

**ICANN Transcription
Rights Protection Mechanisms TMCH Sub-Team Meeting
Friday, 02 December 2016 at 1600 UTC**

Note: The following is the output of transcribing from an audio recording of Rights Protection Mechanisms TMCH Sub-Team meeting on the Friday, 02 December 2016 at 17:00 UTC. 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. Attendance may be also found at:

<https://community.icann.org/x/f5XDAw>

The audio is also available at:

<http://audio.icann.org/gnso/gnso-rpm-tmch-02dec16-en.mp3>

Attendees:

Kathy Kleiman
Kristine Dorrain
Kurt Pritz
Paul Tattersfield
Phil Corwin
Vaibhav Aggarwal

Apologies:

Susan Payne

ICANN staff:

David Tait
Mary Wong
Michelle DeSmyter

Coordinator: Excuse me. The recordings have started.

Michelle DeSmyter: Great. Thanks so much. Well good morning, good afternoon, good evening. Welcome to the review of All Rights Protection Mechanisms TMCH Sub-Team Meeting on the 2nd of December at 1600 UTC.

On the call today we do have Kurt Pritz, Vaibhav Aggarwal, Kathy Kleiman, Paul Tattersfield, Kristine Dorrain and Phil Corwin. We have apologies from Susan Payne. And from staff we have David Tait and myself Michelle DeSmyter.

As a reminder, please state your name before speaking for transcription purposes. Thank you, you may begin.

David Tait: Hi Kathy. This is David Tait here. I'm just (trying to connect). Can you see - can you see the document on your screen yet?

Kathy Kleiman: No. It says upload in progress.

David Tait: Okay. Please give me one moment. Sorry.

Kathy Kleiman: And would anybody like me to resend it in email? This is the version that came out from (Mary). I'm going to find it. This is the version that came out 3:12 am Eastern Time from (Mary). If anybody wants me to forward it, I'd be happy to do that. Looks like it's coming up David. Looks like it's up.

David Tait: There you go. Yes. I think (she got nine pages).

Kathy Kleiman: Can you give us control?

David Tait: Yes. I'll give it to you now.

Kathy Kleiman: Thank you. Great. Yes. That's the version. So why don't you go ahead and chair. That way we can all participate equally in the discussion. Thanks David.

David Tait: Great. Thank you Kathy. So picking up in the session, which is headed access and accessibility, which goes - really starts on Page 7. And it's Question 13, which is where our review begins.

And Question 13 reads should there be a review on accessibility to TMCH for individual's private trademark holders and trademark agents in developing countries.

The working group call the 5th of October noted this may be a question for the New gTLD Subsequent Procedures Working Group and also the accessibility need not be limited to developing country mark holders and could for example include small businesses or those with very few marks.

The comment from this is that - so the recommendation is to move this question to the New gTLD Subsequent Procedures Working Group and if so they would to this formally. Kathy, you've got your hand up.

Kathy Kleiman: Hi. David, I don't see ten marked green. I thought we had accepted Question 10.

David Tait: Apologies Kathy. I actually regret yes, it isn't marked green at the moment. But I'll note that it should be.

Kathy Kleiman: Okay. Thank you. Okay. So on 13. Okay. So now we're on 13, right. And I'll take my hand down.

David Tait: And Kurt, you've got your hand up.

Kurt Pritz: Yes. So I was the one who commented on this so I'll comment on it here. There's been discussion that we delete this question because it's likely to be taken up by one of the next subsequent procedures subgroups that are looking at diversity and messaging and outreach.

So my point was we - to state it kind of backwards that we're asking the providers and others questions about participation by country or participation by region. And I don't see any reason for that other than to answer this question.

So it seems to me that we should take advantage of our - well I'll say close relationship but the fact that we're going to be discussing these issues with the providers and others directly and getting this information, we should take advantage of that to leave this question in.

And then I think as Kathy or Susan said afterwards that, you know, if we do find the - a lack of participation in certain regions, we should report that to that other group.

So I don't think we should take the question down. We should use the information we're getting to answer this question and then report it to the other PDP group to contribute to their work.

David Tait: Kathy, you've got your hand up.

Kathy Kleiman: Yes. Sure. Thanks. This is Kathy. And I agree with Kurt since we have to keep - there's an echo. I think we have to keep 13 and 14. And I think we should merge them.

And I like 14 better as I shared in some comments a few hours ago. And I think we should - but I think we should be expanding it to include the scope of 13. We're not just - we do want to know about trademark agents in developing countries. We've heard now several times about a problem with that.

