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Right Protection Mechanisms and all GTLD's PDP Working Group  
Friday, October 12, 2018  
12:18 p.m. to 2:00 UTC

## ICANN Transcription

### Review of all Rights Protection Mechanisms in all gTLDs PDP WG

Friday 12 October 2018 at 1700 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-12oct18-en.mp3>

Adobe Connect Recording: <https://participate.icann.org/p3yuosna0le/?proto=true>

Attendance is on the wiki page: <https://community.icann.org/x/oQK8BQ>

The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page:

<https://gnso.icann.org/en/group-activities/calendar>

>> Thank you, Ann. Well, welcome everyone. Good morning, good afternoon, good evening. Welcome to the Review of all Rights Protection Mechanisms in all gTLD's PDP Working Group call on the 12th of October, 2018. In the interest of time today there will be no role call. We have quite a few participants online. Attendance will be taken via the Adobe Connect. So if you're only on the audio bridge, would you please let yourself be known now? We do have

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*Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.*

Claudio noted. All right. Thank you. As a reminder for all participants, please state your name before speaking for transcription purposes. Please keep your phones and microphones on mute to avoid any background noise. With this, I will hand the meeting back over to Philip Corwin. Please begin.

Philip Corwin:

Yeah, uh, well thank you and welcome everyone to final review of URS related proposals. It appears we're going to reach our goal of completing this part of the process prior to departure for ICANN 63 in Barcelona. We have four proposals left to discuss today, three from Mr. Kirikos, one from him and Zak Muscovitch jointly. Let me ask at this point whether there is anyone either in the chat room or on the audio only who has any intention of presenting a revised proposal on today's call. OK. I don't see or hear anyone, so it looks like we just have those four proposals. I would venture and hope that we can get through them in about an hour unless one of them requires a particularly higher degree of discussion and I'll speak a short bit at the conclusion of presentation and discussion of the proposals to talk about next steps and with that, I guess turn it over to Mr. Kirikos to present under a standard format, a five minute presentation, and then two minutes each for comment, four minutes for response. We don't have to take all the time. I believe we are starting on proposal number 23. Mr. Kirikos, go ahead.

Mr. Kirikos:

Thank you, Phil.

Thank you, Phil. George Kirikos for the transcript. A brief summary of the proposal is that its cost recovery by the registrars and registry with regards to compliance costs. And went over this last time, for those who weren't here, folks might want to keep an open mind on

the proposals. Even if opposed, might want to put it forward to public comments. In the end we want to reach consensus on policies, and policy A might not reach consensus on its own or B on its own, but conceivably the package of A and B together might reach consensus. So there's going to be some give and take in the future of keeping the proposals alive will be beneficial to get proposals through as a consensus.

So briefly, the urs and urp should be updated to permit both registrars and registries the ability to recover from urs providers reasonable administrative and compliance costs. Should provider not pay such costs, which can vary based on the number of domains involved in the dispute, the complaint shall be barred of that provider. And if commercial credit is extended to providers and payment is in arrears, complaints from that provider involving that registrar or registry would be suspended. So that's the proposal. And the rationale.

Currently the policies allow providers like [indistinct], in this case, charge fees for disputes. However, they don't explicitly permit registries or registrars to recover their costs of compliance and administrative fees. So the policies should be updated to explicitly allow cost recovery by permitting registrars and registries to charge reasonable fees, determined by an implementation review team but perhaps on the order of \$50 per dispute plus a variable fee per domain like \$10. And if a dispute takes 30 minutes of admin time for example, that might be consistent with a \$50 charge, typical cost of \$100 per hour for labor.

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There's actually a supreme court of Canada case involving cost recovery by an isp recently before the courts and \$100 per hour happened to be the same number although derived independently and that's in Canadian dollars, so that was kind of interesting [indistinct] lawyer representing Rogers, the big ISP, kind of interesting.

Anyhow, evidence in support of this proposal, I consulted with Reg Levy of [indistinct] who happens to be in the chat room right now, maybe will be able to speak to this and also reviewed the registration agreement of GoDaddy and learned a typical dispute generates about a half hour of compliance costs and also saw that GoDaddy has attempted to shift the burden of compliance costs on registrants when it's a really a cost directly generated through the interaction of proprietors with registrars and or registry operators, urs providers.

Also some disputes involve multiple domain names so we'd have to justify a per domain name variable cost within a fee schedule for registrars to recover costs from providers. When I posted this [indistinct] back in September, there was a thread that was fairly active, and Jonathan Frost of dot.club posted a couple of interesting posts which I will link to in the chat room and since I have five minutes I may as well read from them to use up my time so others have time to comment.

He added on top of what Reg said, the cost that the registrars, registries bear actually goes beyond what Reg has said. There are situations where we have to go to outside counsel or even ICANN

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to resolve ambiguities in complying with the rules. Additionally, the 24-hour action requirement locking in a domain name that has received a urs complaint actually increases the resources that have to be dedicated beyond the actual number of minutes per complaint because compliance personnel has to allocate or reserve a certain amount of time per day to perform the task, even if no complaint is received that day.

And his main point was that in addition to the day-to-day time commitments, there are unpredictable legal costs associated with the administration of urs, urp. And an additional point I wanted to add is if those folks are familiar, the Verisign contract would allow them to negotiate quite a cost increase for dot.com domains if there were burdens imposed through new consensus policies. So [indistinct] last week proposed extending this to legacy TLDs so we want to make sure that any policies are cost neutral so they can't get any benefit from raises costs on others. Thank you.

Philip Corwin:

George, this is Phil. Before taking comments on this one I would be particularly interested to see if there are contracted parties who wish to be noted in support. On this dot.com, I'd previously stated on a prior call, and just reiterate, this notion that Verisign would take any position for or against a proposal based on that it would give us a rationale under the current contract which may change to petition ICANN for a cost recovery increase in dot.com fees is, one, it just has never entered any discussion within Verisign's policy team positions we should take on any of those proposals; and two, I can't envision any of these proposals which would justify even a one-penny increase which would generate an additional 1.3 million per

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year. We're talking on any of these of potential compliance costs in the hundreds or one thousands of dollars, not in the millions, so I would hope that that suggestion would not be repeated because it's frankly baseless. With that I'll call on Renee Fossen to comment.

Renee Fossen:

Thank you, Phil. This is Renee Fossen, for the record. Obviously as a provider, I'm opposed to this proposal. In a urs case in particular, our margins are so slim, to add an additional fee we would have to pay a registry or registrar, not just the fee itself, now we have to set up a whole new system in how to pay that, accounting involved, so to collect and pay \$50, it's probably going to cost us \$60 or more to do that so it's not just the \$50 at that point.

Additionally, in a urs case it may be touched by both the registry and registrar, so are we doubling it then at that point because each will incur potentially administrative fees so where would the line be drawn on that? And I imagine that the administration would also bear on the registry and registrars as well so they wouldn't be collecting \$50 because they're going to have to have some sort of a system in place to monitor this and collect it so they're not even seeing the money. So the administration on two sides erodes what would potentially be the profit for anybody on this thing.

And furthermore, I agree, it's the cost of doing business. I'm sure other providers would say the same thing, we're likely absorbing costs from some of these proposals moving forward but there's only so many that we can bear and I think the registries and registrars are doing just fine. That's all I have to say. Thank you.

Philip Corwin: Thank you, Renee. Next Jonathan Frost. Mr. Frost? We're not hearing you. Are you on mute? Do you need a dial out? We're not hearing you.

Claudio DiGangi: This is Claudio [indistinct].

Philip Corwin: Yeah, Claudio, why don't you speak and we'll hold a spot for Mr. Frost when he's able to dial in and be heard. He said he's redialing in the chat. Go ahead, Claudio.

