
ICANN Transcription

Review of all Rights Protection Mechanisms (RPMs) in all gTLDs PDP WG

Tuesday, 08 September 2020 at 13:00 UTC

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JULIE BISLAND: Good morning, good afternoon, and good evening. Welcome to the Review of All Rights Protection Mechanisms (RPMs) in All gTLDs PDP Working Group call on Tuesday, the 8th of September, 2020.

In the interest of time, there will be no roll call. Attendance will be taken by the Zoom room.

I would like to remind everyone to please state your name before speaking for transcription purposes and please keep your phones and microphones on mute when not speaking to avoid background noise. As a reminder, those who take part in ICANN multi-stakeholder process are to comply with the expected standards of behavior.

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With this ,I will turn it over to Phil Corwin. You can begin, Phil.

PHIL CORWIN:

Thank you, Julie. Good morning, afternoon, or evening, everyone. You're stuck with me today again for what I hope will be a fairly short meeting of this working group.

Let me first ask if there's any updates to statements of interest, and then we can go over the agenda and some other housekeeping items.

All right. I'll take the silence and lack of hands as indicating there are no SOI updates.

I just wanted to note that your Co-Chairs and council liaison will be meeting with support staff tomorrow to discuss the end game for this working group. Today is the final review of the comments on questions and recommendations. On Thursday, we initiate our review of the draft final report. That will be followed by the consensus call. If I say anything incorrect here, staff can come in at the end and correct me. But we will let you know after tomorrow's meeting any important update information, particularly whether the Co-Chairs have decided, out of an abundance of caution, to seek a short extension for our deadline through a project change request to council. That's next Monday: the deadline for submission to be considered at the September 24th council meeting.

Today the agenda: we are finishing up the discussion of URS Question 9, and then we will be discussing the public comments on URS Question 10. So it's a very short agenda. How long this

meeting takes depends on whether there's any working group member believes that the answer to those two questions suggest a potential recommendation for this working group that might be based on the answers and gain broad support within the working group. If anyone thinks there is, I don't want to discourage anyone from doing so. We would need to discuss it to determine whether there's broad support and minimal opposition. Then, depending on the content of the recommendation—

UNIDENTIFIED MALE: [inaudible]

PHIL CORWIN: Could you please mute, whoever that was? And the Co-Chairs would have to determine whether the proposed recommendation that meets that standard needs to go out for 21-days public comment.

Let me stop there. Staff, if I've misstated anything about procedure, let me know now.

I see a comment from Paul Tattersfield. "Is it possible to recommend a small change to the RAA without going out to public comment?" I'm blanking now. Is that the registrar accreditation agreement? What's the RAA? If staff could remind me of what that acronym stands for. I'm blanking at the moment.

Yes, Julie, go ahead.

JULIE HEDLUND: Yeah, that's the registration accreditation agreement. Now, I think that, if there has not already been a recommendation that the working group had discussed and put out for public comment, then a recommendation for a change—any change, I would think—to the RAA would have to go out for public comment.

PHIL CORWIN: Yeah, that would be my impression as well. Thank you, Griffin. And thanks, Julie Hedlund, that confirming that my description of the procedure was correct.

We're past the point for new recommendations unless they are based on new input in the public comment. So, again, it's possible for these two final questions, but these two questions I don't know. If someone thinks they suggest a potential change to the RAA, we'll hear them out.

URS to legacy gTLDs. Paul, we had that discussion. My colleague, David McAuley, proposed that it become consensus policy, which would extend it to legacy TLDs. And it did not receive the requisite support. So, unless there's a substantial change of heart among those who participated in that discussion, which took place on September 25th, that is not coming back. We're not reopening or relitigating anything we already did. Unless there's new input in the answers to these two questions that we're reviewing today, those would be only possibilities for some new recommendation based on those answers. Otherwise, everything else we've discussed is, as far as I know, closed out.

With that, let's go back to URS Question #9. I'll briefly recap what we did at the last meeting. We began the discussion and ... there we are. So this was a simple one-sentence question to the community: Are the non-refundable late response fees paid by respondents reasonable? Then we had a [list for them] as a flat fee of \$200 reexamination/\$100 extension fee. The other providers have fees which vary based on the number of domain names that are involved.

