
ICANN Transcription

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

Tuesday, 04 August 2020 at 13:00 UTC

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JULIE BISLAND:

Right. Well, 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 4th of August 2020. In the interest of time, there will be no rollcall.

Attendance will be taken by the Zoom room. I would like to remind all to please state your name before speaking for transcription purposes, and please keep your phone 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. With this, I will turn it over to our co-chair, Brian Beckham. You can begin, Brian.

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BRIAN BECKHAM: Thanks very much, Julie. Welcome, everyone. I see we're in the normal rhythm of about 20 people on the call, and we have considered that a critical mass. Let me first start by asking if there are any questions about the agenda and/or updates to statements of interest?

And I'll just say I have, for myself, a note on the agenda mainly regarding an e-mail that was forwarded from Ariel from Lori Schulman regarding the first proposal, and that may impact the extent to which we discuss the first TMCH proposal, number seven, today. Maxim, go ahead.

MAXIM ALZOBA: Just a small update. For Registries Constituency, I was made a representative in Standing Selection Committee. So it's, again, working group for me, not past group, and it's reflected in my SOI. Thank you.

BRIAN BECKHAM: Okay. Thanks, Maxim. Any other updates to the statements of interest or questions about the agenda? Okay. So, let me start by looking at number seven. What I wanted to mention is I don't know if everyone has had a chance to see ... I don't know, Ariel, if you want to put that on screen, or I could just read.

But basically, we were meant to look at proposal number seven, which was a revised proposal by Michael Karanicolas, and I believe Jason Schaeffer was involved in that revised proposal, as well.

We had pushed that to today due to some scheduling conflicts last week, and now, unfortunately, we have another scheduling conflict, mainly that Lori Schulman and Susan Payne have a conflict with another phone call. Maybe, Ariel, if we could scroll up? Rather than looking at the content of the proposal, there, if we could just look at Lori's e-mail?

I wanted to start ... And I'm going a little off-script, here, but I think this was a little bit of a curveball, and maybe wanted to ask Michael and Jason if they wanted to respond, and then see if other people have thoughts on this.

So, what I wanted to say was, if we look at Lori's comment, she, on behalf of INTA, has clarified her understanding that this issue was closed out already and that INTA was not in favor of reopening that, and that, as a basis for reopening the question ... So, that's really talking about the revised proposal.

What we were to look at today was the suggestion that INTA had some compromised position about access and accreditation, but that was premised on the condition that the working group would agree that the TMCH would be open. And so, INTA considers, since there is no consensus on that point, the revised proposal and the discussion is moot.

In other words, they have revoked ... Their proposal to have some caveats about an opening of the TMCH for limited audit purposes, etc., was overtaken by events, namely the lack of consensus to open the TMCH completely.

If it's okay with the group here, let me see if there are reactions from Michael, Jason, and others. I have to say, that seems pretty black and white to me and doesn't really seem to present much basis to hold a discussion on the proposal, but I understand that people, probably, will have views on that.

So, maybe I can open up. I'm sorry, I don't see if there are raised hands or requests for the floor. There we go. I'm not seeing any. Michael, can I ask if you have any particular reactions to Lori's note? And apologies, I guess, on her behalf, that she's not here to state this in person, but we're just going off of her e-mail. Michael?

MICHAEL KARANICOLAS: Hi. Thanks so much. I certainly think that there is basis for discussing this. It is on the agenda. In my mind, the question is whether we have this conversation now or whether we push it to Thursday, and I, basically, leave that to the chairs. I mean, I have no objection to pushing this forward to Thursday.

People raised the conflict with the IPC. Yeah, I think she raised the conflict with the IPC meeting. I actually would prefer to have more IPC people here to have a broad discussion about potential safeguards that could be addressed to this proposal to address concerns that they have.

So, I'm okay with pushing this to Thursday. But also, I'm cognizant of the process by which ... That there are other considerations, there, and timelines, and all that. So, I don't want to push too hard on that specific point, but I do think we have to have a robust conversation about this proposal.

BRIAN BECKHAM: Michael, can I ask you ... What I'm not hearing there is a specific response to Lori's point number two, there, the basis for reopening the question. I think we have very well tread the ground that some people think there are issues with lack of openness in the TMCH. Other people feel quite strongly about keeping it as it is today.

And so, really, where we are in terms of process and timelines is we had proposals that were put out, we took public comments on those, and we were meant to look at, were there public comments that really merited revisions to those proposals?

And my understanding, my reading of number two, there, from Lori's e-mail, is that the basis for any revisions to the proposal was ... I don't know if it's right to say "misunderstood" or "no longer valid." So, I guess what I'm not really clear on is, on what basis would we have a further discussion on this proposal? Rebecca? Sorry. Go ahead, Michael, and then I'll—

MICHAEL KARANICOLAS: I was not able to attend the meeting where this was brought up previously, but my understanding is that that discussion quickly devolved into a procedural discussion and didn't actually discuss the merits of this. You're right that we have discussed transparency in the abstract before, but first of all, we have never discussed a specific, and concrete, and limited proposal like this.

And second of all, every time we've had these conversations it has been to push something forward. And so, "Okay, we'll discuss it again later on. We'll discuss it again later on." So, if this is an

avenue to just push it forward, and then push it forward, and then, eventually, you say, “Well, we’ve discussed it previously,” I don’t think that’s a good way to address issues that are of fundamental importance.

So, I think that there is still plenty to dig into in this idea in the abstract, but we also have a concrete proposal in front of us which has definitely not been discussed. So, I definitely think that there needs to be a discussion on that front.

BRIAN BECKHAM: Sure. What I’m getting at is the proposal is premised by a public comment that, in my understanding—and it’s unfortunate Lori’s not here—is rescinded. But let me see if I can get some light shed on this from Rebecca, Cyntia, and then Kathy. Rebecca, please.

REBECCA TUSHNET: Am I coming through?

BRIAN BECKHAM: Yes.

REBECCA TUSHNET: Thank you. So, I find this framing unfortunate, and I really wish Lori were here because one of the things is we reach consensus in part if we have consensus. And so, Lori is saying, because we disagree ... It’s kind of bootstrapping, in my opinion.

Substantively, we're spending a ton of time—a ton of time—on geographic indications. How are we going to know what happens? Unless we find a way for someone to have access just to see what's going on, we have no idea if this work is wasted, especially since these are databases where, depending on how they're programmed, they can do pretty much anything.

And it's probably a bad idea to spend a whole bunch of time on something that is completely unverifiable. And I am pretty sure Paull Tattersfield may have some more to say about that. Thank you.

BRIAN BECKHAM: Thanks, Rebecca. Cyntia?

CYNTIA KING: Hi. Can you hear me?