Claudio DiGangi: Thanks. So thanks, George for putting this forward. It's clear you've put some thought into this. One question I have. I thought I heard you say you don't think registrants should be paying for this cost. If your proposal is to have ICANN essentially subsidize the operations of the contracted parties, ICANN collects all this revenue for the most part from registrants. So just seeking clarification about that particular element:

Secondly, I would agree with comments from Renee. I think when you look at registration fees and the risk protection mechanisms, the vast majority of the costs is included on those harmed by the registration fees, and I don't think we've seen any proposals regarding those costs. So this would certainly open up really a Pandora's box by doing this. Again, essentially, you would have ICANN subsidizing the costs of operating a business and it's not really -- as far as I understand, it's not really ICANN's role to do that and it's really something that should be left to the market. That's my comments. Thank you.

Philip Corwin: Thank you, Claudio, Is Mr. Frost now available to be heard? I see that he's calling in right now. While he's calling in, I would like to ask -- I will take two minutes in a personal capacity. I have two questions for the proponent. My first question is why should the rights of a trademark owner, either urs or urdp, be dependent on the nonpayment of fees if they were to be required by a third party registrar, and is there a danger that registrars might in fact deliberately not pay those to attract registrants who want to be immunized from a urs or urdp complaint? And my second question is why couldn't we expect that if the fee in fact was something substantial more than the registration fee itself in the order of \$20 or \$30 or \$50, why wouldn't we just expect that registrars would amend their customer agreements to require the customer to pay for that? So those are for Mr. Kirikos to answer in the response period. Do we have Jonathan Frost now available to speak?

Jonathan Frost: Yes, sir, I'm on the call.

Philip Corwin: Thank you, go ahead.

Jonathan Frost: All right, this is Jonathan Frost, I'm with dot club domain. I strongly support George's proposal. I think it's common sense. I think when -- when a complaint is made with Wifo or Idiom Forum, they get paid for the work they do in administering these arbitrations. And moreover, when you have a third-party subpoena, say a hospital for records, those private parties are able to charge to comply with subpoena.

We are very much in that same position. Just as a matter of equity, you know, I think this proposal makes sense. I'd like to point out in rebuttal of the things that have been said, this is not going to increase the resources dedicated to these -- to the art -- these arbitrations. Because no matter what happens, the registries and registrars are going to be allocating the same resources. It's just that they will allocate the costs more in accordance with who is expending the resources so there aren't -- you know, free riders, so to speak. Thank you.

Philip Corwin:

Yeah, thank you, Jonathan. George, ignore the second question in a I asked. In re-reading it, I see that the costs would be paid by the contractors. I blame that on my jet lag. I just got back from Europe last night. Why should the rights of the trademark owner be dependent on this? We will move on to *[Indiscernible]* of two cows. Reg?

Reg Levy:

Hello, Jason. This is Reg Levy of Two Cows. I was asked for data for how long it takes my team to process UDRP complaints. This is the first time I've seen this proposal. I'd like to support that the proposal get put out for public comment.

Jason Schaeffer:

Okay. So noted, Reg. The co-chairs for this set a low bar for adequate support. We may be at that for this proposal, but we will see. We will be getting back to the full working group on that. And Jonathan, your hand is still up.

And Susan Payne.

Susan Payne:

Yes, thanks. Um -- well, I -- whether this goes out to public comment or not -- if it does go out to public comment, there will be careful consideration of what exactly we're asking. But um, I wanted to take issue with what Jonathan said about -- during the analogy of a registry and registrar, that is one of the reasons these dispute processes are beneficial for contracted parties, in keeping them out of being sucked into court litigation. They are hardly intermediaries in this administration. They wouldn't have some of these costs if they had better understanding of contact details. It seems to me that probably the most difficult and time consuming from *[Indiscernible]* perspective is tracking down their customer, actually their contact details are no longer accurate and that thing.

I'm mystified as to how there can be too many really complex cases which take hours and hours of time for registrar. But in any event, the registrar is the one who sells the name, they make the money by selling the name. They are not -- you know, they're not an independent, intermediary, accidentally caught up in this.

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Okay. Thank you, Susan. Are there anymore comments on this proposal? If not, Judge, you're free to say anything in response. I'm going to withdraw my question having thought about it more in the fog of my jet lag. It was based on a mistaken assumption when I first read the proposal. But you're free to add anything you wish to the discussion of this before we proceed to the next one. Go ahead.

George Kirikos:

Thanks. George Kirikos just for the transcript. It was suggested, why don't the registrars charge the registrant -- it was a point made in Section 5. At least GoDaddy will charge the registrar if there are

complaints with the domain name. That is a result of them not being able to charge the URL provider. It is a service they are providing to the provider. The provider is an appropriate person. Somebody can make an unsubstantiated claim against them and they are faced with a fee from the registrar? That seems to be unreasonable and one sided. That is happening because the registrar -- obviously the registry as well -- doesn't have the ability to charge for the service they are providing the URS provider.

There is also a question about how the rights of a trademark holder can be targeted for nonpayment. For the service they're providing. All that would happen is -- it's not affecting their rights. They can't use that provider to make the complaint. They can go to another provider who is up to date on their bill payments and file the complaint through them. That seems to be -- you know, reasonable given ICANN shuts down registrars and registries for nonpayment. Certainly, a registrar can turn off the service to a provider if the provider doesn't pay the bill. Thank you.

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All right. That concludes the discussion of the first proposal. We move on to number 32, again, for Mr. Kirikos.

George Kirikos:

George Kirikos for the transcript. The policy that should be applied to all gTLDs, including dot orgs, including that it be a mandatory policy and that it not be a consensus policy mandated for legacy gTLDs. It should be focused on improvement.

And so the rationale. Back when the EGTLUs were there, people predicted the sky would fall. That didn't happen. The URS should be limited. The cost benefit analysis should be dropped with the focus to return to the EDRP instead. Exaggerated claims were

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made. The program was really held hostage unless things were ratted. People made predictions about gTLDs, they were proven to be completely wrong. Since those passed predictions were incorrect, the policies were justified by incorrect expectations, they should now be undone.

It was a small number of very large corporations who can afford an EDRP. So in terms of evidence -- we've got several pieces -- we've got Rebecca's research. I linked her spreadsheet in the document. Shows that 21 of the -- complainants accounted for 214 of non-withdrawn complaints. Benefits flowed to multi-national companies.

Furthermore, the marginal cost relative to URS is relatively small -- a few hundred dollars. Given there are only a couple hundred cases a year paying \$500 less times 200 cases is really a hundred thousand dollars a year total saved by all these companies combined which is really a rounding year in terms of benefits. There is another benefit, the speed, the rapidity of the URS.

Let's take a look at that. A typical time to complete a time default EDRP is on the order of 27 days. That is marginally slower an a URS, which is around 16 days. That is the purported speed days - that is really small. That is measured from the time of the complaint, you know? The domain might have been around for a year, two years at the time of the complaint. When you look at it from the delayed time, it can be smaller on a relative basis.

There are other ways to shut down abusive sites. There's Google safe browsing, and I posted a link to this very topic today in the mailing list because the study policy regarding their research on shutting down domain names where most of the domains they

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studied were shut down within -- you know, 7 days and it was on an average of like 4 hours or so, mean time to shut down. This is called the "modality of mortality" of domain name. That is by Farsight Security. I will post that to the chat room.

So this also avoids the issue of increasing the price through compliance of new consensus policies. Eliminating the U.R.S. avoids that risk, you know, while Bill and David said it is a non-issue, I'd rather have it in a contract basis. Thank you.

>> Okay. Do we have discussion on this very non-controversial proposal? No one wishes to comment on this?

>> *[Indiscernible]*

>> Claudio.

>> Can you hear me?

>> Greg Shatan Shatan, go ahead, please.