Can we scroll down the summary of responses? The Subgroup B deliberation—stop there. I can't read it if you go past it. Okay, fine. Subgroup B determined there were different views about the reasonableness. Nonetheless, the subgroup suggested the working group could consider whether a recommendation on the waiver fees in certain circumstances is appropriate. The NCSG and other commenters thought that fees were unreasonable for registrants in the global south, however one defines the global south, but also noted that the fees are only required if there was a late response. There's no fee to the respondents if they file a timely response. The subgroup discussed a suggestion by some members that a recommendation could be developed to allow for a waiver of fees in limited cases where a compelling rationale is provided. But several subgroup members agreed that this idea could be called to the attention of the working group for its consideration. Then there's a working group deliberation summary. I believe this is a new matter summarizing our discussion of last week and brings us up to where we left it off. The working group agreed with the subgroup that there wasn't a clear viewpoint that emerged from the public comments. We agreed to discuss whether to develop a recommendation on a

waiver of fees in certain circumstances and whether such a waiver is appropriate. Again, there was the global south consideration. Some working group members asked whether it was in scope for the GNSO to require providers to waive fees in any circumstances.

Julie confirms that's our summary of what came out in our discussion last week, but we didn't close out this item. I believe that I personally, in a personal capacity, raised the question of, well, if we tell the providers to waive the fee in certain circumstances, are we asking them to provide it for free, or we asking someone else to compensate them for the late filing other than the respondent who was late in responding?

I just want to review it. I see there's something else going on. This is about URS' consensus policy. Greg Shatan says we need an actual consensus call. Marie says "Especially that .org is already inserting URS in legacy contracts." I would not that, no matter what we do on URS consensus policy, it doesn't change .org's decision to comment for that registry as a registry agreement amendment and ICANN's approval of that amendment. There's nothing we can do to change that situation. Jeff Neuman agrees with Greg that a consensus call is needed. Yeah, you guys may be right. The Co-Chairs can discuss this when we have that planning call tomorrow. And Julie notes we don't have any agreed-upon recommendation relating to URS' consensus policy. So the Co-Chairs will discuss that at our meeting with staff tomorrow. It's not for me to give an answer on that. And that issue is not related to URS Question 9.

So I'm going it open to discussion of URS Question 9, and I see my Co-Chair, Kathy Kleiman, has her hand up. So, Kathy, please go ahead.

KATHY KLEIMAN:

Terrific. Thanks. Hoping you can hear me. Thanks to Phil for chairing again, and I hope everyone had a good holiday weekend. We got to this question about fees late in the day in our last meeting, so I think it's still very much under the discussion phase. Thanks for continuing the discussion because otherwise we would have just plowed through it without a detailed analysis.

I have in front of me the comments that were made. What's interesting is that the BC and NCSG are somewhat aligned, which I thought was interesting. This is now back to that original spreadsheet of comments. The BC supports certain reasonable respondent fees—so that reasonableness issue. And then NCSG, as well as a number of other commenters, are commenting that the response fees seem very, very high for registrants in the global south. That's where we left it last time.

But a group called Ethics in Technology, a 501c3—I'm just reading their name because I don't know this group—said something interesting. The limited data shows that respondents from the U.S., China, Australia, and Japan are paying response fees but that—this is the data of Professor Tushnet's research—the price may be unaffordable from respondents from Africa and Latin America, and discounts should be, they said, allowed for these regions. And there are a number of comments to that extent.

So what we could do is ask the IRT (Implementation Review Team) to take a look at whether appropriate fee reduction should go to those in the global south to ensure that they can participate in the process. As we know, default fees are high, and this response process was set up to allow someone to participate if their first notice of the URS is after suspension. So it just seems something that would be reasonable to pass on to the IRT. The Implementation Review Team for New gTLDs is looking at an array of global south issues and pricing issues and support. So it just seems like this might be a fair one just to give them, with our goal of making sure that participation in the URS is achieved. Thanks.