BRIAN BECKHAM: Yes.

CYNTIA KING: Great. Welcome, all. Good morning. So, I understand the desire to discuss this, and if we want to rehash this ground again, talk about this again, then fine. I have no problem talking about it again.

However, there are a couple of points that we should be clear on from the outset. Number one: this is a new proposal. This is not proposal seven. Proposal seven was an open TMCH. That was

clearly in the intent of what George Kirikos proposed. He did not propose an audit function with accredited access, and all of this other stuff.

This really is, essentially, a new proposal, and I didn't think that we were covering new proposals now. If we wanted an audit function then we could have proposed an audit function at the very beginning, but that's not what happened. So, there is that. But let's go on. I'm sorry, Michael. It was your proposal. Fine. It was open TMCH, it was not everything else.

But if we go on, let's understand that the INTA comment, which I read, also, was a fallback position. It said on this proposal, "If the TMCH were, by consensus, to be opened, then what we want is controlled access."

INTA was not saying—and I've spoken with many of my INTA colleagues about this—"Sure, we could have an open TMCH if we just have accredited access." That's not what they said.

What they said was, and what they intended was, if the database were to be opened, because that clearly was not how it was designed, then at that point we need to have accredited access. It can't just be a free-for-all for everyone.

And lastly, I'm just going to point out this is not like the WHOIS. WHOIS, we're talking about limiting access, and have accreditation, and stuff like that. This is nothing like that. If we want to have an audit function, that is already built into the TMCH.

It's just that that audit function is not open to the public, and there is a reason why this database is not open to the public, because

this consensus RPM was designed specifically to protect the rights of trademark holders, and it does not protect the rights of trademark holders to make this an open and searchable database to the public.

Now, we can go into the details, into the weeds, and we can talk about who could be accredited, and will they put in writing that they will only use the information in a way that is permissible, but the fact is that the database was designed as a closed database because it was for the protection of rights holders. It was not designed as an open database like WHOIS was because that information was, for various reasons, intended to be public.

So, we can go down this road. We can discuss it again. But I don't see that there will be any consensus for opening a database that was intended to be closed and intended to be for the purpose of protecting trademarks, and which already has a built-in audit function that ICANN can be using now, which audit function is simply not open to the public. So, let's proceed. Let's go ahead and discuss. But the idea that we're going to get consensus on opening this up is ... I think it's a mistake. Thank you.

BRIAN BECKHAM: Okay. Thanks, Cyntia. Kathy, then Jason Schaeffer, and then Mary Wong, and then we'll see if there are any other reactions. Kathy, please.

KATHY KLEIMAN: Hi, Brian, and hi everybody from ... I hope you're not as waterlogged as I am on the East Coast, here, but some of you

are, I know. So, I actually support a lot of what Cyntia just said, procedurally. It is time to discuss this proposal, and we didn't discuss it. I have to say, I was chair when it came up and I remember being surprised that we spent all of our time talking about the donut and not the substance of the proposal in front of us, including what appeared to be some new ideas that were posed.

So, I think it's very timely, and I think Cyntia has [took] off the substantive conversation, and I support it, and we're spending a lot of time on proposals like the merger of 15 and 22, URS individual proposals. I think we should definitely spend some substantive time on this one. And as chair at the time, I remember we did not substantively discuss this, so I'm glad we are. Thanks.

BRIAN BECKHAM: Okay. Kathy. Maybe I misunderstood Cyntia's intervention. I thought she was maybe saying the opposite, rather. Maybe we can ask her to confirm in the chat. Jason Shaeffer, please?

JASON SCHAEFFER: Thank you, Brian. Can you hear me?

BRIAN BECKHAM: Yes.

JASON SCHAEFFER: Okay. Thanks, everyone. Apologies for being late. I'm actually a bit surprised why this is such a controversial issue to have a

substantive discussion on. Perhaps someone could educate me as to why having an oversight function that is reasonable is so objectionable to certain folks, because I'm just not seeing it.

I understand what Cyntia explained, and I also understand how we got here and why certain folks found a completely open database objectionable. So, the only objections that I had seen to date were that brand strategy might be revealed in the case of an open database.

Now, with that issue being eliminated, I don't see why anyone on this call, in any other working group, would not want to ensure that the TMCH, and now these expanded ancillary databases that are going to be given even more priority, in a sense, or usage, perhaps, shouldn't be subject to some reasonable oversight and review when we know that the TMCH, in its current existence, has issues and problems. It's not to cast a negative light on Deloitte, or anyone else, for that matter, but we don't know the full extent of the problem.

And as we did as a working group two years ago, we actually went through a detailed review of the URS to test out certain assumptions on whether or not the URS was fit for purpose, and certain assumptions were not proven, and I was happy to see that.

The data didn't support what people suspected, and so here, too, as well. Let's find out what's going on. Why would we not want to know whether the databases are working as intended, and can they be improved or not? This is in the interest of all parties.

So, I'm just missing the controversy, here, and I don't see where the objection lies anymore because we removed ... The only objection was that brand strategy would be revealed. So, agreeing with the group on that, we moved to this second option.

And now, we're hearing that the second option seems to be no longer worthy of discussion because that was only a fallback. That doesn't make sense to me either, because if we had reached consensus on that it should be an open database then we wouldn't even be discussing the fallback position.

So, to me, I think it's time to have a substantive discussion, here. We have talked extensively about other issues and we keep supposedly, as we use the word, "rehashing" other issues. We haven't even begun to discuss whether this proposal can be workable. So, I don't understand why we're so at odds here. Thank you.

BRIAN BECKHAM: Thanks. Mary Wong, please?

MARY WONG: Thanks, Brian. Hi, everybody. Speaking for the staff, again, we have no particular view as to how you want to handle the proposal and what the merits of different arguments and proposals are. We just want to remind the working group of, procedurally, where things stand.

First of all, the working group guidelines do caution against reopening closed issues unless there is new information and it is

by consensus of the working group that, due to this new information, the issue can be reopened. Our sense is that there is a distinction between what the issue was and this proposal, and the issue was the reopening of the TMCH, which was the basis for the original proposal number seven.

So, our view here is that the working group needs to decide if there is new information such that there can be a discussion on that particular issue again. Secondly, we want to note that, back in 2017, the working group engaged in extensive discussion about the potential or actual abuse of the TMCH by trademark owners, by domain investors, and others, and did not come up with a clear consensus or any data-based evidence that there was a widespread problem, and that was one of the reasons why the group could not at the time, and subsequently did not, reach consensus on opening the TMCH database.

So, we just want to offer these procedural observations, if it helps. And to the extent that the group considers that this proposal from Michael, from yesterday, is a new proposal, then you'd want to consider that as a new proposal, rather than proposal seven. Brian, I hope that's helpful.