Kathy Kleiman: This is Kathy. Claudio is trying to get in via audio from the queue.

>> Are you on mute?

>> I heard Claudio first, so I was wondering what was going on.

>> Let's reserve a spot for Greg Shatan to speak.

>> Can you hear me?

>> *[Talking Over Each Other]*

>> Hello? Can you hear me? *[Background Noise]*

>> Well, I'm not hearing Martin, either.

>> Okay. *[Chuckle]*

>> Can you hear me now? *[Background Noise]*

>> Uh -- kind of muffled. There's a lot of noise there as well.

>> ...amount of noise on the line.

>> Staff, do we know what is going on with this line? No one can hear them and there's a lot of noise going on with both lines. There's a huge amount of noise.

Kathy Kleiman: Phil, can you hear me? This is Kathy.

Philip Corwin Yeah, I can hear you.

Kathy Kleiman: You weren't hearing -- you were hearing Greg Shatan, I was hearing Claudio. I think now whatever --

Philip Corwin Well, I'm on the phone line and it wasn't coming through.

Kathy Kleiman: I know, it's very strange --

Greg Shatan: This is Greg Shatan, can you hear me?

>> Yeah, Greg Shatan, I can hear you now.

>> *[Indiscernible]*

>> Your hand was up first. Why don't you go ahead and comment and we'll try to get a comment from Martin.

>> *[Indiscernible]*

>> I'm going to -- Greg Shatan?

>> Greg Shatan, can I be heard? I heard Philip Corwin and then I stopped hearing Phil.

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Kathy Kleiman: Greg Shatan, this is Kathy. I can hear you. I can hear you. Um, so if you want to go ahead, I think Philip Corwin may be getting back on.

>> *[Indiscernible]*

>> Greg Shatan?

>> ...go ahead.

>> ...audio will work as well as the internet. Maybe it does, but not yet. I am opposed to this proposal.

>> *[Chuckle]*

>> But in uh -- you know, the question whether it satisfies the very low bar that we've established for putting this out, one of my concerns is not necessarily with the proposal itself, although I am -- you know, violently opposed to it, but -- yeah, something I'm not entirely clear about which is what is going out to support -- or for that matter, not to oppose or suggest lack of support for these proposals. Are they going to be stated just as they are on the -- on the sheets or are all of these secondary sources um -- and um -- asserted um -- facts um -- quote/unquote facts going to be put in as well because I think there's a concern about a one-sided report that just has kind of a bunch of controversial proposals and a bunch of assertions by the uh proponent and no statements -- um, with regard to any of the weaknesses. So it seems the proposal goes out as it is in a minimum flat -- kind of implementation or -- you know, just the proposal itself -- without any argument about why it is a good proposal, a bad proposal, or we hear or publish arguments on each side. I'm curious how we're going to ham this. Thanks.

>> I'll speak to that.

Claudio DiGangi: This is Claudio.

John McElwaine: John McElwaine for the record. Back to a comment from the last call. This is not to -- I would be fine for this going out for public comment. So this is not to really address that. But I think this proposal -- and a few others that we heard -- is out of scope of the charter of working groups. We are supposed to assess the RPMs fulfill the purposes for which they are created and whether there are any recommendations to clarify and unify the policy goals. We can look at improvements and modifications to RPMs. Some of them are attached. I think this proposal is out of scope. I don't mind talking about it, but I think this working group -- taking a step back or whatever people believe in -- needs to look at what are -- what have we been empowered to do and have a discussion over the scope because I certainly think this one is out of scope. But there may have also been others. So I hope we can address that at some point before we conclude and get into the process of writing the interim report. Thank you.

>> Okay, John. Thank you for that comment. That is the point we haven't heard before. I will urge that the other co-chairs discuss that on our next call. You may -- well, we will just discuss it -- but I would point out that while Mr. Kirikos did this is the mere opposite of the proposal from David McCauley which is to solicit comments on whether URS should become a consensus policy as to whether Verisign has taken a position on whether or not it should -- that our charter is clear that we should consider whether any of these RPMs

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should become consensus policy so that question does not arise in conjunction with David's proposal.

On to Martin Silva.

Martin Silva: Thank you very much. *[Indiscernible]* hello?

>> It's muffled and there's a huge amount of noise in the background. I don't know where you are.

>> Sorry, I'm actually *[Indiscernible]* take notes.

>> Could you go ahead and speak and we will see if we can understand you.

>> I would like to challenge what John said. I think this question is inside of the scope. *[Indiscernible]* I would like to at least support to see how the public thinks about this. I think it is a very *[Indiscernible]* question, why do you have policy if it is no longer actually useful. It doesn't really *[Indiscernible]* because we need it in the first place. *[Indiscernible]*

Philip Corwin Okay. It was difficult, Martin, but I believe you said that you support putting this out for public comment and of course, if it is put out for public comment, those opposed to it either on substance or beyond the scope of the charter can comment to that end. With that, I will go on to call on Paul Keating for his remarks.

Paul Keating: Thank you, Phil, Paul Keating for the record. I'm on the phone -- I'm able to see the screen, but not participate by computer. I had two comments. One was a follow up on a question from previously. On what format are these now going out to public comments? Are we going to solicit public comments based solely on the proposal or are we going to give -- in all fairness, although I support this proposal, I think that there should be ample time -- if the evidence is to the contrary of what George has indicated and the case can

be made for retaining it -- the URS-- then that should be included as well so to speak. A California referendum. "Here's a statement in favor. Here's a statement in opposition." Now we're soliciting more comments.

Or are we trying to solicit opposition in the form of the public commentary? I understand that your response to that comment was, "We will discuss it at the end of the call." But I think it would allow people to -- it would give me a lot more comfort to understand that -- in advance rather than at the end of this whole process.

Philip Corwin

Thank you, Paul. We are going to put in the report for public comment -- the official or modified text each proposal provided that it received the low-bar of adequate support. I would imagine that we are going to circulate it right after the initial report for review and comment before it's published for comment. Does anyone on staff who will be preparing that draft initial report have anything to add on this subject? Julie, go ahead.

Julie Hedlund:

This is Julie [*Indiscernible*] from staff. This is something we'll be going over again at ICANN 63 in one of the sessions. And we did talk about it somewhat at ICANN 62. That is the process of developing an initial report. But the specific question of what gets included, how things are included in an initial report, based on working-group guidelines, the manual and also from recent experience with the new subsequent procedures, PDP working group, there are several ways that proposals, ideas, options get included in an initial report. They could be included as recommendations where there's -- you know, strong support for something as a recommendation, they can be included as options

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for comment and benefits and pros and cons presented. They can be included as just in -- as questions for feedback and where there are specific questions that are being asked in the forum for response for the public. They would be considered in deliberations at the least.

As they are discussing the proposals, there is something that has to be reflected in the deliberations. Even if there is nothing within the working group saying there is something supported or not. There is keeping the proposal as it's been presented, you know, when it was presented to the working group. And if it's been modified and presented, represented to the working group, that would be included as well.

And yes, when the initial report is drafted, it will be read out and discussed in detail with the working group members with ample opportunities for discussion and comment and deliberation. Usually, in fact, there are two readings of initial reports so that everybody has an opportunity to be on a call and then there's -- you know, start taking into consideration and a final report goes out for review. So there are several steps involved. Sorry to go on for a while. We will also spend more time on this in ICANN 63. Thanks.

Philip Corwin

Thank you, Julie. I'm going to call on audio who has been waiting patiently. After him, David McAuley, and after him, Greg Shatan Shatan wants to make a follow-up comment. I'll urge him to be brief in that. So Claudio, go ahead.