PHIL CORWIN:

Kathy, if I might ask a question, my understanding with that implementation review teams is that they implement recommendations that have received consensus report within the working group and have subsequently been approved by council and the Board. I have to ask, what would the IRT be implementing? We have responses to a question in which some responders were considered about the affordability of these late filing fees. I would emphasize again that there's no filing fees for the respondent if they respond in a timely way. So I'm not sure what an IRT would be implementing unless we agree to some recommendation. Can you clarify, please?

KATHY KLEIMAN:

Sure. Of course. And Jeff Neuman, the Co-Chair of the Subsequent Procedures Working Group—the group that's working

on all the questions that we're not on new gTLDs (you can stop me if I'm wrong) ... I recall that a number of support issues have now been referred on to the implementation review team to make sure—in this case, particularly applicant support issues ... where the Subsequent Procedures Working Group has not decided all the questions but just the larger mandate that there may be certain circumstances where applicant support is justified as in reduced application fee or some other types of support for applicants to ensure a broader participation in the process. So the implementation review team will be, in my understanding, will be looking at an array of those types of issues. So this one, even if we don't come in with the exact details of what the response fee should be ... but the larger question of fair access to the URS process, be it the initial response or the response after default.

Does that make sense, Phil?

PHIL CORWIN:

All right. Kathy. Well, we can discuss that tomorrow. Let's not get into that now.

You did reference the BC statement in the separate document with the summary of public comments and the donut. Just for the record, I want to read the summary of the BC statement summarized in that document. It says, "Reasonable but needs to be capped or standardized. BC: yes. The BC supports certain reasonable respondent fees, whether for late responses, multiple domain names, or repeat serial cybersquatters designed to better apportion proceeding costs between the parties. There should be standardization of late fees across all dispute resolution

providers.” So at least in that staff summary the BC did not support any reduction or subsidy of late filing fees. They did support standardization across the providers. That’s the summary in that document.

I’m going to call ... I had seen Steve Levy’s hand up, but is that now down?

STEVE LEVY:

No, I’ll make a comment. I just wanted to inquire—maybe Kathy has some information—on whether there’s a higher incidence of late response by domain owners in the global south or whether there are any other factors that perhaps limit the ability of such respondents from submitting a timely response in these cases. Thank you.

KATHY KLEIMAN:

Sorry, I’m on mute. Steve, can I ask clarification of the question? Is it about timely response or about response fees? And I’m glad Professor Tushnet’s hand is raised, so maybe I’ll let her go first.

STEVE LEVY:

I guess, since the concern seems to be for folks in the global south—I think that’s a valid concern—I’m just wondering if it’s based on particular data or information that we have that there’s a particularly high incidence of late responses that would require these sorts of fees.

KATHY KLEIMAN: Really good question. Let me ask first, Steve, whether, Phil, it would be okay for Professor Tushnet to respond. She's—

STEVE LEVY: Oh, sure. Absolutely.

PHIL CORWIN: Yeah, let's hear from Professor Tushnet. Go ahead, Rebecca.

REBECCA TUSHNET: Thank you. Just to remind people of what we have, we have a data set that was at the time the universe of decided cases. You got what you would expect if the late response fee was deterring people from the global south, which is to say there actually are late responses, but they ... So they look like they disproportionately come from the U.S. and China and not from other places. And the caveat is, given the sample size of late responses, it's hard to say the significance of that. But there definitely does seem to be a pattern that basically responses in the U.S. and China are the people who pay late response fees. But I don't want to claim that there is so much data that we know for sure. But it is what you would expect if the late response fee was deterring a set of late responses. So that's what we have. Thank you.

PHIL CORWIN: Thank you, Professor Tushnet. That's interesting. Certainly, the U.S. is not in the global south. I don't believe anyone thinks that China is in the global south, but—

REBECCA TUSHNET: I'm sorry, Phil. If I could just cut in, that's my point.

PHIL CORWIN: Right.

REBECCA TUSHNET: Okay. Those are the people who are paying. Then there are people who are not paying, and we don't know why. But they do correlate.