BRIAN BECKHAM:

Yeah. Thank you, Mary. I think that last point is really the operative question. I see we're got a little bit of a queue formed. So, I have Michael, Cyntia, Paul, Greg, and Phil. Michael?

MICHAEL KARANICOLAS: Thanks. There was a lot to unpack in the previous interventions. So, in terms of whether there is a misunderstanding of INTA's comment, or whether INTA is pulling back from it, the comment says what it says, and I do think that that provides a legitimate avenue to build on, which is what this proposal is trying to do.

I think that there needs to be some sort of mechanism to assess the TMCH's operations, and I do think that it needs to have a public-facing element insofar as we'll be able to see, as the people of the working group that are debating these issues, whether the changes that we're recommending are ultimately being implemented, and to make sure that, going forward, the database is operating as intended, and to allow people that have been subject to a particular vetting, or make particular assurances, to access that data.

Now, again, the purpose of this proposal is to try and find an avenue to this that accommodates the concerns that folks have raised about open access. We have more information about those concerns and I think that it's possible to try and find an avenue forward that accommodates that, either through a front-end system which controls access, through some sort of assurances, or rules on how data is used.

It could be done by restricting searchability to certain parameters so that you are not able to search by an individual trademark registrant if there are concerns about one particular company or individual's brand strategy.

I think that there is a lot to flesh out, there, and I left it a little bit open in the language there in order to, hopefully, solicit more

specific information on how these safeguards could be designed, but I do think that it's an important issue, and I think that this specific aspect of it hasn't been discussed previously, and I think that it is worth exploring to try to find an accommodation, a middle ground, that takes proper account of the concerns that have been raised and tries to impose safeguards that would suit that.

BRIAN BECKHAM: Thank you, Michael. I think, Cyntia, that's a new intervention?

CYNTIA KING: Sorry, I was muted. Yes. So, just a couple of things. First, look: Jason and Michael, I appreciate your work on this. I see that this is something that you're very passionate about, but I am going to say again, this is a second bite of the apple. Jason, when he was speaking, was correct.

We have discussed this before. We did not reach consensus. That is the deal. Now, what has happened is we have written an entirely new proposal to try to get to the same thing. The fact is that the TMCH database was created as a closed database, and that's how the users of that database were "sold" on the database, that it was closed.

I keep hearing about we need to have oversight, we need to have review. That currently exists. Let me say that again. Oversight currently exists in the makeup of the TMCH. It was implemented when the TMCH was implemented. It's just not an open function.

So, it's not that we're looking for oversight, because that already exists in the current contracts for the TMCH. What we're looking for, apparently, is to have additional access to the database, and I don't see consensus coming on this because the database was not intended to be public and the users who are currently using it do not want their information to be public. So, we are at a place where there are people who want open searchability of the database, and the users and the original RPM, which did not envision that.

So, my suggestion would be that what we do is we make a recommendation in our final report that says that the oversight function should be reviewed and ensured that it is as robust as it needs to be. But let's stay with the current oversight which does exist instead of opening up the database for other folks to go poking around, which is not how this database was created or used by the people who have their information in there. Thank you.

BRIAN BECKHAM:

Thanks, Cyntia. I think that could be a way out, to flag this for a review down the road. And sorry to ask this again, but I put in the chat earlier. If people could please try as best as possible—I don't want to be too prescriptive, here—to address the steps in the question about the basis of this revised proposal and whether that is ripe for discussion, as opposed to straight into the substance. Paul McGrady?

PAUL MCGRADY: Thanks. Brian, I'm going to disappoint you. I have two questions, but they're being driven for this discussion. Question number one is, why aren't we honoring Lori's reasonable request to push this off to the next call? Lori is an active and respected member of this working group and I don't think her request was unreasonable, especially because folks are using what they understand to be an INTA position, which Lori says is not the INTA's position. So, question number one, why are we doing this discourtesy to Lori?

And in question number two, this is now our third or fourth bite at this apple. We have a calendar from council. If folks want to run the time clock out on this PDP, no one can stop them by bringing this up again, and again, and again, and again, and again.

But what happens when we run out of time? Do we just publish what we've got, and that's it? We just pull up stakes, and are we done? Or does the timeclock on the PDP run out, and we don't publish anything, and we throw away four-and-a-half years? I just want to know, procedurally, what happens to this PDP if we keep entertaining the same issues over, and over, and over, and over, and over, and over again. Thank you.

BRIAN BECKHAM: Thanks, Paul. Greg Shatan? Greg, if you're speaking, I am, at least myself, not hearing anything.

JULIE BISLAND: Greg, are you ...? There you go.

GREG SHATAN: Sorry, I was double-muted on my phone and in the app. So, can you hear me now?

BRIAN BECKHAM: Yes.

GREG SHATAN: Okay. We're having kind of a mish-mash, here, of a substantive discussion and a procedural discussion about whether or not to have the substantive discussion. I'd like to suggest that we need to dispose of the procedural question one way or the other before having the substantive session.

So, I'm not going to respond to all of the issues raised in the substantive discussion, even though I have things to say about it, because I think it's out of order. It's out of order because, as Lori said, or as I read Lori saying, essentially, we got this on the agenda by bootstrapping off of the INTA proposal, based on a misreading of the INTA proposal and the idea that the fallback can be reached if we didn't decide to open the TMCH database.

Now, we can push the whole procedural discussion off to Thursday and, depending on the procedural discussion, we either have the substantive discussion again or we don't. But I think it's inappropriate to take the time to have the substantive discussion, or at least for certain people to have half of the substantive discussion, and some other people responding, "I'm not going to until we dispose of the procedural discussion." Thank you.

BRIAN BECKHAM:

Thanks, Greg. I'm going to take the liberty—I see Phil and Kathy, which I think is a good queue given that Phil, Kathy and myself are the co-chairs here. I'm just going to pick up on what Greg said, and maybe I was being a little imprecise and, for whatever it's worth, put my stake in the ground.

My view—and this is speaking from a chair/procedural perspective—is that this revised proposal is not timely or out of order, or however you want to capture it. With respect to the concerns about not having discussed the substance of this proposal, we've discussed the openness of the TMCH at some length over the years. So my firm view is that this is not ripe for discussion here, and I would invite Phil and Kathy to share their views, and maybe we can put this behind us and move to the next proposal. Thanks. Phil?

PHILIP CORWIN:

I'm speaking in my capacity as a co-chair, and my personal bias and institutional biases against cutting off substantive debate. I think it's better to have debate on substance even if you can't reach consensus than not to have it. But we also have to observe the procedural rules, and the rules we've been following is that in reviewing the public comments on both working group proposals and individual proposals, that we would only take up new ideas that came from the public comments.

