Michael) at any point he can join us.

So, Susan?

Susan Payne: Yes. Thanks, Phil.

Phil Corwin: And, Paul, (Sandra)'s still...

((Crosstalk))

Susan Payne: (Unintelligible).

Phil Corwin: ...up.

Susan Payne: Okay.

Phil Corwin: Okay. Go ahead.

Susan Payne: Yes. Can you hear me okay, Phil?

Phil Corwin: We can hear you fine.

Susan Payne: Oh great. Good. Good. Apologies. I'm in my car. It's a bit unfortunate.

Thank you. I have a couple of things I wanted to say, but the - mostly came to me while Martin was speaking and Paul, the background that Paul gave I think was incredibly helpful and so it's - I don't need to say all of the things that I was going to say.

But I wanted to comment about my understanding of that council session and the brainstorming session and more particularly what (John) is - what (John)'s thinking is when he's referencing that. And I don't understand (John) to be in any way suggesting that he's, you know, that we're somehow bound by any of the discussion that happened in that session and, you know, Martin talked about, you know, where there was no consensus, we were just brainstorming.

But I'm - my - I don't read (John)'s proposal as suggesting there's any of kind of, you know, any kind of incentive to - any feeling that we're bound by that. But really more that he was just struck by some of the discussion that happened in that session and he felt that in a number of areas, you know, we would very much benefit from it.

And I did also think that, you know, I - personally I do think that -- to the extent -- that the improvements do come out of the PDP process as a result of that session and it's a long process obviously.

I don't in any way see that that's only for future PDPs and not for existing ones. I think it's - it would be entirely appropriate if recommendations ultimately are made about how PDPs function in the future and that they are appropriate and relevant to - for PDPs that are still underway.

Then I think it would be astonishing if there would be some kind of suggestion that anything that's already been charted, you know, couldn't be improved when we - you know, when there are a number of acknowledgements of

problems and challenges that current PDPs that are underway are already encountering.

But -- be that as it may -- I also strongly agree with Kurt's comment, which was actually sort of, you know, those are sort of nice to have additions in relation to (John)'s proposal. And maybe, you know, the thing that we should be focusing on for the current conversation is just, you know, what do we do about the (UDL) (sic) - the (URS) rather, you know, does it go into phase 1-B or, you know, two or whatever or does it stay where it is.

And I think, you know, Martin made some comments about them being two different processes and I think, you know, we all absolutely agree with this. We've spent a lot of time during this working group trying to keep them as two different processes in terms of trying to stop, you know, comments about procedures and the like from one process - from the (UDRP) being frequently and constantly cited in relation to the (URS).

But I think we do have to recognize that they - they're - they have the - essentially the same test. Much of the process is very, very similar. The kind of - the issues that the GDPR causes in terms of, you know, your knowledge or the potential lack of knowledge one might have about who the respondent is, a place to both of them.

You know, and I don't in any way think that it's been entirely ruled out that the - we might in the future have some kind of one process whether (URS) becomes a kind of quick and dirty version and move - you know, and, you know, the default option in a (UDRP). I mean no one's ever suggested that we - that that's not something that's theoretically on the table.

So the idea that we - that - because they're currently two processes we have to keep them apart forever. I don't - you know, we haven't talked about that. I mean that's just a response to -- again -- to something Martin said. But I don't think that's, you know, so off the table that we can't even think about it.

I think it's almost certainly a conversation that we'll at least have when we get on to do the update even if we don't send - you know, even if we all agree, we're not going down that route. I don't think it's a conversation that's off the table.

And finally -- I've been talking a bit too long -- I just wanted to say I circulated a note yesterday of some thoughts I think that we really need to do regardless of whether we move the (URS) or not. And I would please ask people to have a look at that and think about it and think about other things that maybe I missed, because we have a ton of work to do in relation to the surveys on the data gathering exercise on the summarizing claims. And I'm - you know, and I am concerned that regardless of whether we move the (URS) or not we will have to pull their work in order to do that ton of work to get those surveys out and to ensure that they're in any way affective. So that's all I wanted to say. Thanks very much.

Phil Corwin: Okay. Hey, Susan, just one quick comment after you posted the other day the co-chairs asked staff to look at -- and we'll get into another fuller discussion maybe next week -- but some of the things you suggested the working group would need to do for the surveys, because of time and budget considerations we have a very limited ability to change the survey questions now, because of the budgeting and the contract that's going to be entered into. So - but we can get into more detail on that next week.

If - we're 26 past the hour. We're going to run a few minutes over on this call to finish up the queue. I'm going to ask everyone to keep it to two minutes.