Claudio DiGangi:

Thanks, Phil. Just as an initial matter, I just wanted to make a comment about some of the rhetoric that George used presenting his proposal. I think he stated that *[Indiscernible]* part under gun

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point? I think you just really need to tone down that type of rhetoric and sort of recognize that -- the concerns that stakeholders have are legitimate and you know, to try to avoid using terminology like that. I also disagree with the [indiscernible] points that George mentioned in terms of how this came about. The vast majority of comments expressed concern for registration, abuse and a lack of protections. This ultimately went to the board chair and GNSO, this was unanimously accepted or approved by the GNSO. And so really it was the entire community that approved the URS and it does play an extremely important role. And lastly, just in terms of the level of registration abuse, they are probably at the same level of legacy domains or even higher. You've seen all these different RPMs come out to help stem the problems that could result with domain space and as a result you've seen less registration abuse.

George was circular in stating that the sky is going to fall, we haven't seen these problems. Yet, there's still been a lot of problems that have resulted. So hopefully if this goes out for public comment, any staff that George decides to put in can be --

>> *[Talking Over Each Other]*

>> I have to ask you to wrap up.

>> All right, I'm done.

Philip Corwin

Thank you. Thank you. Mr. *[Indiscernible]* that is an old hand. If you can put it down. Now on to David McAuley. David?

David McCauley:

Thank you, Phil. It's David McCauley speaking for the record. What I would like to do is reiterate two things I put in chat about 8-10

minutes ago. When I put this in chat, chat was moving quickly and I think it bears repeating.

Since I made these comments and proposals, I would like to underscore them myself. The first is on number 32, the proposal that was eliminated, I would like to be on the record as in opposition to that. The second comment is with respect to the proposal I made last week, October the 3rd, the proposal that we seek public comment on the notion of making URS consensus policy. I want to underscore that is what it was. The proposal is to seek public policy. The people have not made up its mind on the issue, should URS be made -- hopefully with the benefits of a very robust public comment section. It was a proposal to seek public comment. Thanks very much, Phil.

Philip Corwin

Thank you, David. Now on to Greg Shatan. Greg Shatan, this is your second comment. I urge you to make it fairly succinct.

Greg Shatan:

Thanks, Greg Shatan Shatan for the record. First I think Paul misphrased -- or phrased in a different fashion -- pros and cons of a proposal. This is a good example. I don't think the opposite of this proposal -- or what needs to be presented in addition to this proposal -- and perhaps the rational -- it is not a rationale for why the URS should be retained, but rather a rebuttal to the proposal and why it's a bad proposal and why it failed and what is wrong with it. This is not the idea -- we are going to set everything up in *[Indiscernible]* that everything is somehow now completely open for -- you know, discussion of -- as if this were an open field for discussion. These are -- so I think we need to be careful when we get to the full discussion of how we're going to present these

proposals that we understand what we mean by statements for and against. I think you can make a statement against this proposal without having to re[*Indiscernible*] the URS. We should not have to be forced to do that or we are going to re-write 12 years of stuff.

Finally, you know, I think that in looking at this, there are a small number of large corporations that are benefiting on this and somehow that is good or bad or -- that is bad. This seems to be a small number of professional domain speculators. We should stick to better ways of proving our points. Thank you.

Philip Corwin

Thank you, Greg Shatan. Is there anybody else who wants to comment on this proposal before turning this over to the bridge for response? All right. Seeing and hearing no one, oh, Julie, your hand is up. Is that an old hand or a new hand?

Julie Hedlund:

The old hand.

Philip Corwin

Okay. Take it down. Let's get tired of being up there.

All right, George, you have 4 minutes to respond as you wish.

George Kirikos:

Yeah, George Kirikos for the transcript. There are not many proposals brought [*Indiscernible*] out of scope which I disagree with because I've been through a 3.7 appeal where things I thought were out of scope turned out to be a scope, because a scope of a P.D.P. is relatively broad -- broader than people think. I think that is a losing argument against putting this out for public comment. Procedural questions were asked about what goes into the report. That should really be debated later. It is not about this proposal. I'll take a few seconds to note that whatever standard applies should apply to all the proposals including the sub-team proposals didn't

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have a lot of these rationales. Lie link to some footnote. Make sure that all the proposals -- they're all at an equal standing in terms of how the public will see a report. There's some comments about language which I disagree with. There are people who have a vocabulary that can understand what was meant.

There's concerns that some of the proponents or opponents are a small number of domain speculators. This PDP may not be representative of people registering \$10 domains that don't have the resources to debate domain names. If you look at the participants, you have some of the wealthiest people in the domain industry that have a financial industry to make sure that the policies turn out to be balanced. Eventually, this will go to public comment and we will see what the public thinks. Participation shouldn't be restricted based on that. If we use that argument, there are tens of millions of trademarks. How many of those are registered by small businesses? But we have some of the largest companies like Amazon here. Should Amazon be excluded because they're wealthy? I don't see that complaint being made.

The actual users of the URS are the largest companies and so -- if small companies are using this -- a very small number -- represented -- sorry -- as a fraction compared to this whole number of trademarks, let's say there's 10 million trademarks, but the fraction of trademarks that are actually used to initiate a URS are coming from a very small number of companies. That kind of tells you something. That is why I put that in. If people want to challenge that, the proper place would be in the comments section. People could have been doing proposals. Everybody had their fair chance. Thank you.

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Philip Corwin

Okay. Before going on the next proposal, I'm going to take prerogative as chair to say two things -- first, I'm going to say in a personal capacity, as someone who is very active in the S.T.I.R.T. at the time it was ongoing in developing these RPMs, I remember a great deal of passion on various sides of these issues, but I don't remember there being any guns in the room or threats of retribution or apocalypse if something wasn't accepted.

I'm also noticing a number of members of the working group on the call today have proposed that when we move -- if we find that a proposal has achieved adequate support and is included in the working group initial report, that members be given an opportunity to challenge statements within the proposal that they feel are hyperbolic or not special. I'm not going to take any view on that right now other than to say that I will urge this be discussed by the co-chairs and we will communicate back to the working group long before there's any draft initial report before us. And with that, we move on. We are 58 minutes in the first hour.

We will move on to the third of the four proposals for today. Which again, is Mr. Kirikos' 33. So once again, take it away, George.

George Kirikos :

Thank you. This is George Kirikos for the record.

>> George, since you brought this up, I want to make clear that --

>> *[Indiscernible]*

>> ...connection to anyone referencing anything I've ever written, but that blog post did not represent my personal views at that time or at this time, it was a post submitted on behalf of my client at the time, the Internet Commerce Association and my representation of that and the fact

that I used the word "we" in the article should make clear that the statements made then were on behalf of the ICA and do not represent my personal viewpoints then or now.

George Kirikos:

Thank you. *[Indiscernible]* for the transcript. This proposal is regarding putting providers under the contract with ICANN. And so all current and future URS providers should be brought under current *[Indiscernible]* these contracts should not have any presumptive renewal clauses either.

So fixed-term contract, at most an M.O.U. which is a relatively informal and perhaps unenforceable arrangement.

So the current legal relationships between ICANN and providers create transparency and compliance. Formal contracts for a fixed term will help improve the current state of affairs. Contracts will provide all parties with clear expectations of rights and responsibilities. Providers should be *[Indiscernible]* same scrutiny such as *[Indiscernible]* E.D.R. provider. If you recall, Paul Keating brought up, what happens if a bunch of pro-attorneys bought a URS provider and had all anti-trademark lawyers being panelists? That would be caught as well.

So the current "credit and forget it" model is unacceptable. These are multi-million dollar contracts and should be formalized contracts. And I note for the record -- forthright has a 3-year contract with New Jersey. So these are not new things. The reason why I included the blog post from Philip Corwinis the disturbing fact that it was agreed that the provider should be put under contract. The board accepted that unanimously.