So far as I know—and someone can correct me if I'm wrong—the only justification for the introduction of this proposal was a reference to the INTA comment as being a new idea proposing a

new kind of gated way for certain parties to review the integrity of the TMCH database.

The working group member from INTA has now clarified that that was a misunderstanding of their comment, that they were not proposing that this be done independently. Rather, it was a condition where they said, well, if the consensus within the working group is to make the database to some degree public, that access should be limited in this manner. Unless there's another new idea or a comment that's the basis for this proposal—and I don't know of any—then I think this proposal just becomes a new individual proposal that should have been put out for public comment prior to the publication or the initial report and without the justification of the INTA comment, it is not in order for consideration on a substantive basis at this point in time in our deliberations.

Let me say further that while I'm not going to speak to the substance, all I will say is that the substance to my mind is of such a nature that if we were to take it up substantively, which I don't believe is in order, and if we were to reach consensus on it, then I leave it to others to speculate on whether that would happen. I think it's of such novelty and gravity that we would have to put it out for public comment of at least 21 days in a draft final report before issuing a final report.

And this is a comment I made in regard to a proposal from the other side, from the IP side, very recently. So I think we have to be cognizant of that. But again, while I'm reluctant to cut off substantive debate, I think that with the INTA clarification, that under the procedural rules we've been following, there is no longer

any basis for considering the substance of this proposal. Thank you.

BRIAN BECKHAM: All right. Thank you, Phil. And I have Kathy Kleiman. Kathy.

KATHY KLEIMAN: Thanks. So, with my cochair hat on, I will again say that we spent a lot of time talking about procedure but not substance on this one. But with my co-chair hat off, I want to go through the facts one more time because I'm hearing facts in dispute, and we're pretty good about getting our facts straight.

And I say this—I hate to do this—as a former data security auditor for Price Waterhouse. So, one, we have abuse. We found lots and lots of articles, we have investigative reporters who've seen plenty of abuse, and there are people in this working group who can go through abuse in the database.

Two, we have no evidence of audit or review functions, except for the analysis group, which was actually done in preparation for our working group. And thank goodness they did, to get us some data. It was nice to have data. And that was commissioned, I believe, by the GAC, so not part of the contract.

So as we consider in light of abuse, in light of concerns, we have the ability per what Cyntia actually said—and I'm not putting words in your mouth, Cyntia, but I liked what you said about more oversight and robustness, some guidance to ICANN on that.

Three, audit doesn't mean opening up the database. I audited many databases that were not open. They were financial data. Under national law, they couldn't be open. They were protected by the Securities and Exchange Commission. Doesn't mean you don't audit it, doesn't mean you don't make sure it's operating according to rules, to law, to policy. In fact, you have to. It's one of the requirements.

So here too, I think we're operating in an open area. We spent a lot of time over considerable objection talking about mergers of proposal 15 and 22. I think we've really hit on an important issue here, and I actually think the minds in this virtual room can solve this problem pretty easily, and I think it's an important problem for the integrity of the working group to solve. Thank you.

BRIAN BECKHAM:

Okay. Thank you, Kathy. And I'm just going to make a last call for interventions. I'm not seeing any hands up. Cyntia, if I could ask you just to keep it brief and to the process. And I want to respond to Greg's question and really the question that's in front of us. So I'll have Cyntia, Michael, and then we'll draw a line under this.

CYNTIA KING:

Hi. Kathy, you didn't put words in my mouth. No problem. I'm just going to be clear. Once again, an audit function exists in the current contracts with IBM and Deloitte. I believe somebody posted links in the chat to those contracts. So auditing is already possible. It's not that it's not available.

The problem appears, to me, to be two. Number one, we don't know whether the audit function is being done. Kathy says no. And number two, will it be public? And we can, as a group, make a recommendation, and I'm on board with the recommendation, that we ensure that ICANN enforcement or whichever group it is that's responsible is doing periodic audits as they should be per their contract. So I'm happy to agree with that recommendation.

However, the current proposal that recommends that the database be opened to researchers who promise to use the information the right way is something that does not have consensus. Jason said it earlier, I agree with what Jason said, we've discussed the issue of an open database many times, it doesn't have consensus. The system wasn't designed that way, and the system wasn't used that way, and at this time, there's not consensus to fundamentally change the basis and the operation of that. So I think that we should move forward, if we're going to do anything with this proposal at this time, move forward with a potential recommendation to ICANN that they be using the audit function periodically to check for abuse. Thank you.

BRIAN BECKHAM:

Thank you, Cynthia. I see in the meantime Michael has put his hand down. So here's my take on where we are . Both myself and Phil have expressed our views that we think this is out of order or not timely. We have a difference of opinion from some working group members and another co-chair. We had represented to the council that we would, if necessary, take decisions by majority as opposed to unanimity. That is, at the co-chair level.

So as far as I'm concerned, I think that this discussion is closed. If people have different views, we can certainly air that on the working group e-mail list, but I'd like, if it's okay with everyone, to move on to URS proposals 15 and 22, which were from Jason Schaeffer and Griffin Barnett. Kathy, go ahead, and then we'll see if we can't move to Griffin and Jason.

KATHY KLEIMAN:

Great. Thanks, Brian. I understand the desire to wrap up. I think Cyntia has created a path forward that may be of great interest and move us forward, and seems to have cross-community support. So I wanted to point you to the chat on that.

I'm trying to find Cyntia's words here, but that we create a recommendation, and again, we're not supporting that recommendation, we're just moving it forward to a recommendation, that—and Cyntia, come on back with the right words—that we encourage ICANN to check more regularly [to use its] audit functions, to check more regularly for abuse, and I would add the words “In operation outside of policy,” because abuse can be third parties. Operation outside of policy is the database operator itself. Intentionally or unintentionally. I found a huge number of inadvertent errors when I was auditing.

So I think you've got some support there for that, and I think that could move us forward very quickly. Thank you.

BRIAN BECKHAM:

Thanks, Kathy. I'm not sure—I've heard Cyntia's interventions and I think she's sort of expressing a view that would be more

characterized as something we can look at down the road, so this could be something that we flag for purposes of the final report to say that there were some views to look at this auditing function in the future.

I'm going to ask if Griffin and Jason can speak to proposals 15 and 22, and we move on from this discussion on the TMCH proposal number 7. I don't know, sorry guys, what makes the most sense, if one of you is more prepared to speak to this than the other, Jason or Griffin. I see Griffin's hand up, so maybe you guys have spoken and Griffin is going to take the lead. Griffin.