PHIL CORWIN: Right. And we don't know if there were respondents who were the respondents in a URS who didn't file because, for some reason, they didn't get around to it until late and then they were deterred by the fee. It's not possible to prove a negative, so we wouldn't have data on that.

Let me just read the chat. Let me ask now—we've had a good discussion at the last meeting of these responses; we've had a good discussion now for about the last 15 minutes—is there anyone who believes in the working group that any recommendation based upon these disparate answers to URS Question 9 ... that there's a recommendation they want to propose based upon any of the answers?

I'm not seeing any hands up. Kathy, please go ahead.

KATHY KLEIMAN:

I had proposed one earlier: that we just ask the IRT at the impact of the fees as part of their larger research on the global south and other types of supports that are being given to the global south ... participants in the new gTLD process.

PHIL CORWIN:

All right. Does anyone want to speak to Kathy's proposal that there be some general ask of the IRT to look into this matter, even though there's no recommendation based upon the responses to Question 9.

All right. Let me just say for the record that, in any personal capacity, I'm not sure that I agree with Kathy's proposition, but we can take this up among the Co-Chairs and with the working group. It would have to be in the final report.

I see hands up from Susan Payne and then Greg Shatan. Susan, go ahead.

SUSAN PAYNE:

Thanks, Phil. I think I'm of the same mind as you. I'm just not convinced that this is an appropriate thing for us to be passing on to the IRT without ... We've had our own opportunities to do what we can in terms of research gathering. We had sub-teams in the URS trying to review as much information as we could. We had those sub-teams include[ing] providers and those who

represented parties. I think we tried our best to do research already, and it feels to me like we've failed to get adequate information to inform this one way or the other, if you want to view it that way. But I don't see how throwing our job at the IRT is making that any better. It seems to me that this is perhaps one that needs to be kept under review rather than us giving an impossible task to another group. It doesn't seem like that that's job, and it doesn't seem to me to be helpful. I think there comes a point where you jut have to call an end to something.

PHIL CORWIN: Thank you, Susan. Greg?

GREG SHATAN: Thanks. Similarly, this doesn't strike me as appropriate: a recommendation or a non-recommendation. It seems to imply that the IRT is expected to be doing other research on impacts on the global south, and I don't know that that's in fact the case. And generally speaking, it sounds like it's outside the scope of what the IRT would be doing. In any case, even with that research, there's no recommendation to implement.

Lastly, I think we need to keep in mind that this is a late fee as well, so it is not, in fact, deterring any participation, only late participation. Given other facts around default and perhaps looking at other facts around the defaults that area occurring, it's entirely possible that there are other reasons—as a matter of fact, it's probably very likely—besides this to which those defaults can be ascribed. Unless we were to go to defaulting respondents and

find out whether they were deterred by the late fee and would have filed late, which assumes a level of engagement we can't assume, really there's not much to be assumed from the data, other than a possibility but without any necessary probability. So I think we're charging into a dead end here or trying to break through something that just doesn't have the necessary predicates to move forward, and then the recommendation doesn't seem to be one that's apt. Thanks.

PHIL CORWIN:

Thank you, Greg. Let me just say again—this is a personal view—that—I'm rather conservative in regard to the proper role of IRTs, particularly since they are run by ICANN staff, not by community members—they generally are there to implement a recommendation that receive consensus report in the working group and subsequent approval by council and the Board. If there were to be fee waivers or fee reductions, I don't know what the mechanism would be off the top of my head. Either the MOU would have to be changed to require that of the dispute resolution providers: that they waive the fee in certain circumstances, noting that we have a recommendation which may receive consensus support to go from the current MOU to a more robust form of contract—or else someone, if you let the DRPs charge the fee but waive it for respondents, is going to have to pay for it. I don't know who that would be. But right now we don't have any recommendation based on these answers to these questions.

UNIDENTIFIED MALE:: Nuh-uh.

PHIL CORWIN:

Someone is expressing their views in a somewhat nonverbal way. If they could please mute unless they want to speak for the record.