But also I think we want to know and so that's 14. But we want to know in 13 about how accessible the Trademark Clearinghouse is for both sides, for

individuals, for organizations, for the registrants as well as those registering trademarks in there. One issue may be language.

So I really - I think - I don't see a place for the kinds of questions that we're talking about in the subsequent procedures now. But I agree that we should look at the Trademark Clearinghouse and pass - I like Kurt's idea and pass our thoughts and responses and findings on to the Subsequent Procedures Group for the accessibility work that they're doing. Thanks.

David Tait: Yes. It's David Tait. So the proposal there from Kathy and from Kurt is to retain Question 13 but to report the findings to the Subsequent Procedures Working Group through the chairs or through the liaisons, which exists between two working groups. Does anyone else on the call have any response to that or is that (second) position for this question?

And I note in chat with Paul who has asked whether we could extend the question to include marks protected by (statute or) (unintelligible).

Kathy Kleiman: Can - Paul, can you say why that question would be relevant here? This is Kathy. And I've just put a rephrasing of the question, the one I circulated about two hours ago, kind of a merger of 13 and 14 into the chat. Obviously it was typed quickly. But it's in the chat room.

David Tait: And I'll just note -- this is David Tait for the transcript -- that Paul Tattersfield has said that he's not in the chat but he will type a response to that question from Kathy.

And there seems to be broad support in the chat for the proposal from Kathy to merge these two questions, so it's Question 13 and Question 14. So the proposal as it stands at the moment is to merge the two - these two questions but to report those findings back to the Subsequent Procedures Working Group, as it may be useful for their deliberations also.

In the chat Kurt has sent a message there. It says Paul, I think marks protects by (statute) and shouldn't it already be included? Should we take off the word private? Does anyone have any comments to make on that?

Kathy Kleiman: Kurt, I think we're looking now at a rephrase version that doesn't have the word private in it. I don't know if you see it. What do you think of merging 13 and 14 with - together to create the question how accessible is the TMCH database and RPM rights protection actions and defenses to individuals, organizations, trademark owners and trademark agents in developing countries?

Kristine has said she supports that wording. Thank you. Is every - does anyone else want to - I mean can we put it out there as kind of our current working draft of combining 13 and 14?

Kristine Dorrain: This is Kristine. Can you guys hear me?

Kathy Kleiman: Sure.

Kristine Dorrain: Oh. Fantastic. Sorry if there's any background noise. My only question was why were 13 and 14 separate to start with. Is there something that we're missing?

Kathy Kleiman: I think because they came in as two - and David can correct me. I think they came in as two different charter questions or two different inputs from the, you know, maybe a charter question and something from - with the public that we received.

Kristine Dorrain: Oh sure.

Kathy Kleiman: I know - I'm pretty sure 14 came in from an attorney who works with developing countries.

Kristine Dorrain: Okay. And...

David Tait: And this is David...

Kristine Dorrain: ...our...

David Tait: Tait for the record.

Kristine Dorrain: ...origin column. Right. Yes. Your - oh, thanks. Sorry. This is Kristine. Yes, for the record. The origin column does say that. Thanks Kathy.

David Tait: So there seems to be broad support for Kathy's revision. And (about the) one that we - in the next iteration of this text and it will be in the green - in the green box format. Shall we move onto Question 15?

So Question 15 and this is David Tait for the record. It's should the TM - oh, sorry Kristine. You've got your hand up.

Kristine Dorrain: Thanks a lot. Hey, I - can somebody - the mobile app version truncates the recommendation column for this particular Number 15. Would anybody just mind reading what it says? The suggestion is to restate as are there any and that's all I'm seeing. So if someone wouldn't mind reading that and for those of us on mobile that would be great. Thanks.

David Tait: This is David Tait for the record. Kristine, of course. No problem at all. So the question as currently drafted, this Question 15 reads should the TMCH database be entirely public.

The first recommendation is to move this to (gains) section above. And then the proposal is to reword it as are there any grounds for reconsidering the previous policy decision so the TMCH data should not be made public but must be kept confidential. Would anyone like to kick off the discussion on that? Kurt, you've got your hand up first.

Kurt Pritz: Yes. I like Susan's wording.

David Tait: Kathy, you've got your hand up next.

Kathy Kleiman: Yes. And I don't because I'm not sure it captures what the questioner raised. So I think the Neuman rule is something that we are applying as needed. So Jeff, you know, Jeff Neuman says that unless there are grounds for reevaluating something or problems, we don't look at it.