GRIFFIN BARNETT:

Jason and I ultimately did not have an offline conversation, and the reason for that is—and I wrote to staff yesterday to advise them this—we had some discussions internally with some of the folks who initially were working on this updated consolidated URS proposal 15 and 22, and based on discussion that we had previously about it, based on some of the procedural hurdles that we had understood and heard from at least one of the co-chairs, and taking into consideration the comments that were raised previously, we ultimately decided that our preference at this stage is to withdraw this proposal from further consideration, and that recognizes the fact that we've been doing this for over four years. The sense that we had, certainly following the last week's call, was less optimistic than the feeling that I had come away with back when we were discussing these proposals separately.

I also had further discussions offline with some additional stakeholders, although I didn't end up having a conversation with

Jason even though he kindly offered to discuss this. It just didn't quite reach that point where I felt like it was necessary, because by the time we had kind of reached a decision based on other factors, that we were just going to withdraw this. So that's sort of a slightly longwinded way of saying that based on all the discussion that we've had up to this point, based on the substantive and procedural hurdles that we believe this faces at this point, our preference is to withdraw it. Thanks. And happy to answer any other questions if any remain.

BRIAN BECKHAM:

Okay. Thank you, Griffin. I don't want to belabor this if there's no need, but I think probably, I should ask if there are any requests to speak to that. Otherwise, that seems fairly self-explanatory, that since it would have been removed, we don't need to discuss it at any length procedurally or substantively.

Any objections to that? All right. Well, good. Thanks for the low hanging fruit there, Griffin and Jason. That takes us—and I understand David McAuley may not be—although I do see his name there in the participants list. To TMCH recommendation number one, I believe David was the chair of subgroup A. I don't know that there's too much to discuss in terms of the deliberation summary of the public comments. There's a proposal to slightly alter this to add the words “changed and” on item three. But David, would you be able to just give us a very quick recap of that? And maybe we can quickly come to a conclusion on this one. And before you do that, I see Mary has her hand up. Mary.

MARY WONG: Thanks, Brian. I'm sticking my hand up for staff. Our understanding is that David has been out of pocket, and so he was not informed that he might need to speak to this today. However, staff did prepare these documents and circulate them to the working group some time ago, so if David would prefer, Ariel will be happy to speak to what is the change and what is in this document, if that's helpful.

BRIAN BECKHAM: Thank you, Mary. David, I see your hand up so maybe that looks like you want to speak to this. And then if Ariel can support that, that's great. David.

DAVID MCAULEY: Thank you, Brian. And Mary, I want to thank you. She's exactly right. I was tied up, and I'm grateful to Ariel if she could move this forward. I just haven't been able to prepare for that. Thank you.

BRIAN BECKHAM: Okay. Thanks, David. Ariel, could you walk us through this then?

ARIEL LIANG: Yes. Thanks, David and Brian. So for the TMCH recommendation number one, the subgroup A's recommendation is basically maintain the wording as is but with a slight amendment to the recommendation language, and in particular, that's point three, highlighted on the screen. So the current wording sounds like as if the trademark contains dictionary terms, they should be limited in

their scope. So that's in opposition to what the current status quo is, so the recommendation from the subgroup is to clarify that language and basically to add, so if you're looking at the sentence here, "Whether where a trademark contains dictionary terms, the sunrise and trademark claims RPMs should be changed" so add changes, "and limited in their scope, such as to be applicable only in those gTLDs that relate to the categories of goods and services," and so on.

So basically to revise the language of the third point and point out what the status quo is, and that's the main suggestion from the subgroup. Hopefully I captured this correctly.

BRIAN BECKHAM:

Yeah. Thank you, Ariel. That's perfectly clear to me, and I'm not seeing any hands raised or any request for the floor, I think. So in other words, this is just a very minor clarification at a textual level to what was meant by the status quo, which is effectively what our recommendation some time ago was to. And of course, this was already in the initial report and so that had a sufficient level of agreement in the working group to rise to the level of a recommendation as opposed to being an individual proposal.

So let me ask, are there any objections or concerns about this minor clarification at the level of the text to clarify what was meant by the status quo for TMCH recommendation one?

Okay, I'm not seeing any, and so I take that as a good sign that this is acceptable to everyone. So if we could just take that. I don't know if you prefer to do that now, Ariel, or if we take that as an

action item to just make that change later. But we'll take that as completed and agreed. And I think that moves us on.

I think the next bucket of tasks that we had in front of us was sunrise recommendation numbers one through eight, if I'm not mistaken. So again, these were recommendations of the working group that made their way into the initial report. Apologies, I'm a little fuzzy. I didn't quite get to this point in preparing for our chat today. Ariel, are you able to bring us up to speed on the summary of public comments and where we are on this sunrise recommendation number one? In other words, was there any change suggested or was this merely the public comments supported our recommendation in the initial report?

ARIEL LIANG.

Thanks, Brian. Yes, I'm happy to recap this recommendation. So for sunrise recommendation one, the subgroup A's conclusion is that the public comment did not raise any new or material perspectives, facts or solutions, and there's also no widespread or substantial oppositions from interested parties that the working group did not consider. So their recommendation is also to maintain this recommendation as is with no further amendment.

And if you look at the analysis document, the second paragraph did mention a point about spanning the dot" proposal, so that's kind of related to one of the public comment. However, the subgroup has confirmed that this proposal has been discussed in the working group, so there's no new or material ideas that arise from the public comment. And that paragraph, just to kind of point out, they noted this.

But in conclusion, this recommendation is to be maintained as is, and that's the recommendation from the subgroup A.

BRIAN BECKHAM:

Okay. Thanks, Ariel. That's very helpful. So it looks like that really stays as is. Let me ask if there are any—and of course, we did look at the one proposal, I believe it might have been from dotCAT or one of the registry operators, about these spanning the dot proposals. Are there any thoughts or concerns or questions on sunrise recommendation number one? In other words, are we leaving that as is, or are there any concerns raised by the public comments?

Okay, so I think what we do—and my apologies that I'm probably missing the terminology, but I think that leaves us in a position to accept the recommendation as is for purposes of when we get to the point of the consensus call, in other words, we know that this was a recommendation from the working group into the initial report, the public comments didn't fundamentally alter that, and so that leaves us at that point for purposes of the consensus call. Paul McGrady.

PAUL MCGRADY:

Thanks. So this is probably an extra dumb question, but are recommendations meant to be proactive things? In other words, are we going to go through and make a recommendation that nothing changes for every possible topic under the RPMs? In other words, if there's nothing changing, there's a status quo that's going to be upheld, why do we need a recommendation for that?

Does that make sense? I always thought recommendations were changes to policy, not changes to policy. Thanks.