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I don't care about Phil's opinions, I care about Phil's statements of the facts. We see that 5 years later, the providers are still not under contract. So that is disturbing. Are hasn't staff implemented what the S.T.I. approved as a policy? That is why I quoted from Phil's blog post of the time. That is the proposal. I look forward to your comments and questions. Thank you.

>> Are you in the queue?

Philip Corwin

Claudio, I'll put you in the queue before Kristine and after Greg Shatan. I want to make a clarification. I want to say that these are a TRD matter. I see a lot of people want to speak to this one. Let's hear from them starting with Kristine, then we will go to Claudio and then down on the list. Kristine, go ahead.

Kristine Dorrain:

Thank you. This is Kristine Dorrain, Amazon registry. So you had said that the STI had said that the provider should be under contract. M.O.U. is a contract. You are probably going to argue that a *[Indiscernible]* contract, I think you should revise your statement that it is actually a contract.

And then I think the second thing is -- I am kind of a broken record because I've said this a dozen times on these calls -- we have to figure out the problem we are trying to solve here. Do we have situations -- I mean, you've got lots of hypotheticals. People have gotten on these calls saying, "Awful things could happen." I'm trying to figure out what problem we are solving. What awful thing is going to happen? Has anybody contacted ICANN to talk about provider's behavior and not had results? "We have a question on something you're working on or doing." Second, I don't think any provider has gone on record to say they refuse to go under anymore contract.

The providers were presented with something to sign and they signed it.

So I'm not sure if we are fighting a battle that is ours to fight. What do you want that contract to say? What are the terms that are not being met? The providers -- or the credited providers have to follow the UDRP or URS. If they are not, somebody should call them and say, "You're not following along." Give them a chance to get it right. I'm not seeing how this is a current problem. Some hypothetical problem may come up down the road.

I don't necessarily oppose it for the record, for the record, I'm just asking. This doesn't seem to be an issue. Thanks.

Philip Corwin

Okay. Thank you, Kristine. Claudio is waiting in the audio room. Go ahead, Claudio.

Claudio:

Thank you, this is Claudio. Kristine touched on a lot of good things I wanted to say. What is the problem? Is the problem -- if there is a problem, is that something that is solvable via contract or is that even necessary? It would probably help in the situation to get input from ICANN to get a better understanding of its relationship with the providers and you know, are it's chosen to go down this particular path and just also to answer George's question about the SGI report.

The SGI report went out for public comment. Nothing that either the IRT proposed or the SGI proposed were guaranteed to be part of the program. They were always going to be subject to public comment. They were not consensus policies. So that is just -- I

hope that helps clarify why the SGI could have recommended something and it ultimately ended up in the guide book. Thank you.

Philip Corwin  
please.

Okay. Thank you, Claudio. Greg Shatan Shatan. Go ahead,

Greg Shatan:

This is Greg Shatan Shatan. I'm not in favor of this proposal going out for public comment even with a relatively low bar because I think it is based on a false premise which is that the MOUs are not formal contracts. The extent that any document is a formal contract is not the name that is on it but whether or not it exhibits the basic idea from which a contract is formed. Unless George would like to some basis for his own assertion that these contracts are not formal contracts, and that these contracts are not enforceable, you know, I think this is just -- you know, based on a false premise. Secondly, it is entirely an implementation question. So you know, I think this case -- we have a proposal that has no basis; therefore should not be brought forward. George should have a chance to be fair to resubmit the proposal. If there's a particular element -- I think I'm being more than fair here. He talks the fixed duration. If he wants to put out a proposal with a fixed duration, or certain criteria for the providers by ICANN, let's talk about that. But let's not -- as with many of these proposals, start with a pile of fake news and put a proposal on it. A cherry on top of a Dumpster fire instead of a sundae. I will turn my 15 seconds back.

Philip Corwin

Thank you, Greg Shatan. Martin Silva?

Martin Silva:

Yes. Thank you. I want to say that I think these are good proposals. I don't see what could be harmful about getting more *[Indiscernible]* on policies. Again, of course, I would like to hear more about legal

opinion of US lawyers. I know *[Indiscernible]* contract, of course. But *[Indiscernible]* proposal. Thank you.

Philip Corwin

Okay. Thank you. Please go ahead.

Reg is gone. Martin just spoke so on to Paul Keating.

Reg, I see your hand is back up. Are you ready to speak? My apologies. I clicked the hand button instead of the microphone button and started talking.

Go ahead.

Reg Levy:

I would like to agree with Kristine that most of the vendors are good actors. And I would like to agree with Greg Shatan saying that most of these MOUs are contracts. I would presume that would fall under ICANN per view. Just to confirm that everybody is a good actor and I see no reason why this should not be accepted to public comment. Thanks.

Philip Corwin

Thank you, Reg. I want to take a personal note since my article was mentioned, I don't recall -- we can debate whether or not a MOU is a contract. I regard it as a rudimentary contract. I believe that getting your written document was regarded as something as a win. I would hope that if this is put out for comment -- and I think we've heard a fair degree of support -- debating whether or not an MOU is a contract -- -- that the MOU might be changed or improved however they wish, I would like to mention that the sub-teams certainly scrutinize the MOU, as well as the over-all rules and the guide book and policy and have recommended compelling some of the providers -- one in particular -- to fulfill all of its provisions of the current documents. So I'll stop there. Martin, I believe we already

heard from you. Your hand is still up. But I'm moving on to Paul Keating and Zak Muscovitch.

Paul Keating:

Okay. Thank you. This is Paul Keating for the record. Not everything in an MOU is enforceable and it is usually intended that way by the parties. I am very much in favor for getting this out to public comment.

In response to one of the questions which was directed -- have there been any problems? I can talk to that. I have encountered numerous problems with providers and none of my efforts to get them resolved by involving ICANN has led to any response whatsoever from ICANN let alone any change to the problems.

I'll give some examples. I'm sure Nat can talk to some of these -- I was tangentially involved with a statistical study that Nat and Zak Moscovitch did, a very disproportionate number of cases were going to a select group of panelists. So it led to concerns about bias, qualifications, et cetera. Why weren't the rest of the huge body of panelists tapped for this?

Other instances that have come up were like NAS insistence on supplemental filings which placed a huge burden on respondents who have to respond to this and cannot rely on the fact that panelists may or may not consider the supplemental filing. Another one is delays by complainants. I've had some that have refused to pay the fee. The complaint needs to be dismissed, the provider has -- in both cases -- once with WIPO, and twice with NAF, they just simply allowed the complainant as much time as they needed in order to pay the fee.

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Philip Corwin                      Paul, I have to interject. Your time expired a bit ago. I wonder if you could just quickly wrap up and put additional comments either in the chat or on the working-group e-mail.

Paul Keating:                      I'll wrap up --

Philip Corwin                      Or you can --

Paul Keating:                      I'll wrap up --

Phi:                                  In the chat ...

Paul Keating:                      I'll finish up. Those contracts should be formalized. They should deal things like qualification of panel, method of panel selection, anytime there's a renewal of the contract but not an automatic continuation. Thank you.

Philip Corwin                      Okay. Thank you, Paul. Zak Muscovitch.

Zak Muscovitch:                      Thank you. Zak Muscovitch. Here we usually have two pages of memorandum of understanding. So in my view, the reason this should go out primarily is I hope to one day see a kind of comprehensive contractual relationship that exists throughout all other important business relationships that ICANN carries on with - - you know, intricate contracts that deal with the kinds of issues that Paul mentioned that particularly have come up within the context of EDRP, but could easily come up in the context of the URS.

Philip Corwin                      Thanks, Zak. And Michael, go ahead. You're the last hand up.

Michael:                              Thanks very much. Just briefly, you know --

Philip Corwin                      State your name.