And others say, you know, and I've seen others agree with that or disagree with that. We sometimes use it and sometimes - we sometimes follow it and sometimes don't.

Here I think ICANN is all about openness and transparency. And I don't think - and I saw on Susan's comment that this might have been debated to death in the early days. Nothing was debated to death in the STI. We had six weeks to move really rapidly through a lot of stuff.

So this went through and people were watching to see, you know, it's an experiment. This is all an experiment. So I think it's reasonable. I think we can find a neutral wording.

But I don't think the threshold - I mean concerns are being raised. So I think we have to evaluate them. And so I rephrased it as what concerns are being raised about the TMCH database being closed and remain closed or become open. And that let's us kind of look at everything neutrally. Thanks.

David Tait: Thanks Kathy. Vaibhav, you've got you hand up next.

Vaibhav Aggarwal: Yes. Hi. So my concern on this would be that I'm - can everyone hear me or it's just echoing?

David Tait: Vaibhav, we can hear you.

Woman: I can hear you.

Vaibhav Aggarwal: Okay. So my point being that - one second. I'm getting a lot of echo. Hang on. Okay. So I think it should be absolutely public and there shouldn't be a rephrase on this question. And it's a question in its own definition. And that's how this clearly appears to be.

Should the TMCH database be entirely public? Of course yes. Why is it - a reaction that happens in TMCH should be accessible by all - one and all. There shouldn't be a (disclassification) between people especially for people who are contending the trademarks inside it and people who are (condemning) the trademarks outside it. So yes, pretty much. So I don't think there should be a rephrase on this question.

Kathy Kleiman: I don't know if we've lost David. Kristine, I think you're next in the queue.

Kristine Dorrain: Oh hi. Thanks everyone. Kristine from Amazon. So I essentially support I think Kathy's variation. I also sort of like the implication that Susan had. And I'd like to find a way to merge both.

I think Kathy you actually are addressing the Neuman rule when we ask the question what concerns are being raised. Because as I've always contended all along sort of going along with Neuman rule is we're shooting in the dark blindly if we don't have a list of the concerns.

So I think you have to start with the concerns. It doesn't mean that, you know, we can't just propose good ideas. But I like the idea of starting with concerns. It gives us a direction. It gives us a target, something to aim for.

So I like your wording that says what concerns are being raised about the TMCH being closed. And then some variation of your - the second, you know,

clause. Should the TMCH database remain open - remain closed to become open.

I like the idea of incorporating Susan's suggestion as far as pushing back a little bit as far as thinking about what the STI was doing back in those days so that we don't end up spending, you know, a lot of time rehashing old concerns.

So I think that perhaps this charter question could bring in the fact that the group will also look at that former information rather than reinventing the wheel. That's my suggestion.

And just to react to Vaibhav. I just want to mention that I think that we're not supposed to be like advocating for a position here. We're supposed to be just defining the correct question that we're answering. Thank you.

David Tait: This is David Tait for the record. Phil, you're next.

Phil Corwin: Yes. I'd like to suggest a variation. What doesn't - that the base question should be should the TMCH database remain confidential or be made public. And then that could be appended by saying or become public in response to concerns that have been voiced or something like that.

But a question that's neutral doesn't try to lead to one conclusion or other but that recognize, you know, recognizes that the original decision was to keep it confidential and also recognizes that concerns have been raised about continuing that policy.

So but I could hope we could wrap this up pretty quick. It seems we're all in basic agreement. Just agreeing on this final wording of the concept we all seem to be okay with. Thanks.

David Tait: Thanks Phil. This is David Tait for the record. So Kathy has prepared another text in the chat, which I'll just read out, which is a reformulation. And Kristine has just noted her support for this.

And it reads what concerns are being reached by the TMCH being closed. What are the reasons for having - keeping the TMCH database private and should the TMCH database remain closed or become open? Does anyone have any comments on that?

And Paul has noted in the chat that he's in favor of this revision from Kathy. Phil, you've got your hand up. Is that an old hand or you want to comment on this issue again?

Phil Corwin: Yes. Sorry. Old hand. I'll take it down.

David Tait: Thanks Phil. This is David Tait for the record. And therefore there appears to be general consensus on this question. And I believe we'll add that in as the revised draft for Question 15. And moving on then to the next section unless there's any desires to keep on that discussion.