BRIAN BECKHAM:

Thanks, Paul. I think that's a fair question. I think it's reasonable to assume that a recommendation is sort of moving something, but maybe I can see if Kathy or Mary can help us out with that. I'm guessing Mary maybe has some experience. Mary, go ahead.

MARY WONG:

Thanks, Kathy. Thanks, Brian. This is to respond to Paul's question. The way that the initial report was structured, as you see, it does go by numbers, and the numbers do match up to either the order in which the working group considered the issues and the charter questions, or the charter questions themselves.

Staff has been discussing how the final report might be structured. And to Paul's point, I will now speak from ICANN Org's operational perspective and not from the policy perspective. While we can understand the so-called negative recommendations in the sense of recommendations to present the status quo, they're not, obviously, anything that we need to implement because there's not anything that we're needing to change how we do things.

So because of that, coming back to the policy perspective, for purposes of the final report, the policy staff may reorganize some of these recommendations in terms of where they sit in the final report or how they are sectioned or categorized without of course changing any of the agreed text or the context. We just haven't

played with that enough yet, but we do take the point, Paul, and that certainly is something that we've been thinking about.

BRIAN BECKHAM:

Thank you, Mary. Certainly, that could make sense also from an outside reader perspective, to have kind of different buckets of positive recommendations versus ones that are maintaining the status quo. Kathy.

KATHY KLEIMAN:

Thanks, Brian. I wanted to just go back procedurally for a second that we've now moved of course from the individual proposals to the draft recommendations, that as a working group, we put out to the public to see whether they supported where we were.

So now what we're getting back is of course the subgroup work, and it was excellent. So I wanted to thank the subgroup, and particularly the co-chairs, David McAuley on trademark clearinghouse on sunrise, and Paul McGrady and Zack Muscovitch on URS recommendations.

But I think a recommendation can affirm a policy, especially after it's been asked by the council and after ... There's been robust review, data analysis and robust review.

So I thought it was important to put this out to the public and tell them where we were leaning on this. And in this case, we're not leaning at all. We're affirming current policy. But I think that's an important step as well. So I just wanted to share that, that I think

we're allowed to reaffirm the status quo in a recommendation. Thanks.

BRIAN BECKHAM:

Okay. Thanks, Kathy. So, mindful of the time, and of course, of Mary's intervention that the actual final report is still coming together, I think that takes us—and seeing no comments on the “substance.” I think for numbers one through eight, the sunrise recommendations of course—remember, these were recommendations of the working group. So there was some level of agreement on them, and we were really looking, I think, for public comments as something of a sanity check, if you will. And so really, what we're doing here is going through to clarify or highlight any of the updates that might have been made as a result of the subgroup or the full working group review of the public comments.

So here we have none. Seeing no other hands, I think that takes us to sunrise recommendation number two. And I hope it's okay, Ariel, if I lean on you a little bit to ask if you could highlight any of those updates that may have been made, or whether there weren't any made as a result of the review of public comments.

ARIEL LIANG.

Yes, Brian. So for sunrise recommendation number two, the subgroup did notice there are some new or material prospective solutions raised in public comment, and in particular, there's several public commenters that noted that it would be helpful if the working group can develop some kind of implementation

guidance. In particular, include a non-exhaustive list of clarifying ideas, examples of registry conducts that may have the effect of circumventing mandatory RPMs.

So that's the main item that the subgroup has noted. And when the subgroup went through the public comments, they noticed that in some other recommendations or questions, there are examples related to registry conducts that may have a negative effect, and so that's why in the public comment referred to the working group section, staff did pull out these comments that may contain these examples, and if the working group wished to develop implementation guidance language, and this language can reference the examples kind of highlighted in the document here. So based on staff's understanding, that's the main point from the public comment review, is to develop implementation guidance for this recommendation.

BRIAN BECKHAM:

Okay. Thanks, Ariel. And in terms of developing the implementation guidance, I was just going to say for myself, I think that does raise a question of where we do have a possible need for some implementation guideline, that that's an action item for us. So I'm wondering if we, rather than get into a discussion of that on the call here, if it's best to simply note for these numbers one through eight—I don't know which ones would have this need for implementation guidance and which wouldn't, but whether it would make sense to just note that for the time being and come back to that, either over the working group e-mail list or on another call, and at least get behind us the ones that don't need any

implementation guidance and get those past us in terms of the agenda. Kathy.

KATHY KLEIMAN:

Yeah, Brian, it's a good question, [what we do now] with this. So for those who weren't part of subgroup A—and I was only there briefly, but I was there at this time—what happened was the subgroup did not feel empowered. In fact, we did not give them the power to rewrite the recommendation. But in this recommendation, as Ariel pointed out, the comments pointed out that the recommendation is too broad, and we can go down to “Public comment referred to working group?”

So we've got rows 36 to 42, recommendation language is too broad and too vague, and then in 49, a real call for some more precise conduct that we're trying to curb, and then later in row 55, talking about the abuse that we're really trying to get to is probably sunrise, that there have been some problems with sunrise, yet the recommendation doesn't mention Sunrise. So the implementation guidance probably could—and so Brian, I second what I think is your question, which is, how do we draft the implementation guidance? Is it something we want staff to do based on the comments and based on the agreement of the subgroup, and also this full working group if they agree with that, and then review it when it comes up for final consensus review.

So, do we want staff to kind of pull this together with some guidance for the Implementation Review Team? Which is of course the group that will be down in kind of the guts of the applicant guidebook, trying to figure out how to implement both

what we're doing and what the subsequent procedures group is doing for new gTLDs, so pulling it all together. I hope that was clear. Thanks.

BRIAN BECKHAM:

Thanks, Kathy. I think we're very much on the same page, and I think if it's okay with the working group and staff, certainly, that would be very helpful if they're able to collate the comments and put together something that we can look at in a more consolidated manner at a later point.

Okay, I don't see any other requests for the floor. So we'll take that as agreed that we'll come back to any potential massaging of the language or suggestions for implementation guidance at another juncture. That, I think, takes us to—are we moving to number three? Might just want to note that we are just shy of a half hour here, so we'll see how far we get on these recommendations, the sunrise recommendations numbers one through eight.

Ariel, can I turn over to you to highlight if there were any material perspective raised that necessitated a change to the language here?

ARIEL LIANG.

Thanks, Brian. There's no change to this recommendation as recommended by the subgroup, so the subgroup's suggestion is to maintain the language as is.

BRIAN BECKHAM: Okay. That's good, and that related to the creation of a challenge mechanism. Thanks, and I'm just trying to follow the chat a little bit. So the suggestion coming through in the chat is that any proposed implementation guidance be looked at when we take a final pass on the final report.