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Michael: Michael *[Indiscernible]* for the transcript. Thank you for the reminder. I recall the work of the sub-teams shown non-compliance to be a problem and I think there's a substantial need for stronger accountability. An oversight of how this has been -- I would welcome this proposal as a potential avenue for that. Whether it is an optimal or right avenue for that, whether there are better avenues, I think that remains to be seen. I look forward to community feedback to assess that. Thank you.

Philip Corwin Okay. Thank you. George?

George Kirikos: George Kirikos for the transcript. I meant to say that the proposals are the SDI had unanimous consensus -- period. In terms of whether there is a contract or not. It is debatable. The topic of contracts has had a long history. Some of the people here probably became lawyers because of the movie *The Paper Chase* because contracts were a topic of discussion for Professor Kingsfield. The issue of having them under contract is important because we have contracts for registries. If you think an MOU is good enough, I challenge people to say, "Why doesn't all the terms that require a registrar or registry to adopt the EDRP and the EDRS, put it into an MOU" and see if it has the expectations of the registrant. I think it is a weak argument that people are putting forth as a reason for not formalizing these and putting them into a contract. Because they know when bad things happen, people raise all kinds of arguments. "This is a misunderstanding. It is informal and it is not a contract." In terms of what that contract would do, would set up expectations, conflicts of interest have come up in this PDP of panelists. Expectations as to who owns the provider itself, you know? We've got mass arbitration forum with its consumer

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arbitration in the courts. You know, the consent agreement is signed. We had decisions without any rationale for the URS.

We had these copy-and-paste scandals. We've had bad behavior that -- you know, needs to be monitored at least by ICANN for compliance. We have compliance monitoring for all other contracted parties. This would be another contracted party in a different sense. But still a contract. You know, they probably have a contract for custodial services at ICANN. They're held to a higher legal standard than the URS providers? I don't understand. It is important to put this out to public comment. Thank you.

Philip Corwin

All right. Thank you, George. Mr. Keating, your hand is up. This is a joint proposal from Mr. Kirikos and Muscovitch. You can split up your 5 minutes however you want. It is 5 minutes for both of you. Take it away anyway you wish to. This is proposal number 34.

Zak Muscovitch:

Neat. This is Zak Muscovitch. You may recall --

Philip Corwin

Proposal on the screen. Hold on, Zak. We didn't have the proposal on the screen. I wanted to make sure it is up there. It is a merger of two other proposals.

Zak Muscovitch:

Having those proposals done over drinks would be much more pleasurable than how we've been doing it thus far. You may have recalled a couple calls ago, there were proposals on the language of the U.S. proceeding. The one that I had made had a more complex solution to it that was based on the lack of justification for the current rule which is that all the complaints must be in English. What alternatives should there be? The proposal I had originally raised was to look at the language of the trademark itself. The

location. The registrar. Things like that. But upon hearing the feedback of this group and also seeing George's proposal which was to -- just mirror the language of the UDRP, I was persuaded that -- although not in my view of satisfactory -- my own proposal seems to be a simplified and compromised solution that I've come to support. So George and I collaborated on the writing of this particular proposal and what it does is just to say that rather than have the complaint be required to be in English that the complaint be in the language of the registration agreement which is the standard that the EDRP has been employing the last 20 years.

Added on to that is a sub-solution. A complainant may want to bring the URS proceeding into a language other than the registration agreement for a good reason. If a complainant wants to do that, it should be given an opportunity and not have to use up its 500 words of the US complaint.

Philip Corwin

Yeah. Okay.

Zak Muscovitch:

So the second part of this proposal is to allow a complainant to make its case in up to 250 words that the complaint should be in a language other than the standard registration. *[Indiscernible]* why it wishes the language to be in a language other than what is in the agreement -- it should be given 250 words or less to give its case.

No translations are required to be filed by the parties provided that they bring the complaint in the language that the panelist confirms is going to be the language of the proceeding. There's a minute, 54 left.

George Kirikos: George Kirikos here for the transcript. I'd like to thank Zak for all the time we spent reviewing all the call and looking at all the comments. The adjustments to the EDRP rules show the comments we made -- the presentations we each made previously. And so the word limits especially and also the translation might end up being longer once you translate it then to 500 words so we want to make sure that was accounted for. Thanks to Zak for all the time we spent working together. It was a pleasure. Thank you.

Philip Corwin Okay. Thank you for the presentation.

Zak Muscovitch: Just to clarify, this combined number 34 subplants and replaces number 24 and 25 and they're no longer in play; is that correct?

Philip Corwin This will be a replacement for both policies. I noticed one more thing. In terms of the implementation in section 4 of the rationale, we want to make it very clear that the URS providers would not be able to provide translations of the pleadings. It will be up to the parties to do the translating. That was a question somebody had raised in the prior calls. And we've addressed that in the rationale.

Thank you for that. Renee *[Indiscernible]*?

Renee Fossen: Hi. Renee Fossen for the record. I guess I just have a couple of questions. The language of the registration agreement. As a provider, I don't have a problem with. I thought if we were protecting the rights of the registrar, it is the language of whether the -- how is that protecting or providing any service to the registrant. If the panel can order that translations *[Indiscernible]* add time. A apologize if it was in the documentation that I haven't looked at yet. Thank you.

Philip Corwin                      Thank you, Renee. Do we have comments regarding language of the proceedings?

Kristine? Go ahead.

Kristine Dorrain                      Thank you. Kristine, Amazon registry services. I did put this in the chat, but I will say this now. If they're going to be expected to hire someone who speaks every global language or how they will translate all the forms that go along with everything, instructions, how many languages everything should be translated. How many days or weeks do you plan to propose every deadline within the URS, in order to allow people to get these translations made in under \$1,000 or \$1500 per document. How much do you propose, along with filing fees, if you take that into account, that would be great. Thanks.

Philip Corwin                      Okay. Thank you, Kristine. Do we have other comments on this? I don't see any hands up.

George, you got a rebuttal.

George Kirikos:                      I was queuing up for that.

Philip Corwin                      You get that without having to put your hand up. It's automatic for you and Zak. Seeing no other requests to comment, George and Zak collectively have 4 minutes to respond to anything that was said or to add anything further on their proposal.

George Kirikos:                      George for the transcript. I'll defer to Zak in the last 2 minutes. I think there's some confusion. The providers would not be doing the translation. There were questions about having that be a factor. That is just incorrect.

In terms of protecting the registrant, in terms of the language, the EDRP accommodates that. We addressed the first part of this proposal. We assume any registrant understands the language of the agreement. That goes without saying otherwise why would they use that registrar? It may happen from time to time, but it would be shocking. In terms of providers having to understand every possible language, there hasn't been a high burden in terms of the EDRP. So I don't see that as an issue either. In terms of filing fees, no effect. The provider would just not be responsible for the translations. In terms of the time limits for translation, that would be up to the panel and provider in terms of their supplemental rules. I don't see it as something we need to put into the policy itself. I will defer the main time to Zak if he has thoughts as well.

Zak Muscovitch:

So really, the way to look at this -- whatever inadequacies if any -- exist in the EDRP language are going to be related -- it is nothing new at all.

So in terms of how registrants are protected -- in two ways. The language of the complaint is going to be in the language of the registrant. You don't have to do anything new in that respect. What would have to be done differently is that panelists would have to be prepared to appoint panels to hear cases in the language of the registrant.

In terms of translation costs, it is the same with the EDRP. Nothing is different. If a complaint gets submitted in a language that is different from the proceeding language, it is up to the complainant to translate it. Same with the respondent. So I don't see any substantial differences in that respect. I don't see any differences

in the cost. It is aligning the URS with the way the EDRP. It is a net increase in the fairness of the parties. Thank you.