So Question 16 and I'll read out all the proposed edits for those of you who are in the mobile app. It currently read should the TMCH remain a single provider or should we open it up to different providers - sorry Kurt, you just put your hand up. Is that in relation to this question or in relation to the previous question?

Kurt Pritz: We're on 16, right?

David Tait: Yes, that's correct.

Kurt Pritz: All right. Well go ahead and finish your preamble David and then I'll go unless somebody else wants to go first. I'm fine with that too.

David Tait: Okay. Great. And I'll not in the chat that Kristine says there's no need to read them out now as she can see them. So the question at the moment is should the TMCH remain a single provider or should we open it to different providers of course with the central database that should be accessible by different providers? Is it practical to have more than one provider?

So there's the proposed rephrase. There's two proposed rephrases. And so that point for the sake of time I'll not read them for everyone can see them and turn it over to Kurt.

Kurt Pritz: Thanks David and everyone. Yes. So for this question this seems, you know, the introduction of the decision to introduce additional providers especially at the front end of the clearinghouse seems to be to me an implementation choice that is the execution of a policy goal.

So, you know, the charter questions to me should be about policy issues and something different than what I've - than what I've typed into my emails is that, you know, I think this is probably about the clearinghouse cost or the cost of, you know, registering trademarks in the clearinghouse and then using the sunrise and trademark claims processes.

So I think if our policy - if our policy goal is to provide these Trademark Clearinghouse services, the registration of names and the sunrise and claims services of our policy is to provide these services, it should be our policy to provide these services economically, then there's, you know, several ways to do that.

So I'm concerned that, you know, this sort of question leads to a discussion of whether there should be competition. And competition always sounds like a good thing.

And in the back of our mind we're thinking if we increase competition, we're going to - we're going to achieve these additional benefits such as reduced cost to trademark owners or increase accessibility or something else.

And I - so I really think the charter question should be, you know, should be a policy question targeted at our policy positions. And so, you know, to try to create a question that takes all the comments into - I propose, you know, I'd still propose that, you know, we should say, you know, should our policy, you know, should our policy be that these services be provided at a low cost or something like that.

And then append to that that, you know, this can be accomplished through several means. You know, the introduction of competition, the analysis of Trademark Clearinghouse costs overall and other issues.

So I'm for, you know, creating a higher-level question that gets at our policy. And then increasing the number of Trademark Clearinghouse operators or increasing competition would fall out from that. So I didn't state that really as eloquently as I hoped. And, you know, I hope there's some comments here that I can respond to.

David Tait: Thank you Kurt. This is David Tait for the record. Vaibhav, (you're next) with your hand up.

Vaibhav Aggarwal: Thanks. This is Vaibhav Aggarwal for the record. Now on Question 16 is in my opinion let's not make TMCH a business proposition for ICANN or any other agency who's involved in the process of registration of domain names and facilitates in the entire exercise.

Yes, I agree to what Kurt was trying to say that it's a policy decision and it can be - it can be looked at from a broader perspective. But I think it needs a larger debate.

Yes, there should be different providers for different regions. However, it should be at reduced cost. It should facilitate the entry and exit of trademark owners. Should have differential pricing. And there should be for different geographies. And there should be things like these that should be built into the system of TMCH.

What is happening is how I'm seeing TMCH is that a TMCH is becoming a business proposition or a way to source X amount of fee. Look at the Donuts registry. It's expensive for the trademark owner.

If I'm a small time SME and I'm going to go through the trademark owner, I don't think I'm going to even register a domain name there because it's an expensive proposition for me.

Secondly, geographically is internationally there are problems in languages. And TMCH is only available in one language. That is English for anyone to communicate.

Now of course the registrars in that area, in that geography largely facilitates that but not all registrars. For example, (a reseller club) in India alone they have about a million (resellers) to SMEs. And we have a lot of trademarks here. And this is just I'm using as an example because I'm here right now. And a lot of us were here. This part of the world is no more (snake charmer) world. Now I feel that if we have a regional center for TMCH to process it, people can reach out to certain people and within the TMCH and move their applications. Also, in this probably we could break this into two questions that should there be a regional service center if not a service provider or a service facilitator to get empaneled with TMCH and different people could cover different geographies. But I'm definitely against making it a business proposition.

I don't know, my thoughts, I've still not shaped my thoughts for shortening it in the interest of time but apologies that I've spoken a lot many words but I think I'm trying to push my concern on the subject here. Thank you.