Can we move to recommendation number four? I'm seeing no hands on number three. Okay, so we see the recommendation there on screen. It looks, Ariel, like there may have been one public comment that necessitated a review on our part here.

ARIEL LIANG. Yes. So the subgroup did flag one public comment, and that's displayed on the screen here, and I won't read this comment because all of you can see that. And actually, I just want to raise one point, Brian, based on the agenda that staff distributed to the working group, I think we were supposed to stop at sunrise recommendation three and then start with four in the next call. But if the working group wish to continue, we can continue.

BRIAN BECKHAM: Okay. Let me ask quickly if there would be any objections. We have time here and we've all booked it in our calendars. And of course, we're running up against a little bit of a clock in bigger picture terms. And I do know that it says on the posted agenda that this was time permitting. Are there any objections to continuing through numbers four, five, six, seven, eight, the sunrise recommendations on the call here now?

I'm seeing at least one "No objection" in the chat. But thanks, Ariel, for raising that. And again, this lands us in the possible implementation guidance, so it looks like the proposal was something along the lines of if registry operators reserve certain strings and those are unavailable during sunrise period, that would be reflected in somehow, whether that's in WHOIS or RDDS or somehow [in other words] that people who would be looking to participate in the sunrise could be aware of that. Griffin.

GRIFFIN BARNETT:

Thanks, Brian. I'm happy to speak to this quickly because I think this is something that we had discussed certainly—I can't recall if it was within the IPC or within INTA, but the gist of this comment is, as I think you were kind of getting at, is during a sunrise period, sometimes a brand owner who is looking to register a name during sunrise was basically refused registration and they may have had no way of knowing why the registration was rejected. So we found that in some cases, registries who were reserving certain names prior to sunrise, that that was the reason for the rejection.

Some registries made that known by basically publishing WHOIS record for that particular domain basically stating that it was self-allocated to the registry, but that's not a practice that's been adopted across the board by all registries, that's sort of a voluntary thing that certain registries have done and others haven't. So the idea here is that this would be a way, if that sort of approach were implemented across the board, that would be a way that any prospective sunrise registrants could basically perform this kind of lookup and confirm that the reason that

sunrise registration was rejected is because it was reserved by the registry or self-allocated to the registry, essentially. And then they would have a means by which to confirm with the registry, they could do outreach to the registry directly, in the case they wanted to try and negotiate the release of that name because it conflicts with sunrise.

So this was sort of in lieu of the recommendation or the potential recommendation to have registries publish that list of reserved names. This was sort of a means of at least being able to determine on a case by case basis whether a name was reserved such that it prevented a sunrise registration. Thanks.

BRIAN BECKHAM:

Thanks, Griffin. Can I ask a follow-up question? And of course, anyone else, feel free to jump in. But because the recommendation in front of us was that the working group did not recommend the publication of the reserve names list, and I think it's clear that the comment here doesn't break with that, it doesn't go against that and suggest that a list should be published, but that somehow when someone tries to invoke the sunrise and a name is reserved, that they're made aware of that. So I just want to be sure—and apologies if I'm finding an issue that's not there—that people agree that the recommendation in terms of potential implementation guidance, that would be—I don't know if it's right to call it some sort of a voluntary best practice or an optional means for registries to identify which names are reserved upon request, but just to make sure that that doesn't go against the recommendation that we had agreed earlier not to publish a list of reserved names. I hope that makes sense.

GRIFFIN BARNETT: Yeah. I'm not sure I fully followed you, but I think I get what you're saying. So basically, the idea is if we were to adopt this practice of having registries identify the reserved names in WHOIS, that could potentially lead to kind of de facto publication. Is that what you're saying?

BRIAN BECKHAM: Yeah, I think that's right. In other words, at this point I'm reluctant to suggest anything that would go against what we agreed as a working group in terms of not requiring the publication of a list. Maxim, I don't know if you can shed any light on this for us in terms of kind of reconciling the recommendation of the working group with this public comment.

MAXIM ALZOBA: First of all, we had similar idea of forcing registries to publish reserved names, and there are lots of issues about that. For example, profanity language, and publishing that would be punishable in some jurisdictions. Also, it's just quite similar to TMCH where company [inaudible]. Nobody has to explain why. So why are we demanding the same from registries? Currently, nothing prohibits registries from having contact with any third party describing anything they want. What do we want to achieve? If we're going to force registries to publish their reserved names, it's not going to happen, because of few reasons we discussed in depth when we were discussing publishing of reserved lists.

If nothing prevents registries from talking to third parties, I'm not sure what we're going to say. Is it, oh, it's a good idea to do this and that? Registries have their own business. They know what's good, what's not. So I'm not sure what we want to achieve here. Thanks.

BRIAN BECKHAM:

Yeah. Thanks, Maxim. And Griffin, do feel free to correct me if I'm misstating this, but I don't think, Maxim, to be clear, that there was a suggestion to change this to require publication. That was just, I guess you could say, giving the registry the option to, if someone tries to obtain a domain name in a sunrise and it's not available, to explain the reason why to the person who's seeking that registration. Cynthia, and then Jason.

CYNTIA KING:

Hi. I'm sorry, I actually just had a question for Maxim. Maxim, can you please tell me why registries keep some of these names on the reserve list? My understanding was that they were on a reserve list so that they could then be registered or auctioned or sold, however that works, at a higher price than the average registration at a later date. And if that's the case, would it make sense for there to be something in the WHOIS that notes that it's a reserve name? Could you explain, please?

MAXIM ALZOBA:

First of all, WHOIS [is dying.] Yes? It's going to be retired soon. Without addition of technological field describing why, not sure. Some registries, in their WHOIS, they will give you information

like, "This domain name can't be registered." It's a sign that it's in the reserved list.

The thing is, reserved list is a measure to prevent something from being registered right now, because it's real-time systems, usually. Unless you're in sunrise where you have a very special period of ... Yeah, when you collect requests and then you understand who won the particular name.

In all other cases, it's real time. So they register the millisecond they want, registrants by registrars. And the thing is, for example, you have a list of bad words and you don't want that in your registry. You have to put it into reserve list. Or you're geo registry. You want to ensure that police.city goes to a policy development of that city and not to eyewear maker, or despite some ... You can look into trademarks. There are some swear words. And they're not going to have right of registration in every TLD because of restrictions of [inaudible] and jurisdictions, etc.

And really, if you want to say, "Yes, I want a magical button and when I push it, they will tell you all the plans," it's like situation that's quite similar to TMCH when you say, "No, we will not make it open because it will reveal some ideas and plans." The same here. Third parties to all agreements with ICANN, for some reason, want to know all the plans. Why? Why should we say that it's normal? It's not normal.