Philip Corwin

Okay. Thank you, Zak. That concludes our consideration of all the remaining individual proposals for operational or policy changes to the URS. I asked at the beginning of the call whether anyone had a revised proposal to -- that they want to discuss today and heard none. So I'm going to make a few brief comments and then see if my -- I know Bryan Beckham is on the call. I know he is very busy this week. I am going to make a few remarks and then see if Kathy Kleiman has anything to add. First I want to thank everyone -- the co-chairs have been under continuing and persistent pressure from counsel to maintain the timeline for this working group and we said a goal of concluding all discussions of URS proposals from sub-teams and individual working members to conclude prior to Barcelona. We have now achieved that goal. I want to thank everyone for their cooperation and hard work in helping us to meet that goal. That helps us move forward to the next steps of the working group's efforts when we get to Barcelona.

The co-chairs will be meeting early next week to discuss finalization of the Barcelona agenda. You've already seen some information about it. We will be getting back with full information the sessions there and what will be happening there. I believe for one thing, we are going to begin discussing the results of the analysis group surveys, but we will provide all of that detail to you before anyone goes to Barcelona or gets ready to dial in and get online to participate in Barcelona remotely.

We've heard discussion, we've heard a number of people say that there is proposals that they don't favor putting them out for public comment. I'll be frank, the co-chairs adopted the fairly low bar of demonstration for adequate support for a proposal to be put out for public comment in the initial report for a number of reasons: One, had we set a higher bar, it would have been very difficult to meet the timeline because we would have spent a great deal of time debating not just the proposal, but whether it met the requisite level of support once it got to a higher point. Not consensus, but something beyond adequate support which means that it's got some basis of backing in the working group.

Second, we have a working group membership of working people. Some people will chime in after a call, it is not fair to let 20% of the working group decide what would go out for public comment. We also thought it might be beneficial to put things out for public comment to get a much better feel for how they fared terms of opposition from the entire ICANN community beyond the ranks of this working group. And also we thought that members of community that all wisdom does not reside in the membership of this working group. That members might chime in with ways to make it more likely to achieve consensus.

Looking forward, we get past the initial report and the public comments, it's going to be stepping through the looking glass and things will change completely. At that point, proposals demonstrated a lack of support -- a high-degree of controversy, a very high level of opposition, it is the personal view of this co-chair that proposals which have demonstrated a distinct lack of probability of achieving consensus after discussion, that the

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working group shouldn't spend a great deal of time on them unless the proponents are willing to make substantial changes in response to the public comment.

We have a very open process now for what is going into the initial report, what will be included in the final report as recommendations to be considered by the GNSO counsel and the ICANN working group operating procedures are only those proposals which receive full consensus, or consensus and we will just see where that falls. And with that, I will note that George has his hand up. First I'm going to call on my co-chair Kathy Kleiman. Kathy? Anything to add?

Kathy Kleiman:

This is Kathy. I just want to make sure you can hear me. I'm on audio now.

Philip Corwin

Yeah, we hear you.

Kathy Kleiman:

Great. Thank you. It has been great going through the sub-team proposals and now the individual proposals. I know on the last call, we went through a whole bevy of them. My thanks to everybody.

Phil, just a quick note, I think staff may have some additional materials to share today regarding the Barcelona meeting -- at least an overview.

Now that it's been agreed to, the question is how the individual report -- the initial report -- Sawyer -- separates -- how it presents these things. I would suggest -- and I have suggested that it might separate proposals that come in -- like the sub-team proposals that will come in with a lot of data -- a lot of review, a lot of discussion.

And frankly, a lot of consensus. Although I use that word loosely in this case.

That might be in a different part of the initial report than certain individual proposals that -- where the proponents themselves have characterized them as straw men.

They're not well-flushed out. They're ideas that people are seeking input in response to. I knew staff had ideas about this. I knew they had templates and models from other working groups in mind. I would think this is something we should all be thinking about as we go into the Barcelona meeting. How we set up that initial report to reflect. My understanding from staff is that they will be reviewing the discussions both the transcripts of what we said on the calls as well as what was said in the chat rooms. A lot of substance was posted in the chat room which we all appreciate.

It is my understanding -- I will let staff speak for themselves or later in Barcelona -- that there will be a balanced discussion. I apologize. There's a call beeping into my phone now. There will be a reflection with this proposal and other proposals of discussions on both sides. Concerns as well as support and there will -- staff will be drawing from the discussions of this working group. Thanks. Back to you Phil. Appreciate it.

Philip Corwin

Thanks, Kathy. Thanks for mentioning -- because I forgot to -- the co-chairs have asked staff to review the chats, transcripts, calls and get back to us with their estimations of which of the proposals received adequate support. We will share that with the working group. We are a long way from publishing that report. It is projected for the end of the first quarter next year. About March 2019.

Everyone is going to have a lot of time and no one is going to be surprised by what is in that initial report I've seen in the chats some folks who think we are being too permissive of what we are putting in the initial report for public comment. I've explained the co-chair's reasoning. We put that out early. It seems to be accepted by the working group. In the end, it's going to be more efficient than if we had set a high bar, that something might demonstrate -- for example, not consensus, but majority support and notwithstanding opposition, we can spend weeks deciding if any proposal met that bar. Consensus, I suspect it will be a small minority. Maybe I'll be surprised.

With that, I see we're at 42 minutes into the second hour. I see Mr. Kirikos' hand up. Go ahead, George. I hope it is a short comment, so we can wrap up.

George Kirikos:

George Kirikos for the transcript. There is colorful comments in the chat. I want to remind people who disagree with what Philip Corwinsaid earlier about topics or proposals being unviable on their own. I disagree with that for the reason that I mentioned earlier. Some proposals on their own might not be able to reach consensus but when combined with balancing proposals, it might be. There is opposition to loser pays. Some people feel it is important. Some people feel it should never happen. Some people are in favor of statute of limitations. Other people are equally passionate against it. Some people might want consensus policies for URS, when combined together, they might say, "We like that. It meets the needs of both sides." People should keep an open mind. Once we hear from the entire community, we will probably be in a better position to find that balance. Thank you.

Philip Corwin

Yes. Thank you, George. Just a note, you may remember -- and other working members may remember, that very early on in our first year of this working group, I shared a personal view that members should be realistic, that the things that could achieve consensus would be incremental and not revolutionary and members should be willing to engage in some trading on related issues. I never meant to imply that some negotiating might not be useful but that requires the will of working group members to do so. Greg Shatan, go ahead. This may be the last word if no one else raises their hand.

Greg Shatan:

This is Greg Shatan Shatan for the record. *[Indiscernible]* you eluded to it. Perhaps some of these proposals in here are kept for purposes of horse trading. Horse traded on unrelated issues. So like a prisoner swap rather than any sort of negotiation on the merit. I'm concerned that the idea of horse trading has gone to horses, unicorns, donkeys. Because they're in the stable, somehow they have attained value. Perhaps this is proposal investment in a way. While we have agreed to a very low bar of publishing these things, the idea of that gives them some sort of credibility by being published, need to kind of be given weight in the long run. Is that assuming something that is not in evidence? You can't have it both ways. If we are going to have anything and everything into the proposal that doesn't meet the very low bar, the fact is that some of those proposals are in there because -- not because they're broadly based or even strongly supported, they are not initially opposed. So seems to be our basis. Let's not give them more viability than they already have. Thank you.

Philip Corwin

Greg Shatan, let me just ask you something. I don't want to dismiss your comment. Clearly there are other people who -- on reflection, now that they've seen proposals, would like a higher bar. You know, the working group can do what it wishes. The co-chair is here for administrative issues. The working group members decide the substance including procedural substance, but I'm just going to ask if adequate support -- if working group members want a higher bar, I'm going to ask two questions as a co-chair.