David Tait: Okay thank you, Vaibhav. Just before we (unintelligible) a reformulation of your question in the chat which could possibly read, "What community issues exist that could be resolved by soliciting additional TMCH interfaces?" and she notes that (unintelligible) work but may capture the point that you're trying to make. You may want to come back in on that after Kathy and then Kurt. So, Kathy.

Kathy Kleiman: Okay. So this is Kathy. And, Kurt, what I'm concerned about with your rephrasing is that you may be opening a question that we're going to dive into for months and months and months, the economic analysis of the TMCH operations from a cost standpoint, from a reliability standpoint, from a global reach, I mean, we could spend, you know, we could hire a bunch of economists and spend the rest of our lives doing that. I'm hoping that we don't.

So maybe channeling Kristine because she'd tell me if I'm off base. Can we start with what are the concerns regarding the TMCH being a single provider and maybe we can put in parentheses some of the issues that Vaibhav and Kurt have raised or maybe we just wait for those to come up. What are the concerns? And should we allow or should the TMCH remain a single provider? Help me out with the phrasing of the question.

But I don't want to jump into something we don't have to evaluate if we don't have to evaluate it. And I'm not sure we want to evaluate everything, you know, all aspects of the economic model of the TMCH. So how do we narrow it down? I'll put something in chat. Thanks.

Kurt Pritz: So, Kathy, this is Kurt. I agree and I probably, like in my helicopter, I zoomed up too high because I wanted to be inclusive and I want to agree with your

narrowing. But I also want to echo or kind of translate your concern into any time you say you want to introduce competition into something you almost – you almost have to bring economists into it because there's benefits and detriments. You know, in a beginning marketplace you can kind of – you can kind of wreck it by introducing competition at the wrong time.

And to take Vaibhav's comments, you know, there's – I agree with his concern. And there's ways to skin that cat, right? There's – do we make the clearinghouse provider establish regional hubs? Or work in different languages? Or is it more effective to – is it more effective to create separate entities to do that? And I think that's a complex question. And from and – and I want to avoid the type of extended analysis you're talking about, Kathy.

And for us, you know, as the policymakers who want to tell ICANN, you know, like these are the concerns we have, you know, we're concerned about the cost of the clearinghouse and we're concerned how did Kristine put it so well, we're concerned about community issues that exist that might be resolved by establishing additional TMCH interfaces. And ask the question in the way you said.

You know, what are the concerns with a single provider? You know, we can think of two, you know, look at overall costs and look at interfaces in different regions. And, you know, what should our policy be to address those?

David Tait: Thanks, Kurt. This is David Tait for the record. Kristine was next with her hand up then Phil and then Vaibhav.

Kristine Dorrain: Hi thanks, everyone. This is Kristine. So I love the ideas that everyone's coming up with. I agree fully with Kurt's sort of like zoom up and take a helicopter view. I like the idea of, you know, I think Phil stated it really well, we should aim for neutral questions that are as brief as possible and that invite a full range of potential responses, which would include all of the concerns that Kurt and Kathy and Vaibhav have raised.

I'm going to suggest something procedural actually that because this one seems to be inviting some iterative drafting, I wonder if we want to take this specific question to the list and, you know, just spend a day shooting some, you know, variants back and forth because it seems like it's more than just a word here or a, you know, a comma there. It seems like we might want to do a little iterative drafting on this. Just a thought.

David Tait: Phil, you're up next.

Phil Corwin: Yes thanks. And being consistent with what I put in the chat room, I think we wanted something like does the current structuring of the TMCH optimize such factors as cost, reliability, global reach, service diversity, diversity and consistency of services and other important factors? Or should changes be made? And that – stop there. The moment you start kind of almost making arguments for one outcome then to be neutral you have to list countervailing considerations and suddenly you've got a question that's a paragraph-long and seems to be taking a position one way or the other.

A neutral question that is open ended allows anyone to come back with any response they want ranging from it's fine just the way it is or it needs a total restructuring for these reasons. But let's not try to, you know, preordain the policy debate with the structuring of the question. Thank you.

David Tait: Thanks, Phil. This is David Tait (unintelligible). Just before moving on to Vaibhav, Phil, could I ask you perhaps to put your proposal into the chat so that we can look at that? And, Kristine, obviously it's entirely up to the working group – sorry this sub team for you to tell staff how you would like to proceed with this perhaps by taking it back to the mailing list for discussion.

But just as a reminder, these questions are meant to go into the full working group for discussion at its meeting next Wednesday and they need to be out circulated and I think the timing for that is have them out by next Monday so

that might obviously – that discussion on the list might obviously impact on that.