So there are many reasons, there are no common ideas from technological point of view how to tell it. Basically, all registrars, usually they know information why particular names can't be registered. Registries tell them this information. And third parties,

they don't talk to registries. They talk to registrars. And yeah, it's possible to get this information and it was possible to get that information if the communication between registry and registrar wasn't broken. Thanks.

BRIAN BECKHAM: Okay. Thanks, Maxim. Jason.

JASON SCHAEFFER: Thank you, Brian. I just wanted to comment that I agree with Brian's concern that we don't deviate too far from what the ultimate recommendation was. I understand the discussion here, and I just wanted to make a point that, echoing what Maxim is saying and commenting on Cytia's points, not all registry operators are the same. Many registry operators have different reasons and valid reasons for reserving names. I think we all understand and respect that, so the certain business practices of certain registries are important. Like Maxim mentioned, it's almost the identical corollary to what we were trying to discuss in question seven with the TMCH on the other side of this coin.

So from a standpoint of, is this rampant, is there a big harm here, I think Maxim pointed out registry operators—these are disclosed to the registrars, and corporate registrars like CSC and others would all have this information. So from a large brand perspective, they probably would already know what's happening and have insight into that. And just to make another point, I know there are bad registries out there, and there are certain quality of registrars, registries, but most registries are in the business of trying to make

sure that their registry is operating at a high level and working with the brands, because it's in their interest to have brand adoption and usage.

So while, yes, some may—as we've all discussed at length—be up to some other practices, most are in the business of making sure that their TLD functions at a high level and they're not in the business of alienating the brands. So I guess let's get back to the point. The point is, let's try not to deviate too far from what we agreed, that we wouldn't push for open publication and find another suitable route. Thank you.

BRIAN BECKHAM: Thanks, Jason. Griffin.

GRIFFIN BARNETT: Thanks. And I don't want to belabor this. The intention here was certainly not to try and claw back some level of publication of reserve names, kind of in contravention of the recommendation. And from what I'm hearing, first of all, nobody is questioning that registries have legitimate reasons for reserving names. I don't think that was ever in question.

The issue I think that we're potentially trying to resolve here was sort of an informational gap, I suppose, where a prospective sunrise registrant goes to register a name, they're rejected from registering that name, they want to understand why they weren't able to register a name in sunrise, and let's say they check the WHOIS record and they find someone else has registered it. That's fine. That solves that information gap. But the issue, I think,

is where a registry has reserved a name and that's the reason why it was rejected from sunrise registration. Unless you reach out, I suppose, to the registry or registrar, or in whatever communication they deliver at the time that the registrations were objected to specifically, if it specifically says that the registration was rejected because the name's been reserved by the registry, the prospective registrant there would be left in the dark as to why that was rejected.

So this suggestion that's captured here in the comment was one potential means of kind of solving for that information gap. But if we feel that those types of parties can simply ask their registrar or the registry directly and get that information kind of on a consistent basis, then perhaps that's fine. And perhaps what we can do, rather than suggesting any new kind of mandatory recommendation, is to perhaps capture this as an idea for registries to take onboard or not, to try and kind of solve that information gap, and I think we can probably leave it at that. But otherwise, I don't think we're looking to make any other across the board or major changes here. So hopefully, that's helpful. But maybe I haven't addressed everyone's concern. Thanks.

BRIAN BECKHAM:

Thanks, Griffin. I have Cyntia and Jason, and I'll note that we're running a little close to time. Cyntia.

CYNTIA KING:

Sure. I find Maxim's comments compelling, and so I agree with what he had to say. I also note that obviously, open and closed

registries are going to be different. So I agree with the recommendation as it is.

I would just wonder if it's possible for us to say that where the recommendation is the working group does not recommend the required publication of reserved names by registry operators, being clear that if they chose to publish—which apparently some do—then they're free to do so. Thank you.

BRIAN BECKHAM: Thanks, Cyntia. I think that could work, but let me see if Jason has something to add. Jason?

JASON SCHAEFFER: Yeah, Cyntia's point might be workable. I'm a little confused here though. We're talking about what is the problem we're solving. If we're talking about large brands that are in the TMCH and they're having issues, maybe I'm wrong, but I think in most cases, those brands are sophisticated and they're working with corporate registrars or they're working with parties, consultants, that would have access to this information. So they would be—and if they haven't, then certainly, I know the mechanisms are there. You'd speak to your registrar, they will give you this information. In many cases, I've seen contact directly with the registry operator, and again, as I said, in most cases, those registry operators are very happy to have a discussion. Yes, I understand that there are outliers and other situations, but I think it was Griffin who was speaking—might have been in the chat—there's some confusion. So to be clear, in most cases, I think if you reach out to the

registry operator, and certainly your own registrar, your corporate registrar, you're going to find this information and you'll have, hopefully, a suitable solution.

And to Cynthia's final point, just for the record, yes, there has to be where we know there's a distinction between open and closed registries and communities, community registries, and so not to deviate too far and make sure that we allow for these distinctions. Thank you.

BRIAN BECKHAM:

Thanks, Jason. I'm just trying to see how we can wrap this one up, if at all, on the call today. So I think—let me see if I can recap. What is clear is that we are not deviating from the recommendation of the working group, that registry operators aren't required to publish reserve names. And as I understand the comment, it was basically a suggestion that if a name is reserved, that be reflected somehow in WHOIS or RDDS or whatever it would be called in the future.

But I'm not entirely clear if there's support for that. I think what is clear is that there's nothing preventing sunrise applicants or their agents from reaching out to registries and registrars to understand that something is reserved and if they want to try to negotiate acquiring that domain name, that's perfectly within their right.

So maybe if I can just ask if there are any suggestions to kind of bring this to a close—in other words, we agree we don't change the recommendation, and so for me, a question is perhaps, do we reflect in the final report, let's say, the observation that private

parties are at liberty to try to ascertain if something's reserved? I think that's probably already the status quo, a voluntary option for registries and registrars to consider, I'm seeing in the chat.

So maybe we can either try to conclude this over the e-mail list, or if necessary, come back at the next call. I know we're up against the time and a few people have already had to drop, so let me just ask if there are any other issues that people want to raise. Otherwise, I think we'll have to put a pin in this and come back to it over e-mail or on the next call.

Okay, so I'm not seeing any, so let's just see if anyone has any thoughts over e-mail over the coming days. Do feel free, of course, to share those, and hopefully we can come to a final conclusion on this one. Otherwise, thanks so much, everyone, and we will see you in a couple of days for our next call. Thanks, staff. And Julie, I think we can end the call now.

JULIE BISLAND:

Thank you, Brian, and thanks, everyone, for joining. This meeting is adjourned. You can disconnect your lines and have a good rest of your day.

[END OF TRANSCRIPTION]