Greg, your hand is still up. I don't know if you had more to say. If anyone else has anything else to say on Question 9, please raise your hand or speak up now. If not, we're going to close it out with the conclusion that we had a robust discussion but did not have any proposal for a recommendation based upon the responses.

All right. It's closed out.

Let's proceed to the responses to Question 10, which is somewhat related to the question we just discussed. It's not about fees. It's about penalties. It's a three-part question. Are penalties for complainants or respondents who abuse the URS process sufficient? If not, should they be expanded? That's 10B and 10C. 10C: If they should be expanded, how? Then there's a notation that currently the penalties for abusive complaints are 11.4. If a complainant is deemed to have two abusive complaints or one deliberate material falsehood, that party shall be barred from utilizing the URS for one year following the date of issuance of a determination finding the complainant to have filed its second abusive complaint or filed a deliberate material falsehood. 11.5: Two findings of deliberate material falsehood shall permanently bar the complaint from utilizing the URS. So, at present, there are potential penalties, either a one-year ban or a permanent from URS use under certain circumstances for the complainant. There are non for the respondent.

My personal view: A respondent, certainly, if they have registered and used domains in bad faith in manner that meets the higher burden proof of the URS, would certainly have raised the registration process. I'm not sure that can be viewed as an abuse of the URS process, where they are brought in after a complaint is filed.

Let's look at the public comment deliberation summary. I'll read this. I think Zak is with us, if he wants to comment further on it, but it's pretty simple. Subgroup B notes there were strong and divergent views in response to the questions. The subgroup did not agree to call the working group's attention to specific categories of comments but instead to merely note the diversity of comments, leaving it to the working group to decide whether to focus on specifics.

Can we scroll down to read this summary? Julie, can you respond in chat: when did this conversation take place that's being summarized here? since we're now reaching this question for the first time. So that's the working group.

JULIE HEDLUND:

Hi, Phil. What you're seeing is actually, in real-time, a staffer trying to capture some notes. That will later be refined as the summary. So we're trying to capture the conversation that's happening right now.

PHIL CORWIN:

Oh, I see. Okay. That's for clearing that up. All right. Since this is a three-part question, can we go to the other document with the

donut displays, just to get a flavor of the diversity of comments? Then we'll look at those quickly and then open this up for discussion. Okay. So there's the three-part question again. Let's look at the 10A ... We had a total of about 20% who thought the current penalties were sufficient. We had 31% at insufficient and then other degrees of insufficient.

Let's look down more at the summary of comments. We had a group that was against adding penalties for respondents. As noted, there were no penalties for respondents so far.

Let's see the next category of response. Others thought it was insufficient that penalties should be added for respondents. We had INTA, the IPC, other rights holders, and the BC.

Let me just stop there. The BC recommended comparable penalties applied to respondents. The Contracted Parties House supported penalties for respondents being introduced. Some people wanted to add penalties for legal counsel. I assume that's for where the counsel represented parties who had abused the process under the current standards. Then others though there should be no penalties for respondents/registrants.

So we had groupings of responses all over the place. So I think we've probably summed things up sufficiently on 10A. I'm going to open up 10A for comment before we move on to 10B. Does anyone want to comment on the responses to 10A? And particularly does anyone want to propose a recommendation based on any of these separate classes of community comment on Question 10A?

All right. Let's move on to 10B. Let's scroll down to 10B and see where—

JULIE HEDLUND: Phil, Zak's hand is up.

PHIL CORWIN: Whose?

JULIE HEDLUND: Zak has his hand up.

PHIL CORWIN: Oh, sorry. Zak, apologies. I had my Participants scrolled down. I didn't see your hand.

ZAK MUSCOVITCH: That's okay. You're speeding along through to B, so I'm not going to interrupt you. I'll interject if I feel it necessary in the future. Thank you.

JULIE HEDLUND: Phil, if you're speaking, you might be on mute.

PHIL CORWIN: Yeah. Sorry. Can we go scroll down to the donut and the answers on 10B? All right. Can we scroll up a little to see what that 10B question was? All right. Well, I can get it and read it. Hold on.