Is (Michael) able to speak yet? Was he able to be called? I want to be...

(Michael): Hello? Can you hear me now?

Phil Corwin: ...fair to him. We can hear you, (Michael).

(Michael): Oh fantastic. All right. So I just wanted to quickly mention sort of something that was raised earlier on the chat that wasn't really highlighted, but the (URS) really does have impact and that's (gTLD) role-out. Particularly terms of a new (gTLD) applicant guidebook.

And I also want to mention that I think the (URS) is actually moving along very - and relatively (unintelligible) so I'm not sure why it would make sense to lay that aspect of it.

If there are fixes or operational problems, which we have discovered -- or on the brink of discovering -- I think that we should pursue those findings now rather than waiting. That's what we're trying to - and I don't think it's fair to registrants (unintelligible).

And just quickly on the idea of having a neutral chair. I think that, you know, I think that the problem that I have with that idea of a single neutral chair is nobody here is actually neutral. This is a working group where people devote hundreds of hours of their time and they either do it because they're paid to bring by a particular stakeholder group that has skin in the game and has an outcome that they want to see. Or they do it because they have a strong personal commitment or some kind of value that is baked into this process.

Either way we have an interesting outcome. People aren't here because they're just - they like participating in working groups. People are here because they want to (unintelligible) their outcomes, so the idea of having one person who's neutral I don't think is realistic. Thanks.

Phil Corwin: Thank you, (Michael), for the content of your comments and for the brevity.

Cyntia?

Cyntia King: Hi. Can you hear me?

Phil Corwin: We can hear you very well.

Cyntia King: This is Cyntia. I will be super fast.

As everyone on this call probably knows I have no interest in drawing the (PDP) out. I would like to see us be more efficient and accomplish our work more quickly.

However I think it's clear -- it's indisputable pretty much -- that there are synergies between the (URS) and the (UDRP) and I think that - I'm actually thinking of what (Mike) - (Michael) just said and I agree with him in - to a large degree.

We've run the real risk of burnout if we take too long on any particular group. So I think that it makes sense for us to address issues that we can consecutively rather than - or I'm sorry concurrently rather than consecutively.

So whether (UDD) - the (URS) and the (UDRP) share so many similarities it would seem it would save us time to address those two together even if we have to push the (URS) back a bit. Addressing those two together would increase it creating efficiency. It would make us more efficient.

Just a quick thought. Thank you.

Phil Corwin: Okay. Thank you and we're nearing the end of the queue now. Mary, I'm calling on you, then I've got a few things to say and then I'll see if Kathy has any last thoughts noting that we're going to be returning to the subject next week. So, Mary, go ahead.

Mary Wong: Thanks, Phil. Thanks everyone. Mary from staff. But staff just wanted to offer a couple of comments -- procedural as well as background -- as you think about today and go on into next week.

Procedurally there is no specific requirement or prescribed threshold in (DGNS)'s procedures for recommending a charter change to the council. But what we will say is that this is not something that's commonly done and in the two recent cases where it was done there was not substantial opposition within the group to that recommendation.

So sense based on the flexibility that Jeff mentioned is that whether or not to recommend a charter change to the council is for each group to determine guided by the chairs.

The second procedural point that we wanted to make was that in relation to Jeff's point about changing the charter. If the specific recommendation is to move the (URS) into phase two. Our read of the charter is that that will require a charter change, because of the specific language in the charter.

However -- as Jeff noted -- there are flexibilities, so within phase one the working group could choose to issue different reports for public comment and develop recommendations for public comment at different times. The PDP manual for the GNSO does recommend soliciting community input at intervals up to the working group. So there may be ways that you could work within phase one that would still address some of the concerns about timeline and so forth.

The final point that we want to make was more of a background point for contacts especially for folks who may have joined this group after it started. If you recall the discussion about whether to do this at a single phase PDP or a two phase PDP or something else that was a specific question for the community when the preliminary issue report was issued.

So -- first of all -- the decision was made based on community input at the time, but perhaps more importantly recall what was going on for the few years before we started this PDP in 2011 that actually had been a issue report just on the (UDRP). And the (FAP) recommendation as well as the GNSO council decision at the time was to not embark on a (UDRP) review given that we were just about to launch the 2012 round.

Another factor that was at play for the background and contacts is that -- at the time that the issue report for this PDP was being written -- the consumer trust and competition review team had not yet been informed. So their timeline was not clear.

A third consideration for you to bear in mind is that also around that time there was some thought and discussion -- and, Jeff, you may remember this - - about whether (RMP) review should be done as part of the subsequent procedures, PDP or as a separate PDP.