Vaibhav, you're up next.

Vaibhav Aggarwal: Hi, thank you. This is Vaibhav Aggarwal for the record. Okay so in sort of – I'm giving a question, let's in the interest of time I think I can suggest that if I can read the question once, pardon me the brevity, but should the TMCH remain a single provider or should we open it to different providers of course with a central database that should be accessed by different providers?

So why don't we just modify this and we can say, should the TMCH remain a single provider or in a single region or based centrally or should we open it to different providers and different regions of course with a central database that should be accessed by different providers of each regions, regional representatives, something like that.

So that should at least give us a direction in which we can steer this. We don't need to ask, as he said, in the interest of time, we don't need to dive in on the bigger question. On the same side, we could perhaps suggest a discussion point on the TMCH from a policy standpoint. We could, you know, we could do a (unintelligible) we could do something to get more like and see from – and take it from there basically.

Do we need to dive in or we don't need to dive in. But we should definitely take a global view on it and it practically (unintelligible) too much neutral on it now because there is – it's (unintelligible). Competition is always for business, yes I agree with Kurt. But while I'm advocating saying it should be (unintelligible).

So something like that so keeping the question simple as different providers or different region or regional representative would be a suggestion. Thanks.

David Tait: Thanks, Vaibhav. And this is David Tait for the record. Just going to Kathy, just to note a couple of things. In the right hand side and also in the chat Phil has provided a revised version, which does the present structuring of the TMCH optimize such operations – operational considerations as cost, reliability, global reach and service diversity and consistency? Or should significant changes such as multiple providers be considered?

And I guess the question is does everyone feel that that captures the points that were being looked at? And, Kathy, you've got your hand up. Just as a reminder, we're now at 10 to the hour so waiting on one more question to deal with before wrapping this document up. I'll hand over to Kathy.

Kathy Kleiman: Great. Okay, guys, as the daughter of a PhD economist, sorry, Phil, even with your rephrased question, I understand where you're going. We could spend years trying to figure out if the present structure of the TMCH optimizes that is where it optimizes – oh my gosh, we could just – nothing is ever optimal. And we could spend a lot of time evaluating all this.

So can we talk about first the concerns? What are the concerns regarding and fill in the blank. Is it the TMCH being a single provider? The TMCH database because I think – I don't think and I wanted to raise this – I don't think anyone's question – I think we're questioning Deloitte in broad terms, and not IBM. I don't think anybody is questioning the provision of the database through say IBM type services.

So I wanted to check that. So the shorthand for that I guess would be the provider of the TMCH database. Are we – can we raise concerns first and the answer those concerns rather than telling everyone what concerns we're going to look at. I think Kristine is saying something different. Rather than saying what concerns we're going to look at, let's wait until people give us the concerns rather than telling them we're going to be doing a big economic analysis because we haven't planned the time for a big economic analysis. Thanks.

David Tait: So we've now got Kurt with his hand up and then Vaibhav again.

Kurt Pritz: Thanks, David. So, Kathy, I think one of the beauties in the way that this question is posed and the way that it might not – you might realize your fears is that as, you know, the group can dive as deeply as it wants to, right? It's going to create policy. So it, you know, it can dive in and suggest ways that costs could be cut in the clearinghouse if it's decided that cost is an issue. And I remember that, you know, for example Caroline Chicoine brought up in the big meeting that she thought the whole cost chain, including (unintelligible), was an issue that should be looked at.

So the beauty is kind of that they can dive as deep as they want to and they can say, you know, we think the costs are too high and you should take, you know, ICANN should take action and implement the clearinghouse in a way that reduces costs or it can dive more deeply in and say, we think, you know, cost is an issue and increased competition is a way to do that or de-scoping that the clearinghouse does is an answer. Or, you know, that they should build into their costs the establishment of regional hub offices everywhere that would create its effectiveness in other regions.

So there's kind of a beauty in it that the group can create, you know, high level policy, medium level policy or detail policy and it doesn't necessarily need to go through the economic analysis that concerns you.

And then...

((Crosstalk))

Kurt Pritz: ...I forgot the second point I wanted to make. Well, I'll think of that later and come back to you. Oh the other – I've got it. The other thing – the other point – no, never mind.

David Tait: No, go ahead.

Vaibhav Aggarwal: Oh okay. We missed the other point, Kurt. Vaibhav Aggarwal for the record. I think what I'm reading right now is what are the concerns with the TMCH database being provided by a single provider and how might those concerns be addressed is rather a close variation of what we see already on the page. I can second that.