Okay. 10 B was, "If not, should they be expanded?" So this was a question asking the community/those members who thought the fees were insufficient how they would expand them. We had ... I'm not sure what "yes" means because I guess that was the group that said to expand them in some way.

Let's scroll down and read some of the answers. INTA wanted penalties for abusive respondents, applicable for conduct such as filing vexatious supplemental materials or making false statements or seeking to unreasonably delay or frustrate a URS proceeding. Mr. Kirikios thought penalties should only be from courts. Ted Chang is against everything that exists. That was an overstatement on my part, but close to the truth.

That's it for the summary of comments. Any comments on 10B before we go to 10C? Then I'll open it up for comments on any of these separate parts of Question 10.

Let me just go and look. 10C is, "If they should be expanded, how?" So it's another question about expansion. 11% said no expansion. About 27% said some expansion. And there were other ideas about penalties.

Let's go scroll down and see what the specific proposals were. Okay. We had a group up front: no expansion. INTA: certain penalties. Pretty much the answer we just read. IPC: some penalties for abusive respondents. BC: prohibitions against deliberate material falsehoods explicitly extended to respondents, others for deliberate falsehoods.

Anything else below that? Some people wanted to add penalties for legal counsel, I assume, who represented a complainant who filed a complaint that was abusive in some way under the current standards. Some people said one transgression by a complainant [means they] could never use URS again.

All right. Anything below that in the yellow? Let's see there. Oh, Mr. Kirikios wants to get rid of URS.

All right. So we've seen the diversity of community responses to this three-part question. The floor is now open for anyone who wants to comment on those responses, or in particular, if anyone who believes any of those suggestions for changing the current penalty format should be put in the form of a recommendation for consideration by this working group.

Let's start with Zak Muscovitch. Go ahead, Zak.

ZAK MUSCOVITCH:

Thank you. My personal view is that, as you described it, there's a diversity of views here, and there doesn't seem to be any cohesion around a certain approach, let alone an actual proposal emerging from the answers to these questions.

I would also point out that the closest we came to a discussion/deliberation on a proposal involving revised penalties or quasi-penalties was when we discussed Individual Proposals 15 and 22. That was a while back. So just to refresh everyone's memory, this was a consolidated proposal that combined 15 and 22, and it proposed different options to deal with repeat offenders, high volume cybersquatting, etc. There were a few different

options proposed, including posting collateral to secure payment by the losing respondent. Another option was to collect the renewal fee from the registrars, etc. So there was a robust discussion within the working group about those proposed individual proposals that made fixes to this.

At the end of the day, there wasn't agreement, and the proposals were withdrawn. I think we're pretty much in the same boat on this. There's some people who feel that there should be expanded penalties for respondents in addition to the suspension of the domain name, and there's those that feel it's adequate or that the changes should be in the other direction.

So, in my view, I think we've reached the end on this one. Thank you.

PHIL CORWIN:

Thanks, Zak. Let me say this. If anyone has further comments on these, and, in particular, if anyone wants to propose a recommendation—I would, if someone is going to propose a recommendation, they're going to do so in the belief that it has some possibility of receiving broad support within the working group—anyone free to propose recommendation based upon these responses. So now is your opportunity. But, if there's no further discussion and no specific proposal, we're going to close Question 10 out.

Marie, I see your comment in chat, but, to get a recommendation before the working group, we need someone to actually propose and then have discussion upon it. These questions were to inform

the working group to provide us with that opportunity if someone thought they provided a basis for doing that.

All right. I'm not seeing any hands up or hearing anyone who has further comments on Question 10 or wishes to propose a recommendation for consideration by the working group based upon the answers to Question 10. So, unless that happens in the next few question, we're going to close it out.

So I'm going to declare it closed, which brings us to the end of our agenda for today—oh, a hand up. Professor Tushnet, go ahead.

REBECCA TUSHNET: Thank you. I just wanted to check on the status of the GI recommendation because it's my understanding it's been with staff for a while. I'd just like to know what's going on. Thank you.

PHIL CORWIN: Professor, could you just refresh my memory of what the substance is of the GI recommendation? And Julie has her hand up.