There is other specific background facts that we'd be happy to share with the group, but then we thought that going to next week be some more general timing related contextual facts might be helpful. Thank you, Phil.

Phil Corwin: Okay. Thank you, Mary.

I've got a couple of things to say. I'll be as brief as possible.

The first stuff I'm saying is in my capacity as co-chair and I haven't discussed this (unintelligible) with Kathy yet, though I think she'll probably agree.

On this question of charter change I think staff could - should look into this. I do agree with Mary's initial conclusion that because of the specificity of our charter, a complete deferral of (URS) decisions to phase two would require council to approve a change. I'm going to ask staff for more detailed report on what discretion we have to move things around in phase one short of calling

for a charter change and may - to get as much of that done before the co-chairs have their plan and call with staff tomorrow.

Number two, I want staff when the transcript to this call is sent out to emphasize very strongly that all members of the working group -- particularly those who were not part of today's call, but maybe on next week -- should carefully review the transcript, because a lot was said by a lot of different people and it's so hard to keep it all in your head when it's moving so fast and so many different things are being said. But I personally plan to review that.

Just a thought on my part that so far there's been a fairly -- I haven't counted up the speakers, (Pearl) and (Com) -- but it's fairly close and to get a real sense of where this working group is at on this very important question we may have to consider polling the full working group and taking a week or so for that poll to make sure we really know where members are at.

Now these are personal comments, which is that we have a lot of current work going on for (URS). I hope everyone would agree that the surveys we're about to send out to providers and practitioners had additional work being done by the document sub-team should continue.

We should -- to keep the momentum, to not drop the ball when we have all of this in our head -- and at least to get the answers back and do some initial analysis doesn't mean we have to make policy recommendations based on that analysis, but I wouldn't want to see that loss of getting it back and then a year and a half from now saying, "Oh, here are the survey answers we got back. What were we concerned about then?"

You know, so a personal concern I have is that whatever our decision on policy recommendations whether they should (unintelligible) in phase one or phase two that we find things that are operational that just are wrong or aren't working.

For example, we find a provider that's not compliant with an important part of the rules or the practitioners agree by consent who said some current requirement doesn't make sense and isn't working and ought to be changed. I don't think we should defer those operational changes to phase two versus significant policy changes.

I saw in the chat that there's some disagreement as to whether a decision by this working group on whether (URS) should become consensus policy can or can't be made separately from full consideration of its effectiveness and whether any changes should be made. That's something we're going to have to get into further related to this.

So with that I want to thank everyone for a very vigorous and well informed and respectful discussion, which will continue next week.

And did - Kathy, did you have any closing comments on this session?

Kathy Kleiman: Yes. Please. Kathy Kleiman.

Echoing a number of things that you're saying, Phil, that this is a very good discussion and appreciate everyone's involvement.

I also wanted to applaud the three (URS) sub-teams -- data sub-teams -- that have worked very hard and, you know, and they're getting the questionnaires out.

Like you, I wouldn't want to see this work lost. I think we've really, you know, gone far.

And on our timeline, you know, we're pretty close to completion of this phase and figuring out -- as you said, Phil -- some of the operational issues.

So if there are ways to figure out what issues we can spin off to another phase that would be interesting, but right now -- in terms of efficiency -- it seems like we have live data and we'll be moving forward and -- like you -- I would hate to see that momentum lost especially when we're coming up on the goal so quickly.

But I think there are a number of issues that were raised here and I look forward to continuing the discussion. Thank you.

Phil Corwin: Okay. Thank you, Kathy. Now, staff, our next meeting is next week, same time, same day. Correct?

Kathy Kleiman: That's correct, Phil.

Phil Corwin: Okay. And -- just so working group members know -- co-chairs are currently considering and we haven't made a final decision yet. We need to make one by next week about whether to hold calls. The following two weeks -- the following week on May 16th -- a great many members of this working group will be at the global main division summit just outside of Vancouver, British Columbia.

And then the following week even more members of this working group will be attending the annual meeting in Seattle. I know that I'll be on both, so with very significant drop-off in participation probably on those calls. If anyone has any thoughts on whether we should cancel one or both of those feel free to post to the email list.

And next week we're going to have Brian Beckham make a short presentation to the group regarding his nomination as co-chair and then take questions - any questions or comments on that and then we're going to return to this subject. We may - there may other agenda items, but we will get out all of those out to you.

So thank you all and great conversation. Appreciate it. Bye. Bye.

Woman: Thank you, Phil. Thanks everyone for joining. Kurt, can you please stop the recording and everyone have a good rest of your day or night.

END