One, what would a higher bar be for solicitation of public comment? And two, this is one I'm really interested in the answer, having been co-chaired in another working group where I and another co-chair were accused of trying to push a particular result or suppress particular proposals, who is going to decide that? We don't vote. If we did, we would have to take weight for the various interests they provide. Who is going to provide for purposes of soliciting public comment whether something has met that higher standard? I have a real concern about the co-chairs being criticized for letting their proposal in or for not letting their proposal in for public comment. For consensus, it is clear when it has not been achieved. So the working group can set a different standard if that is its will, but I'd be interested in hearing what members of the working group who are unhappy with the bar we've said, what bar would they set and who is going to be the decision maker because this co-chair does not want to be in the position of being shot at from both sides on the decision at any particular proposal. Thank you. And I don't expect an answer from anybody immediately. We can discuss this on the working group list. If you don't like adequate support as a standard,

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propose another one and tell us how we're going to decide how it's met the test. Thank you.

George. Brief comment, please. And then we can shut the call off unless others want to comment.

George Kirikos:

George Kirikos for the transcript. The co-chairs made that process multiple times. At some point, there's finality. Usually you have finality before you see the proposals and before you vote. Not vote, but before you see the level of support. This is kind of trying to change the rules after you've already seen things in order to -- you know, affect the outcome. We have gone through this process of understanding what the process is going to be and now people want to change it again after they've seen actual support levels. So it's like, where does it end? Thanks.

Philip Corwin

Cynthia, go ahead?

Cynthia:

This is Cynthia, can you hear me?

Philip Corwin

Yeah.

Cynthia:

I was not aware of how all the proposals presented would be exchanged and interacted. At this point, I changed my mind on a couple of proposals from the moment I saw them based on what came up in the chat. I think it is difficult to say that, you know, what we said in the beginning, it might be mutable. We should have a more defined consensus or bar for what goes out. I understand the difficulties of the co-chairs. I support a poll gauging from 1-10 so we can see support on a sliding scale and make a determination from there. Good luck splitting that hair, everyone. Thank you.

Philip Corwin

Thank you. John *[Indiscernible]*?

John McElwine:

John McElwaine for the record. I don't know if this is really the right part of the charter to be looking at. In it, it says any further modifications and deletions should be determined by consensus of the working group. So I think the standard is whether there is consensus within the group to put it out. Again, probably need to look into it a little bit more. I think that is the guidance we've been provided. Thank you.

Philip Corwin

ohn, that is certainly the standard for recommendations in the final report. For my own personal perspective, we are requiring consensus to be demonstrated for any of these individual proposals -- almost none of them would have been put out for public comment. The co-chairs didn't want to allow a subset of this broader working group to decide what the community could weigh in on, with suggestions for modification. Again, if the working group wants to further debate this, we are not going to stop them. Kristine? Go ahead, please.

Kristine Dorrain:

Go ahead. This is Kristine, Amazon Registry.

Looks like we're throwing out a couple ideas. We have originals. There was a suggestion about ranking which is interesting and I think it could work out. I wanted to get into the transcript. There's the idea of -- the way this sub-pro did it -- I know Julie eluded to it earlier -- there are some sort of initial recommendations and questions. Maybe part of the proposal is questions. I think Cynthia -- I mean people have mentioned it multiple times. There's a possibility -- like a debate. Like here's a proposition -- you know, you get -- you know, so many words to say for, so many ways to

say con. Come up with the best arguments for and against. Sub-pro does that a little bit when they say "some working group members thought this. Some working group thought that." Maybe I'm building on what Julie had said. If you provide that information, at least you can call out otherwise you have people having to respond to a very long complicated public comment which we just did for subpro. We have to weed through things that are implementable today or things that are going to require 10 years to work. We have to think about various options. Thanks.

Philip Corwin

Those are good talks. We can talk about these terms of procedure and how we put them out. It is not black and white. It may be how it is split out for comments. We are going to have plenty of time to discuss the text and what is in the initial report before it's published at the end of March next year. Mr. Keating?

Paul Keating:

Thank you. Paul Keating for the record. I am opposed to making our preliminary report review process longer and more conflicting than it needs to be. So my proposal is that these suggestions get submitted for public comment. We then take in the public comment without trying to guide it one way or the other because then we will just get bogged down in discussion about the text of how this summary reads in favor, how this summary reads opposed. I think it should just go out there.

Anybody including members of this working group can provide the commentary they want because they're part of the public. But I very much agree in the initial comment which is we should not pre-suppose we are representative of the public at large because by and large, we have our own reasons for joining this working group.

Where he come along with that kind of baggage -- all of us do, including myself. I would be opposed to any attempt to rank, score, characterize the proposal. If it's met the low bar, it should be the low bar. That is it. It goes out for public comment. Once we get the public comment back in, we can have discussion about whether or not we are accepting the public commentary, and whether it's based fact. All those things can be debated after the fact. Thank you.

Philip Corwin

Greg Shatan, I see your hand up again.

And Kathy on the queue on audio. Thank you.

Okay, Kathy. Right after Greg Shatan.

Greg Shatan:

Greg Shatan Shatan for the record. First I think it is important since this is a report that is coming from the group even if it is not a report of consensus proposals that we find some way to both have the -- maybe the support -- the support and the lack of support expressed both qualitatively and quantitatively. I haven't made my mind up on the latter point. But qualitatively, basically we put out a bunch of one-sided stuff -- it is one side or the other -- I'm not arguing in favor of any side of this, but I think that -- it is generally done in reports where there is a lack of consensus or there are stated problems, even if it is not a final report or formal minority statement to have some reflection of opinions that did not carry the day. I think the views of all on the proposals are equally relevant in terms of public comment. You know, we could also just decide we are going to put out the proposals just as coming from their office and indicating no support beyond themselves or the group that proposed it, whatever it may be. Let people see that. But I think we need to be clear what

we are sending out and those who are seeing it are clear about what we are sending out and what it represents. People do expect some form of gathering consensus although I think we won't be the only report coming out in this cycle that reflects more of an early stage spaghetti fight than it does a consensus. The subsequent procedures report is proposals that hinged right out of work tract that were never debated in the group. That is something that is before a preliminary report. We need to be clear what we are putting out is a bunch of stuff that has been floating.

If we want to indicate the greater or lesser support of various proposals, that is something to consider. Thanks.

Philip Corwin

Okay. Thank you, Greg Shatan. We are at the top of the hour. We have consumed two hours. Kathy has a statement. It's clear that having it in the report and how it's characterized and by the way, we have comments from staff in the chat that they always try to reflect the deliberations and the narrative of the report. There's going to be a clear delineation in the report between sub-team proposals and individual proposals and the individual proponents of course will be listed, but we are going to have a lot of time to massage how this is going to present and what is asked of the community to do in terms of proposals and comments. We have almost 6 weeks for the public to prepare. Kathy, you have the last word and then we are done in terms of meeting until we get to Barcelona, Spain.

Kathy Kleiman:

Terrific. I love having the last word. Thank you, Phil. Those who *[Indiscernible]* proposal, I fully agree. I don't know if I'm having some audio problems. Phil, I just want to share something we discussed on the last call where I knew you and Bryan were

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*[Indiscernible]* in Geneva. I wanted to make sure you knew that was on the table from last time.

We talked to staff -- we have no more meetings after Barcelona designated on the URS. To keep on our timeline, we really do have to put this initial report to bed. At least the outlines and frameworks of it in Barcelona so we are on a timeline. It puts us in more of a crunch I think. And I wanted to say that -- unless staff contradicts me -- Barcelona may be the perfect time to continue this discussion.

Philip Corwin

Thank you, Kathy. Thank you to much who participated in this call and prior calls. And once again, we all get to take a victory lap for having completed consideration of all the URS proposals prior to heading for Spain and the saga will continue there. Have a great weekend and if you're traveling to Barcelona, have a safe journey and I'll see you there. Good-bye.

Thanks, everyone.

That concludes today's conference. Thank you for your participation. You may now disconnect.