REBECCA TUSHNET: This is the one about confirming that statute or treaty didn't mean GI protection. There was, I think, pretty wide agreement on that. Then Paul took the lead in conforming some of the language we had. I believe he sent that to staff a while back. Thank you.

PHIL CORWIN: Okay. Julie Hedlund, is that what you wanted to speak to?

JULIE HEDLUND: Hi. I was actually going to speak on another matter, but let me get to Rebecca's question. Thank you for that reminder. Paul did send in some text that I think there was agreement on. Actually, I believe that we now do need to circulate that to the full working group. But it looked like that issue and language had been settled, thanks to the final language coming from Paul.

The other item that I wanted to mention is what Paul has put into the chat, and that was a request from Paul Tattersfield to add an AOB of ten minutes for an item that he wants to raise that I think he has put in chat there. So that was the other thing I wanted to note. Thank you.

PHIL CORWIN: All right. Well, we have reached the Any Other Business portion of the call. I don't know if we'll need ten minutes, but we'll see what ... Paul Tattersfield is saying he can't dial in. Let me read what he put in chat, and then we can open it for discussion. "I would like to ask about ALP. There was some concern from AFNIC and CORE. They had not been able to negotiate an ALP scheme with ICANN prior to launch of a local gTLD. Is there anything we can put in the report to aid this negotiation process?" I'm not sure it's the job of a working group to aid any negotiation process, but that's Paul's question. He can't call in. If he has further comments, he can type them into chat.

Did staff want to speak to that? And does anyone else want to speak to Mr. Tattersfield's question?

Kathy, go ahead.

KATHY KLEIMAN:

Great. Thanks, Phil. I'm trying to rack my memory on this one. I do recall that, across the years, we found concerns about this ability to negotiate these alternative processes by groups, particularly those working without English as the primary language. They're working in alternative languages. Part of this is a delay, hoping Paul Tattersfield could come online, but I think there was a question about whether we can have a recommendation that makes it easier that we understand that, under certain circumstances, there may be various rollouts and protections of different types of ... that certain new gTLD need different types of protections than others and need various rollouts of protections for provinces or local trademark owners or thinks like that. Paul can tell us in chat whether this is right. I think Paul Tattersfield had some kind of thought that we promised to get back to him—that staff or the Co-Chairs promised to get back—on this issue.

Oh, good. I'm glad Maxim is here, too. So I think this was a question about what's going to happen before we move on, but I'll read Maxim's comment as well. Back to you, Phil. Thanks.

PHIL CORWIN:

Okay.

PAUL TATTERSFIELD: Hello. Can you hear me?

PHIL CORWIN: Yeah. Is that Paul Tattersfield?

PAUL TATTERSFIELD: It is. Yeah, I managed to get in, finally. Thank you.

PHIL CORWIN: All right. Go ahead, Paul.

PAUL TATTERSFIELD: I think it was CORE and AFNIC that were concerned they couldn't negotiate an ALP scheme, which is very problematic for local rights holders, particularly in places like Madrid and Paris and those sorts of areas where they have local trademarks that they want included. Their concerns were that registry operators hadn't been able to negotiate a scheme prior to launch, and they felt that they were delayed. Therefore, it was excluded. So what they did instead is they used the limited registration period (LRP). That's not a good way of doing it because it just gives them a blanket 100, which may or may not be useful—sorry. QLP.

So the main problem is that the ALP couldn't be easily negotiated, so I'm wondering if we could put some language in there that said consent wouldn't be reasonably withheld or if there were a couple of problematic names that couldn't be agreed, or the rest of the ALP could move forward because it seems the intention of the ALP has been lost. That was it. Thank you.

PHIL CORWIN: Thank you, Paul. Susan Payne, go ahead, please.

SUSAN PAYNE: Hi. Thanks. Sorry, I've been away, so I'm really out of the loop. But I thought there was a small group that agreed to take this on. We did talk about this when we were talking about the particular question. I thought that there were some volunteers who were going to make some suggestions. In fact, Paul might have even been one of them. I don't know. But maybe that hasn't happened, or maybe they have reported back and it didn't go anywhere and I just missed it. But I thought that's what was happening.