But just off context, I just wanted to share this just food for thought, why IBM or Deloitte? If it's open and if it's openly accessible to people there are IT giants who can do a – perhaps a better job. I mean, we're talking of competition or are we talking of healthy competition? And say, there are giants, global giants like (Wipro), (Emphasis), (TPS), and, you know, so many of them. And there's Accenture, there's Deloitte, there's the big four, then there's big five, and then there's big 10.

So I think this question will give us – would be able to throw us in a direction where perhaps in some point in time we can revisit this and pick it up when we have time and revisit this, decide a timeline, drop a charter on it, and just do an analysis on it be it economic, be it accessibility. My primary concern is accessibility. And single provider always is monopolistic attitude, for sure.

Now whether that can be addressed by automating it, by accessing it by a country representative, by a regional rep or a regional office or something, I have no clue. But one can definitely do it. But I think – but I think accessibility and the costs should definitely be the primary concern of TMCH. I mean, the digital penetration for registering more domains is absolutely about making it accessible for all. And like here in this part of the world, you guys just came over and we always say when we look at the Internet penetration here, we are always trying to say 1 billion people and (unintelligible) and so 1 billion connectivity.

So, yes, pretty much. So I guess – I don't know, what are the concerns with the TMCH database being provided by a single provider and how might those concerns be addressed and create more accessibility? That should address our question that may give us a direction in which we want to discuss that question and get answers to. Thank you.

David Tait: So we seem to have broad support for the question which was proposed by Kathy. And as Kathy notes, the issue of accessibility is being included in Questions 13 and 14. And a suggestion – these questions will be – can be closed together on the list.

So the proposal as currently drafted is, “What are the concerns with the TMCH database being provided by a single provider and how might these concerns be addressed?”

So unless there are any – there's any opposition to that then that is currently what's drafted. And, Kurt, you've got your hand up.

Kurt Pritz: Well I think there's support in the chat for Phil's question with a slight – with a slight edit that Kristine and I support. And I – there was a point I wanted to make earlier and that is I don't think we'd be talking about multiple providers if we all the clearinghouse the way it's implemented now was perfect. But we do have problems. Some people, you know, think the cost is too high. Some people think that accessibility is not where it should be.

And so that's really our question. I mean, if everything was perfect we wouldn't be saying there should be multiple providers. But things aren't perfect so we should be identifying what's not perfect and fixing that and not suggesting individual solutions. So for those reasons I like Phil's questions with the edit that Kristine and I kind of supported.

Kathy Kleiman: Kurt, I asked in the chat – this is Kathy – what was that edit?

Kurt Pritz: Let's see, Phil said, "Does the present structure of the TMCH optimize such operational considerations as cost?" I think we want to promote global reach or accessibility up to the front of that room. "Or should significant changes be considered?" So I think we want to take multiple providers out of that unless we want to suggest other fixes besides multiple providers.

Kathy Kleiman: Okay...

Kurt Pritz: You know, I think...

Kathy Kleiman: I'd have to see it in writing. So let me suggest in the interest of time, oh, are you finished? I don't want to cut you off, Kurt.

Kurt Pritz: No, it's in the chat if you can see it, but if you can't see it then...

Kathy Kleiman: Let me suggest in the interest of time that we send both proposals up to the working group. It's got to go to the working group this week. So Proposal 1, Proposal 2, and we'll provide some background, some of the concerns about approaches in time and things like that. Let's just take it to the working group at this point because now we've got kind of two questions really honed on that. Is that – would that be okay to folks?

Kurt Pritz: I think it'd be better to have one. Why don't we punch this around the email list a little bit?

Kathy Kleiman: Okay. Because we really do have to – I'm just concerned about the working group. We did promise them to get it back to them. Okay cool. We've got one more it looks like.

David Tait: Thanks, Kathy. This is David Tait for the record. So we're onto our final question which is Question 17. Which are, "Are the costs of the TMCH for rights holders for ICANN, for the community proportionate to the benefits it provides?"

And again, we have two alternative re-phrase which again I won't read in the interest of time. And I'll just note that we've just gone to the top of the hour at 1700 UTC.

Kathy Kleiman: Actually, David, I think you should read both alternative phrasings because I'm not sure we have them all in front of us.

David Tait: Okay. So Version 1 is, "Has" brackets "and to what extent has" closed brackets "the TMCH achieved its primary goal to reduce costs to trademark owners?" Question mark. "Have these benefits outweighed all the costs – outweighed the costs?" Question mark.