PAUL TATTERFIELD: Can I jump in?

PHIL CORWIN: Yeah, Paul, briefly. Then we can ask staff what they know about this and figure out how to handle it.

PAUL TATTERSFIELD: We brought it back to the working group last week—I think Kathy was chairing—and we were going to go away and look at it and find somebody with knowledge of the matter to come and give evidence to the working group. I think that was where we left it. But obviously you're trying to close things out this week because of the pretty tight deadline, and I just didn't want it to get missed. That was all. Thank you.

PHIL CORWIN: All right. I see a comment from Julie Hedlund, and then if Julie wants to speak further. Her comment in chat is, "There was a small group. They didn't have a recommendation. We were going to wait for Susan to get back. Hand up from staff. We reported on this last week."

Julie, did you have anything further to remind us of where this stands?

JULIE HEDLUND: Yes. There was not an action item for us to reach out. There was an action item though for staff to follow up with Susan Payne once she got back from being out of office to see if she had any recommendations. We did meet as a small group very briefly last Monday, and there was no one in the small group that was making a recommendation at that time. Now, it sounds as though Paul does perhaps have a recommendation, but at the time we reported to the working group last Tuesday, there was not a recommendation coming out of that small group. But we did say we would wait and follow up with Susan, which we're now doing. So thank you, Susan. And also thank you, Paul. Apologies if we missed something last week, but at least, based on the brief call we had, we hadn't captured a recommendation from the small team at that time. Thank you.

PHIL CORWIN: Okay. So let me say this as a Co-Chair. With the conclusion of our discussion of the URS questions, we've completed everything we

needed to do before initiating discussion of a draft final report. We do have a number of items that are still out there, unresolved. We have the small group on the proposal to change the PDDRP. We have this small group of which my impression is, while it didn't have a recommendation yet, there still might be a possibility of that. So I just want to note that we have set up small groups, and they're still working and may report back. I think it's in order for them to bring something back for working group consideration, even as we move onto the final report. We'll just see what they come up with and whether it can get support when they come back with something specific. I think that's the best I can do at this moment in a Co-Chair capacity on these matters since we have nothing specific before us.

Maxim writes in chat, "Maybe the recommendation that staff does not limit ability of a geo-applicant to run an ALP without an explanation." Yeah, that's one possibility, Maxim. This is still not quite closed out—this item—and we'll see if we can close it out for working group consideration as we move forward and see if there's any final report language we might want to consider on these issues.

With that, would anyone else ... Paul, you wanted to speak again?

PAUL TATTERSFIELD: Yeah. I was just going to say, can we say something as simple as, "Consent will not reasonably be withheld"?

PHIL CORWIN:

Well, we might, but I think we're waiting. We just heard that the small group was waiting on Susan to get back. She's now back. So I think I'd, rather than face a question to the working group based on one member's comment on the phone call right now, see if we have some formal something for consideration by the working group from that smaller group that was put together. Then we can bring it back up. And Julie Hedlund notes that staff will follow up with the small team now that Susan is back.

So, Paul, if you're concerned with that if we didn't resolve this today, it would be closed out, it's not. We can still consider it. I noted this is the PDDRP small group. I don't recall if there's anything else like that out there, but those would still be eligible to come back and bring something to the working group's attention.

I see you tagged me in chat, so I'll take it that that's an old hand that's up. Assuming it's an old hand—now it's gone—does anyone else want to speak to this, or any other Any Other Business before we close out today's call?

All right. With that, we're at 59 minutes past the hour. As noted, the Co-Chairs and council liaison meet with staff tomorrow. We will update you on the results of that conversation either by e-mail to the working group list or at the beginning of Thursday's call.

Thank you, everyone, for participation today. We have reached a milestone. We have closed out all consideration of public comments on all working group recommendations, individual proposals, and questions to the community. We are now poised to move on to the final report consideration, followed by consensus call. So there is light at the end of the tunnel. We are approaching

the finish line. Thank you, all. Have a good day the rest of your day. Goodbye.

[END OF TRANSCRIPTION]