Version 2 is, "Has, and to what extent has the TMCH achieved its primary goal to reduce costs," and I'm slightly confused by that because it seems that they're the same – yes, they seem to be the – the versions seem to be the same. So there's really one only re-phrasing at the moment, which is, "Has, and to what extent has the TMCH achieved its primary goal to reduce costs to trademark owners? Have these benefits outweighed the costs?"

And, Kurt, you've got your hand up.

Kurt Pritz: Oh, it was up from before but I have an opinion. And that is that I like Susan's addition with the exception that where it says, "Have the benefits outweighed the costs?" That was her addition. I want to make it clear that the costs are just not monetary costs, they're, you know, other types of costs.

David Tait: Phil, you put your hand up first...

Kurt Pritz: We could say – yes, we could say in Susan's addition...

((Crosstalk))

Phil Corwin: Phil here. At the risk of being the skunk at the garden party, I don't care for either re-phrasing. We've got a initial question which raises general costs for a large number of parties. And, you know, are they what they should be? And then we've got a rephrased cost which posits that the primary goal of the Trademark Clearinghouse was to reduce costs to trademark owners. I'm not sure that that's a correct statement of what the primary goal of the clearinghouse was. So I'm not comfortable with either proposed rephrasing that's listed there.

I think we need a more neutral question which doesn't try to take a position on what the primary goal of the clearinghouse was and is more directed to, you know, what are the costs and benefits and who's paying them and are they reasonable? That's all.

David Tait: Thank you, Phil. This is David Tait for the record. And we'll note that in the chat both Kathy and – Kathy's noted that Ed Morris shared the concern that Phil has just raised. And Kristine also agrees that we shouldn't presume the goal of the TMCH. Kurt, is that a new hand? Oh no, sorry, you've just come in to apologize. Does anyone else have any comments on that or a proposal as how we can rephrase this question? And Paul agrees with Phil as well in the chat.

Kathy, you've got your hand raised.

Kathy Kleiman: Yes, I agree with Phil as well. And this one we may be able to come to some closure on, on the list quickly. But certainly the original question did have a broader group that it was trying to analyze the costs and benefits for. So I just threw into the chat that, you know, the ICANN community and, you know, registrants, you know, how do we do this, you know, in a fair and neutral way.

Also, Ed Morris wrote that he sees one of the TMCH goals as also providing notice to registrants of possible concerns should they proceed forward with the registration. So he sees the goals also as balanced. So there may be a way quickly to make this one neutral on the list. What do people think?
Thanks.

David Tait: This is David Tait for the record. And we've got a proposal from Paul for a revised version of the question, which is, "Are the costs and benefits of the TMCH for rights holders, for ICANN, for the community, proportionate?" Does anyone have any comments with that proposed rewording?

David Tait for the record. And Kathy notes in the chat her support for that rewording from Paul. As does Kristine. Kristine, you've raised your hand.

Kristine Dorrain: Hi, thanks. As I know we're over the hour I'm wondering if we just want to circulate these last two rewrites just for any final comments. It looks like we're getting pretty good consensus on Paul's language. But since definitely we're going to circulate question – I don't have the number in front of me – 15 again anyway, maybe we just want to kind of type out Question 16 again and make sure that we're all good with that as long as we're circulating the one previous?

Kathy Kleiman: Kristine, I think we're recirculating Question – well we'll probably recirculating all the – but I think it was Question 16 and now Question 17, is that right, David?

David Tait: Yes, Kathy. That's where we are at the moment. And just to reiterate as you note, that the – all of the questions in the finalized form are due to go out on Monday to the full working group.

Kathy Kleiman: This is Kathy again...

((Crosstalk))

Kathy Kleiman: ...people have spent so much time on this. Thank you. Thanks for all the work today and all the work over so many weeks. I think we've given – we've got a gift for the working group. Thanks.

David Tait: This is David Tait. So just to wrap up, thanks, Kathy. And I think we've got consensus on Question 17 so staff will prepare a revised version of this document and we'll circulate it to the subteam mailing list just now, noting that Question 16 is outstanding. And, pardon me, and that it's got to be completed for circulation to the working group by close of business on Monday. So thank you all for your time and have a pleasant weekend.

Kathy Kleiman: Thanks, David. Bye, all.

Michelle DeSmyter: Thank you. Again, the meeting has been adjourned. Operator, please stop the recordings and disconnect all remaining lines. Everyone, have a great remainder of your day. Good-bye.

END